UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

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

For the Fiscal Year Ended December 31, 2004

Commission File Number 1-4949

CUMMINS INC.

Indiana	**35-0257090**
(State of Incorporation)	(IRS Employer Identification No.)

500 Jackson Street
Box 3005
Columbus, Indiana 47202-3005
(Address of principal executive offices)

Telephone (812) 377-5000

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

Title of each class	Name of each exchange on which registered
Common Stock, $2.50 par value	New York Stock Exchange
	Pacific Stock Exchange

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

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

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

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

The aggregate market value of the voting stock held by non-affiliates was approximately $2.8 billion at June 27, 2004.

As of February 27, 2005, there were 46,324,016 shares of $2.50 par value per share common stock outstanding.

Documents Incorporated by Reference

Portions of the registrant's definitive Proxy Statement filed with the Securities and Exchange Commission pursuant to Regulation 14A are incorporated by reference in Part III of this Form 10-K.

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PART I

Item 1. Business

OVERVIEW

Cummins Inc. (“Cummins,” “the Company,” “we,” “our,” or “us”) is a global power leader that designs, manufactures, distributes and services diesel and natural gas engines, electric power generation systems and engine-related products, including filtration and emissions solutions, fuel systems, controls and air handling systems. We were founded in 1919 as one of the first manufacturers of diesel engines and are headquartered in Columbus, Indiana. We sell our products to Original Equipment Manufacturers (OEMs), distributors and other customers worldwide. We have long-standing relationships with many of the leading manufacturers in the markets we serve, including DaimlerChryslerAG (DaimlerChrysler), Volvo AB, PACCAR Inc., International Truck and Engine Corporation (Navistar International Corporation), CNH Global N.V., Komatsu and Scania AB. We serve our customers through a network of more than 550 company-owned and independent distributor locations and approximately 5,000 dealer locations in more than 160 countries and territories.

Our financial performance depends, in large part, on varying conditions in the markets we serve, particularly the automotive, construction and general industrial markets. Demand in these markets tends to fluctuate in response to overall economic conditions and is particularly sensitive to changes in interest rate levels and the price of crude oil (fuel costs). OEM inventory levels, production schedules and work stoppages also impact our sales. Economic downturns in the markets we serve generally result in reduced sales, which affect our profits and cash flow.

AVAILABLE INFORMATION

Cummins files annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (the “SEC”). You may read and copy any document we file with the SEC at the SEC’s public reference room at 450 Fifth Street, NW, Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for information on the public reference room. The SEC maintains an internet site that contains annual, quarterly and current reports, proxy and information statements and other information that issuers (including Cummins) file electronically with the SEC. The SEC’s internet site is www.sec.gov.

Cummins internet site is www.cummins.com. You can access Cummins Investor Information webpage through our internet site, by clicking on the “Annual Reports” link to the heading “Investor Information.” Cummins makes available free of charge, on or through our Investor Information website, its proxy statements, annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports filed or furnished pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as soon as reasonably practicable after such material is electronically filed with, or furnished to, the SEC. Cummins also makes available, through our Investor Information webpage, under the link SEC filings, statements of beneficial ownership of Cummins equity securities filed by its directors, officers, 10% or greater shareholders and others under Section 16 of the Exchange Act.

Cummins also has a Corporate Governance webpage. You can access Cummins Corporate Governance webpage through our internet site, www.cummins.com, by clicking on the “Annual Report” link to the heading “Corporate Governance”. Cummins posts the following on its Corporate Governance webpage:

· ISS Corporate Governance Rating

· Code of Conduct

· Corporate Governance Principles

· By-laws of Cummins

· Audit Committee Charter

· Governance and Nominating Committee Charter

· Compensation Committee Charter

Cummins Code of Conduct applies to all our employees, regardless of their position or the country in which they work. We will post any amendments to the Code of Conduct, and any waivers that are required to be disclosed by the rules of either the SEC or the New York Stock Exchange, Inc. (“NYSE”), on our internet site. The information on Cummins internet site is not incorporated by reference into this report.

You may request a copy of these documents at no cost, by contacting Cummins Inc. Investor Relations at 500 Jackson Street, Mail Code 60115, Columbus, IN 47201 (812-377-3121).

COMPETITIVE STRENGTHS

We believe the following competitive strengths are instrumental to our success:

· **Leading Brands.** Our product portfolio includes products marketed under the following brands, each of which holds a leading position in its respective market:

  · Cummins engines, electric power generation systems, components and parts;

- Onan generator sets; Newage AVK/SEG products sold under the Stamford, AvK and Markon brands;
- Fleetguard filtration systems and components;
- Nelson intake and exhaust systems and components;
- Kuss automotive in-tank fuel filtration;
- Universal Silencer filtration systems and silencers; and
- Holset turbochargers.

While our portfolio of brands contains a number of market leaders, we operate in a highly competitive sector and our brands compete with the brands of other manufacturers and distributors that produce and sell similar products.

- **Customers and Partners.** To maintain technology leadership and a global presence in a cost-effective manner, we have established strategic alliances with a number of our leading customers. These partnerships provide us with a knowledge and understanding of our customers' technology and business needs, and enable us to develop products and services which better meet their requirements at lower costs. For example, we have both customer and supplier arrangements with Komatsu, Ltd., including multiple manufacturing joint ventures and a product development joint venture through which we have partnered in the development of several engines. We are also the exclusive supplier of engines for Komatsu mining equipment. In addition, we have been the exclusive diesel engine supplier to DaimlerChrysler for its Dodge Ram truck since 1988, and in 2003 our exclusivity agreement was extended beyond model year 2007. We have long-term agreements with Volvo, PACCAR and International Truck and Engine Corporation for the supply of heavy-duty truck engines. These agreements afford us long-term price stability and eliminate certain dealer and end-user discounts as well as offer closer integration on product development. We also have multiple international joint ventures to manufacture heavy-duty and midrange engines,

including partnerships with the Tata Group whose member company is the leading truck manufacturer in India, and Dongfeng Automotive Corporation, an engine supplier to the second largest truck manufacturer in China.

- **Global Presence.** We have a strong global presence including a world class distribution system, manufacturing and engineering facilities around the world and a network of global supply sources. Our worldwide presence has enabled us to take advantage of growth opportunities in international markets, with sales outside the U.S. growing from 39 percent of total sales in 1999 to 48 percent of total sales in 2004. In the last 45 years, we have developed a distribution and service network that includes more than 550 company-owned and independent distributor locations and 5,000 independent dealers located throughout 160 countries and territories. We also have manufacturing operations and product engineering centers around the world, with facilities in the United Kingdom (UK), Brazil, Mexico, Canada, France, Australia, China, India, South Africa and Singapore. In addition, we have developed a global network of high-quality, low-cost supply sources to support our manufacturing base.
- **Leading Technology.** We have an established reputation for delivering high-quality, technologically advanced products. We continuously work with our customers to develop new products to improve the performance of their vehicles, equipment or systems at competitive cost levels. We are a leader in developing technologies to reduce diesel engine emissions, a key concern of our customers and regulators around the world. We were the first company to develop engines that were certified to meet new emissions standards governing on-highway heavy-duty diesel engines. These standards went into effect for Cummins in the U.S. on October 1, 2002. We were also the first manufacturer to receive a Tier III Certificate of Conformity from the EPA for our QSM off-highway engine that meets the January 2005 emissions standards. We have also developed low-emission, high-performance natural gas engines as an alternative fuel option for the on-highway, industrial and power generation markets. Our technology leadership enables us to develop integrated product solutions for the power generation and filtration markets, allowing our customers to use a single high-performance, low-cost system as opposed to multiple components from different suppliers.

BUSINESS STRATEGY

The four key elements of our business strategy are as follows:

- **Aggressively Pursue Cost Leadership.** In many of our markets, product or system cost is a critical performance parameter for our customers. To achieve cost leadership, we will continue to leverage our innovative technology, economies of scale, global presence and customer partnerships. Beginning in 2000, we have continuously focused on dramatically reducing costs and lowering our breakeven point to maintain a competitive advantage and to deliver quality products to our customers. The following key initiatives are integral to this strategy:
  - **Six Sigma.** Since the program's inception five years ago, Cummins has not only applied Six Sigma to manufacturing processes and in the initial design of new products, but also expanded the program to include processes with customers, suppliers and distributors. Six Sigma yields not only significant cost savings and improved quality, it strengthens the relationships with these important stakeholders and yields long-term relationships.
  - **Global Sourcing.** Cummins cost reduction efforts in supply chain management and global procurement from less expensive international markets such as China, India, Eastern Europe and Brazil have resulted in significantly reducing the cost of purchased materials and services during the last five years.

  - **Technical Productivity.** Cummins is maximizing its technical productivity for less by conducting off-shore research and development at its technical center in India, by sharing development cost with its customer OEM and joint venture partnerships, and by using analysis-led design to eliminate capital-intensive prototypes through virtual computer modeling. In 2004, we signed an agreement with Dongfeng Cummins Engine Co., Ltd. for a technical center facility in China that is scheduled to open in the first quarter of 2006.
- **Expand into Related Markets.** We will continue to focus growth initiatives in related businesses where we can use our existing investments in products or technology, leading brand names or market presence to establish a competitive advantage. Furthermore, we will target related markets that offer higher rates of growth, attractive returns and more stable cash flows through product and end market diversity. Specific growth opportunities are outlined below.
  - Cummins Engine Business has made a significant investment in the Company's North American distributors; engines for the growing oil and gas markets; service and maintenance contracts and progress toward our strategy to meet 2007 and 2010 on-highway emissions standards.
  - Cummins Power Generation Business is focused on increasing sales of standby power, mobile and auxiliary power, distributed generation, alternators and power electronics and controls, such as transfer switches and switchgear.
  - Cummins Filtration and Other Business will leverage the Company's filtration, exhaust and engine technologies to provide integrated solutions for its customers and meet increasingly stringent emissions requirements.
  - Cummins International Distributor Business is growing through the expansion of the aftermarket parts and service business by capitalizing on its global customer base and fast growth markets in China, India and Russia.

- **Maximize Return on Capital.** Return on capital, specifically return on average net assets (ROANA), is our primary measure of financial performance. Each of our business segments use ROANA measurement targets, and we allocate capital based on segment performance against those targets. We calculate ROANA as segment EBIT divided by segment average net assets. Segment EBIT is earnings before interest, loss on early retirement of debt, taxes, minority interests, preferred dividends and cumulative effect of accounting changes and segment average net assets is net assets excluding debt, taxes and adjustments to the minimum pension liability.
- **Leverage Complementary Businesses**. Strong synergies and relationships exist between Cummins businesses in the following areas:
  - Shared technology: In addition to common platforms of base product technology, our businesses have technical capabilities which can be applied commercially to provide integrated solutions for our customers. The businesses also realize synergies in the development and application of broader technology tools (such as information technology).
  - Common channels and distribution: All business units utilize a common distribution channel which provides access to a full range of our products and also provides economies of scale.
  - Shared customers and partners: There is substantial commonality in customers and partners between business units, which allows us to build strong customer relationships and provides opportunity for expanded product offerings.
  - Corporate brand and image: All business units benefit from the established, respected corporate brand.

- **Ensuring and Reinforcing a Strong Performance Ethic.** This means doing what we say we will do, in terms of financial performance, meeting customer and partner expectations and demonstrating our corporate core values.

As a result of our intense focus on ROANA, we have been able to reduce capital spending while still funding key development programs, including the completion of a full range of emission-compliant engines. During 2002 – 2004, our average annual capital spending was lower compared to the average capital spending during the 1999 – 2001 period. Prior to 2001, our annual capital expenditures were significant as we launched new engine platforms. Capital expenditures for 2005 will increase to support our growth, including investments to increase capacity and to fund our new products. Our investments in capacity improvement are very focused, cut across all of our businesses and are designed for rapid return on investment. We continue to invest more of our capital in low-cost regions of the world to further leverage our opportunities for cost reduction. In total, we expect capital expenditures to be in the range of $220 million to $240 million dollars to support these initiatives, while still remaining below depreciation and amortization.

One of our goals is to regain an investment grade credit rating from the rating agencies. To achieve this goal, we have put significant management focus on increasing earnings, improving cash flow and reducing debt levels.

OUR BUSINESS SEGMENTS

We operate four complementary business segments that share technology, customers, strategic partners, brands and our distribution network to gain a competitive advantage in their respective markets. With our size and global presence, we provide world-class products, service and support to our customers in a cost-effective manner. In each of our business segments, we compete worldwide with a number of other manufacturers and distributors that produce and sell similar products. Our products primarily compete on the basis of price, performance, fuel economy, speed of delivery, quality and customer support.

Engine Business

Our Engine Business manufactures and markets a broad range of diesel and natural gas-powered engines under the Cummins brand name for the heavy-and medium-duty truck, bus, recreational vehicle (RV), light-duty automotive, agricultural, construction, mining, marine, oil and gas, rail and governmental equipment markets. We offer a wide variety of engine products with displacement from 1.4 to 91 liters and horsepower ranging from 31 to 3,500. In addition, we provide a full range of new parts and service, as well as remanufactured parts and engines, through our extensive distribution network. The Engine Business is our largest business segment, accounting for approximately 57 percent of total sales in 2004.

The principal customers of our heavy-and medium-duty truck engines include truck manufacturers, such as International Truck and Engine Corporation (Navistar International Corporation), Volvo Trucks North America, PACCAR and Freightliner, manufacturers of school, transit and shuttle buses and manufacturers of construction, agricultural and marine equipment. The principal customers of our light-duty automotive engines are DaimlerChrysler and manufacturers of recreational vehicles (RVs).

In the markets served by our Engine Business, we compete with independent engine manufacturers as well as OEMs who manufacture engines for their own products. Our primary competitors in North America are Caterpillar, Inc., Detroit Diesel Corporation, Mack Trucks, Inc. and International Truck and Engine Corporation (Engine Division). Our primary competitors in international markets vary from country to country, with local manufacturers generally predominant in each geographic market. Other engine manufacturers in international markets include Mercedes Benz, Volvo, Renault Vehicules Industriels, Scania and Nissan Diesel Motor Co., Ltd.

Our Engine Business organizes its engine, parts and service businesses around the following end-user focused groups:

Heavy-duty truck

We manufacture a complete line of diesel engines that range from 310 horsepower to 565 horsepower serving the worldwide heavy-duty truck market. We offer the ISM and ISX engines and in Australia, the Signature 620 series engines, which we believe comprise the most modern product engine line in our industry. Most major heavy-duty truck manufacturers in North America offer our diesel engines as standard or optional power. In 2004, we held a 27 percent share of the Group II engine market for NAFTA heavy-duty trucks. We also have significant market share overseas, including the U.K. and Latin America, and are the market leader in Mexico, South Africa and Australia. Our largest customer for heavy-duty truck engines in 2004 was International Truck and Engine Corporation (Navistar International Corporation) with sales representing 7 percent of consolidated net sales.

In recent years we entered into long-term supply agreements with three key customers to reduce our cost structure, improve customer service and increase market share. In 2000, we entered into a long-term agreement with Volvo Trucks North America, Inc. under which we act as its sole external engine supplier. In 2001, we entered into long-term supply agreements with PACCAR and International Truck and Engine Corporation (Navistar International Corporation) covering our heavy-duty engine product line. These supply agreements provide long-term, stable pricing for engines and eliminate certain dealer and end-user discounts, in order to provide our customers with full responsibility for total vehicle cost and pricing. In addition, these agreements provide for joint work on engine/vehicle integration with a focus on reducing product proliferation. These efforts are expected to reduce product cost while creating enhanced value for end-users through better product quality and performance. The joint sales and service efforts also will provide better customer support at a significantly reduced cost to the partners.

Medium-Duty Truck and Bus

We manufacture a product line of medium-duty diesel engines ranging from 185 horsepower to 315 horsepower serving medium-duty and inter-city delivery truck customers worldwide. We believe that our ISB, ISC and ISL series diesel engines comprise the most advanced product line in the industry. We sell our ISB and ISC series engines and engine components to medium-duty truck manufacturers in Asia, Europe and South America. In 1990, we entered the North American medium-duty truck market and for the year ended 2004 our market share for diesel powered medium-duty trucks had grown to approximately 15 percent. Freightliner LLC, (a division of DaimlerChrysler), PACCAR, Ford and Volkswagen AG are our major customers in this worldwide market.

We also offer our ISB and ISC diesel engines and alternative-fuel engines for school buses, transit buses and shuttle buses and our B and C series engines for natural gas applications, which are focused primarily on transit and school bus markets. The demand for alternative-fuel products continues to grow both domestically and internationally. Cummins Westport Inc., a joint venture formed in 2001 with Westport Innovations, Inc., offers low emission, propane and natural gas engines that are currently used in municipal transportation markets in Los Angeles, Boston, Salt Lake City, Vancouver, BC and Beijing, China.

Light Duty Automotive

We are the exclusive provider of diesel engines used by DaimlerChrysler in its Dodge Ram trucks. Our relationship with DaimlerChrysler extends over 15 years, and in 2004 we shipped approximately 157,000 engines for use in Dodge Ram trucks. In 2004, DaimlerChrysler was our largest customer for midrange engines. In 2003, our selection as the exclusive diesel power provider for Dodge Ram truck

models was extended to include the 2007 model year. The Dodge Ram Heavy-Duty Cummins Turbo offers best in class 610 lb-ft of torque and 325 horsepower, and we expect this popular engine will continue to result in strong sales volumes with the scheduled availability of our engine in the new Dodge Ram Mega Cab model.

We are the leading manufacturer of diesel engines for use in the Class A motorhome market, with a market share representing over 50 percent of the diesel engines in retail Class A motorhome sales. Sales of diesel engines to the recreational vehicle market have increased significantly during the last five years, and approximately 47 percent of Class A motorhomes were diesel powered in 2004, indicating strong growth in the use of diesel power for these applications.

In 2004, our contract was renewed with the U.S. Department of Energy to develop a light-duty automotive engine suitable for use in light pickup truck and sport utility vehicles. Prototype engines are currently undergoing testing and development. We believe that we are well positioned to take advantage of the growing interest in diesel engines for use in these vehicles.

Industrial

Our medium-duty, heavy-duty and high-horsepower engines power a wide variety of equipment in the construction, agricultural, mining, rail, government, oil and gas, power generation, commercial and recreational marine applications throughout the world. Our major construction OEM customers are in North America, Europe, South Korea, Japan and China. These OEMs manufacture approximately one million pieces of equipment per year for a diverse set of applications and use engines from our complete product range. Agricultural OEM customers are primarily in North America, South America and Europe, serving end-use markets that span the globe. In the marine markets, our joint venture, Cummins MerCruiser Diesel Marine, is the market share leader in the North American and Australia recreational boat segment. Our engines are sold to both recreational and commercial boat builders, primarily in North America, Europe and Asia. We offer a full product line of high-horsepower engines for mining applications that compete in all segments from small underground mining equipment to 400-ton haul trucks. The launch of our QSK78 engine at MINExpo 2000 extended our mining products up to 3,500 horsepower, the largest in the mining industry, where we occupy the number two market position. In this market, we are the exclusive external supplier of engines to Komatsu, a large construction and mining equipment OEM. Our sales to the rail market are primarily to railcar builders in Europe and Asia, and we are a leader in the worldwide railcar market. With our new QSK60 and QSK78 engines, we expect to move into a larger proportion of the locomotive and railcar markets outside North America and commercial marine markets worldwide. Government sales represent a small portion of the high-horsepower market and are primarily to defense contractors in North America and Europe. Our new high-horsepower engines allow us to offer our customers in the oil and gas business a full line of high-horsepower products.

Power Generation Business

The Power Generation Business is our second largest business segment, representing 19 percent of our total sales in 2004. This business is one of the most integrated providers of power solutions in the world, designing or manufacturing most of the components that make up power generation systems, including engines, controls, alternators, transfer switches and switchgear. This business is a global provider of power generation systems, components and services for a diversified customer base to meet the needs for standby power, distributed generation power, as well as auxiliary power needs in specialty mobile applications. Standby power solutions are provided to customers who rely on uninterrupted sources of power to meet the needs of their customers. Distributed generation power solutions are provided to customers with less reliable electrical power infrastructures, typically in developing countries. In addition, it provides an alternative source of generating capacity which is purchased by utilities, independent power

producers and large power customers for use as prime or peaking power and is located close to its point of use. Mobile power provides a secondary source of power (other than drive power) for mobile applications.

Our power generation products are marketed principally under the Cummins Power Generation, Onan, and Cummins Power Rent brands and include diesel-and alternative-fuel electrical generator sets for commercial, institutional and consumer applications, such as office buildings, hospitals, factories, municipalities, utilities, universities, recreational vehicles, boats and homes. We are the worldwide leader in auxiliary generator sets for RVs, commercial vehicles and recreational marine applications. Our Rental business provides power equipment on a rental basis for both standby and prime power purposes. Our Energy Solutions Business provides full service power solutions for customers including generating equipment, long-term maintenance contracts and turnkey power solutions.

Our Newage AVK/SEG (Newage) division is a leader in the alternator industry and supplies its products internally as well as to other generator set assemblers. Newage products are sold under the Stamford, AVK and Markon brands and range in output from 0.6 kVA to 30,000 kVA. We also sell reciprocating generator drive engines across a large power range to other generator set assemblers.

This business segment continuously explores emerging technologies, such as microturbines and fuel cells, and provides integrated power generation products utilizing technologies other than reciprocating engines. We use our own research and development capabilities as well as leveraging business partnerships to develop cost-effective and environmentally sound power solutions.

Our customer base for power generation products is highly diversified, with customer groups varying based on their power needs. China, India, the Middle East and Brazil are four of our largest geographic markets outside of North America.

This business competes with a variety of engine manufacturers and generator set assemblers across the world. Caterpillar remains our primary competitor as a result of its acquisition of MAK Americas Inc., Perkins Engines Inc. and FG Wilson Inc. Volvo, as well as DaimlerChrysler, through its acquisition of Detroit Diesel Corporation, are other major engine manufacturers with a presence in the high-speed generation segment of the market. We also compete with Kohler, Generac, SDMO and other regional generator set assemblers. Newage competes globally with Emerson Electric Co., Marathon Electric and Meccalte, among others.

Filtration and Other Business

Our Filtration and Other Business produces filters, silencers and intake and exhaust systems under the Fleetguard, Nelson, Kuss and Universal Silencer brand names and is the largest worldwide supplier of turbochargers for commercial applications through our Holset brand. This segment manufactures filtration and exhaust systems for on-and off-highway heavy-duty equipment and is a supplier of filtration products for industrial and passenger car applications, exhaust systems for small engine equipment and silencing systems for gas turbines. In addition, we operate an Emission Solutions business through which we develop systems to help our customers meet increasingly stringent emissions standards. In 2004, our Filtration and Other Business segment accounted for approximately 15 percent of our total sales.

Fleetguard is the world's leading supplier of filtration and exhaust products offering over 12,000 products including air, coolant, fuel and hydraulic filters, antifreeze and coolant additives, catalysts, particulate filters, controllers and other filtration systems to OEMs, dealer/distributor and end user markets. Its products are produced and sold in global markets, including Europe, North America, South America, India, China, Australia and the Far East. In a recent North America on-highway truck market survey published by a leading independent market research company, Fleetguard ranked as the top brand preference for diesel engine air, oil, fuel and coolant filtration products. Our Filtration and Other Business also makes products for the automotive specialty filtration market and the industrial filtration market

through our Kuss subsidiary, located in Findlay, OH, and Universal Silencer, located in Stoughton, WI. Our Filtration and Other Business revenue is split between first-fit OEM customers (approximately 48 percent) and replacement part business (approximately 52 percent).

Holset designs, manufactures and markets turbochargers with manufacturing facilities in five countries and sales and distribution worldwide. Holset provides critical technologies for engines to meet challenging performance requirements and worldwide emissions standards, including variable geometry turbochargers, and is the market leader in turbochargers for heavy-duty equipment. Holset's joint venture in India with Tata Motors Ltd., assembled and shipped its first turbochargers in 1996. A joint venture with Wuxi Power Engineering Company Ltd. in China also began production in 1996. In 2001, Holset completed consolidation of its U.S. manufacturing facilities into one site located in Charleston, SC.

Customers of our Filtration and Other Business segment generally include truck manufacturers and other OEMs that are also customers of our Engine Business, such as CNH Global N.V., and other manufacturers that use Fleetguard filtration products in their product platforms, such as Honda. Our customer base for replacement filtration parts is highly fragmented, and primarily consists of various end-users of filtration systems.

Our Filtration and Other Business competes with other manufacturers of filtration systems and components and turbochargers. Our primary competitors in these markets include Donaldson Company, Inc., Clarcor Inc., Mann+Hummel Group, Tokyo Roki Co., Ltd. and Honeywell International.

International Distributor Business

In the fourth quarter of 2001, we realigned our reporting structure and created the International Distributor Business as a result of the growing size and importance of the retail distribution business. In 2004, International Distributor Business sales accounted for 9 percent of our total sales. Our International Distributor Business consists of 17 company-owned distributors and one joint venture that distribute the full range of our products and services to end-users at 116 locations in 77 countries and territories. Through this network, our trained personnel provide parts and service to our customers, as well as full-service solutions, including maintenance contracts, engineering services, and integrated products where we customize our products to cater to specific end-users. Our company-owned distributors are located in key markets, including India, China, Japan, Australia, the U.K. and South Africa. Our distributors also serve the dealers and end-users in their territories by providing product maintenance, repair and overhaul services.

Our International Distributor Business serves a highly diverse customer base consisting of various end-users in the specific geographic markets in which our distributors are located.

In our International Distributor Business, each distributor that we own or operate in a particular geographic region competes with other distributors and dealers that offer similar products within that region. In many cases, competing distributors and dealers are owned by, or affiliated with, OEMs of those competing products.

SEGMENT FINANCIAL INFORMATION

Financial information about our business segments is incorporated by reference from Note 21 to the*Consolidated Financial Statements.*

SUPPLY

We have developed and maintain a world class supply base in terms of technology, quality and cost. We source our materials and manufactured components from leading suppliers both domestically and internationally. We have adequate sources of supply of raw materials and components. We machine and assemble some of the components used in our engines and power generation units, including blocks, heads, rods, turbochargers, camshafts, crankshafts, filters, exhaust systems, alternators and fuel systems. We also have arrangements with certain suppliers who are the sole source for specific products or supply items. Between 75 and 85 percent of our total raw material and component purchases in 2004 were purchased from suppliers who are the sole source of supply for a particular supply item. Although we elect to source a relatively high proportion of our total raw materials and component requirements from sole suppliers, the majority of these supply items can be purchased from alternate suppliers with the appropriate sourcing plan. In addition, we maintain dual sourcing at a commodity level on many of our sole sourced part numbers. Our supply agreements vary according to the particular part number sourced. However, these agreements typically include standard terms relating to cost (including cost reduction targets), quality and delivery. Our supply agreements also typically include customary intellectual property provisions that contain prohibitions on the use of our intellectual property by the suppliers for any purpose other than their performance of the supply agreements, and indemnity covenants from suppliers for breach by them of intellectual property rights of third parties in performance of the agreements. The duration of our more important supply agreements varies but typically ranges between three and five years and some extend through 2010. Many of our supply agreements include early termination provisions related to failure to meet quality and delivery requirements. In order to reduce the risk of dependency, the raw materials and components from single source suppliers are reviewed periodically to ensure a second source or alternative exists to guarantee supply.

PATENTS AND TRADEMARKS

We own or control a significant number of patents and trademarks relating to the products we manufacture. These have been granted and registered over a period of years. Although these patents and trademarks are generally considered beneficial to our operations, we do not believe any patent, group of patents, or trademark (other than our leading brand house trademarks) is considered significant in relation to our business.

SEASONALITY

While individual product lines may experience modest seasonal declines in production, there is no material effect on the demand for the majority of our products on a quarterly basis. However, our Power Generation Business normally experiences seasonal declines in the first quarter of the fiscal year due to general declines in construction spending and our International Distributor Business normally experiences seasonal declines in first quarter business activity due to holiday periods in Asia and Australia.

LARGEST CUSTOMER

We have thousands of customers around the world and have developed long-standing business relationships with many of them. DaimlerChrysler is our largest customer, accounting for approximately 13 percent of our consolidated net sales in 2004, primarily relating to sales of our ISB engine for use in Dodge Ram trucks and sales of our medium-duty engines to the Freightliner division of DaimlerChrysler. While a significant number of our sales to DaimlerChrysler are under long-term supply agreements, these agreements provide for the supply of DaimlerChrysler's engine requirements for particular vehicle models and not a specific volume of engines. DaimlerChrysler is our only customer accounting for more than 10 percent of our net sales in 2004. The loss of this customer or a significant decline in the production level of DaimlerChrysler vehicles that use our engines would have an adverse effect on our business, results of

operations and financial condition. We have been an engine supplier to DaimlerChrysler for more than 15 years. A summary of principal customers for each business segment is included in our segment discussion.

In addition to our agreements with DaimlerChrysler, we have long-term heavy-duty engine supply agreements with International Truck and Engine Corporation, PACCAR and Volvo Trucks North America. Collectively, our net sales to these three customers was less than 18% of consolidated net sales in 2004 and individually, was less than 9% of consolidated net sales for each customer. As with DaimlerChrysler, these agreements contain standard purchase and sale agreement terms covering engine and engine parts pricing, quality and delivery commitments, as well as engineering product support obligations. The basic nature of our agreements with OEM customers is that they are long-term (generally five years or longer) price and operations agreements that assure the availability of our products to each customer through the duration of the respective agreements. There are no guarantees or commitments by these customers of any kind regarding volumes or market shares, except in the case of DaimlerChrysler which has committed that Cummins will be its exclusive diesel engine supplier for the Dodge Ram heavy-duty pickup truck. Agreements with OEMs contain bilateral termination provisions giving either party the right to terminate in the event of a material breach, change of control or insolvency or bankruptcy of the other party.

BACKLOG

While we have supply agreements with some truck and off-highway equipment OEMs, most of our business is transacted through open purchase orders. These open orders are historically subject to month-to-month releases and are subject to cancellation on reasonable notice without cancellation charges and therefore are not considered firm.

DISTRIBUTION

Over the last 45 years, we have developed a distribution and service network that includes more than 550 distributor locations and 5,000 dealers in 160 countries and territories. This network is comprised of independent distributors, North American distributors that are partially-owned by us and international distributors that are wholly-owned. Each distributor sells the full range of our products, as well as complementary products and services. Our International Distributor Business operates within this network with 17 company-owned distributors and one joint venture in 116 locations across 77 countries and territories.

Our agreements with independent and partially-owned distributors generally have a three-year term and are exclusive with respect to specified territories. Our distributors develop and maintain the network of dealers with which we have no direct relationship. The distributors are permitted to sell other, non-competitive products only with our consent. We license all of our distributors to use our name and logo in connection with the sale and service of our products, with no right to assign or sublicense the marks, except to authorized dealers, without our consent. Products are sold to the distributors at standard domestic or international distributor net prices, as applicable. Net prices are wholesale prices we establish to permit our distributors an adequate margin on their sales. We can refuse to renew these agreements at will, and we may terminate them upon 90-day notice for inadequate sales, change in principal ownership and certain other reasons. Distributors also have the right to terminate the agreements upon 60-day notice without cause, or 30-day notice for cause. Upon termination or failure to renew, we are required to purchase the distributor's current inventory and may, at our option purchase other assets of the distributor, but are under no obligation to do so.

Our distribution capability is a key element of our business strategy and competitive position, particularly in our efforts to increase customer access to aftermarket replacement parts and repair service.

There are more than 5,000 locations in North America, primarily owned and operated by OEMs or their dealers, at which Cummins trained service personnel and parts are available to service, maintain and repair our engines. We also have parts distribution centers located strategically throughout the world in order to serve our customers and distributors.

Financial information about wholly-owned distributors, partially-owned distributors consolidated under FIN46R and distributors accounted for under the equity method are incorporated by reference to Notes 1, 2 and 3 to the Consolidated Financial Statements.

RESEARCH AND ENGINEERING

Our research and engineering program is focused on product improvements, innovations and cost reductions for our customers. In 2004, our research and engineering expenditures were $241 million compared to $200 million in 2003. Of this amount, approximately 8 percent, or $20 million, was directly related to the development of heavy-duty and medium-duty engines that are designed to comply with the 2007 emissions standards.

In the Engine Business, we continue to invest in system integration and in technologies to meet increasingly more stringent emissions standards. We have focused our engine technology development on five critical subsystems: combustion, air handling, fuel systems, electronic controls and exhaust aftertreatment. We were the first diesel engine manufacturer to have an engine certified by the EPA as being in compliance with the current EPA standards. We also were the first engine manufacturer to announce a low-cost combustion-only emission solution for Tier III industrial diesel engines that does not require exhaust gas recirculation nor exhaust aftertreatment. In addition, we were the first company to demonstrate a prototype vehicle that meets EPA 2007 gasoline-equivalent "Tier II Bin 5" emission levels.

In Power Generation, our product engineering focus is best performance at lowest cost for our customers. Our Power Electronics technology development is aimed at applying digital electronics to eliminate multiple gen-set controllers and achieve higher levels of system integration and control. We meet the most advanced emission standards around the world, employing both combustion and exhaust aftertreatment technologies. Looking to future low-emission power generation technologies, we have a DOE-funded program to develop a solid oxide fuel cell system for vehicle auxiliary power generation and for smaller stationary power generation applications.

In Filtration, we are building on our strengths in design integration to develop modules that integrate multiple filtration functions into a single engine subsystem component. We are developing new filter media and technologies that support low emission engines, including exhaust aftertreatment, closed crankcase ventilation and centrifugal soot removal.

In 2003, we established Cummins Research and Technology Indian Private Ltd. (CRTI). This partially-owned subsidiary provides analytical services such as structural dynamics, computational fluid dynamics, and design to all Cummins entities. CRTI has selected Satyam Computer Services Limited to provide start-up services in the form of engineering staff and leased work space. CRTI is located in Pune, India. In 2004, we signed a joint venture agreement with Dongfeng Cummins Engine Co. Ltd. for a research facility in China that is expected to open in the first quarter of 2006. The Cummins East Asia Tech Center will provide engineering and technical services for the full range of

Cummins products manufactured in China, including diesel and natural gas engines, power generators, turbochargers and filtration products.

JOINT VENTURES AND ALLIANCES

We have entered into the following joint venture agreements and alliances with business partners and affiliates in various areas of the world to increase our market penetration, expand our product lines, streamline our supply chain management and develop new technologies:

- ***Cummins India Ltd***. We are the majority owner of Cummins India Ltd., which is a publicly listed company on the Bombay Stock Exchange. This business entity developed from a partnership established in 1962 with the Kirloskar family and eventually expanded to include other local partners. Cummins India Ltd. produces midrange, heavy-duty and high-horsepower engines for the Indian and export markets. We consolidate the results of Cummins India Ltd. in our *Consolidated Financial Statements*.
- ***Consolidated Diesel Company***. Consolidated Diesel Company, located in the U.S., is a joint venture with CNH Global N.V. that began with Case Corporation in 1980. This partnership produces Cummins B series, C series and ISL Series engines and engine products for automotive and industrial markets in North America and Europe. Effective March 28, 2004, we adopted the provisions of FIN 46R for this entity and its results are now consolidated in our *Consolidated Financial Statements* (see Note 2 to the *Consolidated Financial Statements*).
- ***Cummins/Komatsu Arrangements***. We have formed a broad relationship with Komatsu Ltd., including three joint ventures and numerous exclusive supply arrangements. Two joint ventures were formed in 1992, one to manufacture Cummins B Series engines in Japan, the other to build high-horsepower Komatsu-designed engines in the U.S., Cummins Komatsu Engine Corporation (CKEC). In 1997, we established a third joint venture in Japan to design the next generation of industrial engines. Effective March 28, 2004, we adopted the provisions of FIN 46R for CKEC and its results are now consolidated in our *Consolidated Financial Statements* (see Note 2 to the *Consolidated Financial Statements*).
- ***Cummins/Dongfeng Joint Ventures***. In 1985, we licensed Dongfeng Motor Company (Dongfeng), the second largest truck manufacturer in China, to manufacture Cummins B Series engines. In 1993, Dongfeng established a subsidiary, Dongfeng Automotive Corporation (DFAC), which became the licensee. In 1995, we partnered with DFAC and formed a joint venture, Dongfeng Cummins Engine Co. Ltd. (DCEC), for the production of our C Series engines. In 1998, we established a wholly-owned subsidiary, Cummins (Xiangfan) Machining Company Ltd. (CXMC), in an adjacent facility to DCEC to manufacture B Series cylinder blocks and cylinder heads. In April 2003, the assets of DFAC's B series manufacturing entity and the assets of CXMC were invested into the existing joint venture, DCEC. The expanded joint venture, with annual capacity of approximately 130,000 units, produces Cummins B, C and L series four-to nine-liter mechanical and will produce full-electronic diesel engines with a power range from 100 to 370 horsepower in 2005. In 2004, Cummins invested a B series connecting rod machining line into CXMC to supply DCEC. We also have a joint venture with Dongfeng that manufactures filtration systems, Shanghai Fleetguard Filter Co., Ltd. In 2003, Nissan Motor Co., Ltd. acquired 50% ownership of Dongfeng. In 2004, we signed a joint venture agreement with DCEC for a research facility in China that is expected to open in the first quarter of 2006. The facility will provide engineering and technical services for the full range of Cummins products manufactured in China, including diesel and natural gas engines, power generators, turbochargers and filtration products.
- ***Tata Group Joint Ventures***. In 1992, we formed a joint venture with Tata Engineering and Locomotive Company, the largest automotive company in India and a member of the Tata group of companies. The joint venture, Tata Cummins Limited, manufactures the Cummins B Series engine in India for use in trucks manufactured by Tata. Holset Engineering Company Ltd., one of our

wholly-owned subsidiaries, also formed a joint venture with Tata for the manufacturer of turborchargers, Tata Holset Ltd..

- ***Cummins/China National Heavy-Duty Truck Joint Venture***. In 1995, we formed a joint venture with China National Heavy-duty Truck Corporation in Chongqing, China. The shares of this venture are now owned jointly by us and the Chongqing Heavy Duty Vehicle Group. The joint venture, Chongqing Cummins Engine Company Ltd., manufactures several models of our heavy-duty and high-horsepower diesel engines in China.
- ***The European Engine Alliance (EEA).*** The EEA was established in 1996 as a joint venture between our Company and two Fiat Group companies, Iveco N.V. (trucks and buses) and CNH Global (agricultural and construction equipment), to develop a new generation of 4, 5 and 6-liter engines based on our 4B and 6B Series engines.
- ***Cummins/Scania Joint Venture.*** In 1999, we formed a joint venture with Scania to produce fuel systems for heavy-duty diesel engines. We own 70 percent of this joint venture and its results are included in our *Consolidated Financial Statements.*
- ***Cummins/Westport Joint Venture***. In 2001, we formed a joint venture with Westport Innovations Inc., located in British Columbia, Canada, to develop and market low-emissions, high-performance natural gas engines for on-highway, industrial and power generation markets. In 2003, the joint venture agreement was modified to focus the joint ventures' efforts on the marketing and sale of automotive spark ignited natural gas engines worldwide. The new agreement also provides for joint technology projects between Westport and Cummins on low-emission technologies of mutual interest.
- ***NewageAVK/SEG Joint Venture.*** In 2001, Newage International Ltd., which operates within our Power Generation Business, formed a joint venture with AVK/SEG Holding GmbH & Co. KG, a German holding company that directly owned shares of AVK and SEG, which manufactured alternators and power electronics, respectively. Effective March 28, 2004, we adopted the provisions of FIN 46R for AVK/SEG and its results are now consolidated in our *Consolidated Financial Statements.* In the second quarter of 2004, AVK/SEG was liquidated and we now own 100 percent of AVK and 25 percent of SEG. SEG continues to be consolidated under FIN 46R (see Note 2 to the *Consolidated Financial Statements*).
- ***Cummins MerCruiser Diesel Marine LLC.*** In 2002, we formed a joint venture with Mercury Marine, a division of Brunswick Corporation, to develop, manufacture and sell recreational marine diesel products, including engines, sterndrive packages, inboard packages, instrument and controls, service systems and replacement and service parts and assemblies, complete integration systems and other related products.

In addition to these key joint ventures and agreements, we also have equity interests in several of our North American distributors who distribute the full range of our products and services to customers and end-users. We have also entered into numerous joint ventures around the world where we provide engine components, such as turbochargers, alternators and filtration products. In Turkey, we have a license agreement with BMC Sanayi that provides for the manufacture and sale of our B and C Series engines. We will continue to evaluate joint venture and partnership opportunities in order to penetrate new markets, develop new products and generate manufacturing and operational efficiencies.

Financial information about our investments in joint ventures and alliances that are not consolidated and those that are consolidated is incorporated by reference from Notes 1, 2 and 3 to the *Consolidated Financial Statements.* Financial information about geographic areas is incorporated by reference from Note 21 to the *Consolidated Financial Statements.*

EMPLOYEES

As of December 31, 2004, we employed approximately 28,100 persons worldwide. Approximately 10,300 of our employees are represented by various unions under collective bargaining agreements that expire between 2005 and 2008.

ENVIRONMENTAL COMPLIANCE

Product Environmental Compliance

Our engines are subject to extensive statutory and regulatory requirements that directly or indirectly impose standards governing emissions and noise. Our products comply with emissions standards that the Environmental Protection Agency (EPA), the California Air Resources Board (CARB) and other state regulatory agencies, as well as other regulatory agencies around the world, have established for heavy-duty on-highway diesel and gas engines and off-highway engines produced through 2005. Our ability to comply with these and future emissions standards is an essential element in maintaining our leadership position in regulated markets. We have made, and will continue to make, significant capital and research expenditures to comply with these standards. Failure to comply with these standards could result in adverse effects on our future financial results.

EPA Engine Certifications

In the fourth quarter 2002, we implemented new on-road emissions standards. These were implemented in accordance with the terms of a 1998 consent decree that we and a number of other engine manufacturers entered into with the EPA, the U.S. Department of Justice (DOJ) and CARB. The consent decree was in response to concerns raised by these agencies regarding the level of nitrogen oxide emissions from heavy-duty diesel engines.

The consent decree also requires us to pull forward by one year (to January 1, 2005) the implementation of Tier III emissions standards for off-road engines in the 300 to 749 horsepower range. This development was finished early in the year and all testing and EPA/CARB certification was concluded so that these engines could be sold commencing January 1, 2005.

Federal and California regulations require manufacturers to report failures of emissions-related components to the EPA and CARB when the failure rate reaches a specified level. At higher failure rates, a product recall may be required. In 2004, we submitted one report to the EPA relating to incorrect or missing data plates on 39 engines.

Emissions standards in international markets, including Europe and Japan, are becoming more stringent. We believe that our experience in meeting U.S. emissions standards leaves us well positioned to take advantage of opportunities in these markets as the need for emissions control capability grows.

In December 2003, we announced that we will meet the 2007 U.S. EPA heavy-duty on-highway emissions standards by combining our existing cooled Exhaust Gas Recirculation technology with particulate matter (PM) filters. Cooled EGR is the same technology that we have used since April 2002 and was selected after reviewing other aftertreatment technologies such as NOx adsorbers and selective catalytic reduction (SCR). Our experience with particulate filters and the availability of ultra-low-sulfur diesel fuel combine to give us the confidence in meeting these tough standards in the U.S. Additionally, while the EGR/PM filter combination is the right solution for 2007 in the U.S., we have selected SCR as the right technology to meet on-highway Euro IV emissions standards and certain off-highway applications.

Other Environmental Statutes and Regulations

We believe we are in compliance in all material respects with laws and regulations applicable to our plants and operations. During the last five years, expenditures for environmental control activities and environmental remediation projects at our facilities in the U.S. have not been a substantial portion of annual capital outlays and are not expected to be material in 2005.

Pursuant to notices received from federal and state agencies and/or defendant parties in site environmental contribution actions, we have been identified as a Potentially Responsible Party (PRP) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended or similar state laws, at approximately 14 waste disposal sites. Based upon our experiences at similar sites we believe that our aggregate future remediation costs will not be significant. We have established accruals that we believe are adequate for our expected future liability with respect to these sites.

RISK FACTORS RELATING TO OUR BUSINESS

Set forth below and elsewhere in this Annual Report on Form 10-K and in other documents we file with the SEC are some of the principal risks and uncertainties that could cause our actual business results to differ materially from any forward-looking statements or other projections contained in this Report. In addition, future results could be materially affected by general industry and market conditions, changes in laws or accounting rules, general U.S. and non-U.S. economic and political conditions, including a global economic slowdown, fluctuation of interest rates or currency exchange rates, terrorism, political unrest or international conflicts, political instability or major health concerns, natural disasters or other disruptions of expected economic and business conditions. These risk factors should be considered in addition to our cautionary comments concerning forward-looking statements in this Report, including statements related to markets for our products and trends in our business that involve a number of risks and uncertainties. Our separate section in Item 7 below, “Disclosure Regarding Forward-Looking Statements,” should be considered in addition to the following statements.

Our business is affected by the cyclical nature of the markets we serve.

Our financial performance depends, in large part, on varying conditions in the markets that we serve, particularly the automotive, construction and general industrial markets. Demand in these markets fluctuates in response to overall economic conditions and is particularly sensitive to changes in interest rate levels and fuel costs. Our sales are also impacted by OEM inventory levels and production schedules and stoppages. Economic downturns in the markets we serve generally result in reductions in sales and pricing of our products, which could reduce future earnings and cash flow.

Our products are subject to substantial government regulation.

Our engines are subject to extensive statutory and regulatory requirements governing emissions and noise, including standards imposed by the EPA, state regulatory agencies, such as the CARB and other regulatory agencies around the world. In some cases, we may be required to develop new products to comply with new regulations, particularly those relating to air emissions. For example, under the terms of a consent decree that we and a number of other engine manufacturers entered into with the DOJ, the CARB and the EPA, we were required to develop new engines to comply with stringent emissions standards by October 1, 2002. While we were able to meet this deadline, our ability to comply with other existing and future regulatory standards will be essential for us to maintain our position in the engine markets we serve. Currently, we believe we are on schedule to meet all deadlines for known future regulatory standards.

We have made, and will be required to continue to make, significant capital and research expenditures to comply with these standards but we cannot assure that we will be able to achieve the technological advances that may be necessary for us to continue to comply with evolving regulatory standards. Further, the successful development and introduction of new and enhanced products are subject to risks, such as delays in product development, cost over-runs and unanticipated technical and manufacturing difficulties. Any failure to comply with regulatory standards affecting our products could subject us to fines or penalties, and could require us to cease production of any non-compliant engine or to recall any engines produced and sold in violation of the applicable standards. See "Business—Environmental Compliance—Product Environmental Compliance" for a complete discussion of the environmental laws and regulations that affect our products.

Our products are subject to recall for performance related issues.

We are at risk for product recall costs. Product recall costs are costs incurred when we decide, either voluntarily or involuntarily, to recall a product through a formal campaign to solicit the return of specific products due to a known or suspected performance issue. Costs typically include the cost of the product, part or component being replaced, customer cost of the recall and labor to remove and replace the defective part or component. When a recall decision is made, we estimate the cost of the recall and record a charge to earnings in that period in accordance with Financial Accounting Standards Board Statement of Financial Accounting Standards (SFAS) No. 5, "Accounting for Contingencies." In making this estimate, judgment is required as to the quantity or volume to be recalled, the total cost of the recall campaign, the ultimate negotiated sharing of the cost between us and the customer and, in some cases, the extent to which the supplier of the part or component will share in the recall cost. As a result, these estimates are subject to change.

We cannot assure that our truck manufacturers and OEM customers will continue to outsource their engine supply needs.

Some of our engine customers, including Volvo and DaimlerChrysler, are truck manufacturers or OEMs that manufacture engines for their own products. Despite their engine manufacturing abilities, these customers have chosen to outsource certain types of engine production to us due to the quality of our engine products and in order to reduce costs, eliminate production risks and maintain company focus. However, we cannot assure that these customers will continue to outsource engine production in the future. Increased levels of production insourcing could result from a number of factors, such as shifts in our customers' business strategies, which could result from the acquisition of another engine manufacturer, the inability of third party suppliers to meet product specifications and the emergence of low-cost production opportunities in foreign countries. Any significant reduction in the level of engine production outsourcing from our truck manufacturer or OEM customers could significantly impact our revenues and, accordingly, have a material adverse affect on our business, results of operations and financial condition.

Our largest customer accounts for a significant share of our business.

Sales to DaimlerChrysler accounted for approximately 13 of our net sales for 2004, primarily relating to sales of our ISB engine for use in the Dodge Ram truck and sales of our heavy-and medium-duty engines to its Freightliner division. While a significant amount of our sales to DaimlerChrysler is under long-term supply agreements, these agreements provide for the supply of DaimlerChrysler's engine requirements for particular models and not a specific number of engines. Accordingly, the loss of DaimlerChrysler as a customer or a significant decline in the production levels for the vehicles which DaimlerChrysler uses our products would have an adverse effect on our business, results of operations and financial condition.

Our manufacturing operations are dependent upon third-party suppliers, making us vulnerable to supply shortages.

We obtain materials and manufactured components from third-party suppliers. A significant number of our suppliers representing 75 to 85 percent of our total raw material and component purchasers in 2004

are the sole source for a particular supply item, although the majority of these materials and components can be obtained from other suppliers. Any delay in our suppliers' abilities to provide us with necessary materials and components may affect our capabilities at a number of our manufacturing locations, or may require us to seek alternative supply sources. Delays in obtaining supplies may result from a number of factors affecting our suppliers including capacity constraints, labor disputes, the impaired financial condition of a particular supplier, suppliers' allocations to other purchasers, weather emergencies or acts of war or terrorism. Any delay in receiving supplies could impair our ability to deliver products to our customers and, accordingly, could have a material adverse effect on our business, results of operations and financial condition.

We may be adversely impacted by work stoppages and other labor matters.

As of December 31, 2004, we employed approximately 28,100 persons worldwide. Approximately 10,300 of our employees are represented by various unions under collective bargaining agreements that expire between 2005 and 2008. We cannot assure you that future issues with our labor unions will be resolved favorably or that we will not encounter future strikes, further unionization efforts or other types of conflicts with labor unions or our employees. Any of these factors may have an adverse effect on us or may limit our flexibility in dealing with our workforce. In addition, many of our customers have unionized work forces. Work stoppages or slow-downs experienced by our customers could result in slow-downs or closures at vehicle assembly plants where our engines are installed. If one or more of our customers experience a material work stoppage, it could have a material adverse effect on our business, results of operations and financial condition.

Our products involve risks of exposure to product liability claims.

We face an inherent business risk of exposure to product liability claims in the event that our products' failure to perform to specifications results, or is alleged to result, in property damage, bodily injury and/or death. We may experience material product liability losses in the future. While we maintain insurance coverage with respect to certain product liability claims, we may not be able to obtain such insurance on acceptable terms in the future, if at all, and any such insurance may not provide adequate coverage against product liability claims. In addition, product liability claims can be expensive to defend and can divert the attention of management and other personnel for significant periods of time, regardless of the ultimate outcome. An unsuccessful defense of a product liability claim could have a material adverse affect on our business, results of operations and financial condition and cash flows. In addition, even if we are successful in defending against a claim relating to our products, claims of this nature could cause our customers to lose confidence in our products and our Company.

Our operations are subject to extensive environmental laws and regulations.

Our plants and operations are subject to increasingly stringent environmental laws and regulations in all of the countries in which we operate, including laws and regulations governing emissions to air, discharges to water and the generation, handling, storage, transportation, treatment and disposal of waste materials. While we believe that we are in compliance in all material respects with these environmental laws and regulations, we cannot assure you that we will not be adversely impacted by costs, liabilities or claims with respect to existing or subsequently acquired operations, under either present laws and regulations or those that may be adopted or imposed in the future. We are also subject to laws requiring the cleanup of contaminated property. If a release of hazardous substances occurs at or from any of our current or former properties or at a landfill or another location where we have disposed of hazardous materials, we may be held liable for the contamination, and the amount of such liability could be material.

We are exposed to political, economic and other risks that arise from operating a multinational business.

Approximately 48 percent of our net sales for 2004 were derived from sources outside the United States. Accordingly, our business is subject to the political, economic and other risks that are inherent in operating in numerous countries. These risks include:

· the difficulty of enforcing agreements and collecting receivables through foreign legal systems;

- trade protection measures and import or export licensing requirements;
- tax rates in certain foreign countries that exceed those in the United States and the imposition of withholding requirements on foreign earnings;
- the imposition of tariffs, exchange controls or other restrictions;
- difficulty in staffing and managing widespread operations and the application of foreign labor regulations;
- required compliance with a variety of foreign laws and regulations; and
- changes in general economic and political conditions in countries where we operate, particularly in emerging markets.

As we continue to expand our business globally, our success will depend, in part, on our ability to anticipate and effectively manage these and other risks. We cannot assure that these and other factors will not have a material adverse affect on our international operations or on our business as a whole.

We are subject to currency exchange rate and other related risks.

We conduct operations in many areas of the world involving transactions denominated in a variety of currencies. We are subject to currency exchange rate risk to the extent that our costs are denominated in currencies other than those in which we earn revenues. In addition, since our financial statements are denominated in U.S. dollars, changes in currency exchange rates between the U.S. dollar and other currencies have had, and will continue to have, an impact on our earnings. While we customarily enter into financial transactions to address these risks, we cannot assure that currency exchange rate fluctuations will not adversely affect our results of operations and financial condition. In addition, while the use of currency hedging instruments may provide us with protection from adverse fluctuations in currency exchange rates, by utilizing these instruments we potentially forego the benefits that might result from favorable fluctuations in currency exchange rates.

We also face risks arising from the imposition of exchange controls and currency devaluations. Exchange controls may limit our ability to convert foreign currencies into U.S. dollars or to remit dividends and other payments by our foreign subsidiaries or businesses located in or conducted within a country imposing controls. Currency devaluations result in a diminished value of funds denominated in the currency of the country instituting the devaluation. Actions of this nature, if they occur or continue for significant periods of time, could have an adverse effect on our results of operations and financial condition in any given period.

We face significant competition in the markets we serve.

The markets in which we operate are highly competitive. We compete worldwide with a number of other manufacturers and distributors that produce and sell similar products. Our products primarily compete on the basis of price, performance, fuel economy, speed of delivery, quality and customer support. Some of our competitors are companies, or divisions or operating units of companies that have greater financial and other resources than we do. There can be no assurance that our products will be able to compete successfully with the products of these other companies. Any failure by us to compete effectively in the markets we serve could have a material adverse effect on our business, results of operations and

financial condition. For a more complete discussion of the competitive environment in which each of our business segments operates, see “Business—Our Business Segments.”

Item 2. Properties

Our worldwide manufacturing facilities occupy approximately 15 million square feet, including approximately nine million square feet in the U.S. Principal manufacturing facilities in the U.S. include our plants in Southern Indiana, Wisconsin, New York, Iowa, Tennessee, Georgia, Ohio and Minnesota, as well as an engine manufacturing facility in North Carolina, which is operated in partnership with CNH Global N. V.

Manufacturing facilities outside of the U.S. include facilities located in the U.K., Brazil, India, Mexico, Canada, France, China and Australia. In addition, engines and engine components are manufactured by joint ventures or independent licensees at manufacturing plants in the U.K., France, China, India, Japan, Pakistan, South Korea, Turkey and Indonesia.

Item 3. Legal Proceedings

We are, at any one time, party to a number of lawsuits or subject to claims arising out of the ordinary course of our business, including actions related to product liability, patent, trademark or other intellectual property infringement, contractual liability, workplace safety and environmental claims and cases, some of which involve claims for substantial damages. We and our subsidiaries are currently defendants in a number of pending legal actions, including actions related to use and performance of our products. While we carry product liability insurance covering significant claims for damages involving personal injury and property damage, we cannot assure you that such insurance would be adequate to cover the costs associated with a judgment against us with respect to these claims. We have also been identified as a Potentially Responsible Party (PRP) at several waste disposal sites under federal and state environmental statutes, only one of which we expect could result in monetary sanctions, exclusive of interest and costs, of $100,000 or more (in the vicinity of $137,000) based upon our estimated proportional volume of waste disposed at this site in Oklahoma City, OK (Double Eagle Refinery site). In addition to this site, we have been contacted as a possible PRP at sites in Toledo, OH (Stickney Avenue and Tyler Street Dump site, and XXKem site), Green County, OH (Lammers site) Jacksonville, FL (White House Waste Oil Pits site), Memphis, TN (North Hollywood Dump site), Cookeville, TN (Putnam County Landfill site), Vadnis Heights, MN (Vadnis Heights site), South Bend, IN (Schumann site), Culver, IN (Four County Landfill site), Columbus, IN (Miller Salvage/Marr-Glick Wellfield Site); Santa Barbara, CA (Casmalia Site), Buffalo, NY (ENRX site) and Los Angeles, CA (Operating Industries, Inc. site). At several of these sites, we have had no follow-up contact from the relevant regulatory agencies since an initial communication in the early to mid-1990s. Other than in connection with the Double Eagle Refinery site in Oklahoma City referenced above, we believe our liability at these sites would be de minimis absent the imposition of liabilities that otherwise would be the responsibility of other PRPs. More information with respect to our environmental exposure can be found under “Environmental Compliance Other Environmental Statutes and Regulations.” We deny liability with respect to many of these legal actions and environmental proceedings and are vigorously defending such actions or proceedings. While we have established accruals that we believe are adequate for our expected future liability with respect to our pending legal actions and proceedings, we cannot assure that our liability with respect to any such action or proceeding would not exceed our established accruals. Further, we cannot assure that litigation having a material adverse affect on our financial condition will not arise in the future.

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

There were no matters submitted to a vote of our security holders during the last quarter of the fiscal year ended December 31, 2004.

PART II

Item 5. Market for Registrant’s Common Equity and Related Stockholder Matters

(a) Our common stock, par value $2.50 per share, is listed on the NYSE and the Pacific Stock Exchange under the symbol “CMI.” For information about the quoted market prices of our common stock, information regarding dividend payments and the number of common stock shareholders, see Selected Quarterly Financial Data on page 118 of this report. For other matters related to our common stock and shareholders’ equity, see Notes 14 and 17 to the *Consolidated Financial Statements.*

(b) Use of proceeds—not applicable.

(c) The following information is provided pursuant to Item 703 of Regulation S-K:

ISSUER PURCHASES OF EQUITY SECURITIES

Period	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	(d) Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
October	1,369	$ 73.65	—	43,861
November	3,812	76.94	—	40,464
December	9,282	79.67	—	31,245
Total	14,463	$ 78.38	—	

These shares were repurchased from employees in connection with the Company's Key Employee Stock Investment Plan which allows certain employees, other than officers, to purchase shares of common stock of the Company on an installment basis up to an established credit limit. Loans are issued for five-year terms at a fixed interest rate established at the date of purchase and may be re-financed after its initial five-year period for an additional five-year period. Participants must hold shares for a minimum of six months from date of purchase and after shares are sold, must wait six months before another share purchase may be made.

According to our bylaws, we are not subject to the provisions of the Indiana Control Share Act. However, we are governed by certain other laws of the State of Indiana applicable to transactions involving a potential change of control of the Company.

Item 6. Selected Financial Data.

The selected financial information presented below for the five year period ended December 31, 2004, was derived from our *Consolidated Financial Statements.* This information should be read in conjunction with the *Consolidated Financial Statements* and related notes and Management's Discussion and Analysis of Financial Condition and Results of Operations.

	For the years ended December 31,				
	2004	2003	2002	2001	2000
	$ Millions, except per share				
Statements of Earnings Data					
Net sales	$ 8,438	$ 6,296	$ 5,853	$ 5,681	$ 6,597
Gross margin	1,680	1,123	1,045	1,013	1,267
Equity, royalty and other income from investees	111	70	22	10	7
Restructuring, impairment and other charges and (credits)	—	—	(8)	126	154
Interest expense	113	90	61	77	87
Dividends on preferred securities of subsidiary trust	—	11	21	11	—
Cumulative effect of change in accounting principles, net of tax	—	(4)	3	—	—
Net earnings (loss)	350	50	82	(103)	14
Net earnings (loss) per share:					
Basic	$ 8.30	$ 1.28	$ 2.13	$ (2.70)	$ 0.35
Diluted	7.39	1.27	2.13	(2.70)	0.35
Dividends declared per share	1.20	1.20	1.20	1.20	1.20
Balance Sheet Data					
Total assets	$ 6,527	$ 5,126	$ 4,837	$ 4,311	$ 4,448
Long-term debt	1,299	1,380	999	915	1,032
Mandatorily redeemable preferred securities	—	—	291	291	—
Shareholders' equity	1,401	949	841	983	1,280

See Management's Discussion and Analysis of Financial Condition and Results of Operations and the *Notes to Consolidated Financial Statements* for a discussion of "Restructuring, impairment and other charges and (credits)," "Dividends on preferred securities of subsidiary trust," "Long-term debt and short-term borrowings" and the "Cumulative effect of change in accounting principles."

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

The following is management's discussion of the financial results, liquidity and capital resources, contractual obligations and commercial commitments, financial covenants and credit ratings, off balance sheet arrangements, financial guarantees, critical accounting estimates and other key items related to our business and performance. This section should be read in conjunction with our Consolidated Financial Statements and related notes in the "Financial Statements" section of this Annual Report on Form 10-K. Certain prior year amounts included in this section have been reclassified to conform to the current year presentation. All references to per share amounts are diluted per share amounts. Our discussion contains forward looking statements based upon current expectations that involve risks and uncertainties, such as our plans, objectives, expectations and intentions. Actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of a number of factors, including those set forth under "RISK FACTORS RELATING TO OUR BUSINESS" included in Part I of this report and "Disclosure Regarding Forward-Looking Statements" presented at the end of this section.

OVERVIEW

Cummins is a global power leader comprised of four reportable complementary business segments: Engine, Power Generation, Filtration and Other and International Distributors. Our businesses design, manufacture, distribute and service diesel and natural gas engines and related technologies, including fuel systems, controls, air handling, and filtration, emissions solutions and electrical power generation systems. Our products are sold to original equipment manufacturers (OEMs), distributors and other customers worldwide. Major OEM customers include DaimlerChrysler, PACCAR, International Truck and Engine Corporation (Navistar), Volvo, Komatsu, Ford, Volkswagen, CNH Global and our joint venture partners in China (Dongfeng Cummins Engine Co. Ltd.) and India (Tata Cummins Limited). We serve our customers through a network of more than 550 company-owned and independent distributor locations and approximately 5,000 dealer locations in more than 160 countries and territories. Our business units share technology, customers, strategic partners, brands and our distribution network.

Our financial performance is affected by the cyclical nature and varying conditions of the markets we serve, particularly the automotive, construction and general industrial markets. Demand in these markets fluctuates in response to overall economic conditions and is particularly sensitive to changes in the price of crude oil (fuel costs), volume of freight tonnage, interest rate levels, non-residential construction spending and general industrial capital spending. Economic downturns in the markets we serve generally result in reductions in sales volume and pricing of our products and reduce earnings and cash flow. Although cyclicality is a factor in our business, the financial impact of it has been reduced somewhat by our geographical expansion, growth in our distributor business and improvements in our fixed cost structure that have resulted in a lower break-even point of our production costs.

FINANCIAL OVERVIEW

The table below sets forth our *Consolidated Statements of Earnings* data as a percentage of net sales for the years ended December 31:

	2004	2003	2002
Net sales	100.0%	100.0%	100.0%
Cost of sales	80.1	82.2	82.1
Gross margin	19.9	17.8	17.9
Selling and administrative expenses	12.0	13.2	12.6
Research and engineering expenses	2.9	3.2	3.4
Equity, royalty and other income from investees	(1.3)	(1.1)	(0.4)
Restructuring, impairment and other charges and (credits)	—	—	(0.1)
Interest expense	1.3	1.4	1.0
Loss on early retirement of debt	—	—	0.1
Other income, net	(0.1)	(0.3)	(0.2)
Earnings before income taxes, minority interests, dividends on preferred securities of subsidiary trust and cumulative effect of change in accounting principles	5.1	1.4	1.3
Provision (benefit) for income taxes	0.7	0.2	(0.7)
Minority interests in earnings of consolidated subsidiaries	0.3	0.2	0.3
Dividends on preferred securities of subsidiary trust	—	0.1	0.4
Earnings before cumulative effect of change in accounting principles	4.1	0.9	1.3
Cumulative effect of change in accounting principles, net of tax	—	(0.1)	0.1
Net earnings	4.1	0.8	1.4

Cummins experienced very strong performance in 2004 with record sales and earnings. Net earnings were $350 million, or $7.39 per share, on sales of $8.4 billion, compared to 2003 net earnings of $50 million, or $1.27 per share, on sales of $6.3 billion. The earnings improvement was driven by a 34 percent increase in net sales, primarily from our Engine Business and record sales at our Power Generation Business. Both segments experienced strong demand across respective automotive and industrial markets, with particularly strong demand in the North American heavy-duty truck market where engine sales were up 94 percent from the prior year and our market share increased significantly. Sales also increased in the Filtration and Other and International Distributor Businesses in 2004 compared to 2003 reflecting substantial improvement in demand and business conditions. Our joint ventures contributed $111 million in earnings in 2004 compared to $70 million in 2003, with the largest increase from our expanded joint venture in China, Dongfeng Cummins Engine Company (DCEC). Overall, 2004 was an exceptionally strong financial year for Cummins and we believe the programs we have in place position us for another good year in 2005.

BUSINESS OUTLOOK

Our Engine Business experienced much stronger than expected volumes in virtually all of its markets in 2004 and most economic indicators point toward continued improvement at a moderate pace in the North American heavy-duty truck market in 2005. We currently expect North American heavy-duty truck production levels to increase a minimum of 15 percent, from an estimated 245,000 units in 2004 to approximately 280,000 to 285,000 units in 2005. While 2004 demand was driven partially from fleets adding capacity as freight volume increased, the majority of the increase resulted from the replacement of aging vehicles. In 2005, we expect demand will be driven primarily by the economy as manufacturing and consumer spending levels increase and trucking fleets expand their capacity by adding equipment. We also expect sales of our midrange engines to the medium-duty markets to increase in 2005, as economic indicators for this market historically correlate with those of the heavy-duty market. Currently, we estimate

our engine volumes for the worldwide medium-duty truck market to increase 20 percent in 2005, including an increase in market share. Sales of our 5.9 liter turbo diesel engine to Daimler Chrysler for the Dodge Ram truck reached record levels in 2004 and we expect 2005 volumes will increase with the scheduled availability of our engine in the new Dodge Ram Mega Cab. We expect the Dodge Ram Heavy-Duty Cummins Turbo will continue to result in strong sales volumes as demand for diesel-powered light vehicles increases. Our industrial markets also experienced a strong recovery in 2004 and continued growth is expected through 2005, particularly overall demand from construction and mining OEMs.

Our Power Generation Business struggled financially in 2002 and 2003 as demand for global power generation declined, resulting in high inventory levels, over-capacity and market pricing pressures. In 2004, profitability returned to this segment based upon strong demand for commercial products in China and the Middle East, a significant increase in alternator sales to generator set OEMs, record sales of Onan branded generator sets to RV OEMs, our focus on cost reduction initiatives, benefits from restructuring and new product introductions. In 2005, we expect continued growth in commercial international markets for power generation and alternators and stronger growth in domestic markets. In our consumer business, we expect two new product launches, a portable generator set and a residential standby generator set, to offset a slight volume decline in RV generator sets. Overall, Power Generation revenues are expected to increase in 2005 with improved profitability for this segment.

In our Filtration and Other Business, our long term agreements with key customers executed in 2003 and 2004 provided excellent revenue growth in 2004 although our financial results were impacted by the dramatic rise in steel prices and capacity constraints in our exhaust manufacturing. We expect revenue growth to continue in 2005 and we also expect some growth in aftermarket revenues from new products released in 2004. Revenue from our Emission Solutions business is expected to increase in 2005 as we continue to gain market share in the domestic retrofit business. Overall, Filtration and Other Business revenues are expected to increase approximately 7 percent in 2005, and profitability is expected to improve as a result of cost reduction initiatives and the impact of pricing actions to offset steel cost increases.

In 2004, revenues improved in every geographic region and profitability was up significantly in our International Distributor Business. As the worldwide economy continues to improve and our engine population increases, we expect sales growth in engines, parts, service and power generation equipment and solid profit margins to continue in this business as we capitalize on a growing global customer base. We expect revenues to increase over 10 percent in 2005 from economic growth and increased profitability from higher sales volume, managed expenses and planned consolidations.

Income from our joint ventures is expected to continue to be strong in 2005, particularly in Asia, through our partnership, DCEC, which is a supplier to the second largest truck manufacturer in China, and in North America through our distributorship joint ventures.

We expect our businesses to generate sufficient cash from operations in 2005 to fund capital expenditures, research and development, pension funding, debt service costs and dividend payments. In addition, we expect cash outflows to fund our joint ventures will approximate $25 - $30 million in 2005. We have available various short and long-term credit arrangements, which are discussed below and disclosed in Note 11 to the *Consolidated Financial Statements*. These credit arrangements and other programs, such as our accounts receivable program, provide the financial flexibility, when needed, to satisfy future short-term funding requirements of our debt service obligations and projected working capital requirements. On March 1, 2005, we repaid our $225 million 6.45% notes on their maturity date from cash and cash equivalents on hand. With the exception of payments required under various operating and capital leases, principal and interest payments on notes issued by a consolidated VIE and our pension funding commitments, there are no major fixed cash payment obligations occurring until 2010 when our 9.5% Notes with principal amount of $250 million mature.

SIGNIFICANT EVENTS, TRANSACTIONS AND FINANCIAL TRENDS

Throughout this Management's Discussion and Analysis we have disclosed significant events or transactions that had a material impact on our net earnings or segment EBIT, financial position and cash flows. In 2004, our net earnings benefited from significant tax events that likely will not recur with similar materiality or impact on our effective tax rate. Our 2004 tax expense was reduced by the following nonrecurring benefits:

- We reassessed the treatment of foreign tax credits previously recognized as tax deductions and used them as tax credits ($25 million),
- We amended prior years U.S. income tax returns and claimed additional export tax benefits ($11 million),
- We reversed valuation allowances related to state tax net operating losses that were no longer needed ($16 million), and
- We reduced our tax expense for a change in the estimated state income tax rate used to value deferred tax assets ($9 million).

Other significant events and transactions that occurred during 2004 were:

- We adopted certain provisions of FIN 46R as of March 28, 2004, which required us to consolidate the assets and liabilities of three variable interest entities previously accounted for under the equity method of accounting. As of April 25, 2004, we consolidated another entity under the provisions of FIN 46R. After eliminating intercompany transactions, our assets and liabilities as of December 31, 2004, increased $319 million and $251 million, respectively, and our net sales, gross margin and net earnings increased $145 million, $60 million and $0 million, respectively, for the year ended December 31, 2004 (see Note 2 to the *Consolidated Financial Statements*).
- Our gross margin and net earnings were negatively affected by the rising cost of steel and other commodities, primarily copper, manufacturing and logistics inefficiencies due to significant increases in production and supplier constraints to meet growing demand. Steel prices increased 50-60 percent during 2004 and it is likely they will remain high in the first half of 2005 although we expect increases to be less significant than those experienced in 2004. While our primary focus remains on controlling our costs through cost reduction efforts and Six Sigma projects, we have implemented pricing actions in our businesses to offset our current estimate of the impact of commodity prices in 2005. In addition, we have engaged in detailed capacity and throughput analysis work with many of our key suppliers to help them manage capacity constraint issues and have also developed a recovery plan to address our manufacturing and logistics inefficiencies.
- During 2004 we amended the master lease agreements related to two leases representing a majority of equipment leased in our PowerRent program. One of the lease amendments required us to retain full residual risk on the equipment and the other required us to repurchase the equipment at the end of the two-year non-cancelable lease terms. As a result, both leases are now classified as capital leases. The total addition to our *Consolidated Balance Sheets* as property, plant and equipment relating to the capital leases was $104 million and the balance of the capital lease obligations at December 31, 2004, was $103 million. (See Note 18 to the *Consolidated Financial Statements*).
- $6 million pre-tax gain amortization related to the early termination of interest rate swaps in 2001 and 2002.

Significant transactions included in 2003 earnings were:

- $7 million pre-tax gain amortization related to the early termination of interest rate swaps in 2001 and 2002, and
- $4 million after-tax charge for the cumulative effect of a change in accounting principle resulting from the consolidation of a variable interest entity.

Significant transactions included in 2002 earnings were:

- $57 million tax adjustment credit related to the settlement of U.S. income tax audits for the years 1992 through 1999,
- $8 million credit for excess costs of restructuring actions,
- $8 million pre-tax charge related to early extinguishment of debt,
- $4 million pre-tax gain amortization related to the early termination of interest rate swaps in 2001 and 2002, and
- $3 million after-tax credit for the cumulative effect of a change in accounting principle related to changing our pension measurement date.

RESULTS OF OPERATIONS

Net Sales

Net sales of our business segments for the years ended December 31, follows:

	2004	2003	2002
		$ Millions	
Engine	$ 5,500	$ 3,631	$ 3,435
Power Generation	1,877	1,329	1,226
Filtration and Other	1,484	1,056	951
International Distributor	856	669	574
Elimination of intersegment sales	(1,279)	(389)	(333)
Total consolidated net sales	$ 8,438	$ 6,296	$ 5,853

- Sales of our Engine Business increased $1,869 million, or 51 percent (38 percent excluding the change in transfer pricing discussed below under Business Segment Results), compared to the prior year, primarily due to strong demand from heavy- and medium-duty truck OEMs, increased shipments to Chrysler of light-duty engines for the Dodge Ram truck and higher engine shipments to industrial OEMs. Engine and part sales to automotive markets were 42 percent higher than 2003 with increased shipments in all market segments, except bus applications.
- Power Generation sales increased $548 million, or 41 percent, (45 percent excluding the change in transfer pricing discussed below under Business Segment Results) compared to the prior year, buoyed by strong demand for generator sets and alternators in international markets and continued robust demand for RV and other consumer power generation products.

· Sales in the Filtration and Other Business were up $428 million, or 41 percent, (21 percent excluding the change in transfer pricing discussed below under Business Segment Results) compared to the prior year, with improvements in most markets, but primarily driven by North American OEMs.

· Sales in our International Distributor Business increased $187 million, or 28 percent, compared to 2003, with moderate growth in engine, parts and service and strong demand for power generation products.

· Total sales in 2004 increased approximately $145 million from the consolidation of entities under FIN 46R (see Note 2 to the *Consolidated Financial Statements*).

Sales increased in all of our business segments in 2003 compared to 2002, with a majority of the increase occurring in the second half of the year as economic conditions strengthened and overall demand for our products improved.

· Engine Business sales increased $196 million, or 6 percent, primarily from higher engine sales to DaimlerChrysler for the Dodge Ram truck.

· Power Generation sales increased $103 million, or 8 percent, compared to the prior year, buoyed by strong fourth quarter demand.

· Sales in the Filtration and Other Business exceeded the $1 billion level, up $105 million, or 11 percent year-over-year, reflecting demand improvement and increased market penetration.

· Sales in our International Distributor Business increased $95 million, or 17 percent, compared to 2002, primarily from strong sales of engines and parts at our distributorships in Australia, Dubai and South Africa.

Gross Margin

Our gross margin was $1,680 million in 2004 compared to $1,123 million in 2003, with related gross margin percentages of 19.9 and 17.8, respectively. The majority of the change in year-over-year gross margin was a result of the following:

· higher engine shipments, particularly to the North American automotive and industrial markets, higher sales across our other three businesses ($525 million), and related absorption benefits on fixed manufacturing costs ($125 million),

· increased product coverage costs due to higher volumes ($69 million),

· higher material costs for copper and steel, net of price realization ($53 million),

· supplier inefficiencies resulting from higher volumes, including premium freight charges and overtime ($40 million),

· the impact of favorable currency exchange rates ($18 million), and

· one-time charge for inventory valuation ($9 million).

Approximately 11 percent of the increase in 2004 gross margin was a result of consolidating entities under FIN 46R (see Note 2 to the *Consolidated Financial Statements*).

Product coverage expense as a percent of net sales was 3.1 percent in 2004 compared to 3.0 percent in 2003. In the fourth quarter we revised our definition of product coverage expense to include only the cost of base engine warranty and exclude the costs of other marketing and extended warranty programs, the majority of which are purchased by customers. In our view, this definition is a more relevant and preferable measure than previously used and accordingly, we have presented base engine warranty expense as a percent of net sales for 2003 and 2002 on a comparable basis.

Gross margin increased $78 million in 2003, compared to 2002, on a net sales increase of $443 million and the related gross margin percentages were relatively flat at 17.8 percent. The gross margin on our new emissions compliant engine models was essentially flat compared to the pre-emission engines as the higher price of the new engine models was offset by incremental costs of new parts and components and higher accrual for product coverage costs. The gross margin percentage in 2003, however, appears lower as the gross margin dollar amount was measured against a higher sales value due to the pricing action. Base

engine warranty expense as a percentage of net sales was essentially flat year-over-year at 3.0 percent in 2003 and 3.1 percent in 2002.

Selling and Administrative Expenses

Selling and administrative expenses were $1,015 million, or 12.0 percent of net sales in 2004 compared to $830 million, or 13.2 percent of net sales in 2003, or an increase of $185 million, or 22 percent, year-over-year. The increase was comprised of $107 million for selling expenses (including $25 million from unfavorable foreign currency exchange rates) and $78 million for administrative expenses (including $9 million from unfavorable foreign currency exchange rates). The year-over-year increase in selling expenses was a result of the following:

· higher compensation expense and fringe benefits from incremental staffing ($47 million),

· increases in marketing program expenses including travel and entertainment ($18 million) and other volume variable expenses that individually were not significant, and

· increased variable compensation from improved financial performance ($14 million).

The increase in administrative expenses was attributable to the following:

· increased variable compensation from improved financial performance ($35 million),

· higher compensation and fringe benefits from incremental staffing ($15 million), and

· increased consulting expenses, primarily Sarbanes-Oxley implementation costs ($14 million).

Fluctuations in foreign exchange rates had an unfavorable impact on 2004 selling and administrative expenses, primarily due to changes in the Pound Sterling ($16 million), Australian dollar ($7 million) and the Euro ($5 million). Approximately $34 million, or 18 percent, of the increase in selling and administrative expenses resulted from consolidating entities under FIN 46R (see Note 2 to the *Consolidated Financial Statements*).

In 2003, selling and administrative expenses were $830 million (13.2 percent of net sales) compared to $736 million (12.6 percent of net sales) in 2002. Included in the increase was $28 million from the impact of foreign exchange rate changes at our foreign entities. Of the total increase, approximately $56 million was related to selling expenses and $38 million to administrative expenses. The increase in selling expense was attributable to the following:

· higher compensation expense from incremental sales staffing ($13 million),

· funding of growth initiatives including outside consulting services ($11 million),

· increases in fringe expenses including pensions ($9 million),

· increases in variable incentive compensation due to improved segment financial performance ($7 million), and

· other volume variable expenses that individually were not significant.

The increase in administrative expenses resulted from the following:

- higher fringe benefit expenses, primarily pensions ($9 million),
- increases in audit and non-audit services ($9 million) resulting from a reaudit of the 2001 and 2000*Consolidated Financial Statements,*
- increases in legal fees ($7 million),
- higher salaries and wages from staffing increases ($5 million), and
- and other miscellaneous items that individually are not significant.

Research and Engineering Expenses

Research and engineering expenses were $241 million (2.9 percent of net sales) in 2004 compared to $200 million (3.2 percent of net sales) in 2003, or an increase of $41 million or 21 percent. A majority of the increase was a result of the following:

- increased variable compensation from improved earnings ($13 million),
- higher spending on 2005 and 2007 product development programs ($11 million),
- increased compensation and fringe benefit expenses from incremental staffing ($9 million), and
- other general research and developmental expenses, none of which were individually significant.

The increase includes $3 million unfavorable impact from foreign currency exchange rates and $4 million from consolidating entities under the provisions of FIN 46R (see Note 2 to the *Consolidated Financial Statements*).

Research and engineering expenses were $200 million (3.2 percent of net sales) in 2003 compared to $201 million (3.4 percent of net sales) in 2002, or a decrease of $1 million. Significant items comprising the year-over-year change follows:

- decreased salary and wages ($10 million),
- reduced spending on heavy-duty development program following the introductory launch of our new emissions compliant engines in 2002 ($14 million),
- decreased expenses related to development costs of our European Engine Alliance joint venture ($10 million),
- partially offset by increased development work and testing on Euro emissions and on Tier II and III industrial emissions engines ($20 million),
- increased fringe expenses, primarily pension expense ($5 million), and
- other expenses that individually were not material.

Equity, Royalty and Other Income from Investees

Earnings from our joint ventures and equity method investees were $111 million in 2004 compared to $70 million in 2003, an increase of $41 million, or 59 percent. The year-over-year increase was attributable to improved earnings across most of our joint ventures, including the following:

- our expanded joint venture in China, DCEC ($20 million),
- our North American distributor joint ventures ($9 million),
- our joint venture in India, Tata Cummins Ltd ($2 million), and
- Cummins MerCruiser, our marine joint venture ($2 million).

Income from royalties and technical fees, which included a one-time $2 million fee from a China joint venture, was $12 million in 2004 compared to $5 million in 2003.

Earnings from our joint ventures and alliances were $70 million in 2003 compared to $22 million in 2002, an increase of $48 million. The year-over-year increase was attributable to improved earnings at most of our joint ventures including the following:

- DCEC ($20 million),
- North American distributor joint ventures ($9 million),
- The European Engine Alliance ($5 million),

- Chongqing Cummins Engine Company Ltd. ($4 million),
- Tata Holset and Tata Cummins Ltd. ($4 million), and
- Cummins MerCruiser ($3 million).

Royalty income from joint ventures and alliances increased $3 million in 2003 compared to 2002.

Restructuring, Impairment and Other Charges and (Credits)

Through the end of 2002, we continued a restructuring program initiated in 1998 to improve our cost structure. The charges related to this program included staffing reductions and reorganizations in various business segments, asset impairment write-downs for manufacturing equipment, facility closure and consolidation costs, dissolution costs and restructuring actions related to joint venture operations, cancellation of a new engine development program and exit costs related to several small business operations.

Our 2002 results included a net $8 million credit related to restructuring programs comprised of a net $2 million charge in the second quarter and a $10 million reversal of excess accruals in the fourth quarter. The second quarter charge included $16 million for restructuring actions recognized in the quarter, offset by a $14 million reversal of excess accruals. The excess accruals resulted from realigning or canceling restructuring actions taken in 2001 and 2000. The $16 million second quarter charge included the following:

- $11 million attributable to workforce reductions,
- $3 million for asset impairment, and
- $2 million related to facility closures and consolidations.

The workforce reduction included severance costs and related benefits of terminating approximately 220 salaried and 350 hourly employees and was based on amounts pursuant to established benefit programs or statutory requirements of the affected operations. The overall workforce reductions were a result of closing operations and moving production to available capacity. The asset impairment charge related to equipment available for disposal. The carrying value of the equipment and the effect of suspending depreciation on the equipment were not significant. In the fourth quarter of 2002, the number and mix of employees terminated under this program differed from our original estimate and we reversed approximately $1 million of excess accruals for severance costs and benefits. Approximately 210 salaried and 350 hourly employees were terminated under this plan.

Note 19 to the *Consolidated Financial Statements* includes a schedule that presents by major cost component, activities related to the 2002 restructuring action, including adjustments to the original charges. All restructuring actions were completed as of December 31, 2003.

Interest Expense

Interest expense was $113 million in 2004, an increase of $23 million compared to $90 million in 2003. The increase was primarily due to the following:

· the consolidation of entities under the provisions of FIN 46R ($12 million), and

· interest related to certain capital leases for power generation equipment ($2 million).

In addition to the above, the adoption of SFAS 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity" required prospective classification of dividends on our preferred securities as interest expense in our *Consolidated Statement of Earnings* effective July 1, 2003. Including dividends on our preferred securities, interest expense increased $11 million in 2004 compared to 2003. The preferred securities are no longer reported as an obligation in our *Consolidated Balance Sheet* due to the adoption of FIN 46R (see Notes 2 and 11 to the Consolidated Financial Statements), rather, the convertible subordinated debentures issued by us and representing the sole assets of the trust issuing the securities, are now classified as long-term debt in our *Consolidated Balance Sheets.*

Interest expense was $90 million in 2003 compared to $61 million in 2002. Most of the increase resulted from the following:

· higher debt levels ($15 million),

· higher borrowing rates ($7 million) on our 9.5% Senior Notes issued in November 2002, and

· required presentation of dividends on our preferred securities as interest expense ($11 million) effective July 1, 2003, in accordance with a new accounting standard (see Note 11 to the *Consolidated Financial Statements*).

The amount of interest paid in 2004, 2003 and 2002 was $113 million, $90 million and $52 million, respectively.

Other Income, net

Other income, net was $10 million, $18 million and $9 million income in 2004, 2003 and 2002, respectively and includes losses on asset sales, impairment losses, foreign currency exchange, interest income, royalty income and other miscellaneous income and expense items. Other income decreased in 2004 compared to 2003 primarily due to losses on the sale of fixed assets and investment write-downs, partially offset by higher royalties from increased sales volumes and higher technology income from joint venture partners. The major components of other income and expense, segregated between operating items and non-operating items, are disclosed in Note 20 to the *Consolidated Financial Statements.*

Provision (Benefit) for Income Taxes

Our income tax provision was $56 million in 2004, compared to a $12 million provision in 2003 and a $38 million income tax benefit in 2002. The higher 2004 tax provision reflects the increase in profit before taxes. Our effective tax rate is normally below the U.S. corporate income tax rate of 35 percent, primarily because of research tax credits and reduced taxes on export earnings. Our 2004 effective tax rate of 13 percent is unusually low not only because of the normal favorable effects of research credits and export tax benefits, but also because of the following nonrecurring benefits:

· As a result of continued earnings improvement and improved economic outlook, we reassessed the treatment of 2002 and 2003 foreign tax credits previously recognized as tax deductions and determined they could be used as full tax credits. The more favorable treatment of these credits reduced our 2004 income tax provision by $25 million.

· As a result of improved cash flow during 2004, we filed amended U.S. income tax returns to claim additional export tax benefits related to prior years which we had previously forgone to avoid the associated tax payments required on the non-exempt export income of our foreign sales corporation. These additional export tax benefits related to prior years reduced our 2004 income tax provision by $11 million.

· The 2004 earnings improvement also caused us to reassess our ability to realize state tax benefits from net operating losses generated in prior years. Previously, we had provided a valuation allowance to reduce the recorded tax value of these loss carryforwards to a lower estimated realizable value. Our reassessment determined that $16 million of this allowance was no longer needed and was recorded as a reduction of our 2004 income tax expense.

· In conjunction with our reassessment of the realizable value of state tax benefits, we also recognized a change in the estimated average state income tax rate used to value our deferred tax assets. This rate change reduced our 2004 income tax expense by $9 million.

Excluding the unusual or nonrecurring benefits described above, our 2004 effective tax rate was 27 percent. This rate was lower than the 35 percent U.S. tax rate, primarily because of export tax benefits and research tax credits generated by 2004 operations. We expect our 2005 effective tax rate to be higher than this, but still well below 35 percent. The American Jobs Creation Act of 2004 phases out the export tax benefits (reduced 20 percent for 2005) that have been a key factor in our low tax rate. However, those benefits are replaced with a new U.S. manufacturer's tax deduction which phases in beginning in 2005. The Jobs Act also includes a special one-year 85 percent deduction for qualifying dividends repatriated from foreign operations. Generally, the special 2005 repatriation rules are only beneficial on very low-taxed foreign earnings. We are reviewing the possible application of the rules to some foreign joint venture repatriations that could potentially reduce our 2005 income tax provision by $5 million to $10 million.

The 2002 income tax benefit included a one-time, $57 million favorable tax adjustment credit related to the settlement of U.S. Internal Revenue Service income tax audits for tax years 1994 through 1999.

The amount of income taxes paid in 2004, 2003 and 2002 was $87 million, $50 million and $30 million, respectively. Note 9 to the *Consolidated Financial Statements* contains a complete disclosure of our income taxes including a reconciliation of the income tax provision (benefit) that would be expected using the 35 percent U.S. Federal income tax rate to the actual income tax provision (benefit) recorded.

Minority Interests in Earnings of Consolidated Subsidiaries

Minority interests in our consolidated operations were $26 million in 2004, compared to $14 million in 2003 and $16 million in 2002. Approximately one-half of the increase in 2004 compared to 2003 resulted from higher earnings at Wuxi Holset Ltd ($3 million), a 55 percent owned subsidiary, and Cummins India Limited ($4 million), a 51 percent owned-subsidiary. The remainder of the increase in minority interests is attributable to consolidating the results of four entities under the provisions of FIN 46R (See Note 2 to the *Consolidated Financial Statements*). The decrease in 2003 compared to 2002 is a result of lower earnings at Wuxi Holset and Cummins India Limited, partially offset by income from our 60 percent-owned subsidiary in Brazil, Cummins Powerent Comericio e Locação, Ltda.

Dividends on Preferred Securities

Dividends on our preferred securities were $11 million in 2003 and $21 million in 2002. Effective July 1, 2003, these dividends were prospectively classified as interest expense in our *Consolidated Statements of Earnings* in accordance with SFAS 150. A description of our obligation relating to these preferred securities is provided in Note 11 to the *Consolidated Financial Statements.*

Cumulative Effect of Change in Accounting Principles

Consolidation of a Variable Interest Entity—2003

In 2001, we entered into a sale-leaseback agreement whereby we sold and leased back heavy-duty engine manufacturing equipment from a grantor trust wholly-owned by a financial institution. In December 2003, the grantor trust, which acts as a lessor in the sale-leaseback transaction, was consolidated

when we adopted FIN 46R. Under FIN 46R, the lessor trust was deemed a variable interest entity (VIE) and we were deemed the primary beneficiary of the trust by virtue of our guaranteeing the leased equipment's residual value. Accordingly, we recorded the cumulative effect of consolidating the VIE in our *Consolidated Financial Statements* as a change in accounting principle as of December 31, 2003, with the following impact:

- reduced earnings $6 million ($4 million after-tax, or $0.09 per share) which represents the reversal of the original sale-leaseback transaction (as if it had not occurred), and the consolidation of the VIE from the inception of the lease, and
- increased property, plant and equipment by a net $92 million (current carrying value as if it had been depreciated since the beginning of the lease) and increased long-term debt, other liabilities and minority interests by a net $98 million.

Our *Consolidated Statement of Earnings* in 2004 also included interest expense on the lessor's debt of $7 million and depreciation expense on the equipment of $11 million rather than rent expense. The effect of consolidating this VIE in 2004 reduced our pre-tax earnings by approximately $5 million which represents the difference between the sum of interest and depreciation expense recorded in 2004 and rent expense that would have been recorded prior to consolidation. See Note 2 to the *Consolidated Financial Statements* for a description of the change in accounting and Note 18 for a description of the original leasing transaction. The consolidation of the VIE did not impact 2003 *Consolidated Statements of Earnings,* other than the cumulative effect at December 31, 2003, nor did it affect compliance with any of our debt covenants.

Change in Pension Measurement Date—2002

During the fourth quarter of 2002, we changed the measurement date for measuring the return on assets invested in our pension plans and the minimum liability for pension plan obligations from September 30 to November 30. This change in measurement date aligns more closely with our fiscal year-end, and we believe provides a more current measurement of plan obligations and investment return on plan assets than previously presented. In accordance with GAAP, we have reported this change in our *Consolidated Statements of Earnings* as a change in accounting principle. The cumulative after-tax effect of the change increased 2002 earnings $3 million, or $0.07 per share, and was recorded as of January 1, 2002. See Note 12 to the *Consolidated Financial Statements* for a further discussion of this accounting change.

BUSINESS SEGMENT RESULTS

We have four reportable business segments: Engine, Power Generation, Filtration and Other and International Distributors. This reporting structure is organized according to the products and markets served by each segment and allows management to focus its efforts on providing enhanced service to a wide range of customers. We evaluate the performance of each of our business segments based on earnings before interest, taxes, minority interests, and cumulative effect of accounting changes (Segment EBIT) and return on average net assets (excluding debt, taxes and adjustments to the minimum pension liability).

Prior to January 1, 2004, intersegment transfers between the Engine segment and the Power Generation segment and between the Filtration and Other segment and the Engine segment were recorded at cost and a sale was not recorded by the transferor segment. Effective January 1, 2004, all intersegment sales of the transferor segments were recorded at a market-based transfer price discounted for certain items. Unit shipments are now also reflected in the sales volumes of the transferor segments. Certain intersegment cost allocations to the transferor segments have also been eliminated. In addition, certain engines manufactured by the Engine segment and sold to International Distributors through Power Generation were previously recorded as a sale by Power Generation; however, under the new methodology Power Generation now records a sale commission on such sales. We believe this change allows our

segment management to focus on those pricing decisions and cost structuring actions within their control. The impact of this change in methodology to 2004 segment results follows:

- Engine Business sales increased $502 million,
- Filtration and Other Business sales increased $205 million,
- Power Generation sales decreased $44 million, and
- Intersegment sales eliminations increased $663 million.

The net impact of this change did not have a material effect on segment EBIT for any of our segments. Segment results for 2003 and 2002 were not restated to reflect the change to market-based transfer pricing as it was impracticable to do so.

Engine

The net sales and segment EBIT for the Engine Business for the years ended December 31, were as follows:

	2004	2003	2002
		$ Millions	
Net sales	$ 5,500	$ 3,631	$ 3,435
Segment EBIT	$ 341	$ 70	$ 49

Net sales for this business increased $1,869 million, or 51 percent, in 2004 compared to 2003. The increase was primarily due to the economic recovery evidenced by strong demand across all market sectors, particularly the North American heavy-duty and medium-duty truck markets and the light-duty automotive market with record engine sales to DaimlerChrysler for the Dodge Ram truck. Total automotive-related engine sales were 67 percent of Engine Business sales in 2004 compared to 71 percent in 2003.

Net sales for this business increased $196 million, or 6 percent in 2003 compared to 2002. The increase was primarily due to strong sales of ISB engines to DaimlerChrysler for the Dodge Ram truck.

Segment EBIT increased $271 million in 2004, to almost five times segment EBIT in 2003. The year-over-year improvement was primarily a net result of the following:

- Improved gross margin resulting from higher engine volumes and service part sales and the accompanying benefits of fixed cost absorption at our manufacturing plants along with the consolidation of heavy-duty test and assembly operations ($458 million),
- increased selling and administrative expenses ($96 million) and research and engineering expenses ($29 million),
- higher product coverage expense from increased sales volumes ($59 million),
- steel surcharges ($28 million) from higher steel prices, and
- premium freight costs ($17 million).

In addition, income from joint ventures increased $34 million compared to 2003, primarily from higher volumes and earnings at our China joint venture, DCEC, and earnings from our North American distributorships.

In 2003, segment EBIT increased $21 million, or 43 percent, compared to 2002. The year-over-year improvement in earnings was primarily a net result of the following:

- higher earnings from joint ventures and alliances ($41 million) resulting from higher sales volumes from DCEC and North American distributors,
- increased selling and administrative expenses ($38 million) resulting from higher pension cost and higher variable compensation as a consequence of earnings improvement,
- higher engine volumes and the accompanying benefits of fixed cost absorption at our manufacturing plants and our consolidation of heavy-duty test and assembly operations ($20 million), and
- reduced spending for research and development following the launch of our 2002 emissions-compliant engines ($7 million).

A summary and discussion of Engine Business net sales by market for the years ended December 31, follows:

	2004	2003	2002
		$ Millions	
Heavy-Duty Truck	$ 1,741	$ 1,100	$ 1,069
Medium-Duty Truck and Bus	773	560	599
Light-Duty Automotive	1,176	935	781
Total Automotive	3,690	2,595	2,449
Industrial	1,288	1,036	986
Stationary Power	522	n/a	n/a
Total net sales	$ 5,500	$ 3,631	$ 3,435

Unit shipments increased 98,600 units, or 31 percent, in 2004 compared to unit shipments a year earlier. Unit shipments in 2003 increased 9,600 units, or 3 percent, compared to 2002 shipments. A summary of unit shipments by engine category for the three years ended December 31, follows:

	2004	2003	2002
Midrange	331,200	266,800	251,100
Heavy-Duty	80,500	47,400	53,600
High-Horsepower	4,700	3,600	3,500
Total unit shipments	416,400	317,800	308,200

Heavy-Duty Truck

Sales to the heavy-duty truck market increased significantly in 2004, up $641 million, or 58 percent, compared to 2003. The increase resulted from strong demand in the North American truck industry driven primarily by economic growth and related increase in freight tonnage and higher replacement demand for trucks. Unit shipments of heavy-duty truck engines were up 84 percent in 2004 compared to 2003 with North American shipments up 97 percent and international shipments up 26 percent.

In 2003, sales to the heavy-duty truck market increased $31 million, or 3 percent, compared to 2002 sales. The increase was primarily attributable to a modest recovery in the North American truck industry evidenced by strong demand at the end of the year as fourth quarter sales increased 15 percent compared to the previous quarter. Unit shipments of heavy-duty truck engines declined 14 percent in 2003 compared 2002. The decline was a result of significant pre-buy activity prior to the North American October 1, 2002, EPA emissions standards. The volume decline in 2003 unit shipments was more than offset by higher unit pricing for our new ISX and ISM emissions compliant engines and higher part sales.

Medium-Duty Truck and Bus

Medium-duty truck and bus revenues increased $213 million, or 38 percent, in 2004 compared to 2003. Shipments of medium-duty truck engines were up 93 percent to North American OEMs and up 36 percent to international OEMs compared to 2003. The increase in medium-duty truck engine shipments was driven primarily by economic growth as demand in this market typically correlates with demand in the heavy-duty market. Worldwide shipments of bus engines were down 10 percent in 2004 compared to 2003. Most of the decline occurred in international markets with some demand recovery in China where volumes were up compared to 2003. However, lower sales to India and Europe/CIS more than offset the increase.

In 2003, medium-duty truck and bus revenues declined $39 million, or 7 percent, compared to 2002. The majority of the decrease resulted from declining bus engine sales as engine sales for medium-duty trucks were essentially flat compared to 2002. Worldwide bus engine sales declined 37 percent in 2003 and unit shipments were down 39 percent, primarily in North America, due to declining market share from a major bus OEM and also lower engine sales to China where sales were replaced by sales from one of our joint ventures in China.

Light-Duty Automotive

Sales of light-duty automotive engines increased $241 million, or 26 percent, in 2004 compared to 2003. Total unit shipments were 178,000 in 2004, an increase of 18 percent compared to 2003. Most of the increase in light-duty automotive sales was driven by strong demand from DaimlerChrysler for Dodge Ram truck engines with record shipments of 154,300 units, or a 20 percent increase compared to 2003. Engine shipments to recreational vehicle OEMs decreased slightly, down 3 percent in 2004 compared to 2003, partially as a result of higher shipments in 2003 in advance of new product introductions and slightly lower market share in 2004.

In 2003, sales from our light-duty automotive engines increased $154 million, or 20 percent, compared to 2002. Total unit shipments in 2003 were 150,300, an increase of 21 percent compared to the prior year. Engine shipments to DaimlerChrysler for the Dodge Ram truck set a record in 2003, increasing 28 percent, compared to the prior year, primarily driven by increased demand and market share improvement. Unit shipments of medium-duty engines to the recreational vehicle market declined 13 percent year-over-year, reflecting a pre-buy of engine models in 2002 prior to the new emissions standards.

Industrial

Total industrial sales to the construction, agricultural, mining, marine, government, oil and gas and rail markets increased $252 million, or 24 percent, in 2004 compared to 2003. Unit shipments increased 26 percent year-over-year reflecting a slight change in sales mix to lower-priced engines. Approximately 42 percent of the shipments were to North American markets and 58 percent to international markets compared to 39 percent and 61 percent, respectively, in 2003. Overall growth in industrial markets was driven by strong demand in 2004 as the capital goods sector of the economy experienced a significant recovery. The year-over-year increase in sales resulted primarily from the following:

· Engine sales to the construction market increased 25 percent year-over-year with shipments to North American OEMs up 41 percent and shipments to international OEMs up 20 percent,

· Engine sales to agricultural equipment OEMs increased 18 percent in 2004 compared to 2003 with a 15 percent increase in North American shipments and a 1 percent increase in shipments to international OEMs,

· Engine sales to the mining equipment market, comprised mostly of high-horsepower engines, were up 56 percent in 2004, driven primarily by higher coal and metal prices. Engine shipments to mining OEMs in North America increased 59 percent and were up 44 percent to international OEMs,

· Engine sales to the commercial marine market increased 24 percent year-over-year while shipments increased 9 percent evidencing a higher mix of sales to higher priced engines,

· Engine sales to government markets, primarily for military use, were relatively flat year-over-year,

· Engine shipments to the OEMs in the oil and gas market were up significantly in 2004 compared to a low base in 2003 as our QSK engine continues to be well received in this relatively new market, and,

· Engine sales to rail equipment OEMs, primarily railcar builders in international locations, increased 64 percent in 2004 compared to 2003, indicating strong demand for this market segment.

In 2003, total industrial sales increased $50 million, or 5 percent compared to 2002, while shipments were down 2 percent year-over-year, reflecting a change in sales mix to higher-priced engines. The year-over-year increase was attributable to the following:

· Sales to construction equipment OEMs increased 9 percent in 2003 compared to 2002 with shipments to North American OEMs down 10 percent and shipments to international OEMs up 9 percent,

· Total 2003 engine shipments to the agricultural equipment market increased 9 percent compared to 2002 with a 32 percent increase to international OEMs due to strong demand in Latin America,

· Engine shipments to mining equipment OEMs, primarily K and Q series high-horsepower engines, were down 6 percent to OEMs in North America but were more than offset by a 44 percent increase from international OEMs, primarily due to market share gain,

· Engine shipments to the marine market declined 20 percent in 2003 compared to 2002, partially as a result of our new joint venture with Brunswick Corporation, Cummins MerCruiser Diesel Marine LLC, which records sales of our midrange and heavy-duty engines for recreational marine applications,

· Engine sales to government markets increased 59 percent in 2003,

· Engine shipments to the recently entered oil and gas equipment market were up significantly in 2003, primarily from market share gains in North America, and

· Shipments of engines to railcar builders declined 30 percent in 2003, as a result of weak demand.

Stationary Power

Engine Business sales to stationary power markets were $522 million in 2004. This new sales category arose from a change in 2004 where all intersegment engine sales from the Engine Business to the Power Generation Business are recorded at a market-based transfer price. Prior to 2004, intersegment transfers were recorded at cost and a sale was not recorded by the Engine Business. Segment financial results for 2003 and 2002 were not restated to reflect this change as it was impracticable to do so.

Power Generation

The net sales and segment EBIT for Power Generation for the years ended December 31, were as follows:

	2004	2003	2002
		$ Millions	
Net sales	$ 1,877	$ 1,329	$ 1,226
Segment EBIT	$ 69	$ (15)	$ (25)

Net sales for this business increased $548 million, or 41 percent, compared to 2003 (excludes $44 million attributable to the change in intersegment transfer pricing). A majority of the sales increase was driven by improved economic conditions in the commercial, consumer and alternator product markets as follows:

· Unit shipments of commercial generator drives (g-drives) and generator sets (gen sets), alternators, and gen sets for the consumer and mobile/RV markets increased significantly in 2004 as a result of strong demand,

· Year-over-year gen set sales increased 38 percent,

· G-drive sales were up 47 percent,

· Revenues from alternators increased 110 percent, and

· Sales in the consumer mobile/RV market increased 20 percent.

Approximately $90 million of the sales increase resulted from the consolidation of new entities, including those consolidated under the provisions of FIN 46R.

Net sales in our Power Generation Business increased $103 million, or 8 percent, in 2003 compared to 2002. A majority of the sales increase occurred in the second half of the year, as general economic conditions improved and demand for commercial power equipment began to recover. Overall, sales of generator drives increased 22 percent, alternator sales increased 24 percent, sales of small generator sets to the consumer mobile/RV market increased 8 percent and sales of commercial generator sets were flat year-over-year.

A summary of engine shipments used in power generation equipment by engine category for the years ended December 31, follows:

	2004	2003	2002
Midrange	16,800	14,000	14,000
Heavy-duty	6,700	5,300	4,300
High-horsepower	7,400	5,200	5,400
Total unit shipments	30,900	24,500	23,700

Total Power Generation shipments increased 6,400 units, or 26 percent, compared to 2003.

· Unit shipments of power generation equipment with midrange engines increased 20 percent:

  · g-drive midrange powered units increased 8 percent in 2004 compared to 2003, and

  · midrange powered g-sets increased 35 percent with strong demand in East Asia.

· Unit shipments of power generation equipment with heavy-duty engines increased 1,400 units, or 26 percent compared to 2003:

  · g-drive heavy-duty powered units increased 27 percent, and

  · heavy-duty powered g-sets increased 31 percent with strong demand in Asia, the Middle East and Europe.

· Unit shipments of power generation equipment with high-horsepower engines that typically have higher sales values, increased 2,200 units, or 42 percent, in 2004 compared to 2003:

  · high-horsepower g-drive units increased 36 percent, and

  · high-horsepower g-sets increased 53 percent year-over-year, primarily due to strong demand in Middle East, India and China.

Total unit sales for Power Generation increased 800 units, or 3 percent, in 2003 compared to 2002.

· Unit shipments of power generation equipment with midrange engines were unchanged compared to 2002.

· Unit shipments of power generation equipment with heavy-duty engines increased 1,000 units, or 23 percent compared to 2002:

  · g-drive units increased 23 percent, and

  · g-sets increased 17 percent.

· Unit shipments of power generation equipment with high-horsepower engines decreased 200 units, or 4 percent compared to 2002:

  · high-horsepower g-drive units increased 5 percent, and

  · high-horsepower g-sets decreased 15 percent year-over-year.

The overall increase in 2003 unit sales of g-drive and gen sets was attributable to improvement in commercial markets during the second half of the year. Sales of power generation equipment in North America was flat in 2003 compared to 2002 with sales to international locations up 11 percent, primarily in India, South Pacific, Brazil, Mexico and Europe. Alternator sales increased 24 percent in 2003 compared to 2002 while sales of small generator sets for the consumer mobile/RV market increased 8 percent, reflecting strong demand in this segment and market penetration in the consumer-towable RV market.

In 2004, Power Generation segment EBIT was $69 million, compared to a $15 million loss before interest and taxes in 2003, or a year-over-year improvement of $84 million. The improvement was largely attributable to the strong commercial sales volumes across all geographic markets driven by an improving economy and increased capital goods spending. The increase in segment EBIT was attributable to the following:

· higher volumes and related absorption of fixed manufacturing expenses ($81 million),

· cost reduction actions ($29 million),

· price realization ($16 million),

· higher earnings at joint ventures ($6 million),

· partially offset by increased costs of steel and copper ($14 million),

· unfavorable impact of foreign exchange rates ($10 million), and

· higher selling, administrative and research and engineering expenses ($35 million).

In 2003, Power Generation incurred a loss before interest and taxes of $15 million, compared to a $25 million loss before interest and taxes in 2002, an improvement of $10 million year-over-year. The improvement was primarily attributable to the following:

· increase in gross margin on higher sales during the second half of the year ($16 million),

· improved earnings at joint ventures ($4 million),

· partially offset by increased selling and administrative expenses ($17 million), and

· other items that individually were not significant.

The sales increase was a result of modest demand improvement, primarily in the second half of the year, as overall economic conditions began to improve.

Filtration and Other Business

The net sales and segment EBIT for Filtration and Other for the years ended December 31, were as follows:

	2004	2003	2002
		$ Millions	
Net sales	$ 1,484	$ 1,056	$ 951
Segment EBIT	$ 84	$ 86	$ 94

This business achieved record sales in 2004 reflecting demand improvement from OEMs and increased market share. Sales increased $428 million, or 41 percent in 2004, compared to 2003 (includes $205 million due to the change in intersegment transfer pricing). A majority of the increase was volume related and reflected strong OEM and aftermarket sales demand as follows:

- sales of filtration and exhaust products in the U.S. increased 16 percent compared to 2003,
- sales to international locations increased 14 percent, most notably in Europe, Asia, and Australia, partially offset by sales declines in Canada, and
- sales of our Holset subsidiary, which manufacturers turbochargers, increased 45 percent in 2004, compared to 2003, (excluding the impact of intersegment transfers), with higher aftermarket sales to OEMs, and strong demand from our joint ventures in China.

Net sales increased $105 million, or 11 percent, in 2003 compared to 2002. Domestic sales of filtration products increased 12 percent and international sales also increased 12 percent, most notably in Europe, Asia, Australia and South Africa, partially offset by sales declines in Canada and Mexico. The increase in sales was primarily volume related and reflected higher OEM demand and increased aftermarket sales of filtration products. Sales of Holset turbochargers increased 22 percent in 2003, compared to 2002, with strong demand from OEMs, aftermarket sales and sales to joint ventures partially offset by lower sales to our China joint ventures.

Segment EBIT in 2004 was $84 million, slightly below segment EBIT in 2003. While higher filtration sales and increased volumes at Holset contributed an incremental $40 million to gross margin year-over-year, gross margin percentage declined in 2004 compared to 2003. The lower gross margin percentage resulted from the following:

- higher steel prices used in manufacturing filters and exhaust products ($17 million, net of $7 million price recovery), and
- production inefficiencies from capacity constraints ($21 million).

In addition, higher selling, and administrative expenses ($30 million), and increases in research and engineering expenses ($16 million) reduced segment EBIT in 2004, compared to 2003, and were partially offset by higher earnings at joint ventures ($2 million) and other income ($2 million).

Segment EBIT declined $8 million, or 9 percent, compared to 2002. Earnings were lower in 2003 primarily from:

- higher selling and administrative expenses ($19 million) from funding growth initiatives, increased logistics and higher employee benefit costs, including pensions,
- increases in research and engineering expenses ($5 million),
- offset by volume driven improvement in gross margin ($13 million), and
- improved earnings at joint ventures ($2 million).

International Distributor Business

The net sales and segment EBIT for International Distributor for the years ended December 31, were as follows:

	2004	2003	2002
		$ Millions	
Net sales	$ 856	$ 669	$ 574
Segment EBIT	$ 51	$ 40	$ 29

Our International Distributor Business recorded record sales in 2004, up $187 million, or 28 percent, compared to 2003. Approximately one-half of the total sales increase was attributable to parts and service revenue, up 21 percent, with increases at almost all distributor locations and significant increases at distributorships in Dubai, Australia, China and South Africa.

- Engine sales, representing 22 percent of the total sales increase, were up 37 percent compared to the prior year with strong demand across most locations and significantly higher engine sales at distributorships in Europe/CIS, Singapore, India and Dubai.
- Sales of power generation equipment accounted for 26 percent of the total sales increase in 2004 and were up 58 percent with strong demand at distributorships in Dubai, Hong Kong, Singapore and Japan.
- Approximately $46 million of the sales increase was attributable to the favorable impact of foreign currency exchange rates.

Sales increased $95 million, or 17 percent in 2003, compared to 2002. Engine sales were relatively flat year-over-year, while part sales increased 31 percent in 2003 and sales of power generation equipment increased 50 percent, primarily at our Dubai distributor. Sales increased at all distributor locations with the exception of Hong Kong and Zimbabwe, with significant increases in Australia, India, South Africa, Dubai and Europe, primarily the U.K. and Ireland.

Segment EBIT increased $11 million in 2004, or 28 percent, compared to 2003. The increased earnings resulted from the following:

- higher gross margin driven by higher sales of engines, parts and service and power generation equipment ($28 million),
- partially offset by higher volume variable selling expenses ($19 million), and
- other miscellaneous items that individually were not significant.

Gross margin was favorably impacted by foreign currency exchange rates ($10 million) but the impact was offset by the unfavorable effects of exchange rates on selling and administrative expenses.

In 2003, segment EBIT increased $11 million, or 38 percent, compared to 2002. The increase in earnings was attributable to improved gross margin from higher sales volumes ($24 million), partially offset by increases in volume variable expenditures, primarily selling and administrative expenses ($19 million).

Geographic Markets

Sales to international markets were 48 percent of total net sales in 2004, compared to 47 percent of total net sales in 2003 and 45 percent of total net sales in 2002.

A summary of net sales by geographic territory for the years ended December 31, follows:

	2004	2003	2002
		$ Millions	
United States	$ 4,363	$ 3,356	$ 3,202
Asia/Australia	1,474	1,112	1,023
Europe/CIS	1,145	827	763
Mexico/Latin America	567	475	423
Canada	549	292	283
Africa/Middle East	340	234	159
Total international	4,075	2,940	2,651
Total consolidated net sales	$ 8,438	$ 6,296	$ 5,853

Shipments of heavy-duty automotive engines to international markets in 2004 were up 26 percent compared to 2003, primarily due to strong demand in Mexico and Asia. Shipments of midrange automotive engines to international markets increased 36 percent in 2004 compared to 14 percent growth in 2003 due to increased shipments to Latin American OEMs. Shipments of light-duty automotive engines to international markets increased 20 percent in 2004 compared to 2003 while shipments of bus engines to international locations decreased 14 percent due to lower shipments to India, Europe/CIS and East Asia. Industrial engine shipments to international markets were up 19 percent in 2004, compared to 2003, with strong demand from construction and mining equipment OEMs in Asia, Latin America and Europe/CIS. The increase in international sales was primarily a result of the following:

- Sales to the Asia/Australia region increased $362 million, or 33 percent, in 2004 compared to 2003, primarily from increased demand from construction equipment OEMs in Asia and strong demand for power generation equipment in Southeast Asia, Australia and India,
- Sales to Europe/CIS, representing 28 percent of international sales and 14 percent of total sales in 2004, increased 38 percent compared to the prior year, mostly due to increased engine shipments to European OEMs and strong demand for filtration products,
- Sales to Mexico/Latin America, representing 14 percent of international sales, increased $92 million, or 19 percent, in 2004 compared to 2003, primarily from higher engine sales to automotive, agricultural and construction equipment OEMs in South America,
- Sales to Canada, representing 13 percent of international sales and 7 percent of total sales in 2004, increased 88 percent compared to 2003, driven by higher heavy-duty and midrange automotive sales, and
- Sales to Africa/Middle East increased $106 million, or 45 percent, in 2004 compared to 2003, primarily driven by increased sales of engines and parts and power generation equipment at our Dubai and South Africa distributors.

Net sales to international markets increased $289 million, or 11 percent in 2003, compared to 2002. Sales increased in all geographic regions in 2003, primarily on the strength of increased demand for engines and generator drive units at our Australian distributorship, increased medium duty engines sales to UK OEMs, higher engine sales to agricultural OEMs, higher power generation sales to Mexico/Latin America and higher sales of engines and parts at our distributors in Dubai and South Africa.

LIQUIDITY AND CAPITAL RESOURCES

Overview of Capital Structure

Cash provided by continuing operations is a major source of funding our working capital requirements. At certain times, cash provided by operations is subject to seasonal fluctuations, and as a result, we use periodic borrowings, primarily our accounts receivable sales program and our revolving credit facility, to fund our working capital requirements. As of December 31, 2004, there were no amounts outstanding under our receivable sales program or our revolving credit facility.

In the fourth quarter of 2000, we entered into a receivable securitization program that provided a cost-effective method to fund our trade accounts receivable. This program diversified our funding base and provided a flexible source of funding that was not reported on our balance sheet. In December 2003, this program expired and there were no amounts outstanding under the program at that time. In January 2004, we entered into a similar type of program with a different financial institution. A more complete description of this program, which discloses certain cash flows related to the program, is found below under the caption, “Off Balance Sheet Financing—Sale of Accounts Receivable” and in Note 5 to the *Consolidated Financial Statements.* We also have various short and long-term credit arrangements available, which are also discussed below and disclosed in Note 11 to the *Consolidated Financial Statements.*

We believe cash generated from operations, our credit facility arrangements and our accounts receivable program provide us with the financial flexibility required to satisfy future short-term funding requirements for working capital, debt service obligations, capital spending and projected pension funding. On March 1, 2005 we repaid our 6.45% Notes with principal amount of $225 million from cash and cash equivalents. At December 31, 2004, we believe our liquidity is adequate with cash and cash equivalents of $611 million, $530 million available under our new revolving credit facility and $175 million available under our accounts receivable program (see the table below under Available Credit Capacity).

Our total debt including convertible subordinated debentures was $1,645 million as of December 31, 2004, compared to $1,429 million, at December 31, 2003. Total debt, including our convertible subordinated debentures, as a percent of our total capital, including total long-term debt, was 54.0 percent at December 31, 2004, compared to 60.1 percent at December 31, 2003. Included in long-term debt at December 31, 2004 and 2003, was $81 million and $90 million, respectively, attributable to consolidating a leasing entity under the provisions of FIN 46R (see Notes 2 and 11 to the *Consolidated Financial Statements*). Also included in short-term and long-term debt at December 31, 2004, was $132 million from the consolidation of four joint ventures previously reported under the equity method of accounting and now consolidated under the provisions of FIN 46R (see Note 2 to the *Consolidated Financial Statements*). The consolidation of these entities did not materially impact our 2004 net earnings nor did it affect compliance with any of our debt covenants. We do not expect the consolidation of these entities to have a material impact on net earnings or affect our compliance with debt covenants in future periods.

Restructuring Actions

During the period 2000-2002, we recorded significant charges to restructure our operations, largely focused in our Engine Business. These actions and the resulting charges were primarily taken in response to the downturn in the North American trucking industry and related conditions and included workforce reductions, asset impairment losses, termination of a new engine development program and other charges. Total net cash outflows associated with these actions approximated $91 million, including $25 million in 2002 and $2 million in 2003. The associated annual savings from these restructuring actions were estimated at $97 million. Certain of these restructuring actions are also described above and in Note 19 to the *Consolidated Financial Statements.* All of the restructuring actions were completed as of December 31, 2003.

Available Credit Capacity

The table below provides the components of available credit capacity as of December 31:

	2004	2003
	$ Millions	
Revolving credit facility	$530	$276
International credit facilities accessible by local entities	76	52
International credit facilities accessible by corporate treasury	38	36
Accounts receivable(1)	175	—
Total available credit capacity	$819	$364

(1) Our previous accounts receivable program expired in December 2003 and in January 2004 we entered into a new three-year agreement for a similar program with a different financial institution (see discussion below under the caption "Sale of Accounts Receivable").

Cash Flows

Cash and cash equivalents increased $503 million during 2004 and were $611 million at the end of the year compared to $108 million at the beginning of the year. Cash and cash equivalents were higher in 2004 as a result of an increase in cash provided by operations generated primarily by higher net earnings.

The following table summarizes the key elements of our cash flows for the years ended December 31:

	2004	2003	2002
		$ Millions	
Net cash provided by operating activities	$ 614	$ 158	$ 193
Net cash used in investing activities	(189)	(135)	(152)
Net cash provided by (used in) financing activities	74	(145)	131
Effect of exchange rate changes on cash	4	6	2
Net increase (decrease) in cash and cash equivalents	$ 503	$ (116)	$ 174

Operating Activities. Net cash provided by operating activities improved $456 million in 2004 compared to 2003, primarily due to higher net earnings ($300 million), increase in non-cash adjustments for depreciation and amortization expense ($49 million) and pension expense ($28 million). Net changes in working capital also provided $80 million in cash during 2004 compared to a $5 million use in 2003, or a net increase in cash provided by working capital of $85 million year-over-year. The increase was a result of increases in accounts payable ($110 million) and accrued expenses ($214 million), partially offset by increases in accounts receivable ($99 million) and inventories ($141 million). Accounts payable and inventory were higher in 2004 primarily from higher production levels necessary to meet increased demand and from the effects of consolidating entities under FIN 46R, ($70 million and $73 million, respectively). Accounts receivable increased due to higher sales levels and the impact of FIN 46R ($72 million) and accrued expenses increased primarily from payroll and variable compensation accruals ($87 million), pension liability ($22 million) and the impact of FIN 46R ($44 million).

Investing Activities. Net cash used in investing activities increased $54 million in 2004 compared to 2003. The increase was due to higher capital expenditures ($40 million), increased investment in and advances to equity investees ($15 million), acquisition of a business ($18 million for purchase of a distributorship), partially offset by cash inflows from net liquidations of marketable securities ($22 million).

The majority of our capital spending in 2004 included equipment for new product support and capacity expansion in our Engine and Filtration and Other segments. Our 2005 capital spending program is

expected to be in the range of $220 million to $240 million, primarily for increased capacity and funding investment in manufacturing equipment and tooling for new products.

Financing Activities. Net cash provided by financing activities was $74 million in 2004 compared to a net cash outlflow of $145 million in 2003, or a net change in cash inflows of $219 million year-over-year. Most of the change occurred from a significant cash outflow in March 2003 from the payment of our $125 million 6.25% Notes and significant cash inflows in 2004 from the proceeds of common stock issued from the exercise of a large number of stock options ($148 million).

Cash Requirements

A summary of payments due for our contractual obligations and commercial commitments, as of December 31, 2004, is shown in the tables below:

Contractual Cash Obligations	2005	2006-2007	2008-2009	After 2009	Total
			$ Millions		
Loans payable	$ 62	$ —	$ —	$ —	$ 62
Long-term debt and capital lease obligations	284	151	94	1,054	1,583
Operating leases	61	94	70	104	329
Capital expenditures	88	—	—	—	88
Purchase commitments for inventory	391	—	—	—	391
Other purchase commitments	179	75	34	—	288
Pension funding obligations(1)	135				135
Total	$ 1,200	$320	$198	$ 1,158	$ 2,876

(1) Pension funding obligations are included only for 2005 as the amount of our funding obligations beyond the next year are not yet determinable.

Other Commercial Commitments	2005	2006-2007	2008-2009	After 2009	Total
			$ Millions		
Standby letters of credit under revolving credit agreement	$106	$10	$ 2	$—	$118
International and other domestic letters of credit	24	—	4	—	28
Performance and excise bonds	16	—	—	41	57
Other guarantees	16	—	—	1	17

Total	$162	$10	$ 6	$42	$220

Financial Covenants and Credit Rating

A number of our contractual obligations and financing agreements, such as our revolving credit facility and our equipment sale-leaseback agreement, have restrictive covenants and/or pricing modifications that may be triggered in the event of downward revisions to our corporate credit rating. Our credit rating is determined by independent credit rating agencies and includes an annual assessment of the creditworthiness of our debt securities and other obligations. It is intended to measure the probability of timely repayment of principal and interest of our notes and short-term debt. Generally, a higher credit rating leads to a more favorable effect on the marketability and pricing of our debt instruments in the capital markets. A credit rating of Baa3 or higher by Moody's or a rating of BBB- or higher by Standard & Poor's, two of the major credit rating agencies, is considered investment grade. Currently, the corporate credit rating of our debt securities is below investment grade.

Any rating can be revised upward or downward or withdrawn at any time by a rating agency if it decides the circumstances warrant that change, and there can be no assurance that our debt ratings will not be lowered further or withdrawn by a rating agency. Any future lowering of our credit ratings could further increase the cost of our financing agreements and arrangements, and may have a negative impact on our ability to access the capital markets or borrow funds at current rates.

Our current rating and ratings outlook from each of the credit rating agencies is shown in the table below, and remain unchanged from the prior year except each agency updated its ratings outlook from Negative to Stable in 2004. Each rating should be viewed independently of any other rating.

Credit Rating Agency	Senior L-T Debt Rating	S-T Debt Rating	Outlook
Moody's Investors Service, Inc.	Ba2	Not Prime	Stable
Standard & Poor's	BB+	WR	Stable
Fitch	BB-	BB+	Stable

We do not believe a further downgrade of our credit rating will have a material impact on our financial results, financial condition or access to sufficient liquidity. However, one of our corporate goals is to regain an investment grade credit rating from the rating agencies. To achieve this goal, we have placed significant management focus on earnings improvement, increased cash flow and debt reduction. The impact of credit ratings on our financing arrangements is discussed below.

New Revolving Credit Facility

In December 2004, we entered into a new revolving credit facility. The new facility replaced our previous $385 million revolving credit facility that was scheduled to expire in November 2005. Deferred debt issue costs related to the previous facility were expensed in the fourth quarter and were not material. The new facility provides for aggregate unsecured borrowings up to $650 million and is available on a revolving basis for a period of five years. Borrowings are primarily available in U.S. dollars, although up to $60 million of the facility is available for multicurrency borrowings and letters of credit, up to $200 million is available for total letters of credit and up to $50 million is available for swing-line loans. A number of our subsidiaries are permitted to borrow and obtain letters of credit under the facility, although aggregate borrowings and letters of credit for our subsidiaries may not exceed $60 million.

Subsidiary borrowings under the facility are guaranteed by us and the borrowing subsidiary. Certain of those guarantees are limited by the terms of our existing public indenture which governs a number of our outstanding notes and debentures. The indenture restricts the ability of our subsidiaries to incur or guarantee indebtedness, and their ability is also limited by similar terms in the indenture governing our $250 million Senior Notes.

At our option, borrowings under the revolving credit facility bear interest at a rate equal to the following:

- the London inter-bank offered rate (LIBOR) plus a spread ranging from 1.0 percent to 2.0 percent based on our credit rating, or
- the Alternate Base Rate rate or ABR (which is the greater of the administrative agent's prime rate and the federal funds effective rate plus 0.5 percent) plus a spread ranging from 0 percent to 1.0 percent based on our credit rating and utilization of the credit facility.

In addition, we are required to pay quarterly fees on unused commitments under the new revolving credit facility, which are based on our credit rating, and also an annual administration fee to the administrative agent for the facility.

The terms of the revolving credit facility contain covenants that restrict our ability, and the ability of our subsidiaries, to among other things, incur liens, enter into sale and leaseback transactions, enter into merger agreements, consolidation or asset sale transactions, dispose of capital stock of subsidiaries, incur subsidiary indebtedness and enter into speculative swap transactions. The revolving credit facility also restricts our ability to, under the terms of our existing public indenture, re-designate "unrestricted subsidiaries" as "restricted subsidiaries" or designate future subsidiaries as "restricted subsidiaries." The revolving credit facility also includes the following financial covenants which are measured quarterly:

- the ratio of (1) the sum of our consolidated indebtedness and our securitization financings to (2) the sum of our consolidated EBITDA for any period of four consecutive quarters may not exceed 3.25 to 1.0 for the periods prior to December 31, 2006 and may not exceed 3.0 to 1.0 for the periods thereafter; and
- the ratio of (1) our consolidated EBITDA minus capital expenditures to (2) our consolidated interest expense for any period of four consecutive quarters, may not be less than 1.50 to 1.0.

For purposes of the financial covenants described above, "consolidated indebtedness," "consolidated EBITDA," "consolidated interest expense," "securitization financings," "capital expenditures" and other financial measurements are calculated and defined by the terms of the revolving credit facility agreement.

Legal and bank facility fees of $3.6 million related to this agreement were capitalized as deferred debt costs and will be amortized over the five year life of the facility. As of December 31, 2004, we had $118 million of letters of credit outstanding against this facility, no borrowings and we were in compliance with all of the covenants of the agreement.

Off Balance Sheet Financing

Sale of Accounts Receivable

In January 2004, we entered into a new three year facility agreement with a financial institution to sell a designated pool of trade receivables to Cummins Trade Receivables, LLC (CTR), a wholly-owned special purpose subsidiary. As necessary, CTR may transfer a direct interest in its receivables, without recourse, to the financial institution. To maintain a balance in the designated pools of receivables sold, we sell new receivables to CTR as existing receivables are collected. Receivables sold to CTR in which an interest is not transferred to the financial institution are included in "Receivables, net" on our *Consolidated Balance Sheets*. The maximum interest in sold receivables that can be outstanding at any point in time is limited to the lesser of $200 million or the amount of eligible receivables held by CTR. There are no provisions in this agreement that require us to maintain a minimum investment credit rating; however, the terms of the agreement contain the same financial covenants as those described above under our revolving credit facility. The interest in receivables sold under this program to the financial institution in 2004 was not significant and as of December 31, 2004, there were no amounts outstanding under this program.

Under our old program which expired on December 15, 2003, we had an agreement with a different financial institution where we sold a designated pool of trade receivables to Cummins Receivable Corporation (CRC), a special purpose subsidiary. Under this program, CRC transferred an interest in its receivables, without recourse, to limited purpose receivable securitization companies (conduits) that were established and maintained by an independent financial institution. The conduits would then fund their purchases by issuing commercial paper.

No accounts receivable sold to either subsidiary were written off during 2004, 2003 or 2002. The weighted average interest rate on securitized repayments during 2004, 2003 and 2002 was 2.6 percent, 1.2 percent and 1.8 percent, respectively. The sold receivables servicing portfolio, which is included in

receivables at December 31, and the proceeds from the sale of receivables and other related cash flows are disclosed in Note 5 to the *Consolidated Financial Statements.*

Sale-Leaseback Transactions

In 2001, we entered into a sale-leaseback agreement with a variable interest entity (VIE) whereby we sold certain manufacturing equipment and leased it back under an operating lease. As a result of the Moody's downgrade in April 2002, and a Standard & Poor's downgrade in October 2002, we were required, under the lease agreement, to obtain irrevocable, unconditional standby letters of credit in an amount of $69 million. The letters of credit were posted to the benefit of the equipment lessor and lenders and will remain in effect until we achieve and maintain a minimum investment grade credit rating for 12 consecutive months. The sale-leaseback transaction is described in Note 18 to the *Consolidated Financial Statements.*

In December 2003, the grantor trust which acts as a lessor in the sale and lease back transaction discussed above was consolidated due to the adoption of FIN 46R. The impact of adopting FIN 46R and a description of the entities consolidated under FIN 46R are described in Note 2 to the *Consolidated Financial Statements.* As a result of the consolidation, the manufacturing equipment and the present value of the minimum lease payments were included in our *Consolidated Balance Sheets* as property, plant and equipment and long-term debt, respectively. In addition, our *Consolidated Statements of Earnings* includes interest expense on the lessor's debt obligations and depreciation expense on the manufacturing equipment rather than rent expense under the lease agreement. The cumulative effect of this transaction was recorded as a change in accounting principle effective December 31, 2003 and reduced net earnings by $6 million before related tax benefits of $2 million. The amount of interest expense and depreciation expense was $7 million and $11 million in 2004, respectively. The consolidation of the VIE did not impact our credit rating or compliance with our debt covenants.

PowerRent Business

In 1999, our Power Generation Business entered into an ongoing leasing program in which it built and sold power generation equipment to a financial institution and leased the equipment and related components back under a three-month, noncancelable lease arrangement with subsequent renewals on a monthly basis up to a maximum of 36 months. The equipment was sold at cost and pursuant to lease accounting rules; the excess of the fair value of the equipment sold over its cost was recognized as prepaid rent and reflected the normal profit margin that would have been realized at the time of sale. The margins on the equipment sales were deferred and the leases recorded as operating leases. The prepaid rent was amortized ratably over the accounting lease term. Upon termination of the leases through a sale of the equipment to a third party, the previously deferred margins on the sale to the financial institution were recorded as income. We sublease the equipment to customers under short-term rental agreements with terms that vary based upon customer and geographic region. In June 2004, the master lease agreement associated with this arrangement was amended to allow deployment of the equipment in countries other than the U.S. The amendment required us to retain full residual risk on the equipment's value at the end of the non-cancelable lease term. As a result of this amendment, the leases under this program were classified as capital leases. At the end of the non-cancelable lease term, we may either (1) extend the lease term for an additional period, (2) repurchase the equipment at the current guaranteed value, or (3) arrange for a sale of the equipment to a third party and pay the difference between the guaranteed value and the proceeds recovered from the sale.

During 2002 and 2003, we entered into new leases for portions of the equipment with a different lessor ($29 million and $34 million, respectively). The new leases had a minimum two-year non-cancelable lease term with monthly renewal options for the 2002 transaction and four six-month renewal options for the 2003 transaction. The deferred margin associated with the equipment that transferred to the new lessor

remained unchanged, as there was not an ultimate sale to a third party. In December 2004, the master lease agreement associated with these leases was also amended to allow deployment of the equipment in countries outside the U.S. This amendment required us to repurchase the equipment at the end of the two-year non-cancelable lease terms, and as a result, the leases were classified as capital leases.

The financial impact of amending these leasing arrangements, which represent the substantial majority of the equipment under lease in our PowerRent program, resulted in an increase in our capital lease obligations by the present value of: (1) the remaining minimum lease payments, plus (2) any guaranteed residual or repurchase obligation at the time of amendment. In addition, we increased the amount of our property, plant and equipment by this same amount, reduced for the remaining deferred gains associated with the original sale-leaseback of the units discussed above. The equipment will be depreciated over its expected remaining useful life. The total increase in our property, plant and equipment at the time the leases were amended was $104 million. The balance of the capital lease obligations related to these programs at December 31, 2004, was $103 million.

Future lease payments, including repurchase obligations, under each lease are included in Note 18 to the *Consolidated Financial Statements.* We do not expect the reclassification of the leases to have a material impact on net earnings or affect compliance with any of our debt covenants.

Financing Arrangements for Related Parties

In accordance with the provisions of various joint venture agreements, we may purchase products and components from the joint ventures, sell products and components to the joint ventures and the joint ventures may sell products and components to unrelated parties. The transfer price of products purchased from the joint ventures may differ from normal selling prices. Certain joint venture agreements transfer product to us at cost, some transfer product to us on a cost-plus basis and other agreements provide for the transfer of products at market value.

We purchase significant quantities of midrange diesel and natural gas engines, components and service parts from Consolidated Diesel Company (CDC), a general partnership that was formed in 1980 with J. I. Case (Case) to jointly fund engine development and manufacturing capacity. Cummins and Case (now CNH Global N.V.) are general partners and each partner shares 50 percent ownership in CDC. Under the terms of the agreement, CDC is obligated to make its entire production of diesel engines and related products available solely to the partners. Each partner is entitled to purchase up to one-half of CDC's actual production and a partner may purchase in excess of one-half of actual production to the extent productive capacity is available beyond the other partner's purchase requirement. The partners are each obligated, unconditionally and severally, to purchase annually at least one engine or engine kit produced by CDC, provided a minimum of one engine or engine kit is produced. The transfer price of CDC's engines to the partners must be sufficient to cover its manufacturing cost in such annual accounting period, including interest and financing expenses, but excluding depreciation expense (other than Scheduled Depreciation Expense as defined in the agreement). In addition, each partner is obligated to contribute one-half of the capital investment required to maintain plant capacity and each partner has the right to invest unilaterally in plant capacity, which additional capacity is available to the other partner for a fee. To date, neither partner has made a unilateral investment in plant capacity at CDC.

We are not a guarantor of any of CDC's obligations or commitments. However, we are required as a partner, to provide up to 50 percent of CDC's base working capital as defined by the agreement. The amount of base working capital is calculated each quarter and if supplemental funding greater than the base working capital amount is required, the amount is funded through third party financing arranged by CDC, or we may elect to fund the requirement, although we are under no obligation to do so. To date, when supplemental funding is required above the base working capital amount, we have elected to provide that funding to CDC. If the amount of supplemental funding required is less than the base working capital

amount, it is funded equally by the partners. Excess cash generated by CDC is remitted to Cummins until CDC's working capital amount is reduced to the base working capital amount. Any further cash remittances from CDC to the partners are shared equally by the partners.

In the first quarter of 2004, we adopted certain provisions of FIN 46R. Under the provisions of FIN 46R, CDC and another engine manufacturing entity jointly owned and operated by us were considered VIE's and we were deemed the primary beneficiary of these VIEs by virtue of our pricing arrangements with them and substantial product purchases from them. As a result, we consolidated the assets and liabilities of CDC and the other engine manufacturer as of March 28, 2004. Previously, these joint ventures were accounted for under the equity method of accounting and included in our *Consolidated Balance Sheets* as "Investments in and advances to equity investees." First quarter results for these entities were recorded as "Equity, royalty and other income from investees" in our *Consolidated Statements of Earnings* and results for the rest of the year were consolidated in our *Consolidated Statements of Earnings.* For a further discussion of the impact of adopting FIN 46R, see Note 2 to the *Consolidated Financial Statements.*

Financing Arrangements and Guarantees of Distributors, Residual Value Guarantees and Other Guarantees and Indemnifications

U. S. Distributors

Since 1997 we have had an operating agreement with a financial institution that requires us to guarantee revolving loans, equipment term loans and leases, real property loans and letters of credit made by the financial institution to certain independent Cummins and Onan distributors in the United States, and to certain distributors in which we own an equity interest. The agreement has been amended, supplemented or otherwise modified several times since 1997 and in the third quarter of 2004, we amended, restated and simplified the terms of the operating agreement.

Under the amended and restated terms, our guarantee of any particular distributor financing is limited to the amount of the financing in excess of the distributor's "borrowing base." The "borrowing base" is equal to the amount the distributor could borrow from the financial institution without a Cummins guarantee. Furthermore, if any distributor defaults under its financing arrangement with the financial institution, and the maturity of amounts owed under the agreement is accelerated, then we are required to purchase from the financial institution at amounts approximating fair market value certain property, inventory and rental power generation equipment manufactured by Cummins that are secured by the distributor's financing agreement.

The operating agreement will continue in effect until February 7, 2007, and may be renewed for additional one-year terms. As of December 31, 2004, we had $10 million of guarantees outstanding under the operating agreement relating to distributor borrowings of $122 million.

Residual Value Guarantees—Leased Equipment

As more fully discussed in Note 13 to the *Consolidated Financial Statements*, we have various residual value guarantees on equipment leased under operating leases. The amount of those guarantees at December 31, 2004, was $11 million.

Other Guarantees

In addition to the guarantees discussed above, from time to time we enter into other guarantee arrangements, including non-North American distributor financing, guarantees of third party debt and other miscellaneous guarantees. The maximum potential loss related to these guarantees was $21 million at December 31, 2004.

We also have arrangements with certain suppliers that require us to purchase minimum volumes or be subject to monetary penalties. The penalty amounts are less than our purchase commitments and essentially allow the supplier to recover their tooling costs. If we were to discontinue purchasing from these suppliers as of December 31, 2004, the penalties would approximate $37 million. However, we do not anticipate paying any supplier penalties under these arrangements based on our current forecast of purchasing volumes.

Indemnifications

Periodically we enter into various contractual arrangements where we agree to indemnify a third party against certain types of losses, including the following:

- product liability and license, patent or trademark indemnifications as discussed in Note 1 to the *Consolidated Financial Statements,*
- asset sale agreements where we agree to indemnify the purchaser against future environmental exposures related to the sold asset; and
- any contractual agreement where we agree to indemnify the counter-party for losses suffered as a result of a misrepresentation in the contract.

We regularly evaluate the probability of having to incur costs associated with these indemnifications and accrue for expected losses that are probable. Because the indemnifications are not related to specific known liabilities and due to their uncertain nature, we are unable to estimate the maximum amount of the potential loss associated with these indemnifications.

APPLICATION OF CRITICAL ACCOUNTING ESTIMATES

A summary of our significant accounting policies is included in Note 1 to the *Consolidated Financial Statements* of this annual report. We believe the application of our accounting policies on a consistent basis enables us to provide financial statement users with useful, reliable and timely information about our earnings results, financial position and cash flows.

Our *Consolidated Financial Statements* are prepared in accordance with GAAP that often require management to make judgments, estimates and assumptions regarding uncertainties that affect the reported amounts presented and disclosed in the financial statements. Our management reviews these estimates and assumptions based on historical experience, changes in business conditions and other relevant factors they believe to be reasonable under the circumstances. In any given reporting period, our actual results may differ from the estimates and assumptions used in preparing our *Consolidated Financial Statements.*

Critical accounting estimates are defined as follows: the estimate requires management to make assumptions about matters that were highly uncertain at the time the estimate was made; different estimates reasonably could have been used; or if changes in the estimate are reasonably likely to occur from period to period and the change would have a material impact on our financial condition or results of operations. Our senior management has discussed the development and selection of our accounting policies, related accounting estimates and the disclosures set forth below with the Audit Committee of our Board of Directors. We believe our critical accounting estimates include those addressing the estimation of liabilities for product coverage programs, accounting for income taxes, pension benefits and annual assessment of recoverability of goodwill.

Product Coverage Programs

We estimate and record a liability for product coverage programs, primarily base warranty, other than product recalls, at the time our products are sold. Our estimates are based on historical experience and reflect management's best estimates of expected costs at the time products are sold and subsequent adjustment to those expected costs when actual costs differ. As a result of the uncertainty surrounding the nature and frequency of product recall programs, the liability for such programs is recorded when we commit to a recall action, which generally occurs when it is announced. Our warranty liability is generally affected by component failure rates, repair costs and the time of failure. Future events and circumstances related to these factors could materially change our estimates and require adjustments to our liability. New product launches require a greater use of judgment in developing estimates until historical experience becomes available. Product specific experience is typically available four or five quarters after product launch, with a clear experience trend evident eight quarters after launch. We generally record product coverage expense for new products upon shipment using a factor based upon historical experience only in the first year, a blend of actual product and historical experience in the second year and product specific experience thereafter. Note 1 to the *Consolidated Financial Statements* contains a summary of the activity in our product coverage liability account for 2004, 2003 and 2002 including adjustments to pre-existing warranties.

Accounting for Income Taxes

We determine our provision for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are recognized for the future tax effects of temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Future tax benefits of tax loss and credit carryforwards are also recognized as deferred tax assets. We evaluate the realizability of our deferred tax assets each quarter by assessing the likelihood of future profitability and available tax planning strategies that could be implemented to realize our net deferred tax assets. At December 31, 2004, the Company has recorded net deferred tax assets of $960 million. These assets include $248 million for the value of tax loss and credit carryforwards that generally have a limited life and begin expiring in 2012. The ultimate realization of our net deferred tax assets will require a sustained level of profitability. Having assessed the future profit plans and tax planning strategies together with the years of expiration of carryforward benefits, a valuation allowance of $39 million has been recorded to reduce the tax assets to the net value management believes is more likely than not to be realized. Should the Company's operating performance deteriorate, future assessments could conclude that a larger valuation allowance will be needed to further reduce the deferred tax assets. Factors that may affect our ability to sustain profitability include, but are not limited to, a decline in sales or gross margin, loss of market share, increased competition and existing and future regulatory emissions standards. In addition, we operate within multiple taxing jurisdictions and are subject to tax audits in these jurisdictions. These audits can involve complex issues, which may require an extended period of time to resolve. However, we believe we have made adequate provision for income taxes for all years that are subject to audit. A more complete description of our income taxes and the future benefits of our tax loss and credit carryforwards is disclosed in Note 9 to the *Consolidated Financial Statements.*

Pension Benefits

We sponsor a number of pension plans in the U.S., the U.K. and various other countries. In the U.S. and the U.K. we have several major defined benefit plans that are separately funded. We account for our pension programs in accordance with SFAS 87, "Employers' Accounting for Pensions," which requires that amounts recognized in financial statements be determined using an actuarial basis. As a result, our pension benefit programs are based on a number of statistical and judgmental assumptions that attempt to anticipate future events and are used in calculating the expense and liability related to our plans. These

assumptions include discount rates used to value liabilities, assumed rates of return on plan assets, future compensation increases, employee turnover rates, actuarial assumptions relating to retirement age, mortality rates and participant withdrawals. The actuarial assumptions we use may differ significantly from actual results due to changing economic conditions, participant life span, and withdrawal rates. These differences may result in a material impact to the amount of net periodic pension expense to be recorded in our *Consolidated Financial Statements* in the future.

The expected long-term return on plan assets is used in calculating the net periodic pension expense. The differences between the actual return on plan assets and expected long-term return on plan assets are recognized in the asset value used to calculate net periodic expense over five years. The expected rate of return on U.S. pension plan assets used to develop our pension expense was 8.5%, 8.5% and 10.0% for the years ended December 31, 2004, 2003 and 2002. The expected rate of return on non-U.S. pension plan assets was 8.08%, 8.44% and 8.53%. In 2005, we plan to use an expected rate of return of 8.5% for U.S pension plan assets and 7.5 % for non-U.S. pension plan assets. A lower rate of return will increase our net periodic pension expense and reduce profitability.

Our net periodic pension expense was $89 million in 2004, $61 million in 2003 and $21 million in 2002. Our net periodic pension expense is expected to be in a range of $105 million to $115 million in 2005. Another key assumption used in the development of the net periodic pension expense is the discount rate. The discount rate used to develop our net periodic pension expense in the U.S. was 6.25%, 7.0% and 7.25% for the years ended December 31, 2004, 2003 and 2002. The discount rate for our non-U.S. pension expense was 5.66%, 5.91% and 6.34%. We will use 5.75% and 5.32% for U.S. and non-U.S. pension expense in 2005. Changes in the discount rate assumptions will impact the interest cost component of the net periodic pension expense calculation and due to the fact that the accumulated benefit obligation (ABO) is calculated on a present value basis, changes in the discount rate assumption will impact the current ABO. An increase in the ABO caused by a decrease in the discount rate may result in additional voluntary contributions to a pension plan as our funding strategy is to fund the plan approximately 90% on an ABO basis in the U.S.

The table below sets forth the estimated impact on our 2005 net periodic pension expense relative to a change in the discount rate and a change in the expected rate of return on plan assets.

	Impact on Pension Expense Inc (Dec)
	$ Millions
Discount rate used to value liabilities:	
0.25% increase	$ (7.9)
0.25% decrease	7.4
Expected rate of return on assets:	
1% increase	(22.5)
1% decrease	22.4

The above sensitivities reflect the impact of changing one assumption at a time. It should be noted that economic factors and conditions often affect multiple assumptions simultaneously and the effects of changes in key assumptions are not necessarily linear.

The methodology used to determine the expected rate of return on the pension plan assets in the U.S. was based on a combination of two studies performed by independent consultants. The methodology used to determine the rate of return on pension plan assets in the U.K. was based on establishing an equity-risk premium over current long-term bond yields adjusted based on target asset allocations. Our strategy with respect to our investments in pension plan assets is to be invested with a long-term outlook. Therefore, the

risk and return balance of our asset portfolio should reflect a long-term horizon. Our pension plan asset allocation at December 31, 2004, 2003 and target allocation for 2005 are as follows:

Investment description	Target Allocation 2005	Percentage of Plan Assets at December 31, 2004	2003
Equity securities	62.2%	68.3%	72.7%
Fixed income	29.8%	24.9%	27.0%
Real estate/Other	8.0%	6.8%	0.3%
Total	100.0%	100.0%	100.0%

Actual cash funding for our pension plans is governed by employee benefit and tax laws and the Job Creation and Worker Assistance Act of 2002. This Act included temporary rules allowing companies to use, for funding purposes, discount rates for 2002 and 2003 equal to 120 percent of the weighted average 30-year U.S. Treasury Bond yield. During 2004 and 2003, we made cash contributions to our pension plans of $135 million and $118 million, respectively, and we expect to make cash contributions of approximately $135 million in 2005.

Note 12 to the *Consolidated Financial Statements* provides a summary of our pension benefit plan activity, the funded status of our plans and the amounts recognized in our *Consolidated Financial Statements.*

Annual Assessment for Recoverability of Goodwill

Under the provisions of SFAS 142, “Goodwill and Other Intangible Assets,” the carrying value of assets acquired, including goodwill, is reviewed annually. During the 2004 review, the fair value of the reporting units to which the assets, including goodwill, were assigned was carried forward from the previous year in compliance with certain criteria set forth in SFAS 142, except for the goodwill resulting from the consolidation of VIEs. The fair value of each reporting unit was estimated by discounting the future cash flows before interest less requirements for working capital and fixed asset additions. Our valuation method requires us to make projections of revenue, operating expenses, working capital investment and fixed asset additions for the reporting units over a multi-year period. Additionally, management must estimate its weighted average cost of capital for each reporting unit for use as a discount rate. The discounted cash flows are compared to the carrying value of the reporting unit and if less than the carrying value, a separate valuation of the goodwill is required to determine if an impairment loss has occurred. As of the end of the third quarter in 2004, we performed the annual impairment assessment required by SFAS 142 and determined that our goodwill was not impaired. At December 31, 2004, our recorded goodwill was $355 million. Changes in our projections or estimates, a deterioration of our operating results and the related cash flow effect or a significant increase in the discount rate could decrease the estimated fair value of our reporting units and result in a future impairment of goodwill.

RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS

In January 2003, the Financial Accounting Standards Board (FASB) issued FASB Interpretation No. 46, “Consolidation of Variable Interest Entities (FIN 46),” an Interpretation of Accounting Research Bulletin No. 51, “Consolidated Financial Statements.” In December 2003, the FASB issued a revised version of FIN 46, FIN 46R. We adopted the provisions of FIN 46R in December 2003 for certain entities previously considered to be Special Purpose Entities (SPEs) under GAAP and for new entities created on or after February 1, 2003. The remaining provisions of FIN 46R were adopted as of March 28, 2004, resulting in the consolidation of three joint ventures previously accounted for under the equity method. In

the second quarter ended June 27, 2004, we consolidated another entity under the provisions of FIN 46R. See Note 2 to the*Consolidated Financial Statements* for the impact of FIN 46R.

In May 2004, the FASB issued FASB Staff Position No. 106-2 , “Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003,” (FSP 106-2) in response to a new law that provides a federal subsidy for prescription drug benefits under Medicare to certain sponsors of retiree health care benefit plans. This FSP requires the effects of the subsidy and expected changes in plan participation be accounted for currently as an actuarial experience gain to be recognized over the average remaining service lives of plan participants and allows several implementation alternatives. We determined the effects of the Medicare Act were not material to our *Consolidated Financial Statements* and therefore the adoption of FSP 106-2 did not require us to remeasure our liability or expense for postretirement benefits at an interim date. Rather, the effects of the Medicare Act were included in the determination of our annual postretirement plan liability in November 2004.

A small, grandfathered portion of our retiree population qualifies for the Medicare subsidy under our current retiree health care plans. The subsidy lowered our accumulated postretirement benefit obligation (APBO) by approximately 4 percent. The participation in our plans could decrease if participants elect the Medicare coverage. We have modeled the sensitivity of our APBO to reflect participation changes. If 10 percent of our retiree population left our plan and enrolled in Medicare, our APBO would be reduced an additional 3 percent. The net impact of the subsidy and a 10 percent hypothetical decline in population would not have been material to our 2004 expense.

In December 2004, the FASB issued FASB Staff Position No. 109-2, “Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004.” The American Jobs Creation Act (the Act) was signed into law by President Bush in October 2004. The Act includes a special one-year 85 percent deduction for qualifying dividends repatriated from foreign operations. Generally, the special 2005 repatriation rules are only beneficial on very low-taxed foreign earnings. We are studying the possible application of these rules to some foreign joint venture repatriations up to approximately $40 million that could potentially reduce our 2005 income tax provision by $5 million to $10 million.

ACCOUNTING PRONOUNCEMENTS ISSUED BUT NOT YET EFFECTIVE

In November 2004, the FASB issued SFAS 151, “Inventory Costs—An Amendment of ARB No. 43, Chapter 4.” SFAS 151 clarifies that abnormal amounts of idle facility expense, freight, handling costs and spoilage should be expensed as incurred and not included in overhead as an inventory cost. The new statement also requires that allocation of fixed production overhead costs to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 must be applied prospectively and become effective for us beginning January 1, 2006. We do not expect the adoption of SFAS 151 will have a material impact on our financial position, results of operations or cash flows.

In December 2004, the FASB published SFAS 123 (revised 2004), “Share-Based Payment,” (SFAS 123R). This statement requires financial statement recognition of compensation cost related to share-based payment transactions. Share-based payment transactions within the scope of SFAS 123R include stock options, restricted stock plans, performance-based awards, stock appreciation rights, and employee share purchase plans. The provisions of SFAS 123R are effective for the first interim period beginning after June 15, 2005. Accordingly, we will implement the revised standard in the third quarter of 2005. Currently, we account for stock-based employee awards using the fair value method preferred by SFAS 123 and therefore we do not expect this standard to have a material impact on our financial position, results of operations or cash flows.

In December 2004, the FASB issued SFAS 153, "Exchanges of Nonmonetary Assets, an amendment of APB Opinion No. 29." This statement amends APB Opinion 29, "Accounting for Nonmonetary

Transactions," to eliminate the exception for nonmonetary exchanges of similar productive assets and replaces it with a general exception for exchanges of nonmonetary assets that have no commercial substance. Under SFAS 153, if a nonmonetary exchange of similar productive assets meets a commercial-substance criterion and fair value is determinable, the transaction must be accounted for at fair value resulting in recognition of any gain or loss. SFAS 153 is effective for nonmonetary transactions in fiscal periods that begin after June 15, 2005 and becomes effective for us beginning July 1, 2005. We do not expect the adoption SFAS 153 to have a material impact on our financial position, results of operations or cash flows.

DISCLOSURE REGARDING FORWARD LOOKING STATEMENTS

Certain parts of this annual report contains forward-looking statements that are based on current expectations, estimates and projections about the industries in which we operate and management's beliefs and assumptions. Forward-looking statements are generally accompanied by words, such as "anticipates," "intends," "plans," "believes," "seeks," "estimates" or similar expressions. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions, which we refer to as "future factors," which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in such forward-looking statements. Future factors that could cause our results to differ materially from the results discussed in such forward-looking statements are discussed below. We undertake no obligation to update publicly any forward-looking statements, whether as a result of new information, future events or otherwise. Future factors that could affect the outcome of forward looking statements include the following:

- price and product competition by foreign and domestic competitors, including new entrants;
- rapid technological developments of diesel engines;
- the ability to continue to introduce competitive new products in a timely, cost-effective basis;
- the sales mix of products;
- the achievement of lower costs and expenses;
- domestic and foreign governmental and public policy changes, including environmental regulations;
- protection and validity of patent and other intellectual property rights;
- reliance on large customers;
- technological, implementation and cost/financial risks in increasing use of large, multi-year contracts;
- the cyclical nature of our business;
- the outcome of pending and future litigation and governmental proceedings;
- continued availability of financing, financial instruments and financial resources in the amounts, at the times and on the terms required to support our future business; and
- other risk factors described in Part I of this report under the caption "RISK FACTORS RELATING TO OUR BUSINESS.''

In addition, such statements could be affected by general industry and market conditions and growth rates, general domestic and international economic conditions, including the price of crude oil (diesel fuel), interest rate and currency exchange rate fluctuations and other future factors.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to financial risk resulting from changes in foreign exchange rates, interest rates and commodity prices. This risk is closely monitored and managed through the use of financial (derivative) instruments including commodity price swaps, forward contracts and interest rate swaps. As clearly stated in our policies and procedures, financial instruments are used expressly for hedging purposes, and under no circumstances are they used for speculative purposes. Our hedging transactions are entered into with banking institutions that have strong credit ratings, and thus the credit risk associated with these transactions is not considered significant. The results and status of our hedging transactions are reported to senior management on a monthly and quarterly basis. Further information regarding financial instruments and risk management is contained in Note 16 to the *Consolidated Financial Statements.*

The following describes our risk exposures and provides results of sensitivity analyses performed as of December 31, 2004. The sensitivity analysis assumes instantaneous, parallel shifts in foreign currency exchange rates and commodity prices.

FOREIGN EXCHANGE RATES

We are exposed to foreign currency exchange risk as a result of our international business presence. We transact extensively in foreign currencies and have significant assets and liabilities denominated in foreign currencies. As a result, our earnings experience some volatility related to movements in foreign currency exchange rates. In order to benefit from global diversification and after considering naturally offsetting currency positions, we enter into forward contracts to minimize our existing exposures (recognized asset and liability) and hedge forecasted transactions. The objective of our hedging program is to reduce the impact of changes in foreign exchange rates on earnings by essentially creating offsetting currency exposures.

As of December 31, 2004, the potential gain or loss in the fair value of our outstanding foreign currency contracts, assuming a hypothetical 10 percent fluctuation in the currencies of such contracts, would be approximately $24 million. The sensitivity analysis of the effects of changes in foreign currency exchange rates assumes the notional value to remain constant for the next 12 months. The analysis ignores the impact of foreign exchange movements on our competitive position and potential changes in sales levels. It should be noted that any change in the value of the contracts, real or hypothetical, would be significantly offset by an inverse change in the value of the underlying hedged items. (see Note 16 to the *Consolidated Financial Statements*).

INTEREST RATES

We are also exposed to interest rate risk as a result of our indebtedness. Our objective in managing our exposure to changes in interest rates is to limit the effect of interest rate changes on earnings and cash flows and to lower our overall cost of borrowing. To achieve this objective, we primarily use interest rate swap agreements to manage exposure to interest rate changes related to our borrowing arrangements.

In November 2002, we terminated an interest rate swap relating to our 6.45% Notes that mature in 2005. The swap converted $225 million notional amount from fixed rate debt into floating rate debt that matures in 2005. The termination of this swap resulted in a $12 million gain. The gain is being amortized to earnings as a reduction of interest expense over the remaining life of the debt. The amount of gain recognized during 2004, 2003 and 2002 was $5 million, $5 million and $1 million, respectively. The remaining balance of the deferred gain is included in "Short-term borrowings" on our *Consolidated Balance Sheets.*

In March 2001, we terminated three fixed-to-floating interest rate swap agreements related to our 6.25% Notes with principal amount of $125 million due in 2003 and 6.45% Notes with principal amount of

$225 million due in 2005. The termination of these swaps resulted in a $9 million gain. The gain is being amortized to earnings as a reduction of interest expense over the remaining life of the debt. The amount of gain recognized during 2004, 2003 and 2002 was $1 million, $2 million and $3 million, respectively. The remaining balance of the deferred gain is included in "Short-term borrowings" on our *Consolidated Balance Sheets* (see Note 16 to the *Consolidated Financial Statements*). As of December 31, 2004, all of our interest rate swap agreements were terminated.

COMMODITY PRICES

We are also exposed to fluctuations in commodity prices through the purchase of raw materials as well as contractual agreements with component suppliers. To reduce the effect of raw material price changes for select commodities, we periodically enter into commodity swap contracts with designated banks to hedge a portion of our anticipated raw material purchases.

As of December 31, 2004, the potential gain or loss related to the outstanding commodity swap contracts, assuming a hypothetical 10% fluctuation in the price of such commodities, was not material. The sensitivity analysis of the effects of changes in commodity prices assumes the notional value to remain constant for the next 12 months. The analysis ignores the impact of commodity price movements on our competitive position and potential changes in sales levels. It should be noted that any change in the value of the swaps, real or hypothetical, would be significantly offset by an inverse change in the value of the underlying hedged items. (see Note 16 to the *Consolidated Financial Statements*).

Item 8. Financial Statements and Supplementary Data

See Item 15 (a) for an index to the *Consolidated Financial Statements.*

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

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures.

As of the end of the period covered by this Annual Report on Form 10-K, the Company carried out an evaluation under the supervision and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer of the effectiveness of the design and operation of the Company's disclosure controls and procedures as defined in Exchange Act Rules 13a-15(e) and 15d-15(e). Based upon that evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective in timely alerting them to material information relating to the Company (including its consolidated subsidiaries) required to be included in the Company's periodic SEC filings on Forms 10-K and 10-Q.

Changes in Internal Control over Financial Reporting

There has been no change in the Company's internal control over financial reporting during the quarter ended December 31, 2004, that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting. The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and preparation of the Company's

consolidated financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.

The Company's internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements.

Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. It is possible to design into the process safeguards to reduce, though not eliminate, the risk material misstatements may not be prevented or detected on a timely basis. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate.

Management assessed the effectiveness of the Company's internal control over financial reporting and concluded it was effective as of December 31, 2004. In making its assessment, management utilized the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control—Integrated Framework.

Management's assessment of the effectiveness of our internal control over financial reporting as of December 31, 2004, has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which appears on pages 68 and 69 of this Form 10-K.

Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers of the Registrant

The information required by Item 10 relating to identification of directors is incorporated by reference from "Election of Directors" in our Proxy Statement. Except as otherwise specifically incorporated by reference, the Proxy Statement is not deemed to be filed as part of this report.

Following are the names and ages of the executive officers of the Company, their positions with the Company as of January 31, 2005, and summaries of their backgrounds and business experience:

Name and Age	Present Cummins Inc. position and year appointed to position	Principal position during the past five years other than Cummins Inc. position currently held
Theodore M. Solso (57)	Chairman and Chief Executive Officer (2000)	President and Chief Operating Officer (1995-2000)
F. Joseph Loughrey (55)	Executive Vice President and President—Engine Business (1999)	Executive Vice President and Group President—Industrial and Chief Technical Officer (1996-1999)
Rick J. Mills (56)	Vice President and President—Filtration and Fleetguard, Inc. (2000)	Vice President—Corporate Controller (1996-2000)
N. Thomas Linebarger (42)	Vice President and President Cummins Power Generation (2003)	Vice President and Chief Financial Officer (2000-2003), Vice President—Supply Chain Management (1998-2000), Managing Director—Holset Engineering Company Ltd (1997-1998)
Jean S. Blackwell (50)	Vice President—Chief Financial Officer and Chief of Staff (2003)	Vice President—Cummins Business Services (2001-2003), Vice President—Human Resources (1997-2001), Vice President—General Counsel (1997)
Steven M. Chapman (50)	Vice President—International and President International Distributor Business (2002)	Vice President—International (2000-2002), Vice President—China and Southeast Asia (1996-2000)
John C. Wall (53)	Vice President—Chief Technical Officer (2000)	Vice President—Research and Development (1995-2000)
Richard E. Harris (52)	Vice President—Treasurer (2003)	Previously Compaq Computer Corporation, Assistant Treasurer (2000-2002), Director, Treasury Planning and Banking Analysis (1998-2000)
Marya M. Rose (42)	Vice President—General Counsel and Corporate Secretary (2001)	Assistant General Counsel (2000), Director—Public Relations and Communications Strategy (1999), Director Public Relations (1998)
Marsha L. Hunt (41)	Vice President—Corporate Controller (2003)	Previously Assistant Controller and Director of Accounting for Corning Incorporated (2000-2003), Director of Accounting (1999-2000), Manager, External Reporting and Accounting Services (1997-1999)

The Chairman and Chief Executive Officer is elected annually by the Board of Directors and holds office until the first meeting of the Board of Directors following the annual meeting of the shareholders. Other officers are appointed by the Chairman and Chief Executive Officer, are ratified by the Board of Directors and hold office for such period as the Chairman and Chief Executive Officer or the Board of Directors may prescribe.

Item 11. Executive Compensation

The information in the Proxy Statement under the caption "Executive Compensation" and "Summary Compensation Table" is incorporated by reference.

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

(a) The information on the security ownership of certain beneficial owners in the Proxy Statement under the caption "Principal Security Ownership" is incorporated by reference.

(b) The information on shares of common stock of Cummins Inc. beneficially owned by, and under option to (i) each director, (ii) certain named executive officers and (iii) the directors and officers as a group, contained in the Proxy Statement under the captions "Election of Directors" and "Security Ownership of Management" is incorporated by reference.

(c) Change in control—None.

Item 13. Certain Relationships and Related Transactions

The information in the Proxy Statement under the caption "The Board of Directors and Its Committees," "Executive Compensation" and "Other Transactions and Agreements with Directors and Officers" is incorporated by reference.

Item 14. Principal Accountant Fees and Services

The information required by Item 14 is incorporated by reference from the information under the caption "Selection of Independent Public Accountants" in the Proxy Statement.

Item 15. Exhibits, Financial Statement Schedules, and Reports on Form 8-K

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

(1) Index to Financial Statements

(b) Reports on Form 8-K

On October 15, 2004, we filed a Current Report on Form 8-K under Item 5 announcing an amendment to Article VI of our By-Laws relating to indemnification of directors and officers and under Item 5, Item 8 and Item 9 containing press releases announcing the election of a Board of Director member and the declaration of a quarterly cash dividend payable to shareholders of record on November 16, 2004.

On October 21, 2004, we furnished a Current Report on Form 8-K under Item 2 and Item 9 containing our press release announcing financial results for the third quarter ended September 26, 2004.

On December 7, 2004, we filed a Current Report on Form 8-K under Item 1 and Item 9 containing a press release announcing completion of an unsecured $650 million, five-year revolving line of credit facility that replaced our secured $385 million three-year credit facility due to expire in November 2005.

(c) Exhibit Index (pp. 121-122)

MANAGEMENT'S REPORT TO SHAREHOLDERS

Management's Report on Financial Statements and Practices

The accompanying consolidated financial statements of Cummins Inc, (the "Company") were prepared by management, which is responsible for their integrity and objectivity. The statements were prepared in accordance with generally accepted accounting principles and include amounts that are based on management's best judgments and estimates. The other financial information included in the annual report is consistent with that in the financial statements.

Management also recognizes its responsibility for conducting the Company's affairs according to the highest standards of personal and corporate conduct. This responsibility is characterized and reflected in key policy statements issued from time to time regarding, among other things, conduct of its business activities within the laws of the host countries and the Foreign Corrupt Practices Act in which the Company operates and potentially conflicting interests of its employees. The Company maintains a systematic program to assess compliance with these policies.

To comply with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002, the Company designed and implemented a structured and comprehensive compliance process to evaluate its internal control over financial reporting across the enterprise.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting. The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and preparation of the Company's consolidated financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.

The Company's internal control over financial reporting includes those policies and procedures that:

· pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

· provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and

· provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements.

Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. It is possible to design into the process safeguards to reduce, though not eliminate, the risk material misstatements may not be prevented or detected on a timely basis. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate.

Management assessed the effectiveness of the Company's internal control over financial reporting and concluded it was effective as of December 31, 2004. In making its assessment, management utilized the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control—Integrated Framework.

Management's assessment of the effectiveness of our internal control over financial reporting as of December 31, 2004, has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which appears on pages 68 and 69 of this Form 10-K.

Officer Certifications

Please refer to Exhibits 31(a) and 31(b) attached to this report for certifications required under Section 302 of the Sarbanes-Oxley Act of 2002.

/s/ JEAN S. BLACKWELL	/s/ THEODORE M. SOLSO
Vice President and Chief Financial Officer and Chief of Staff	*Chairman and Chief Executive Officer*

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of Cummins Inc.:

We have completed an integrated audit of Cummins Inc.'s 2004 consolidated financial statements and of its internal control over financial reporting as of December 31, 2004 and audits of its 2003 and 2002 consolidated financial statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Our opinions, based on our audits, are presented below.

Consolidated financial statements

In our opinion, the consolidated financial statements listed in the index appearing under Item 15(a)(1) present fairly, in all material respects, the financial position of Cummins Inc. and its subsidiaries (the Company) at December 31, 2004 and 2003, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2004 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 12, Pension and Other Postretirement Benefits, the Company changed its method of accounting for pension and postretirement employee benefits during the year ended December 31, 2002. As described in Note 1, Summary of Significant Accounting Policies, effective January 1, 2003 the Company changed its method of accounting for stock-based employee awards. As described in Note 11, Long-Term Debt and Short-Term Borrowings, effective July 1, 2003, the Company changed its method of accounting for its Convertible Preferred Securities of Subsidiary Trust upon the adoption of SFAS 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity." As described in Note 2, Variable Interest Entities, during the year ended December 31, 2003 the Company adopted FASB Interpretation No. 46, "Consolidation of Variable Interest Entities (and its December 2003 revisions)."

Internal control over financial reporting

Also, in our opinion, management's assessment, included in Management's Report on Internal Control over Financial Reporting appearing under Item 9A, that the Company maintained effective internal control over financial reporting as of December 31, 2004 based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), is fairly stated, in all material respects, based on those criteria. Furthermore, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2004, based on criteria established in Internal Control—Integrated Framework issued by the COSO. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express opinions on management's assessment and on the effectiveness of the Company's internal control over financial reporting based on our audit. We conducted our audit of internal control over financial reporting in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting

was maintained in all material respects. An audit of internal control over financial reporting includes obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/PricewaterhouseCoopers LLP

Indianapolis, IN
March 15, 2005

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

CONSOLIDATED STATEMENTS OF EARNINGS

	Years ended December 31, 2004	2003	2002
	(Dollars in millions, except per share amounts)		
Net sales (includes related party sales of $816, $653 and $461, respectively)	$ 8,438	$ 6,296	$ 5,853
Cost of sales (includes related party purchases of $258, $542 and $550, respectively)	6,758	5,173	4,808
Gross margin	1,680	1,123	1,045
Expenses and other income			
Selling and administrative expenses	1,015	830	736
Research and engineering expenses	241	200	201
Equity, royalty and other income from investees (Note 3)	(111)	(70)	(22)
Restructuring, impairment and other charges and (credits) (Note 19)	—	—	(8)
Interest expense (Note 11)	113	90	61
Loss on early retirement of debt (Note 11)	—	—	8
Other income, net (Note 20)	(10)	(18)	(9)
Earnings before income taxes, minority interests, dividends on preferred securities of subsidiary trust and cumulative effect of change in accounting principles	432	91	78
Provision (benefit) for income taxes (Note 9)	56	12	(38)
Minority interests in earnings of consolidated subsidiaries	26	14	16
Dividends on preferred securities of subsidiary trust (Note 11)	—	11	21
Earnings before cumulative effect of change in accounting principles	350	54	79
Cumulative effect of change in accounting principles, net of tax of $2 and $(1) (Notes 2 and 12)	—	(4)	3
Net earnings	$ 350	$ 50	$ 82
Earnings per share (Note 15)			
Basic			
Earnings before cumulative effect of change in accounting principles	$ 8.30	$ 1.37	$ 2.06
Cumulative effect of change in accounting principles, net of tax	—	(.09)	.07
Net earnings	$ 8.30	$ 1.28	$ 2.13
Diluted			
Earnings before cumulative effect of change in accounting principles	$ 7.39	$ 1.36	$ 2.06
Cumulative effect of change in accounting principles, net of tax	—	(.09)	.07
Net earnings	$ 7.39	$ 1.27	$ 2.13

The accompanying notes are an integral part of the consolidated financial statements.

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	Years ended December 31, 2004	2003
	(Dollars in millions, except par value)	
ASSETS		
Current assets		
Cash and cash equivalents	$ 611	$ 108
Marketable securities (Note 4)	79	87
Receivables, net (Note 1)	1,039	835
Receivables from related parties	121	94
Inventories (Note 6)	1,016	733
Deferred income taxes (Note 9)	301	192
Prepaid expenses and other current assets	106	81
Total current assets	3,273	2,130
Long-term assets		
Property, plant and equipment, net (Note 7)	1,648	1,347
Investments in and advances to equity investees (Note 3)	286	339
Goodwill (Note 8)	355	344
Other intangible assets, net (Note 8)	93	92
Deferred income taxes (Note 9)	689	663
Other assets	183	211

Total assets	$6,527	$5,126
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities		
Short-term borrowings (Note 11)	$ 346	$ 49
Accounts payable	823	557
Accrued product coverage and marketing expenses	279	246
Other accrued expenses (Note 10)	749	543
Total current liabilities	2,197	1,395
Long-term liabilities		
Long-term debt (Note 11)	1,299	1,380
Pensions (Note 12)	466	439
Postretirement benefits other than pensions (Note 12)	570	577
Other long-term liabilities	386	263
Total liabilities	4,918	4,054
Commitments and contingencies (Note 13)	—	—
Minority interests	208	123
Shareholders' equity (Note 14)		
Common stock, $2.50 par value, 150 million shares authorized, 48.2 and 48.3 million shares issued	121	121
Additional contributed capital	1,167	1,113
Retained earnings	866	569
Accumulated other comprehensive loss		
Minimum pension liability	(499)	(434)
Other components, net	(41)	(58)
Common stock in treasury, at cost, 2.2 and 5.6 million shares	(88)	(225)
Common stock held in trust for employee benefit plans, 2.2 and 2.3 million shares	(104)	(113)
Unearned compensation	(21)	(24)
Total shareholders' equity	1,401	949
Total liabilities and shareholders' equity	$6,527	$5,126

The accompanying notes are an integral part of the consolidated financial statements.

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Years ended December 31,		
	2004	2003	2002
	(Dollars in millions)		
Cash flows from operating activities			
Net earnings	$ 350	$ 50	$ 82
Adjustments to reconcile net earnings to net cash provided from operating activities:			
Depreciation and amortization	272	223	219
Loss on disposal of property, plant and equipment	11	4	—
Deferred income tax benefit	(51)	(48)	(74)
Equity in earnings of investees, net of dividends	(28)	(33)	(1)
Minority interests in earnings of consolidated subsidiaries	26	14	16
Pension expense	89	61	21
Pension contributions	(135)	(118)	(81)
Stock-based compensation expense	16	5	7
Tax benefit on stock options exercised	27	5	—
Amortization of gain on terminated interest rate swaps	(6)	(7)	(4)
Translation and hedging activities	(8)	(18)	2
Cumulative effect of change in accounting principles	—	4	(3)
Loss on early retirement of debt	—	—	8
Restructuring, impairment and other charges and (credits)	—	—	(21)
Changes in assets and liabilities:			
Receivables	(163)	(64)	(87)
Repayments from sale of receivables	—	—	(55)
Inventories	(204)	(63)	46
Accounts payable	210	100	26
Accrued expenses	237	22	83
Other, net	(29)	21	9
Net cash provided by operating activities	614	158	193
Cash flows from investing activities			
Capital expenditures	(151)	(111)	(90)
Investments in internal use software	(33)	(29)	(20)
Proceeds from disposals of property, plant and equipment	12	13	16
Investments in and advances to equity investees	(19)	(4)	(60)
(Acquisitions) and dispositions of businesses, net of cash acquired	(18)	—	32
Investments in marketable securities—acquisitions	(152)	(137)	(116)
Investments in marketable securities—dispositions	171	134	86
Other, net	1	(1)	—
Net cash used in investing activities	(189)	(135)	(152)
Cash flows from financing activities			
Proceeds from borrowings	43	19	258
Payments on borrowings and capital lease obligations	(73)	(150)	(87)
Net borrowings (payments) under short-term credit agreements	20	7	(4)
Distributions to minority shareholders	(8)	(15)	(9)
Dividend payments on common stock	(53)	(50)	(50)
Proceeds from issuance of common stock	148	52	15

Other, net	(3)	(8)	8
Net cash provided by (used in) financing activities	74	(145)	131
Effect of exchange rate changes on cash and cash equivalents	4	6	2
Net increase (decrease) in cash and cash equivalents	503	(116)	174
Cash and cash equivalents at beginning of year	108	224	50
Cash and cash equivalents at end of year	$ 611	$ 108	$ 224

The accompanying notes are an integral part of the consolidated financial statements.

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

	Years ended December 31, 2004		2003 (Dollars in millions)		2002	
Common stock						
Balance at beginning of year	$ 121		$ 121		$ 121	
Issued under incentive plans	—		—		1	
Retirement of stock issued under incentive plans	—		—		(1)	
Balance at end of year	121		121		121	
Additional contributed capital						
Balance at beginning of year	1,113		1,115		1,119	
Issued to trust for employee benefit plans	3		(4)		1	
Issued under incentive plans	1		—		6	
Retirements under incentive plans	(6)		(12)		(10)	
Change in receivables from employees for stock purchases	3		9		(1)	
Stock based compensation expense	16		3		—	
Option exercises, including tax benefit of $27, $5 and $0	37		2		—	
Balance at end of year	1,167		1,113		1,115	
Retained earnings						
Balance at beginning of year	569		569		536	
Net earnings	350	$350	50	$ 50	82	$ 82
Cash dividends on common stock	(53)		(50)		(50)	
Other	—		—		1	
Balance at end of year	866		569		569	
Accumulated other comprehensive loss						
Balance at beginning of year	(492)		(527)		(325)	
Foreign currency translation, net of tax of $6, $4 and $4		20		66		50
Minimum pension liability, net of tax of $(45), $(14) and $(145)		(65)		(35)		(257)
Unrealized (loss) gain on marketable securities, net of tax of $(3), $2 and $2		(4)		3		3
Unrealized net gain on derivatives		1		1		2
Other comprehensive income (loss)	(48)	(48)	35	35	(202)	(202)
Comprehensive income (loss)		$302		$ 85		$(120)
Balance at end of year	(540)		(492)		(527)	
Common stock in treasury						
Balance at beginning of year	(225)		(280)		(289)	
Issued	137		55		9	
Balance at end of year	(88)		(225)		(280)	
Common stock held in trust for employee benefit plans						
Balance at beginning of year	(113)		(128)		(140)	
Allocated to employee benefit plans	9		15		12	
Balance at end of year	(104)		(113)		(128)	
Unearned compensation						
Balance at beginning of year	(24)		(29)		(39)	
Change in restricted stock unearned compensation, net	—		2		7	
Shares allocated to ESOP participants	3		3		3	
Balance at end of year	(21)		(24)		(29)	
Shareholders' equity	$1,401		$ 949		$ 841	

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY (Continued)

Shares of stock (millions)	Years ended December 31, 2004	2003	2002
Common stock, $2.50 par value, 150 million shares authorized			
Balance at beginning of year	48.3	48.6	48.6
Shares issued under incentive plans	—	—	0.2

Retirements under incentive plans	(0.1)	(0.3)	(0.2)
Balance at end of year	48.2	48.3	48.6
Common stock in treasury			
Balance at beginning of year	5.6	7.0	7.2
Shares issued	(3.4)	(1.4)	(0.2)
Balance at end of year	2.2	5.6	7.0
Common stock held in trust for employee benefit plans			
Balance at beginning of year	2.3	2.6	2.9
Shares allocated to benefit plans	(0.1)	(0.3)	(0.3)
Balance at end of year	2.2	2.3	2.6

The accompanying notes are an integral part of the consolidated financial statements.

CUMMINS INC. AND CONSOLIDATED SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

Our *Consolidated Financial Statements* include the accounts of all wholly-owned and majority-owned domestic and foreign subsidiaries where our ownership is more than 50 percent of common stock except for majority-owned subsidiaries that are considered Variable Interest Entities (VIEs) where we are not deemed the primary beneficiary. In addition, we also consolidate, regardless of our ownership percentage, VIEs for which we are deemed to be the primary beneficiary. All significant intercompany balances and transactions are eliminated in consolidation. Where our ownership interest is less than 100 percent, the minority ownership interests are reported in our *Consolidated Balance Sheets.* The minority ownership interest of our earnings, net of tax, is classified as "Minority interests in earnings of consolidated subsidiaries" in our *Consolidated Statements of Earnings.*

Certain amounts for 2003 and 2002 have been reclassified to conform with the 2004 classifications.

Investments in Unconsolidated Entities

We use the equity method to account for our investments in joint ventures, affiliated companies and alliances in which we have the ability to exercise significant influence, generally represented by common stock ownership or partnership equity of at least 20 percent but not more than 50 percent. Generally, under the equity method, original investments in these entities are recorded at cost and subsequently adjusted by our share of equity in earnings or losses after the date of acquisition. Investment amounts in excess of our share of an investees' assets are amortized over the life of the related asset creating the excess. If the excess is goodwill, then it is not amortized. Equity in earnings or losses of each investee is recorded according to our level of ownership; if losses accumulate, we record our share of losses until our investment has been fully depleted. If our investment has been fully depleted, we recognize additional losses only when we are the primary funding source. We eliminate (to the extent of our ownership percentage) in our *Consolidated Financial Statements* the profit in inventory held by our equity method investees that has not yet been sold to a third party. Our investments are classified as "Investments in and advances to equity investees" in our *Consolidated Balance Sheets.* Our share of the results from joint ventures, affiliated companies and alliances is reported in our *Consolidated Statements of Earnings* as "Equity, royalty and other income from investees."

Use of Estimates in the Preparation of the Financial Statements

Preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP), requires management to make estimates and assumptions that affect reported amounts presented and disclosed in our *Consolidated Financial Statements.* Significant estimates and assumptions in these *Consolidated Financial Statements* require the exercise of judgment and are used for, but not limited to, allowance for doubtful accounts, estimates of future cash flows and other assumptions associated with goodwill and long-lived asset impairment tests, useful lives for depreciation and amortization, product coverage programs, determination of discount and other rate assumptions for pension and other postretirement benefit expenses, restructuring and asset impairment costs, income taxes and deferred tax valuation allowances, lease classification, and contingencies. Due to the inherent uncertainty involved in making estimates, actual results reported in future periods may be different from these estimates.

Revenue Recognition

We recognize revenue, net of estimated costs of returns, allowances and sales incentives, when it is realized or realizable, which generally occurs when persuasive evidence of an arrangement exists, the product has been shipped and legal title and all risks of ownership have been transferred, customer acceptance has occurred and payment is reasonably assured. Products are generally sold on open account under credit terms customary to the geographic region of distribution. We perform ongoing credit evaluations of our customers and generally do not require collateral to secure our accounts receivable. For engines, service parts, service tools and other items sold to independent distributors and to partially owned distributors accounted for under the equity method, revenues are recorded when title and risk of ownership transfers. This transfer is based on the agreement in effect with the respective distributor and in the United States and most international locations occurs generally when the products are shipped. To the extent of our ownership percentage, margins on sales to distributors accounted for under the equity method are deferred until the distributor sells the product to unrelated parties.

Foreign Currency Transactions and Translation

We translate assets and liabilities of foreign entities to U.S. dollars, where the local currency is the functional currency, at year-end exchange rates. We translate income and expenses to U.S. dollars using weighted average exchange rates for the year. We record adjustments resulting from translation in a separate component of accumulated other comprehensive loss and include the adjustments in net earnings only upon sale or liquidation of the underlying foreign investment.

Foreign currency transaction gains and losses are included in current net earnings. For foreign entities where the U.S. dollar is the functional currency, including those operating in highly inflationary economies, we remeasure inventory, property, plant and equipment balances and the related earnings statement using historical exchange rates. We include the resulting gains and losses in the *Consolidated Statements of Earnings*, which combined with transaction gains and losses amounted to a net gain of $1 million in 2004, a net gain of $1 million in 2003 and a net loss of $14 million in 2002.

Derivative Instruments

We make use of derivative instruments in foreign exchange, commodity price and interest rate-hedging programs. Derivatives currently in use are foreign currency forward contracts and commodity swap contracts. These contracts are used strictly for hedging and not for speculative purposes.

We are exposed to foreign currency exchange risk as a result of our international business presence. We transact extensively in foreign currencies and have significant assets and liabilities denominated in foreign currencies. As a result, our earnings experience some volatility related to movements in foreign currency exchange rates. In order to benefit from global diversification and after considering naturally offsetting currency positions, we enter into forward contracts to minimize our existing exposures (recognized assets and liabilities) and hedge forecasted transactions.

We enter into commodity swaps to offset our exposure to price volatility for certain raw materials used in the manufacturing process and have the discretion to settle these transactions either in cash or by taking physical delivery. As a result, we do not consider these contracts to be financial instruments for accounting purposes, but account for them as hedges.

We record all derivatives at fair value in our financial statements. Note 16 provides further information on our hedging strategy and accounting for derivative financial instruments.

Income Tax Accounting

We determine our income tax provision using the asset and liability method. Under this method, deferred tax assets and liabilities are recognized for the expected future tax consequences of temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. We also recognize future tax benefits associated with tax loss and credit carryforwards as deferred tax assets. Our deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. We measure deferred tax assets and liabilities using enacted tax rates in effect for the year in which we expect to recover or settle the temporary differences. The effect of a change in tax rates on deferred taxes is recognized in the period that the change is enacted. During interim reporting periods our income tax provision is based upon the estimated annual effective tax rate of those taxable jurisdictions where we conduct business.

Cash and Cash Equivalents

Cash equivalents are defined as short-term, highly liquid investments with an original maturity of 90 days or less at the time of purchase. The carrying amounts reflected in our *Consolidated Balance Sheets* for cash and cash equivalents approximate fair value due to the short-term maturity of these investments.

Statement of Cash Flows—Supplemental Disclosures

During 2004, 2003 and 2002 cash payments for income taxes were $87 million, $50 million and $30 million, respectively. During 2004, 2003 and 2002 cash payments for interest were $113 million, $90 million and $52 million, respectively.

During 2004, we incurred capital lease obligations of $112 million for our Power Rent program as a result of amendments to operating leases. This program is more fully described in Note 18. In 2003, we incurred capital lease obligations of $28 million. The majority of the 2003 capital leases were for computer equipment. Capital lease additions for 2002 were not material.

Marketable Securities

We account for marketable securities in accordance with the provisions of Statement of Financial Accounting Standards (SFAS) 115, “Accounting for Certain Investments in Debt and Equity Securities.” We determine the appropriate classification of all marketable securities as “held-to-maturity”, “available-for-sale” or “trading” at the time of purchase, and re-evaluate such classifications at each balance sheet date. At December 31, 2004 and 2003, all of our investments were classified as available-for-sale.

Available-for-sale securities are carried at fair value with the unrealized gain or loss, net of tax, reported in other comprehensive income. Unrealized losses considered to be “other-than-temporary” are recognized currently in earnings. The cost of securities sold is based on the specific identification method. The fair value of most investment securities is determined by currently available market prices. Where quoted market prices are not available, we use the market price of similar types of securities that are traded in the market to estimate fair value. See Note 4 for a detailed description of our investments in marketable securities.

Accounts Receivable and Allowance for Doubtful Accounts

Trade accounts receivable are recorded at the invoiced amount, which approximates fair value, and do not bear interest. We have a trade receivables sales program, which is more fully discussed in Note 5, which allows us to sell, without recourse, an interest in a pool of our trade receivables to a financial institution as necessary. The allowance for doubtful accounts is our best estimate of the amount of probable credit losses

in our existing accounts receivable. We determine the allowance based on our historical collection experience and by performing an analysis of our accounts receivable in light of the current economic environment. We review our allowance for doubtful accounts on a regular basis. In addition, when necessary, we provide an allowance for the full amount of specific accounts deemed to be uncollectible. Account balances are charged off against the allowance in the period in which we determine that it is probable the receivable will not be recovered. The activity in our allowance for doubtful accounts for the years ended December 31, follows:

	2004	2003	2002
	$ Millions		
Beginning balance	$ 12	$ 14	$ 9
Increase due to consolidation of VIEs	2	—	—
Provision	3	3	8
Recoveries of amounts previously written off	1	(1)	—
Write-offs	(3)	(4)	(3)
Ending balance	$ 15	$ 12	$ 14

Inventories

Our inventories are stated at the lower of cost or net realizable value. At December 31, 2004 and 2003, approximately 22 percent of our domestic inventories (primarily heavy-duty and high-horsepower engines and parts) were valued using the last-in, first-out (LIFO) cost method. The cost of other inventories is generally valued using the first-in, first-out (FIFO) cost method. Our inventories at interim and year end reporting dates include estimates for adjustments related to annual physical inventory results and for inventory cost changes under the LIFO cost method. Due to significant movements of partially-manufactured components and parts between manufacturing plants, we do not internally measure nor do our accounting systems provide a meaningful segregation between raw materials and work-in-process.

Property, Plant and Equipment

We record property, plant and equipment at cost. We depreciate the cost of substantially all engine production equipment using a modified units-of-production method, which is based upon units produced subject to a minimum level. We depreciate the cost of all other equipment using the straight-line method with depreciable lives ranging from 20 to 40 years for buildings and 3 to 20 years for machinery, equipment and fixtures. We expense normal maintenance and repair costs as incurred. Depreciation expense totaled $235 million, $183 million and $183 million for the years ended December 31, 2004, 2003 and 2002, respectively.

Long-Lived Assets

We review our long-lived assets for possible impairment whenever events or circumstances indicate that the carrying value of an asset or asset group may not be recoverable. We assess the recoverability of the carrying value of the long-lived assets at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. An impairment of a long-lived asset or asset group exists when the expected future pre-tax cash flows (undiscounted and without interest charges) estimated to be generated by the asset or asset group is less than its carrying value. If these cash flows are less than the carrying value of such asset or asset group, an impairment loss is measured based on the difference between the estimated fair value and carrying value of the asset or asset group. Assumptions and estimates used to estimate cash flows in the evaluation of impairment and the fair values used to determine the impairment are subject to a degree of judgment and complexity. Any changes to the

assumptions and estimates resulting from changes in actual results or market conditions from those anticipated may affect the carrying value of long-lived assets and could result in an impairment charge.

Goodwill

Goodwill represents the excess of purchase price paid over the fair value of net assets acquired in a business combination accounted for as a purchase. As required by SFAS 142, "Goodwill and Other Intangibles," we no longer amortize goodwill but rather evaluate it for impairment on an annual basis, or more often if events or circumstances change that could cause goodwill to become impaired. We have allocated our goodwill to reporting units for purposes of performing annual impairment tests. See Note 8 for a further discussion about goodwill.

Software

We capitalize internal-use and external software costs as they are incurred. Software costs are amortized on a straight-line basis over their estimated useful lives ranging from three to five years. Software assets are reviewed for impairment when events or circumstances indicate that the carrying value may not be recoverable over the remaining lives of the assets. Upgrades and enhancements are capitalized if they result in added functionality which enables the software to perform tasks it was previously incapable of performing. Software maintenance, training, data conversion and business process reengineering costs are expensed in the period in which they are incurred.

Product Coverage

We charge the estimated costs of product coverage programs, other than product recalls, to earnings at the time products are shipped to customers. We use historical experience of product coverage programs to estimate the remaining liability for our various product coverage programs. As a result of the uncertainty surrounding the nature and frequency of product recall programs, the liability for such programs is recorded when we commit to a recall action, which generally occurs when it is announced. We review and assess the liability for these programs on a quarterly basis. Costs associated with product recalls are included in the table below under the caption "Changes in estimates for pre-existing warranties." We also assess our ability to recover certain costs from our suppliers and record a receivable from the supplier when we believe a recovery is probable. At December 31, 2004, we had $40 million of receivables related to estimated supplier recoveries of which $31 million was included in "Receivables, net" and $9 million was included in "Other assets" on our *Consolidated Balance Sheets.* At December 31, 2003, we had $11 million of receivables related to estimated supplier recoveries included in "Receivables, net" on our *Consolidated Balance Sheets.*

In addition, we sell extended product coverage on most of our engines. The revenue collected is initially deferred and is recognized as revenue on a straight-line basis over the contract period. We periodically compare the remaining deferred revenue balance to the estimated amount of future claims under extended coverage programs and provide an additional accrual when the deferred revenue balance is less than expected future costs.

A summary of the activity in our product coverage liability accounts, which includes warranty provisions and payments, changes in our estimates for pre-existing warranties and changes in our deferred revenue balances associated with extended coverage programs for the years ended December 31, follows:

	2004	2003	2002
		$ Millions	
Balance, beginning of year	$ 358	$ 318	$ 322
Provision for warranties issued	234	181	144
Payments	(169)	(172)	(204)
Changes in estimates for pre-existing warranties	47	31	56
Changes in deferred revenue for extended coverage	10	—	—
Balance, end of year	$ 480	$ 358	$ 318

The amount of deferred revenue related to extended coverage programs at December 31, 2004, was $68 million.

Product Liability

From time to time, we issue indemnifications to our customers and joint venture partners which indicate that we will indemnify them against any loss suffered as a result of a defective product we have sold them. In addition, periodically, we enter into license agreements or joint venture agreements where we license a patent, trademark or other similar intangible asset and agree to indemnify the licensee against any losses suffered should the patent, trademark or intangible asset infringe upon a third party asset. We are generally self-insured on product liability claims, with excess insurance coverage for claims exceeding a specified dollar amount. We provide reserves for these exposures when it is probable that we have suffered a loss and the loss is reasonably estimable. A summary of the activity in our product liability accrual for the years ended

December 31, follows:

	2004	2003	2002
	$ Millions		
Balance, beginning of year	$ 16	$ 11	$ 8
Provision	1	11	4
Payments	(9)	(2)	(1)
Changes in estimates	(4)	(4)	—
Balance, end of year	$ 4	$ 16	$ 11

Treasury Stock

Shares of common stock repurchased by us are recorded at cost as treasury stock and result in a reduction of shareholders' equity in our *Consolidated Balance Sheets.* From time to time, treasury shares may be reissued as part of our stock based compensation programs. When shares are reissued, we use the weighted average cost method for determining cost. The difference between the cost of the shares and the issuance price is added or deducted from additional contributed capital.

Employee Stock Plans

On January 1, 2003, we changed our method of accounting for stock-based employee awards to the fair value method preferred by SFAS 123, "Accounting for Stock-based Compensation." We made this change on a prospective basis only for new option grants or other stock awards made on or after January 1, 2003. For awards granted prior to January 1, 2003, we followed Accounting Principles Board Opinion (APB) 25, "Accounting for Stock Issued to Employees," as allowed under SFAS 123. Under APB 25, we did not record compensation expense upon the issuance of stock options because the exercise price of

stock options granted equaled the market price on the grant date. However, consistent with the provisions of SFAS 123, as amended by SFAS 148, "Accounting for Stock-Based Compensation - Transition and Disclosure—An Amendment of FASB Statement No. 123," the following table summarizes the pro forma net earnings and per share amounts as if we had accounted for stock options using the fair market value approach for all periods presented:

	Years ended December 31,		
	2004	2003	2002
	(Dollars in millions, except per share amounts)		
Net earnings for basic EPS			
As reported	$ 350.4	$ 50.2	$ 82.4
Add: Stock based employee compensation included in net earnings, net of tax	9.8	2.8	4.5
Less: Stock based employee compensation determined under fair value method, net of tax	(10.0)	(3.6)	(16.2)
Pro forma net earnings for basic EPS	350.2	49.4	70.7
Dilutive effect of preferred securities dividends, net of tax	13.0	—	—
Pro forma net earnings for diluted EPS	$ 363.2	$ 49.4	$ 70.7
Basic earnings per share			
As reported	$ 8.30	$ 1.28	$ 2.13
Pro forma	8.30	1.26	1.83
Diluted earnings per share			
As reported	$ 7.39	$ 1.27	$ 2.13
Pro forma	7.38	1.25	1.82

Under SFAS 123, the fair value of stock-based awards to employees is calculated through the use of option pricing models. The assumptions used in calculating this fair value are more fully described in Note 17.

We compute compensation expense related to performance shares and restricted stock awards based on the fair value of the stock at the grant date and amortize that expense ratably over the vesting period of the award, as more fully described in Note 17.

Additional contributed capital in our *Consolidated Balance Sheets* is presented net of employee loans for stock purchases. As of December 31, 2004, 2003 and 2002 the loan amounts were $1 million, $4 million and $13 million, respectively.

Shipping and Handling Costs

Our shipping and handling costs are expensed as incurred. The majority of these costs are associated with operations of our inventory distribution centers and warehouse facilities and are classified as selling and administrative expenses in our *Consolidated Statements of Earnings.* For the years ended December 31, 2004, 2003 and 2002, these costs were approximately $109 million, $94 million and $88 million, respectively.

Research and Development

We expense research and development expenditures, net of contract reimbursements, when incurred. Research and development expenses net of contract reimbursements were $229 million in 2004, $187 million in 2003 and $195 million in 2002. Contract reimbursements were $35 million in 2004, $45 million in 2003 and $45 million in 2002.

Recently Adopted Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board (FASB) issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN46), an Interpretation of Accounting Research Bulletin No. 51, "Consolidated Financial Statements." In December 2003, the FASB issued a revised version of FIN 46, FIN 46R. We adopted the provisions of FIN 46R in December 2003 for certain entities previously considered to be Special Purpose Entities (SPEs) under GAAP and for new entities created on or after February 1, 2003 (see Note 2). The remaining provisions of FIN 46R were adopted as of March 28, 2004, resulting in the consolidation of three joint ventures previously accounted for under the equity method (see Note 2). In the second quarter ended June 27, 2004, we consolidated another entity under the provisions of FIN 46R (see Note 2—discussion of Cummins Eastern Canada).

In May 2004, the FASB issued FASB Staff Position No. 106-2 , "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003" (FSP 106-2) in response to a new law that provides a federal subsidy for prescription drug benefits under Medicare to certain sponsors of retiree health care benefit plans. This FSP requires the effects of the subsidy and expected changes in plan participation be accounted for currently as an actuarial experience gain to be recognized over the average remaining service lives of plan participants and allows several implementation alternatives. We determined the effects of the Medicare Act were not material to our *Consolidated Financial Statements* and therefore the adoption of FSP 106-2 did not require us to remeasure our liability or expense for postretirement benefits at an interim date. Rather, the effects of the Medicare Act were included in the determination of our annual postretirement plan liability in November 2004.

A small, grandfathered portion of our retiree population qualifies for the Medicare subsidy under our current retiree health care plans. The subsidy lowered our accumulated postretirement benefit obligation (APBO) by approximately 4 percent. The participation in our plans could decrease if participants elect the Medicare coverage. We have modeled the sensitivity of our APBO to reflect participation changes. If 10 percent of our retiree population left our plan and enrolled in Medicare, our APBO would be reduced an additional 3 percent. The net impact of the subsidy and a 10 percent hypothetical decline in population was not material to our 2004 expense.

In December 2004, the FASB issued FASB Staff Position No. 109-2, "Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004." The American Jobs Creation Act (the Act) was signed into law by President Bush in October 2004. The Act includes a special one-year 85 percent deduction for qualifying dividends repatriated from foreign operations. Generally, the special 2005 repatriation rules are only beneficial on very low-taxed foreign earnings. We are studying the possible application of these rules to some foreign joint venture repatriations up to approximately $40 million that could potentially reduce our 2005 income tax provision by $5 million to $10 million.

Accounting Pronouncements Issued But Not Yet Effective

In November 2004, the FASB issued SFAS 151, "Inventory Costs—An Amendment of ARB No. 43, Chapter 4." SFAS 151 clarifies that abnormal amounts of idle facility expense, freight, handling costs and spoilage should be expensed as incurred and not included in overhead as an inventory cost. The new statement also requires that allocation of fixed production overhead costs to conversion costs should be based on normal capacity of the production facilities. The provisions in SFAS 151 must be applied prospectively and become effective for us beginning January 1, 2006. We do not expect the adoption of SFAS 151 to have a material impact on our financial position, results of operations or cash flows.

In December 2004, the FASB published SFAS 123 (Revised 2004), "Share-Based Payment" (SFAS 123R). This statement requires financial statement recognition of compensation cost related to

share-based payment transactions. Share-based payment transactions within the scope of SFAS 123R include stock options, restricted stock plans, performance-based awards, stock appreciation rights and employee share purchase plans. The provisions of SFAS 123R are effective for the first interim period beginning after June 15, 2005. Accordingly, we expect to implement the revised standard in the third quarter of 2005. Currently, we account for stock-based employee awards issued after December 31, 2002, using the fair value method preferred by SFAS 123 and therefore, we do not expect this standard to have a material impact on our financial position, results of operations or cash flows.

In December 2004, the FASB issued SFAS 153, "Exchanges of Nonmonetary Assets, an amendment of APB Opinion No. 29." This statement amends APB Opinion 29, "Accounting for Nonmonetary Transactions," to eliminate the exception for nonmonetary exchanges of similar productive assets and replaces it with a general exception for exchanges of nonmonetary assets that have no commercial substance. Under SFAS 153, if a nonmonetary exchange of similar productive assets meets a commercial-substance criterion and fair value is determinable, the transaction must be accounted for at fair value resulting in recognition of any gain or loss. SFAS 153 is effective for nonmonetary transactions in fiscal periods beginning after June 15, 2005 and becomes effective for us beginning June 27, 2005. We do not expect the adoption SFAS 153 to have a material impact on our financial position, results of operations or cash flows.

NOTE 2. VARIABLE INTEREST ENTITIES

In January 2003, the FASB issued FASB Interpretation No. 46 (FIN 46), "Consolidation of Variable Interest Entities," an Interpretation of Accounting Research Bulletin No. 51, "Consolidated Financial Statements." In December 2003, the FASB issued a revised version of FIN 46, FIN 46R. FIN 46R provides guidance related to evaluating, identifying and reporting of variable interest entities (VIEs), including entities commonly referred to as SPEs. FIN 46R requires us to consolidate certain VIEs if we are deemed to be the primary beneficiary, defined in FIN 46R, as the entity that absorbs a majority of the VIE's expected losses, receives a majority of the VIE's expected residual returns, or both. We adopted FIN 46R as of December 31, 2003, for entities previously considered to be SPEs under GAAP and for new entities created on or after February 1, 2003. The adoption of FIN 46R in 2003 required us to consolidate a VIE that was previously unconsolidated and to deconsolidate a VIE that was previously consolidated in our *Consolidated Financial Statements.* In addition, we have variable interests in other businesses including businesses accounted for under the equity method of accounting and certain North American distributors that are deemed VIEs and are subject to the provisions of FIN 46R. We adopted FIN 46R for these entities as of March 28, 2004. The adoption of those FIN 46R provisions in 2004 required us to consolidate three entities that were previously included in our *Consolidated Balance Sheets* as "Investments in and advances to equity investees." First quarter results for these entities are reflected as "Equity, royalty and other income from investees" in our *Consolidated Statements of Earnings.* The impact of adopting FIN 46R is discussed below.

During 2001, we entered into a sale/leaseback transaction with a financial institution with regard to certain heavy-duty engine manufacturing equipment. The accounting for the original sale/leaseback transaction is discussed in Note 18. The financial institution created a grantor trust to act as the lessor in the arrangement. The financial institution owns 100 percent of the equity in the trust. The grantor trust has no assets other than the equipment and its rights to the lease agreement with us. On the initial sale, we received $125 million from the financial institution which was financed with $99 million of non-recourse debt and $26 million of equity. Our obligations to the grantor trust consist of the payments due under the lease and a $9 million guarantee of the residual value of the equipment. In addition, we have a fixed price purchase option that is exercisable on January 14, 2009, for approximately $35 million. We have determined that the grantor trust is a VIE under FIN 46R and due primarily to the existence of the residual value guarantee, we determined that we are the primary beneficiary of the VIE. As a result, we

have consolidated the grantor trust as of December 31, 2003, even though we own none of its equity. In accordance with the transition provisions of FIN 46R, we have recorded the assets and liabilities of the trust at the amounts for which the assets and liabilities would have been carried in the *Consolidated Financial Statements* had the VIE been consolidated since its inception. The impact of the consolidation of this VIE on our December 31, 2003, balance sheet (without regard to the tax impact) was to:

- Increase "Property, plant and equipment" by $92 million, which represents the value of the equipment, had it continued to be depreciated from the date of the original sale to the grantor trust. The property serves as collateral on the non-recourse debt discussed below and is not available to satisfy any of our other obligations.
- Increase "Long-term debt" (including the current portion) by $90 million, which represents the balance of the $99 million non-recourse debt. The terms of the non-recourse debt are discussed in Note 11.
- Increase "Minority interests" by $28 million, which represents the equity interest of the equity holder in the VIE. In addition to our obligations under the non-recourse notes, we also have obligations for fixed payments to the equity holder in the grantor trust totaling approximately $21 million, almost all of which is due in 2009 and beyond.
- Decrease "Current liabilities" by $20 million, which represents the reversal of the deferred gain originally recorded on this transaction and the reversal of the accrued rent expense recorded during the first two years of the lease, offset by the accrual of interest due on the non-recourse debt.

The net effect of the above entries was to record a charge in 2003 for the "Cumulative effect of change in accounting principle" of $6 million, before the related tax effects of $2 million. As of December 31, 2004, the non-recourse debt had an outstanding balance of $81 million, the assets serving as collateral on this debt had a carrying amount of $80 million and the related minority interest in the VIE was $29 million.

In June 2001, Cummins Capital Trust I (the "Trust"), a Delaware business trust and our wholly-owned subsidiary, issued 6 million shares of 7 percent convertible quarterly income preferred securities ("Preferred Securities"). The total proceeds from the issuance of the Preferred Securities by the Trust were invested in $309 million aggregate principal amount of 7% convertible subordinated debentures (the "Debentures") that we issued. The Debentures are the sole assets of the Trust. This transaction is more fully discussed in Note 11. The Trust qualifies as a VIE under FIN 46R. We have determined that we are not the primary beneficiary of the Trust and as a result have deconsolidated the Trust as of December 31, 2003. As a result of the deconsolidation of the Trust, we no longer report the Preferred Securities as an obligation in our *Consolidated Financial Statements*; rather, we now report the Debentures as an obligation, and included the Debentures in "Long-term debt" in our *Consolidated Balance Sheets* as of December 31, 2004 and 2003. The deconsolidation had no impact in 2003 on our *Consolidated Statements of Earnings* as there was no cumulative effect from this change. In 2004, rather than reporting the preferred dividends on the Preferred Securities, we have reported interest expense associated with the Debentures resulting in an increase in interest expense.

Two of the three VIEs that were consolidated beginning on March 28, 2004, Consolidated Diesel Corporation (CDC) and Cummins Komatsu Engine Corporation (CKEC), are engine manufacturing entities jointly owned and operated by us and our equity partners. We were deemed the primary beneficiary of these VIEs due to the pricing arrangements of purchases and the substantial volume of purchases we made from these VIEs. Our arrangements with CDC are more fully described in Note 3. As of December 31, 2004, CDC has approximately $85 million of debt which is collateralized by substantially all of its inventory and fixed assets with a current book value of $31 million and $186 million, respectively. CKEC has approximately $6 million of unsecured debt, which is due to the other equity partner. Creditors of these entities have no recourse to the general credit of Cummins.

The other VIE that was consolidated beginning on March 28, 2004, was AVK/SEG, a German holding company that directly owned shares of AVK and SEG and was jointly owned by Cummins (50 percent) and other equity partners. AVK manufactures alternators and SEG manufactures power electronic components. We were deemed the primary beneficiary of this VIE due to the existence of a call/guarantee arrangement on an additional 13 percent ownership interest in the entity and our guarantee on portions of the entity's subordinated debt. During the second quarter of 2004, AVK/SEG was liquidated and its shares in AVK and SEG were distributed directly to Cummins and the other equity partners. As a result of the liquidation, Cummins owns 100 percent of AVK and 25 percent of SEG. This transaction was accounted for as an acquisition of a minority interest in AVK (via a non-monetary exchange of shares) and was recorded at fair value, resulting in a nominal gain (less than $1 million after-tax). SEG continues to be consolidated under FIN 46R due to the existence of the call/guarantee arrangement discussed above and loans provided by Cummins to SEG. An agreement with the other equity holder of SEG could cause our ownership interest in SEG to change in the future based upon the timing of SEG's repayment of certain intercompany loans to us. As a result, we could either (1) increase our ownership percentage to obtain voting control of SEG or (2) reduce our ownership percentage to such a level that could result in the deconsolidation of SEG. Included in our December 31, 2004, *Consolidated Balance Sheets* is approximately $13 million of SEG debt of which $7 million is collateralized by assets with a current book value of $9 million. Creditors of SEG have no recourse to the general credit of Cummins.

In April 2004, Cummins Eastern Canada (CEC), a distributor previously accounted for under the equity method, acquired another Cummins distributor in Canada. The acquisition price of the distributor was $19 million ($18 million, net of cash acquired), which was funded by the addition of $15 million of debt and an additional $4 million equity investment by Cummins. The additional equity contributed by Cummins increased our ownership percentage in CEC to 67 percent (50 percent prior to the acquisition.) At the same time, we reached an agreement to sell a 16 percent ownership interest in CEC to another equity holder. This sale was completed during the third quarter of 2004. As a result of this sale our ownership percentage in CEC was reduced from 67 percent to 51 percent. We agreed to accept a note from the equity holder for its purchase of the 16 percent ownership interest. The note will be repaid from distributions of future CEC earnings. We also agreed with the other shareholders to maintain our voting interest at 50 percent. We do not have management or voting control over CEC. In accordance with FIN 46R, CEC is consolidated in our *Consolidated Financial Statements* due to our current 51 percent economic interest and deemed interest of 16 percent resulting from our financing of the other equity holder's purchase. As of December 31, 2004, CEC has approximately $28 million of debt which is collateralized by various current and fixed assets with a current book value of $61 million. Creditors of CEC have no recourse to the general credit of Cummins.

Results of these entities for the year ended December 31, 2004, are consolidated in our *Consolidated Statements of Earnings* and a significant amount of their sales are eliminated in consolidation. The table below shows the increase in our assets and liabilities from consolidating these entities, after eliminating intercompany items, as of December 31, 2004.

	Increase ($ millions)
Current assets	$ 143
Long-term assets	176
Current liabilities, excluding debt	119
Short-term and long-term debt	132

We also have variable interests in certain of our North American distributors that were deemed to be VIEs in accordance with FIN 46R, but we were not deemed to be the primary beneficiary since we do not absorb a majority of the entity's expected losses. Our ownership percentage in these entities ranges from zero percent to 50 percent. For two of the entities, our equity ownership represents our only variable interest in the entity and thus we would not be deemed the primary beneficiary. For the one entity where we also guarantee a portion of the entity's debt, our ownership percentage is zero and our debt guarantee does not result in Cummins being considered the primary beneficiary.

The principal business of the distributors is to sell Cummins engines and related service parts as well as provide repair and maintenance services on engines, including warranty repairs. Our maximum potential loss related to these three distributors as of December 31, 2004, consisted of our ownership interest in two of the distributors totaling $5 million and our guarantee of the debt for one distributor totaling $4 million. Our involvement with these distributors as equity holders began in 2003 and 2002. Our debt guarantee has been in place since 1987. Selected financial information for these distributors as of and for the year ended December 31, 2004, follows:

	$ Millions
Total assets	$ 169
Total liabilities, excluding debt	61
Total debt	64
Revenues	434
Net earnings	24

NOTE 3. INVESTMENTS IN EQUITY INVESTEES AND RELATED PARTY TRANSACTIONS

Investments in and advances to equity investees and our ownership percentage at December 31, follows:

	Ownership %	2004	2003
		$ Millions	
European Engine Alliance	33%	$ 70	$ 68
Dongfeng Cummins	50%	80	62
AVK/SEG (Note 2)	50%	—	45
Consolidated Diesel (Note 2)	50%	—	37
Chongqing Cummins	50%	27	29
Komatsu alliances	20% - 50%	21	26
Tata Cummins	50%	23	21
North American distributors and other	Various	65	51
Total		$286	$339

We have approximately $100 million in our investment account at December 31, 2004, that represents cumulative undistributed earnings in our equity investees. Summary financial information for Dongfeng Cummins Engine Company, Ltd. (DCEC), a significant investee in 2003, and our other equity investees as of and for the year ended December 31, follows:

	Dongfeng Cummins			All Others		
	2004	2003	2002	2004	2003	2002
	$ Millions					
Net sales	$ 556	$304	$102	$ 2,047	$ 2,275	$ 1,580
Gross margin	115	64	19	476	454	263
Net earnings	86	47	9	122	82	32
Cummins share of net earnings	$ 43	$ 24	$ 4	$ 56	$ 42	$ 16
Royalty and other income	7	1	—	5	3	2
Total equity, royalty and other income from investees	$ 50	$ 25	$ 4	$ 61	$ 45	$ 18
Current assets	$ 253	$147	$ 48	$ 715	$ 772	$ 569
Noncurrent assets	81	76	38	461	740	646
Current liabilities	(162)	(87)	(27)	(566)	(586)	(397)
Noncurrent liabilities	—	—	(1)	(209)	(524)	(510)
Net assets	$ 172	$136	$ 58	$ 401	$ 402	$ 308
Cummins share of net assets	$ 80	$ 62	$ 29	$ 172	$ 179	$ 126

Related Party Transactions

In accordance with the provisions of various joint venture agreements, we may purchase products and components from the joint ventures, sell products and components to the joint ventures and the joint ventures may sell products and components to unrelated parties. Joint venture transfer prices to us may differ from normal selling prices. Certain joint venture agreements transfer product to us at cost, some transfer product to us on a cost-plus basis, and others transfer product to us at market value.

We purchase significant quantities of midrange diesel and natural gas engines, components and service parts from CDC, a general partnership and a VIE (see Note 2) that we began to consolidate on March 28, 2004. Prior to March 28, 2004, our investment in CDC was classified as "Investments in and advances to equity investees" in our *Consolidated Balance Sheets.* The partnership was formed in 1980 with J. I. Case (Case) to jointly fund engine development and manufacturing capacity. Cummins and Case (now CNH Global N.V.) are general partners and each partner shares 50 percent ownership in CDC. Under the terms of the agreement, CDC is obligated to make its entire production of diesel engines and related products available solely to the partners. Each partner is entitled to purchase up to one-half of CDC's actual production; a partner may purchase in excess of one-half of actual production to the extent productive capacity is available beyond the other partner's purchase requirement. The partners are each obligated, unconditionally and severally, to purchase annually at least one engine or engine kit produced by CDC, provided a minimum of one engine or kit is produced. The transfer price of CDC's engines to the partners must be sufficient to cover its manufacturing cost in such annual accounting period, including interest and financing expenses, and excluding depreciation expense (other than Scheduled Depreciation Expense as defined in the agreement). In addition, each partner is obligated to contribute one-half of the capital investment required to maintain plant capacity and each partner has the right to invest unilaterally in plant capacity, which additional capacity can be utilized by the other partner for a fee. To date, neither partner has made a unilateral investment in plant capacity at CDC.

We are not a guarantor of any of CDC's obligations or commitments; however, we are required to provide up to 50 percent of CDC's base working capital as defined by the agreement. The amount of base working capital is calculated each quarter and if supplemental funding greater than the base working capital amount is required, the amount is funded through third party financing arranged by CDC, or we may elect to fund the requirement although we are under no obligation to do so. To date, when supplemental funding is required above the base working capital amount, we have elected to provide that funding to CDC. If the amount of supplemental funding required is less than the base working capital amount, it is funded equally by the partners. Excess cash generated by CDC is remitted to Cummins until CDC's working capital amount is reduced to the base working capital amount. Any further cash remittances from CDC to the partners are shared equally by the partners.

All marketing, selling, warranty and research and development expenses related to CDC products are the responsibility of the partners and CDC does not incur any of these expenses. Cummins also provides purchasing and administrative procurement services to CDC for an annual fee shared by the partners.

All of our engine purchases from CDC are shipped directly from CDC to our customers. Prior to March 28, 2004, purchases were recorded as "Cost of sales" in our *Consolidated Statements of Earnings* as CDC was accounted for under the equity method of accounting. Subsequent to March 28, 2004, all engine purchases from CDC were eliminated in consolidation. Our engine purchases from CDC are recorded at CDC's transfer price which is based upon total production costs of products shipped and an allocation of all other costs incurred during the reporting period, resulting in break-even operating results for CDC.

The following table summarizes our related party purchases included in "Cost of sales" in our *Consolidated Statements of Earnings*:

Years ended December 31,	2004	2003	2002
	($ millions)		
Engines, parts and components—CDC	$107	$386	$457

Engines, parts and components—other JVs	151	156	93
Total	$258	$542	$550

The *Consolidated Statements of Cash Flows* include the earnings of equity investees as reported above as well as other non-cash adjustments. The most significant adjustment included in the statement of cash flows is depreciation recorded by CDC, which prior to FIN 46R was allocated to the joint venture partners based on the amount of their purchases. We classified depreciation and other noncash expenses related to CDC as "Cost of sales" and "Other (income) expense," respectively, in the *Consolidated Statements of Earnings*. The adjustments relating to CDC were $3 million in 2004, $12 million in 2003 and $12 million in 2002.

Distributors

We have an extensive worldwide distributor and dealer network through which we sell and distribute our products and services. Generally, our distributors are divided by geographic region. Some of our distributors are wholly-owned by Cummins, some partially-owned and the majority are independently owned. We consolidate all wholly-owned distributors and partially owned distributors where we are the primary beneficiary and account for other partially-owned distributors using the equity method of accounting (see Note 1).

We are contractually obligated to repurchase new engines, parts and components and signage from our North American distributors following an ownership transfer or termination of the distributor. In addition, in certain cases where we own a partial interest in a distributor, we are obligated to purchase the other equity holders' interests if certain events occur (such as the death of the distributor principal or a change in control of Cummins Inc.). The purchase price of the equity interests is determined based on the fair value of the distributor's assets. Outside of North America, repurchase obligations and practices vary by region. We also provide guarantees related to certain obligations of some distributors as more fully discussed in Note 13. We continually monitor the financial condition of these independent distributors. We recognize revenue on sales to these distributors when we have concluded that our performance under these guarantees is remote. All distributors that are partially-owned are considered to be related parties in our *Consolidated Financial Statements.*

NOTE 4. MARKETABLE SECURITIES

A summary of marketable securities at December 31, follows:

	2004			2003		
	Cost	Gross unrealized gains	Est. fair value	Cost	Gross unrealized gains	Est. fair value
	$Millions					
Available-for-sale:						
Debt mutual funds	$37	$ 1	$38	$50	$ 2	$52
Government debt securities-non-U.S.	6	—	6	8	—	8
Corporate debt securities	17	1	18	16	1	17
Equity securities	—	—	—	6	5	11
Other	17	—	17	9	—	9
Total marketable securities	$77	$ 2	$79	$89	$ 8	$97
Current	$77	$ 2	$79	$84	$ 3	$87
Non-current	—	—	—	5	5	10

Proceeds from sales of available-for-sale securities were $166 million, $130 million and $59 million in 2004, 2003 and 2002, respectively. Gross realized gains from the sale of available-for-sale securities were $6 million, $4 million and $1 million in 2004, 2003 and 2002, respectively. Gross realized losses from the sale of available-for-sale securities were not material in 2004, $1 million in 2003, and not material in 2002. During the fourth quarter of 2002, we recorded a $4 million charge related to an "other-than-temporary" impairment of an investment in equity securities.

The fair value of available-for-sale investments in debt securities by contractual maturity at December 31, 2004, follows:

Maturity date	Fair value
	$ Millions
1 year or less	$ 2
1-5 years	15
5-10 years	3
After 10 years	4
Total	$24

NOTE 5. SALES OF RECEIVABLES

In January 2004, we entered into a new three year facility agreement with a financial institution to sell a designated pool of trade receivables to Cummins Trade Receivables, LLC (CTR), a wholly-owned special purpose subsidiary. As necessary, CTR may transfer a direct interest in its receivables, without recourse, to the financial institution. To maintain a balance in the designated pools of receivables sold, we sell new receivables to CTR as existing receivables are collected. Receivables sold to CTR in which an interest is not transferred to the financial institution are included in "Receivables, net" on our *Consolidated Balance Sheets.* The maximum interest in sold receivables that can be outstanding at any point in time is limited to the lesser of $200 million or the amount of eligible receivables held by CTR. There are no provisions in this agreement that require us to maintain a minimum investment credit rating; however, the terms of the agreement contain the same financial covenants as those described under our revolving credit facility (see Note 11). The interest in receivables sold under this program to the financial institution in 2004 was not significant and as of December 31, 2004, there were no amounts outstanding under this program.

Under our old program which expired on December 15, 2003, we had an agreement with a different financial institution where we sold a designated pool of trade receivables to Cummins Receivable Corporation (CRC), a special purpose subsidiary. Under this program, CRC transferred an interest in its receivables, without recourse, to limited purpose receivable securitization companies (conduits) that were established and maintained by an independent financial institution. The conduits would then fund their purchases by issuing commercial paper.

Sales of receivables to the financial institution in 2004 were not significant. No accounts receivable sold to either subsidiary were written off during 2004, 2003 or 2002. The weighted average interest rate on repayments during 2004, 2003 and 2002 was 2.6 percent, 1.2 percent and 1.8 percent, respectively. The sold receivables servicing portfolio, which is included in receivables at December 31, and the proceeds from the sale of receivables and other related cash flows follows:

	2004	2003	2002
		$ Millions	
Sold receivables servicing portfolio	$ 416	$ —	$ 242
Proceeds outstanding from receivable sales	—	—	—
Receivables sold to special purpose subsidiary	5,338	3,622	3,420
Collections reinvested in special purpose subsidiary	4,922	3,581	3,409
Servicing fees and interest	1	1	2

NOTE 6. INVENTORIES

Inventories at December 31, included the following:

	2004	2003
	$ Millions	
Finished products	$ 500	$ 431
Work-in-process and raw materials	584	359
Inventories at FIFO cost	1,084	790
Excess of FIFO over LIFO	(68)	(57)
Total inventories	$ 1,016	$ 733

NOTE 7. PROPERTY, PLANT AND EQUIPMENT

Details of our property, plant and equipment balance at December 31, follows:

	2004	2003
	$ Millions	
Land and buildings	$ 744	$ 597
Machinery, equipment and fixtures	3,075	2,470
Construction in process	106	54
	3,925	3,121
Less accumulated depreciation	(2,277)	(1,774)
Property, plant and equipment, net	$ 1,648	$ 1,347

NOTE 8. GOODWILL AND OTHER INTANGIBLE ASSETS

The following table summarizes the changes in the carrying amount of goodwill for the years of 2004 and 2003:

	Filtration and Other	Engine Business	International Distributor	Power Generation	Total
			$ Millions		
Goodwill at December 31, 2002	$ 332	$ 6	$ 5	$—	$ 343
Other	—	1	—	—	1
Goodwill at December 31, 2003	332	7	5	—	344
Increase due to consolidation of VIEs	—	—	—	14	14
Dispositions..	—	—	—	(3)	(3)
Goodwill at December 31, 2004	$ 332	$ 7	$ 5	$ 11	$ 355

We have elected to perform the annual impairment test of our recorded goodwill and certain other intangible assets as required by SFAS 142 as of the end of our fiscal third quarter. The results of this annual impairment test indicated that the fair value of each of our reporting units as of September 26, 2004, September 28, 2003 and September 29, 2002, exceeded their carrying, or book value, including goodwill, and therefore our recorded goodwill was not subject to impairment. The fair value was determined utilizing the expected present value of future cash flows.

Intangible assets that have finite useful lives are amortized over their useful lives.The following table summarizes our other intangible assets with finite useful lives that are subject to amortization as of December 31:

	2004	2003
	$ Millions	
Software	$ 197	$ 204
Accumulated amortization	(107)	(115)
Net software	90	89
Trademarks, patents and other	4	4
Accumulated amortization	(1)	(1)
Net trademarks, patents and other	3	3
Total	$ 93	$ 92

Amortization expense for software and other intangibles totaled $33 million, $38 million and $34 million for the years ended December 31, 2004, 2003 and 2002, respectively. Internal and external software costs (excluding those related to research, reengineering and training) and trademarks and patents are amortized generally over a five-year period. The projected amortization expense of our intangible assets, assuming no further acquisitions or dispositions, is approximately $31 million in 2005, $23 million in 2006, $17 million in 2007, $13 million in 2008 and $7 million in 2009.

NOTE 9. INCOME TAXES

The provision (benefit) for income taxes consists of the following:

	2004	2003	2002
		$ Millions	
Current:			
U.S. Federal and state	$ 16	$ 3	$ (11)
Foreign	91	57	47
	107	60	36
Deferred:			
U.S. Federal and state	(53)	(32)	(69)
Foreign	2	(16)	(5)
	(51)	(48)	(74)
Provision (benefit)	$ 56	$ 12	$ (38)

A reconciliation of the income tax provision (benefit) at the U.S. Federal income tax rate of 35 percent to the actual income tax provision (benefit) shown above is as follows:

	2004	2003	2002
		$ Millions	
Earnings (loss) before income taxes, minority interests, dividends on preferred securities and cumulative effect of change in accounting principles:			
U.S.	$175	$ (45)	$ (24)
Foreign	257	136	102
	$432	$ 91	$ 78
Provision (benefit) for income taxes:			
Tax at U.S. statutory rate	151	32	27
State taxes	(22)	2	2
Deductible dividends on preferred securities	—	(4)	(7)
Research tax credits	(18)	(8)	(7)
Export tax benefits	(36)	(12)	(11)
Differences in rates and taxability of foreign subsidiaries and joint ventures	(29)	—	15
Settlement of IRS examinations	—	—	(57)
All other, net	10	2	—
Provision (benefit)	$ 56	$ 12	$ (38)

The state income tax benefit for 2004 includes recognition of $16 million of state carryforward benefits that we determined, based on improved operating results, are more likely than not to be realized in the future. These benefits had previously been reserved with a valuation allowance. The state income tax benefit for 2004 also includes a $9 million benefit to recognize a change in the average estimated state income tax rate which increases the net deferred state tax assets.

The export tax benefits for 2004 include $11 million related to prior years. As a consequence of improved cash flow during 2004, we filed amended tax returns and claimed additional export tax benefits related to prior years which we previously had forgone to avoid the associated tax payments on non-exempt export income by our foreign sales corporation.

During 2004, as a result of continued earnings improvement and improved outlook, we reassessed the treatment of our 2002 and 2003 foreign tax credits previously recognized as tax deductions and determined they could be used as full tax credits. The $25 million benefit from the more favorable treatment of these tax credits is included in the "differences in rates and taxability of foreign subsidiaries and joint ventures" in the above table.

The one-time 2002 tax benefit of $57 million relates to the conclusion during 2002 of the U.S. Internal Revenue Service examinations of tax years 1994 to 1999. The $57 million includes a $20 million reversal of tax accruals no longer required for the potential loss of export tax benefits, research credits, and foreign tax credits claimed during the audit period. The remaining $37 million relates to the tax benefit of deductions related to the valuation of assets for tax purposes settled during the audit period.

Except for the U.K. group, we provide for the additional taxes that would be due upon the dividend distribution of the earnings of our foreign subsidiaries and joint ventures assuming the full utilization of foreign tax credits. The unremitted earnings of the U.K. group are considered to be permanently reinvested and the determination of the deferred tax liability, if any, that might be due should those earnings be distributed is not practicable. Earnings before income taxes include, equity earnings of foreign joint ventures of $74 million, $48 million and $12 million for the years ended December 31, 2004, 2003 and 2002, respectively. These equity earnings are recorded net of foreign taxes. Additional U.S. income taxes of $20 million, $12 million and $3 million for the years ended December 31, 2004, 2003 and 2002, respectively, were provided on the distributed equity earnings and for the estimated additional U.S. taxes that will ultimately be due upon the distribution of the remaining unremitted foreign joint venture equity earnings. The American Jobs Creation Act of 2004 includes a special one-year 85-percent dividend deduction for qualifying dividends repatriated from foreign operations in 2005. We are studying the possible application of these rules to some foreign joint venture repatriations up to approximately $40 million that could potentially reduce our 2005 income tax provision by $5 million to $10 million.

Carryforward tax benefits and the tax effect of temporary differences between financial and tax reporting that give rise to net deferred tax assets at December 31, are:

	2004	2003
	$ Millions	
U.S. federal carryforward benefits:		
Net operating losses, expiring 2022 and 2023	$ 38	$ 192
Foreign tax credits, expiring 2013 and 2014	38	—
Research tax credits, expiring 2012 to 2024	78	102
Minimum tax credits, no expiration	19	10
	173	304
U.S. state carryforward benefits	26	43

Foreign carryforward benefits	49	34
Employee benefit plans	212	213
Minimum pension liability	293	247
Product coverage and marketing expenses	169	121
Deferred research and development expenses	188	57
Other	60	77
Gross deferred tax assets	1,170	1,096
Valuation allowance	(39)	(43)
Deferred tax assets	1,131	1,053
Property, plant and equipment	(114)	(153)
Other	(57)	(57)
Deferred tax liabilities	(171)	(210)
Net deferred tax assets	$ 960	$ 843

A valuation allowance is recorded to reduce the gross deferred tax assets to an amount management believes is more likely than not to be realized. The valuation allowance decreased in 2004 by a net $4 million and increased in 2003 by a net $2 million. The valuation allowance is primarily attributable to the uncertainty regarding the realization of a portion of the U.S. state and foreign net operating loss and tax credit carryforward benefits.

The deferred income tax balances are classified in the *Consolidated Balance Sheets* as follows:

	December 31, 2004	December 31, 2003
	$ Millions	
Current assets	$301	$192
Long-term assets	689	663
Other long-term liabilities	(30)	(12)
	$960	$843

NOTE 10. OTHER ACCRUED EXPENSES

Other accrued expenses included the following:

	December 31, 2004	December 31, 2003
	$ Millions	
Accrued salaries and wages	$241	$141
Accrued retirement obligations	200	165
Income taxes payable	52	30
Other	256	207
Total other accrued expenses	$749	$543

NOTE 11. LONG-TERM DEBT AND SHORT-TERM BORROWINGS

	December 31, 2004	December 31, 2003
	$ Millions	
Short-term borrowings:		
Loans payable	$ 62	$ 28
Current maturities of long-term debt	284	21
Total short-term borrowings	$346	$ 49

Loans payable consists primarily of notes payable to financial institutions. The weighted average interest rate for notes payable, bank overdrafts and current maturities of long-term debt at December 31, 2004 and 2003 was 5.85 percent and 8.29 percent, respectively.

As of December 31, 2004, we had $530 million available for borrowings under our $650 million revolving credit facility and $114 million available for borrowings under our international short-term credit facilities. The amount of borrowings outstanding under our international short-term facilities at December 31, 2004, was $62 million.

	December 31, 2004	December 31, 2003
	$ Millions	
Long-term debt:		
Notes, 6.45%, due 2005	$ 225	$ 225
Notes, 8.68%, due 2008	81	90
Term loan, 6.92%, due 2008	85	—
Senior notes, 9.5%, due 2010	250	250
Debentures, 6.75%, due 2027	120	120
Debentures, 7.125%, due 2028	250	250
Junior convertible subordinated debentures, redeemable in 2006, mandatory redemption in 2031	300	300
Debentures, 5.65%, due 2098 (effective interest rate 7.48%)	165	165
Other (including terminated interest rate swaps)	34	18
	1,510	1,418
Unamortized discount	(47)	(47)
Capital leases	120	30
Total long-term debt	1,583	1,401
Less current maturities of long-term debt	(284)	(21)
Long-term debt	$ 1,299	$ 1,380

Principal payments required on long-term debt during the next five years are $284 million in 2005, $81 million in 2006, $70 million in 2007, $85 million in 2008 and $9 million in 2009.

In December 2004, we replaced our revolving credit facility that was set to expire in November 2005. The new facility provides for aggregate borrowings of up to $650 million on an unsecured basis and matures in December 2009. The new facility contains certain financial covenants similar to or more favorable than the financial covenants in the former revolving credit facility. Up to $200 million of the facility is available for total letters of credit; up to $60 million of the facility may be used for multi-currency borrowings or multi-currency letters of credit. Interest on the facility varies based upon the London interbank offered rate or the Alternate Base Rate plus a spread depending upon our credit rating. We are required to pay a quarterly facilities fee on the unused commitments under this facility based on our credit rating. The fee was 0.35% at December 31, 2004. As of December 31, 2004, we had $118 million in letters of credit outstanding against this facility. There were no outstanding borrowings under this facility at December 31, 2004.

In November 2002, we issued $250 million of unsecured 9.5% Senior Notes that mature in 2010. Proceeds from the issuance of approximately $244 million, net of debt issue costs, were used to repay amounts outstanding under our Sale of Receivables facility (see Note 5) and for general corporate purposes. Interest on the Notes is payable on June 1 and December 1 each year. We can redeem the Notes in whole or in part at any time after December 1, 2006, at a premium equal to 104.75% of par, declining to par in 2008, plus accrued interest. In connection with the 2002 Indenture, we agreed to file an exchange offer registration statement with the SEC and complete that offer no later than May 19, 2003. As a result of the delay in filing our 2002 Annual Report on Form 10-K with the SEC, we were unable to complete the exchange offer and became contractually obligated to pay an additional 0.25% per annum interest on the Notes issued under the Indenture. For each 90-day delay in the completion of the exchange offer, the interest rate on the notes increased by an additional 0.25% per annum up to a 1% maximum increase until such time as the exchange offer was completed. As of December 31, 2003, we were paying an additional 0.75% interest on the Notes. On February 24, 2004, the exchange offer registration statement was declared effective and on March 25, 2004, the exchange offer was completed, resetting the interest rate to its original 9.5%.

In November 2002, as a result of a covenant conflict with our former revolving credit facility, we elected to repay all of the outstanding 5.61% notes due in 2010 issued by our Employee Stock Ownership Plan trust. The aggregate redemption price for the notes was approximately $51 million, plus redemption premiums of $8 million and accrued interest of approximately $1 million. The $8 million redemption premium is classified in our *Consolidated Statements of Earnings* as “Loss on early retirement of debt.”

In December 2000, a consolidated Variable Interest Entity (a grantor trust wholly-owned by a financial institution) issued $99 million of 8.68% non-recourse notes with annual principal payments and a final payment due in April 2008. The consolidation of the VIE is discussed in Note 2. Interest payments are due on the notes quarterly. Principal and interest payments due on the notes coincide with the payments that are due to the grantor trust under our lease of ISX equipment from the grantor trust. Principal payments due over the next five years are included in the amounts above. Our lease is described in Note 18. The notes are secured by the assets of the grantor trust which include only the ISX equipment and the trust’s rights under the lease agreement with us.

In February 1998, we issued $765 million of debt securities under a $1 billion shelf registration statement. The issuance was comprised separately of $125 million 6.25% Notes, $225 million 6.45% Notes, $250 million 7.125% Debentures and $165 million 5.65% Debentures. All of the Notes and Debentures bear interest at the respective rates shown in the table above and interest on each series of Notes and Debentures is payable on March 1 and September 1 of each year. The Notes and Debentures are unsecured and are not subject to any sinking fund requirements. The $125 million 6.25% Notes were

repaid in 2003. The 2005 Notes matured March 1, 2005 and were repaid on that date. We can redeem the 2028 Debentures and the 2098 Debentures at any time prior to maturity at the greater of par plus accrued interest or an amount designed to ensure that the debenture holders are not penalized by the early redemption.

In 1997, we issued $120 million of unsecured 6.75% debentures that mature in 2027. Interest on the debentures is payable on February 15 and August 15 each year. Holders of the debentures may elect to be repaid on February 15, 2007, at par value together with accrued interest to February 15, 2007. Such election, which is irrevocable, must be made between December 15, 2006 and January 15, 2007. The debentures are also redeemable at our option after February 15, 2007, at a redemption price of par value plus accrued interest or an amount designed to ensure that the debenture holders are not penalized by the early redemption.

Our debt agreements contain several restrictive covenants. The most restrictive of these covenants applies to the $250 million 9.5% Senior Notes and our new revolving credit facility which will, among other things, limit our ability to incur additional debt or issue preferred stock, enter into sale/leaseback transactions, pay dividends, sell or create liens on our assets, make investments and merge or consolidate with any other person. In addition, we are subject to various financial covenants including a maximum debt-to-EBITDA ratio and a minimum interest coverage ratio. As of December 31, 2004, we were in compliance with all of the covenants under our borrowing agreements.

As discussed in Note 2, our total debt includes $132 million (of which $22 million is included in “Loans Payable” in above table) as of December 31, 2004, related to the consolidation of four joint ventures under FIN 46R. Included in this amount is an $85 million term loan at CDC with a financial institution. The loan is due in annual installments, with a final payment due in 2008. Interest is payable semi-annually at a rate of 6.92 percent. The note is collateralized by substantially all of CDC’s inventory and fixed assets with a current book value of $31 million and $186 million, respectively, as of December 31, 2004.

As of December 31, 2004, commitments outstanding for letters of credit under our revolving credit facility and our international and other domestic facilities were $118 million and $28 million, respectively. Commitments outstanding related to performance bonds and other performance-related guarantees were $57 million as of December 31, 2004.

Junior Convertible Subordinated Debentures

In June 2001, Cummins Capital Trust I (the “Trust”), a Delaware business trust and our wholly-owned subsidiary, issued 6 million shares of 7% convertible quarterly income preferred securities (“Preferred Securities”), to qualified institutional buyers for net proceeds of $291 million. The Preferred Securities represent an undivided beneficial ownership interest in the assets of the Trust. The total proceeds from the issuance of the Preferred Securities by the Trust were invested in $309 million aggregate principal amount of 7% convertible subordinated debentures (the “Debentures”) that we issued. The Debentures are the sole assets of the Trust. On July 1, 2003, we adopted SFAS 150, “Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity.” This standard required financial instruments meeting certain criteria to be reported as liabilities that were previously classified as equity or between liabilities and equity in our *Consolidated Balance Sheets.* The adoption of SFAS 150 resulted in the classification of the Preferred Securities as a liability in our *Consolidated Balance Sheets* and the dividend payments on these securities as interest expense in our *Consolidated Statements of Earnings.* On December 31, 2003, we adopted the provisions of FIN 46R for the Trust (see Note 2) and deconsolidated the Trust as of December 31, 2003. As a result of the deconsolidation, we no longer report the Preferred Securities as an obligation in our *Consolidated Financial Statements*; rather, we now report the Debentures as an obligation, and have included the Debentures in “Long-term debt” in our *Consolidated Balance*

Sheets as of December 31, 2004 and 2003. The deconsolidation had no impact in 2003 on our*Consolidated Statements of Earnings* as there was no cumulative effect from this change. In 2004, we reported interest expense of $21 million associated with the Debentures and in 2003 we reported dividends on the Preferred Securities of $11 million and interest expense of $10 million.

Holders of the Preferred Securities are entitled to receive preferential cumulative cash dividends at an annual rate of 7% of the $50 per share liquidation value. In addition, we are accreting the difference between the liquidation amount and the original proceeds received as additional interest expense to the mandatory redemption date. The distribution rate and payment dates for the Preferred Securities correspond to the interest rate and payment dates for the Debentures. We may defer interest payments on the Debentures for a period not to exceed 20 consecutive quarters. If a deferral is made, the Trust will defer distributions on the Preferred Securities for a corresponding period but will continue to accrue for the distribution. We guarantee, on a subordinated basis, distributions and other payments due on the Preferred Securities, to the extent the Trust has available assets and subject to certain other restrictions (the "Guarantee"). The Guarantee, when taken together with our obligations under the Debentures, the indenture pursuant to which the Debentures were issued, and the obligations under the Trust Agreement, provides a full and unconditional guarantee of amounts due on the Preferred Securities.

The Debentures are redeemable for cash, at our option, in whole or in part, on or after June 15, 2006. The debentures are also redeemable under certain circumstances pursuant to a federal tax event, at par, plus accrued and unpaid interest. Upon any redemption of the Debentures, the Trust will redeem a like aggregate liquidation amount of Preferred Securities. The Preferred Securities do not have a stated maturity date, however, they are subject to mandatory redemption upon maturity of the Debentures on June 15, 2031, or upon earlier redemption or upon the occurrence of an event of default.

Each Preferred Security and the related Debenture are convertible at any time prior to the close of business on June 13, 2031, at the option of the holder into shares of our common stock at the rate of 1.0519 shares per Preferred Security (equivalent to a conversion price of $47.53 per share of Cummins Inc. common stock). The Trust will convert Debentures only upon notice of conversion by a holder of Preferred Securities.

NOTE 12. PENSION AND OTHER POSTRETIREMENT BENEFITS

Change in Benefit Plan Measurement Date

Effective January 1, 2002, we changed the annual measurement date for our pension plans and postretirement benefit plans from September 30 to November 30. We made this change to more closely align the measurement date with our fiscal year end. As a result of this change, we recorded a favorable cumulative effect of a change in accounting principle of approximately $4 million, or $3 million on an after-tax basis. This amount is disclosed as a separate line item in the accompanying *Consolidated Statements of Earnings*. The change did not have a material impact on the amount of pension or postretirement expense recorded in 2002.

Pension Plans

We have several contributory and noncontributory pension plans covering substantially all employees. Generally, hourly employee pension benefits are earned based on years of service and compensation during active employment while future benefits for salaried employees are determined using a cash balance formula. The level of benefits and terms of vesting, however, may vary among plans. Pension plan assets are administered by trustees and are principally invested in equity securities and fixed income securities. Cummins common stock was excluded from pension plan assets as of December 31, 2004. As of December 31, 2003, pension plan assets included Cummins common stock with a market value $132 million. It is our policy to make contributions to the various plans in accordance with statutory funding requirements and any additional funding that may be deemed appropriate. We plan to contribute approximately $135 million to $140 million to our defined benefit pension plans in 2005.

On January 1, 2004, we merged 11 defined benefit plans into a single plan. The merger did not have a material impact to our results of operations and financial position or cash flows.

Other Postretirement Benefits

Our postretirement benefit plans provide various health care and life insurance benefits to eligible employees, who retire and satisfy certain age and service requirements, and their dependents. The plans are contributory and contain cost-sharing features such as deductibles, coinsurance and spousal contributions. Company contributions are limited by formulas in each plan. Retiree contributions for health care benefits are adjusted annually and we reserve the right to change benefits covered under these plans. There were no plan assets for the postretirement benefit plans as our policy is to fund benefits and expenses for these plans as claims and premiums are incurred.

The following tables present the changes in the benefit obligations and the various plan assets, the funded status of the plans, and the amounts recognized in the Company's *Consolidated Balance Sheets* at December 31.

	Pension		Postretirement	
	2004	2003	2004	2003
	$ Millions			
Change in benefit obligations				
Benefit obligation at beginning of year	$ 2,589	$ 2,227	$ 717	$ 644
Service cost	59	46	4	4
Interest cost	157	144	43	44
Plan participants' contributions	10	8	—	4
Amendments	14	1	—	—
Actuarial losses	157	242	9	71
Benefits paid from fund	(172)	(164)	—	—
Benefits paid directly by Company	(8)	(5)	(61)	(55)
Exchange rate changes	65	87	—	—
Consolidation of VIEs	53	—	12	—
Medicare Part D impact	—	—	(28)	—
Other	4	3	(2)	5
Benefit obligations at end of year	$ 2,928	$ 2,589	$ 694	$ 717
Change in plan assets				
Fair value of plan assets at beginning of year	$ 1,918	$ 1,581	$ —	$ —
Actual return on plan assets	244	317	—	—
Company contributions	127	113	—	—
Plan participants' contributions	10	8	—	—
Benefits paid	(172)	(164)	—	—
Exchange rate changes	43	57	—	—
Consolidation of VIEs	38	—	—	—

Other	4	6	—	—
Fair value of plan assets at end of year	$ 2,212	$ 1,918	$ —	$ —
Reconciliation of Funded Status				
Underfunded status	$ (716)	$ (671)	$ (694)	$ (717)
Unrecognized actuarial loss	940	842	67	99
Unrecognized net transition obligation	1	1	—	—
Company contributions after measurement date	3	—	—	—
Unrecognized prior service cost (credit)	42	44	(6)	(8)
Net amount recognized	$ 270	$ 216	$ (633)	$ (626)
Amounts recognized in Consolidated Balance Sheets				
Prepaid benefit cost	$ 5	$ 13	$ —	$ —
Accrued benefit liability—current	(142)	(116)	(63)	(49)
Accrued benefit liability—long term	(466)	(452)	(570)	(577)
Intangible asset	47	73	—	—
Accumulated other comprehensive loss (minimum pension liability adjustment)	826	698	—	—
Net amount recognized	$ 270	$ 216	$ (633)	$ (626)

Included in the above table at December 31, 2004 and 2003, were underfunded pension plans with aggregate projected benefit obligations of $2,880 million and $2,544 million, respectively, and accumulated

benefit obligations of $2,773 million and $2,441 million, respectively. The fair value of plan assets for these plans was $2,165 million and $1,864 million, respectively. A minimum pension liability adjustment is required when the actuarial present value of accumulated benefits exceeds plan assets and accrued pension liabilities. The minimum pension liability adjustment for 2004 and 2003 was $102 million and $64 million, respectively, and included charges to shareholder's equity of $128 million ($88 million after tax) in 2004 and $74 million ($53 million after tax) in 2003. The 2004 and 2003 charges were partially offset by $13 million and $21 million, respectively, of foreign exchange effect. In addition, we recorded adjustments for joint ventures in 2004 and 2003 of ($10) million and $3 million, respectively.

Included in the above table at December 31, 2004 and 2003, were plans with aggregate accumulated benefit obligations of $2,813 million and $2,482 million, respectively.

The following table presents the net periodic pension and postretirement benefits expense under our plans for the years ended December 31:

	Pension			Postretirement		
	2004	2003	2002	2004	2003	2002
			$ Millions			
Service cost	$ 59	$ 46	$ 50	$ 4	$ 4	$ 6
Interest cost	157	144	145	43	44	49
Expected return on plan assets	(173)	(157)	(188)	—	—	—
Amortization of prior service cost (credit)	12	12	11	(2)	(1)	(2)
Amortization of actuarial losses	34	15	3	6	—	5
Other	—	1	—	—	—	—
Net periodic benefit expense	$ 89	$ 61	$ 21	$ 51	$ 47	$ 58

The table below presents various assumptions used in determining the benefit obligation for each year and reflects weighted average percentages for the various plans (Non-U.S. is primarily the United Kingdom):

	Pension				Postretirement	
	2004		2003		2004	2003
	U.S.	Non-U.S.	U.S.	Non-U.S.		
Discount rate	5.75%	5.32%	6.25%	5.66%	5.76%	6.25%
Compensation increase rate	4.00%	3.75%	4.00%	3.75%	N/A	N/A

The table below presents various assumptions used in determining the net periodic cost and reflects weighted average percentages for the various plans (Non-U.S. is primarily the United Kingdom):

	Pension						Postretirement		
	2004		2003		2002		2004	2003	2002
	U.S.	Non-U.S.	U.S.	Non-U.S.	U.S.	Non-U.S.			
Discount rate	6.25%	5.66%	7.00%	5.91%	7.25%	6.34%	6.26%	7.00%	7.25%
Expected return on plan assets	8.50%	8.08%	8.50%	8.44%	10.00%	8.53%	N/A	N/A	N/A
Compensation increase rate	4.00%	3.74%	4.75%	3.40%	4.75%	3.39%	N/A	N/A	N/A

Our consolidated postretirement benefit obligation is determined by application of the terms of health care and life insurance plans, together with relevant actuarial assumptions and health care cost trend rates. Assumed health care trend rates have a significant effect on the amounts reported for the health care plans. For measurement purposes, a 10 percent annual rate of increase in the per capita cost of covered health care benefits was assumed in 2004. The rate was assumed to decrease on a linear basis to 5 percent through 2009 and remain at that level thereafter. An increase in the health care cost trends of 1 percent would increase our accumulated postretirement benefit obligation by $44 million as of December 31, 2004,

and the net periodic postretirement benefit expense for 2004 by $3 million. A decrease in the health care cost trends of 1 percent would decrease our accumulated postretirement benefit obligation by $38 million as of December 31, 2004, and the net periodic postretirement benefit expense for 2004 by $2 million.

The methodology used to determine the expected rate of return on the pension plan assets in the U.S. was based on a combination of two studies performed by independent consultants. The methodology used to determine the rate of return on pension plan assets in the U.K. was based on establishing an equity-risk premium over current long-term bond yields adjusted based on target asset allocations. Our strategy with respect to our investments in pension plan assets is to be invested with a long-term outlook. Therefore, the risk and return balance of our asset portfolio should reflect a long-term horizon. The table below presents our pension plan asset allocation at December 31, 2004, 2003 and target allocation for 2005:

Investment description	Target Allocation 2005	Percentage of Plan Assets at December 31, 2004	2003
Equity securities	62.2%	68.3%	72.7%
Fixed income	29.8%	24.9%	27.0%
Real estate/Other	8.0%	6.8%	0.3%
Total	100.0%	100.0%	100.0%

The table below presents expected future benefit payments under our pension plans:

	2005	2006	2007	2008	2009	2010-2014
	$ Millions					
Expected benefit payments—pensions	$197	$187	$190	$197	$200	$1,035
Expected benefit payments—postretirement	62	62	63	64	63	285

We also sponsor defined contribution plans for certain non-U.S. hourly and salaried employees. During 2004, 2003 and 2002, expenses incurred related to our contributions to these plans were $8 million, $8 million and $5 million, respectively.

NOTE 13. CONTINGENCIES, GUARANTEES AND INDEMNIFICATIONS

We are defendants in a number of pending legal actions, including actions related to the use and performance of our products. We carry product liability insurance covering significant claims for damages involving personal injury and property damage. In the event we are determined to be liable for damages in connection with actions and proceedings, the unaccrued portion of such liability is not expected to be material. We also have been identified as a Potentially Responsible Party at several waste disposal sites under U.S. and related state environmental statutes and regulations and may have joint and several liability for any investigation and remediation costs incurred with respect to such sites. We deny liability with respect to many of these legal actions and environmental proceedings and are vigorously defending such actions or proceedings. We have established reserves that we believe are adequate for our expected future liability in such actions and proceedings where the nature and extent of such liability can be reasonably estimated based upon presently available information.

Our engine products are also subject to extensive statutory and regulatory requirements that directly or indirectly impose standards with respect to emissions and noise. Recently, we met stringent new emissions standards that were set pursuant to a consent decree that we entered into with the EPA, the U.S. Department of Justice and the California Air Resources Board (CARB) in October 1998 along with other diesel engine manufacturers. Cummins achieved all on-highway requirements months ahead of the October 2002 date. Additionally, throughout the latter half of 2004, EPA and CARB issued certificates

and executive orders indicating that we have met the requirements to pull forward the reduction of emissions levels for off-highway engines of 300 to 750 horsepower that become effective under the consent decree on January 1, 2005.

U.S. Distributor Guarantees

Since 1997 we have had an operating agreement with a financial institution that requires us to guarantee revolving loans, equipment term loans and leases, real property loans and letters of credit made by the financial institution to certain independent Cummins and Onan distributors in the United States, and to certain distributors in which we own an equity interest. The agreement has been amended, supplemented or otherwise modified several times since 1997 and in the third quarter of 2004, we amended, restated and simplified the terms of the operating agreement.

Under the amended and restated terms, our guarantee of any particular distributor financing is limited to the amount of the financing in excess of the distributor's "borrowing base." The "borrowing base" is equal to the amount that the distributor could borrow from the financial institution without our guarantee. Furthermore, if any distributor defaults under its financing arrangement with the financial institution, and the maturity of amounts owed under the agreement is accelerated, then we are required to purchase from the financial institution at amounts approximating fair market value certain property, inventory and rental generator sets manufactured by Cummins that are secured by the distributor's financing agreement.

The operating agreement will continue in effect until February 7, 2007, and may be renewed for additional one-year terms. As of December 31, 2004, we had $10 million of guarantees outstanding under the operating agreement relating to distributor borrowings of $122 million.

Residual Value Guarantees

We have various residual value guarantees on equipment leased under operating leases. The total amount of these residual value guarantees at December 31, 2004, was $11 million.

Other Guarantees

In addition to the guarantees discussed above, from time to time we enter into other guarantee arrangements, including guarantees of non-U.S. distributor financing and other miscellaneous guarantees of third party obligations. The maximum potential loss related to these other guarantees is $21 million at December 31, 2004.

We have arrangements with certain suppliers that require us to purchase minimum volumes or be subject to monetary penalties. The penalty amounts are less than our purchase commitments and essentially allow the supplier to recover their tooling costs. At December 31, 2004, if we were to stop purchasing from each of these suppliers, the amount of the penalty would be approximately $37 million. However, based on current forecasts, we do not anticipate paying any penalties under these contracts.

Indemnifications

Periodically, we enter into various contractual arrangements where we agree to indemnify a third party against certain types of losses. Common types of indemnifications include:

- product liability and license, patent or trademark indemnifications as discussed in Note 1,
- asset sale agreements where we agree to indemnify the purchaser against future environmental exposures related to the asset sold, and

· any contractual agreement where we agree to indemnify the counter-party for losses suffered as a result of a misrepresentation in the contract.

We regularly evaluate the probability of having to incur costs associated with these indemnifications and accrue for expected losses that are probable. Because the indemnifications are not related to specified known liabilities and due to their uncertain nature, we are unable to estimate the maximum amount of the potential loss associated with these indemnifications.

NOTE 14. SHAREHOLDERS' EQUITY

Cash Dividends

Cash dividends of $0.30 per common share were declared and paid in each quarter of 2004, 2003 and 2002. Declaration and payment of dividends in the future depends upon our earnings and liquidity position, among other factors.

Treasury Stock

In a series of authorizations beginning in 1994, our Board of Directors authorized the purchase of up to 8 million shares of Cummins common stock in the open market. As of December 31, 2004, we had purchased approximately 5.5 million treasury shares under that authorization, with the last purchase occurring in 2000. Treasury stock activity for the three-year period ended December 31, 2004, consisting of shares issued and the respective amounts thereof is presented in the *Consolidated Statements of Shareholders' Equity.*

Shareholders' Rights Plan

We have a shareholders' rights plan that was adopted in 1986. The rights plan provides that each share of Cummins common stock has associated with it a stock purchase right. The rights plan becomes operative when a person or entity acquires 15 percent of Cummins common stock or commences a tender offer to purchase 20 percent or more of Cummins common stock without the approval of our Board of Directors. In the event a person or entity acquires 15 percent of Cummins common stock, each right, except for the acquiring person's rights, can be exercised to purchase $400 worth of common stock for $200. In addition, for a period of 10 days after such acquisition, our Board of Directors can exchange such right for a new right which permits the holders to purchase one share of Cummins common stock for $1. If a person or entity commences a tender offer to purchase 20 percent or more of Cummins common stock, unless the Board of Directors redeems the rights within 10 days of the event for a redemption price equal to $0.01 per whole right, each right can be exercised to purchase one share for $200. If the person or entity becomes an acquiring person, then the provisions noted above apply. The rights plan also allows holders of the rights to purchase shares of the acquiring person's stock at a discount if we are acquired or 50 percent of our assets or earnings power are transferred to an acquiring person.

Employee Stock Ownership Plan

We have an Employee Stock Ownership Plan (ESOP) Trust that was established in 1989 for certain domestic salaried employees participating in our 401(k) Retirement and Savings Plan (RSP). The ESOP has a note payable to us which will be funded through future Company contributions to the Trust.

Our annual cash contributions during plan year 2004, 2003 and 2002 along with dividends received on unallocated shares of our common stock held by the ESOP and cash contributions from the Employee Benefit Trust were equal to the required principal and interest payments due under the ESOP notes and amounted to $8 million in 2004, $8 million in 2003 and $7 million in 2002. The primary sources of cash for the Employee Benefit Trust are dividends received on unallocated shares of our common stock held by the

Employee Benefit Trust and cash received from the ESOP. Dividends received on allocated ESOP shares are used to purchase shares of our common stock from the Employee Benefit Trust. Those shares are then allocated to the participant accounts. As the debt is repaid, shares are allocated to participants in proportion to their contributions to the RSP. Compensation expense is recorded as shares are allocated to plan participants each year and reduced by the common stock dividends received by the Trust. Unearned compensation is included in shareholders' equity and represents compensation expense we will record in the future as the remaining shares are allocated to participants. All shares issued to the ESOP Trust are considered outstanding for purposes of computing earnings per share. Dividends on unallocated ESOP shares used to service a portion of the principal and interest due on the ESOP notes were $1 million in 2004, $1 million in 2003 and $1 million in 2002. Annual compensation expense for the ESOP was $3 million in 2004, $2 million in 2003 and $2 million in 2002. At December 31, 2004, the ESOP Trust held 598,352 shares allocated to participants, 648,379 unallocated shares and 44,678 committed to be released shares.

Employee Benefits Trust

In 1997, we established the Employee Benefits Trust funded with common stock for use in meeting our future obligations under employee benefit and compensation plans. While the trust may be used to fund a number of these plans, the principal use, in addition to shares of our common stock held in the ESOP, is in funding matching contributions to employee accounts in the RSP made in proportion to employee contributions under terms of the RSP. We allocate shares to employee accounts as our matching contributions are made to the Trust. Contributions charged to earnings were $9 million in 2004, $8 million in 2003 and $6 million in 2002.

Accumulated Other Comprehensive Loss

	Foreign Currency Translation	Minimum Pension Liability	Unrealized Gain (loss) on Marketable Securities	Unrealized Gain (loss) on Derivatives	Accumulated Other Comprehensive Loss
			$ Millions		
Balance, Dec. 31, 2001	$ (181)	$ (142)	$ (1)	$ (1)	$ (325)
Net change	50	(257)	3	2	(202)
Balance, Dec. 31, 2002	(131)	(399)	2	1	(527)
Net change	66	(35)	3	1	35
Balance, Dec. 31, 2003	(65)	(434)	5	2	(492)
Net change	20	(65)	(4)	1	(48)
Balance, Dec. 31, 2004	$ (45)	$ (499)	$ 1	$ 3	$ (540)

NOTE 15. EARNINGS PER SHARE

We calculate basic earnings per share (EPS) of common stock by dividing net earnings available to common shareholders by the weighted-average number of common shares outstanding for the period. The calculation of diluted EPS reflects the potential dilution that occurs if options or securities are exercised or converted into common stock and the effect of the exercise or conversion reduces EPS. We exclude shares of common stock held by our Retirement Savings Plan in the Employee Benefits Trust (see Note 14) from the calculation of the weighted average common shares outstanding until those shares are distributed from the Trust. Following is a reconciliation of net earnings before cumulative effect of change in accounting principles and weighted-average common shares outstanding for purposes of calculating basic and diluted net earnings per share before cumulative effect of change in accounting principles for the years ended December 31:

	2004	2003	2002
	$ Millions, except per share amounts		
Net earnings before cumulative effect of change in accounting principles for basic EPS	$ 350.4	$ 53.9	$ 79.7
Dilutive effect of preferred securities dividends, net of tax	13.0	—	—
Net earnings before cumulative effect of change in accounting principles for diluted EPS	$ 363.4	$ 53.9	$ 79.7
Weighted average common shares outstanding:			
Basic	42.2	39.3	38.6
Dilutive effect of stock compensation awards	0.7	0.2	0.2
Dilutive effect of junior convertible subordinated debentures	6.3	—	—
Diluted	49.2	39.5	38.8
Earnings per share before cumulative effect of change in accounting principles:			
Basic	$ 8.30	$ 1.37	$ 2.06
Diluted	7.39	1.36	2.06

The weighted-average diluted common shares outstanding for 2003 and 2002 exclude the effect of 6.3 million shares attributable to the conversion of our junior convertible subordinated debentures in 2003 and our Preferred Securities of Subsidiary Trust in 2002, because the effect was antidilutive.

The weighted-average diluted common shares outstanding for 2004, 2003 and 2002 excludes the effect of approximately 0.3 million, 3.5 million and 4.4 million common stock options, respectively, since such options have an exercise price in excess of the average market value of our common stock during those years.

NOTE 16. DERIVATIVES AND OTHER FINANCIAL INSTRUMENTS

We are exposed to financial risk resulting from volatility in foreign exchange rates, interest rates and commodity prices. This risk is closely monitored and managed through the use of financial derivative instruments. As stated in our policies and procedures, financial derivatives are used expressly for hedging purposes, and under no circumstances are they used for speculation or trading. Our derivative transactions are entered into only with banking institutions that have strong credit ratings, and thus the credit risk associated with these contracts is not considered significant. The following table summarizes our outstanding derivatives by risk category and instrument type at December 31:

	2004		2003	
	Notional Amount	Fair Value	Notional Amount	Fair Value
	$ Millions			
Foreign currency:				
Forward contracts	$ 326	$ 6	$ 268	$ 1
Commodity price:				
Fixed price swap	—	—	2	1
	$ 326	$ 6	$ 270	$ 2

Foreign Currency Exchange Rate Risks

Due to our international business presence, we are exposed to foreign currency exchange risks. We transact business extensively in foreign currencies and, as a result, our earnings experience some volatility related to movements in foreign currency exchange rates. To help manage our exposure to exchange rate volatility, we use foreign exchange forward contracts on a regular basis to hedge forecasted intercompany and third party sales and purchases denominated in non-functional currencies. In April 2002, we began hedging our foreign currency exposure to variability in the functional currency equivalent cash flows associated with forecasted transactions. These forward contracts are designated and qualify as foreign currency cash flow hedges under SFAS 133, "Accounting for Derivative Instruments and Hedging Activities," and are recorded in the *Consolidated Balance Sheets* at fair value in "Other current assets" and "Other accrued expenses." The effective portion of the unrealized gain or loss on the forward contract is deferred and reported as a component of "Accumulated other comprehensive loss." When the hedged forecasted transaction (sale or purchase) occurs, the unrealized gain or loss is reclassified into earnings in the same line item associated with the hedged transaction in the same period or periods during which the hedged transaction affects earnings. For the year ended December 31, 2004, $9 million of gain was reclassified from "Accumulated other comprehensive loss" to earnings. The amount of gain reclassified for the year ended December 31, 2003 was not material. The ineffective portion of the hedge, unrealized gain or loss, if any, is recognized in "Other income, net" in current earnings during the period of change. As of December 31, 2004, $4 million of deferred gains were included in "Accumulated other comprehensive loss" in the *Consolidated Balance Sheets* and are expected to be reclassified to earnings over the next twelve months. For the year ended December 31, 2004, there were no circumstances that would have resulted in the discontinuance of a cash flow hedge.

Our internal policy allows for managing anticipated foreign currency cash flow for up to one year. As of December 31, 2004, approximately 96 percent of the notional amount of the forward contracts shown in the table above were attributable to five currencies, the British Pound (57 percent), the Australian Dollar (23 percent), the Euro (5 percent), the Mexican Peso (8 percent) and the South Korean Won (3 percent). As of December 31, 2003, approximately 95 percent of the notional amount of the forward contracts shown in the table above were attributable to five currencies, the British Pound (39 percent), the Australian Dollar (34 percent), the Euro (9 percent), the Mexican Peso (11 percent) and the Japanese Yen (2 percent).

To minimize the earnings volatility resulting from the remeasurement of receivables, payables and payables denominated in foreign currency, we enter into foreign currency forward contracts. The objective is to offset the gain or loss from remeasurement with the fair market valuation of the forward contract. These derivative instruments are not designated as hedges under SFAS 133.

Interest Rate Swaps

We are exposed to market risk from fluctuations in interest rates. We manage our exposure to interest rate fluctuations through the use of interest rate swaps. The objective of the swaps is to more effectively balance our borrowing costs and interest rate risk. Currently, we have no interest rate swaps outstanding.

In November 2002, we terminated an interest rate swap relating to our 6.45% Notes that mature in 2005. The swap acted as a fair value hedge and converted $225 million notional amount from fixed rate debt into floating rate debt that matures in 2005. The termination of the swap resulted in a $12 million gain. The gain is being amortized to earnings as a reduction of interest expense over the remaining life of the debt. The amount of gain recognized during 2004, 2003 and 2002 was $5 million, $5 million and $1 million, respectively. The remaining balance of the deferred gain is included in “Short-term borrowings” on our *Consolidated Balance Sheets.*

In March 2001, we terminated two fixed-to-floating interest rate swap agreements related to Cummins 6.25% Notes with principal amount of $125 million due in 2003 and 6.45% Notes with principal amount of $225 million due in 2005. The termination of these swaps resulted in a $9 million gain. The gain is being amortized to earnings as a reduction of interest expense over the remaining life of the debt. The amount of gain recognized during 2004, 2003 and 2002 was $1 million, $2 million and $3 million, respectively. The remaining balance of the deferred gain is included in “Short-term borrowings” on our *Consolidated Balance Sheets*.

We have equity method investees whose financial results are not consolidated that have entered into floating-to-fixed interest rate swap agreements. The swaps have been designated and qualify as cash flow hedges under SFAS 133. We record our share of the gain or loss on these instruments in “Accumulated other comprehensive loss.” As of December 31, 2004, the gains and losses related to these swaps were not material.

Commodity Price Swaps

We are exposed to fluctuations in commodity prices due to contractual agreements with component suppliers. In order to protect ourselves against future price volatility and, consequently, fluctuations in gross margins, we periodically enter into fixed price swaps with designated banks to fix the cost of certain raw material purchases with the objective of minimizing changes in inventory cost due to market price fluctuations. The fixed price swaps are derivative contracts and are designated as cash flow hedges under SFAS 133 and are recorded in the *Consolidated Balance Sheets* at fair value in “Other current assets” and “Other accrued expenses.” The effective portion of the unrealized gain or loss is deferred and reported as a component of “Accumulated other comprehensive loss.” When the hedged forecasted transaction (purchase) occurs, the unrealized gain or loss is reclassified into earnings in the same line item associated with the hedged transaction in the same period or periods during which the hedged transaction affects earnings. The ineffective portion of the hedge is recognized in “Other income, net” in current earnings in the period in which the ineffectiveness occurs. As of December 31, 2004 and 2003, unrealized gains related to commodity swaps were not material and $1 million, respectively.

Our internal policy allows for managing these cash flow hedges for up to three years. For the year ended December 31, 2004, there were no circumstances that would have resulted in the discontinuance of a cash flow hedge.

Fair Value of Financial Instruments

Based on borrowing rates currently available to the Company for bank loans with similar terms and average maturities, the fair value of total debt, including current maturities, at December 31, 2004, was approximately $1,984 million. The carrying value at that date was $1,645 million. At December 31, 2003, the fair and carrying values of total debt, including current maturities, were $1,548 million and $1,429 million, respectively. The carrying values of all other receivables and liabilities approximated fair values.

NOTE 17. STOCK INCENTIVE AND STOCK OPTION PLANS

In September 2003, our shareholders approved the 2003 Stock Incentive Plan (The Plan). The Plan allows for the granting of up to 2.5 million stock based awards to executives and employees, of which one-half must be in the form of stock options. Awards available for grant under the plan include, but are not limited to, stock options, stock appreciation rights, performance shares, restricted stock and other stock awards. During 2004 and 2003, we granted 5,500 and 534,040 stock options, respectively, and 280,890 and 281,200 performance shares, respectively, under the Plan. Stock options are generally granted with a strike price equal to the fair market value of the stock on the date of grant, a life of 10 years and a two-year vesting period. The 2003 options granted had a vesting period of only 17 months since the grant date did not become final until the plan was approved by shareholders in September. Compensation expense recorded in 2004 and 2003 for these awards was $6 million and $2 million, respectively.

The performance shares are granted as target awards and are earned based on Cummins return on equity (ROE) performance. A payout factor has been established ranging from zero to 100 percent of the target award based on the actual ROE performance during the two-year period. Any shares earned are then restricted for one additional year. Employees leaving the Company prior to the end of the restriction period forfeit their shares. Compensation expense is recorded ratably over the period beginning on the grant date until the shares become unrestricted and is based on the amount of the award that is expected to be earned under the plan formula, adjusted each reporting period based on current information. The weighted average fair value of each performance share granted during 2004 and 2003 was $50.24 and $48.05, respectively. Compensation expense recorded in 2004 and 2003 for these awards was $10 million and $1 million, respectively.

We had a stock incentive plan, which expired on December 31, 2002, that provided for the issuance of stock appreciation rights and restricted stock and the granting of common stock options to officers and other eligible employees. Under the provisions of the plan, up to one percent of our outstanding shares of common stock at the end of each year was available for issuance each succeeding calendar year in which the plan was in effect. During 2002, we granted 285,300 common stock options, some of which were granted outside the plan at the discretion of the Compensation Committee of our Board of Directors.

Under the stock incentive plan, restricted common stock was awarded at no cost to certain employees. Participants are entitled to cash dividends and voting rights. Restrictions limit the sale or transfer of the shares during a four-year period. One-third of the shares are released after two years and 30 days and one-third of the shares issued are released each year thereafter 30 days following the anniversary grant date, provided the participant remains an employee. Upon issuance of stock pursuant to the awards, unearned compensation equivalent to the market price of the stock at the date of grant is charged to shareholders’ equity and amortized as compensation expense over the four-year restriction period. Restricted shares granted under these programs in 2002 were 6,200 shares. The weighted average fair value per share of shares granted during 2002 was $30.55. Compensation expense amortized under these programs was not material, $2 million and $7 million in 2004, 2003 and 2002, respectively.

The table below summarizes activity in our stock incentive and option plans for the three-year period ended December 31, 2004:

	Options	Weighted Average Exercise Price
Balance, December 31, 2001	5,576,260	$ 41.96
Granted	285,300	$ 33.22
Exercised	(242,925)	$ 37.52
Cancelled	(262,895)	$ 40.92
Balance, December 31, 2002	5,355,740	$ 41.75

Granted	534,040	$ 48.05
Exercised	(1,378,125)	$ 37.68
Cancelled	(18,280)	$ 49.77
Balance, December 31, 2003	4,493,375	$ 43.50
Granted	5,500	$ 53.84
Reinstated grants	36,050	$ 42.20
Exercised	(3,427,345)	$ 42.92
Cancelled	(87,590)	$ 44.52
Balance, December 31, 2004	1,019,990	$ 45.39
Exercisable, December 31, 2002	3,332,640	$ 44.27
Exercisable, December 31, 2003	3,792,535	$ 43.11
Exercisable, December 31, 2004	511,555	$ 42.75

The weighted average fair value of options granted during the last three years follows:

2002	$ 13.06
2003	$ 16.25
2004	$ 18.08

Our fair value calculations were made using the Black-Scholes option pricing model with the following weighted average assumptions:

	2004	2003	2002
Expected life	7 years	7 years	10 years
Risk-free interest rate	3.8%	4.5%	4.9%
Volatility	41%	40%	41%
Dividend yield	3.2%	3.4%	3.0%

The table below summarizes stock option information at December 31, 2004:

	Options Outstanding			Options Exercisable	
Exercise Price Range	Number of Options	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price
$23.95 – 35.92	13,800	4.2	$ 30.58	13,800	$ 30.58
$35.93 – 53.89	920,075	6.5	$ 44.61	411,640	$ 40.36
$53.90 – 80.83	86,115	3.1	$ 56.15	86,115	$ 56.15
	1,019,990	6.2	$ 45.39	511,555	$ 42.75

NOTE 18. LEASES

We lease certain manufacturing equipment, facilities, warehouses, office space and equipment, aircraft and automobiles for varying periods under lease agreements. Most of the leases are non-cancelable operating leases with fixed rental payments, expire over the next ten years and contain renewal provisions. Rent expense under these leases approximated $79 million, $88 million and $87 million in 2004, 2003 and 2002, respectively.

Following is a summary of the future minimum lease payments under capital and operating leases, including leases under our Power Rent program discussed below, with terms of more than one year at December 31, 2004, together with the net present value of the minimum payments under capital leases:

	Capital Leases	Operating Leases
	$ Millions	
2005	$ 28	$ 61
2006	49	54
2007	40	41
2008	10	37
2009	9	33
After 2009	6	106
Total minimum lease payments	$ 142	$ 332
Interest	(22)	
Present value of net minimum lease payments	$ 120	

In addition, we have subleased certain of the facilities under operating lease to third parties. The future minimum lease payments due from lessees under those arrangements are $1 million in 2005, $1 million in 2006, $1 million in 2007, $1 million in 2008, $1 million in 2009 and not material thereafter.

PowerRent Business

In 1999, our Power Generation Business entered into an ongoing leasing program in which it builds and sells power generation equipment inventory to a financial institution and leases the equipment and related components back under a three-month, noncancelable lease arrangement with subsequent renewals on a monthly basis up to a maximum of 36 months. The equipment was sold at cost and pursuant to lease accounting rules, the excess of the fair value of the equipment sold over its cost was recognized as prepaid rent and reflects the normal profit margin that would have been realized at the time of sale. The margins on the equipment sales were deferred and the leases recorded as operating leases. The prepaid rent was amortized ratably over the accounting lease term. Upon termination of the leases through a sale of the equipment to a third party, the previously deferred margins on the sale to the financial institution were recorded as income. We sublease the equipment to customers under short-term rental agreements with terms that vary based upon customer and geographic region. In June 2004, the master lease agreement associated with this arrangement was amended to allow deployment of the equipment in countries other than the U.S. The amendment required us to retain full residual risk on the equipment's value at the end of the non-cancelable lease term. As a result of this amendment, the leases under this program were classified as capital leases. At the end of the non-cancelable lease term, we may either (1) extend the lease term for an additional period, (2) repurchase the equipment at the current guaranteed value, or (3) arrange for a sale of the equipment to a third party and pay the difference between the guaranteed value and the proceeds recovered from the sale.

During 2002 and 2003, we entered into new leases for portions of the equipment ($29 million in 2002 and $34 million in 2003) with a different lessor. The new leases had a minimum two-year non-cancelable lease term with monthly renewal options for the 2002 transaction and four six-month renewal options for the 2003 transaction. The deferred margin associated with the equipment that transferred to a new lessor remained unchanged, as there was not an ultimate sale to a third party. In December 2004, the master lease agreement associated with this program was amended to require us to repurchase the equipment at the end of the two-year non-cancelable lease terms. As a result of this amendment, the leases under this program are now classified as capital leases.

The financial impact of the amendments to these two leasing arrangements, which represents the substantial majority of the equipment under lease in our PowerRent program, caused us to increase our capital lease obligations by the present value of: (1) the remaining minimum lease payments, plus (2) any guaranteed residual or repurchase obligation at the time of amendment. In addition, we increased the amount of our property, plant and equipment by this same amount, reduced for the remaining deferred gains associated with the original sale-leaseback of the units discussed above. The equipment will be depreciated over its expected remaining useful life. The total amount added to our property, plant and equipment in 2004 from these two transactions was $104 million. The balance of the capital lease obligations related to these programs at December 31, 2004, was $103 million.

Future lease payments, including repurchase obligations, under each lease are included in the table above.

Sale and Leaseback Transactions

In 2001, we entered into a sale-leaseback agreement whereby we sold and leased back certain heavy-duty engine manufacturing equipment from a grantor trust wholly-owned by a financial institution. The lease was classified as an operating lease with a lease term of 11.5 years, expiring June 28, 2013, and includes an early buyout purchase option on January 14, 2009. The early buyout option can be exercised for approximately $35 million, or 28 percent of the equipment's fair market value at the inception of the lease. If we do not exercise the option, we are obligated to purchase insurance that insures the equipment's residual value. At the end of the lease term, we are obligated to pay the difference, if any, between the equipment's guaranteed residual value and its fair market value. Rent expense under the lease agreement approximated $12 million each in 2003 and 2002.

The lease agreement includes certain default provisions requiring us to make timely rent payments, maintain, service, repair and insure the equipment, procure residual value insurance and maintain minimum debt ratings for our long-term senior unsecured debt obligations.

In December 2003, the grantor trust which acts as the lessor in the sale and leaseback transaction described above was consolidated due to the adoption of FIN 46. A description of the entity consolidated and the impact of adopting FIN 46 are described in Note 2. As a result of the consolidation, the manufacturing equipment and the trust's obligations under its non-recourse debt arrangement are included in our *Consolidated Balance Sheets* as property, plant and equipment and long-term debt, respectively. The non-recourse debt arrangement is more fully discussed in Note 11. In addition, our *Consolidated Statements of Earnings* includes interest expense on the lessor's debt obligations and depreciation expense on the manufacturing equipment rather than rent expense under the lease agreement. The amount of interest expense and depreciation expense was $7 million and $11 million in 2004, respectively.

NOTE 19. RESTRUCTURING, IMPAIRMENT AND OTHER CHARGES AND (CREDITS)

Through the end of 2002, we continued a restructuring program initiated in 1998 to improve our cost structure. The charges related to this program included staffing reorganizations and reductions in various business segments, asset impairment write-downs for manufacturing equipment, facility closure and consolidation costs, dissolution costs and restructuring actions related to joint venture operations, cancellation of a new engine development program and exit costs related to several small business

operations. As of December 31, 2003, all activities associated with our restructuring programs were complete.

A detailed discussion of the 2002 restructuring charge accompanied by a schedule that presents, by major cost component, activity related to the 2002 restructuring charge, including adjustments to the original charge, follow:

	Workforce Reduction	Asset Impairment	Facility Consolidation and Exit Costs	Total
		$ Millions		
Total restructuring charged to expense	$11	$ 3	$ 2	$ 16
Cash payments	(9)	—	(1)	(10)
Non-cash charges	—	(3)	—	(3)
Reversal of restructuring accruals	(1)	—	—	(1)
Balance at December 31, 2002	1	—	1	2
Cash payments	(1)	—	(1)	(2)
Balance at December 31, 2003	$—	$—	$—	$ —

In the second quarter of 2002, as a result of continued weak market conditions, we recorded a restructuring charge of $16 million. Of this charge, $5 million was associated with the Engine Business, $4 million with Power Generation, $3 million with Filtration and Other and $4 million with the International Distributor Business. For the year, this charge was more than offset by an $8 million reversal of excess 2000 restructuring reserves, a $12 million reversal of excess 2001 restructuring reserves, a $1 million reversal of excess 2002 restructuring reserves and a recovery of $3 million from a non-recurring charge originally taken in 2000. The reversal of excess accruals in the second and fourth quarters of 2002 was primarily a result of 2001 and 2000 restructuring actions that were realigned or cancelled. For 2002, the net impact of all of the aforementioned restructuring activities resulted in a net $8 million credit.

The 2002 charges included severance costs and benefit costs of terminating approximately 220 salaried and 350 hourly employees and were based on amounts pursuant to established benefit programs or statutory requirements of the affected operations. These actions reflect overall reductions in staffing levels due to closing operations and moving production to locations with available capacity. Under this program, approximately 210 salaried and 350 hourly employees were separated or terminated under this plan. The asset impairment charge related to equipment that was made available for disposal. The carrying value of the equipment and the effect of suspending depreciation on the equipment were not significant. The demographics of the workforce that was terminated differed from original expectations. As such, costs were $1 million lower than the original estimates and the amount was reversed to income in the fourth quarter of 2002.

NOTE 20. OTHER INCOME, NET

The major components of other income, net included in the *Consolidated Statements of Earnings* at December 31, are shown below:

	2004	2003	2002
	$ Millions		
Operating (income)expense:			
Amortization of other intangibles	$ 5	$ 3	$ 2
Foreign currency (gains)losses	(1)	(1)	14
Loss on sale of fixed assets	11	4	—
Write-down of equity investment	7	—	—
Gain on sale of businesses and distributors	—	—	(3)
Royalty income	(11)	(3)	(1)
Other	(4)	(6)	(6)
Total operating (income) expense, net	7	(3)	6
Non-Operating (income) expense:			
Interest income	(12)	(13)	(11)
Rental income	(2)	(2)	(4)
Bank charges	11	9	5
(Gain) loss on available for sale securities	(5)	(3)	4
Non-operating partnership costs	—	—	3
Technology income from JV partners	(9)	(4)	(7)
Other, net	—	(2)	(5)
Total non-operating income, net	(17)	(15)	(15)
Total other income, net	$ (10)	$ (18)	$ (9)

NOTE 21. OPERATING SEGMENTS

SFAS 131, "Disclosures about Segments of an Enterprise and Related Information," set standards for reporting information regarding operating segments in financial statements. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. Cummins chief operating decision-maker (CODM) is the Chief Executive Officer.

Our reportable operating segments consist of the following: Engine, Power Generation, Filtration and Other and International Distributors. This reporting structure is organized according to the products and markets each segment serves. This type of reporting structure allows management to focus its efforts on providing enhanced service to a wide range of customers. The Engine segment produces engines and parts for sale to customers in automotive and various industrial markets. The engines are used in trucks of all sizes, buses and recreational vehicles, as well as various industrial applications including construction, mining, agriculture, marine, rail and military. The Power Generation segment is an integrated provider of power systems selling engines, generator sets and alternators and providing rental of power equipment for both standby and prime power uses. The Filtration and Other segment includes sales of filtration products, exhaust systems and turbochargers. The International Distributor segment includes company-owned distributorships engaged in selling engines, generator sets, and service parts, performing service and repair activities on our products and maintaining relationships with various original equipment manufacturers.

We use Segment EBIT (defined as earnings (loss) before interest, loss on early retirement of debt, taxes, minority interests, preferred dividends and cumulative effect of change in accounting principles) and return on average net assets (excluding debt, taxes and minimum pension liability adjustment) as the

primary bases for the CODM to evaluate the performance of each of our operating segments. Segment amounts exclude certain expenses not specifically identifiable to segments.

The accounting policies of our operating segments are the same as those applied in the *Consolidated Financial Statements*. We prepared the financial results of our operating segments on a basis that is consistent with the manner in which we internally disaggregate financial information to assist in making internal operating decisions. We have allocated certain common costs and expenses, primarily corporate functions, among segments differently than we would for stand-alone financial information prepared in accordance with GAAP. These include certain costs and expenses of shared services, such as information technology, human resources, legal and finance. We also do not allocate debt-related items, minimum pension liabilities or income taxes to individual segments. Segment EBIT may not be consistent with measures used by other companies.

Prior to January 1, 2004, intersegment transactions between the Engine segment and the Power Generation segment and between the Filtration and Other segment and the Engine segment were reported at cost and no sale reported by the transferor segment. Beginning January 1, 2004, this inter-segment activity is reflected in the sales and unit shipments of the transferor segments at a market based transfer price discounted for certain items; further, certain intersegment cost allocations to the transferor segments have been eliminated. In addition, certain engines made by the Engine segment and sold to International Distributors through Power Generation were previously recorded as a sale to Power Generation; however under the new methodology Power Generation records a sales commission. We believe the methodology change allows our segment management to focus on those pricing decisions and cost structuring actions that are within their control. As a result of the change in methodology in the twelve months ended December 31, 2004, sales in the Engine segment increased $502 million, sales in the Power Generation segment decreased $44 million, sales in the Filtration and Other segment increased $205 million and eliminations increased by $663 million. The impact on segment EBIT was immaterial for each segment. Segment results for 2003 and 2002 were not restated to reflect the change to market-based transfer pricing as it was impracticable to do so.

Summarized financial information regarding our reportable operating segments at December 31, is shown in the table below:

	Engine	Power Generation	Filtration and Other	International Distributor	Eliminations	Total
			$ Millions			
2004						
Net sales	$ 5,500	$ 1,877	$ 1,484	$ 856	$ (1,279)	$ 8,438
Depreciation and amortization	199	35	32	6	—	272
Equity, royalty and other income from investees	87	13	9	2	—	111
Segment EBIT	341	69	84	51	—	545
Net assets	1,492	720	788	168	—	3,168
Investment in and advances to equity investees	224	29	19	14	—	286

Capital expenditures	73	35	38	5	—	151
2003						
Net sales	$ 3,631	$ 1,329	$ 1,056	$ 669	$ (389)	$ 6,296
Depreciation and amortization	134	53	31	5	—	223
Equity, royalty and other income from investees	53	7	7	3	—	70
Segment EBIT	70	(15)	86	40	—	181
Net assets	1,061	499	644	180	—	2,384
Investment in and advances to equity investees	246	66	16	11	—	339
Capital expenditures	53	31	20	7	—	111
2002						
Net sales	$ 3,435	$ 1,226	$ 951	$ 574	$ (333)	$ 5,853
Depreciation and amortization	134	48	32	5	—	219
Equity, royalty and other income from investees	12	2	6	2	—	22
Restructuring, asset impairment, debt retirement and other	(12)	—	—	4	—	(8)
Segment EBIT	49	(25)	94	29	—	147
Net assets	909	522	645	168	—	2,244
Investment in and advances to equity investees	186	55	13	10	—	264
Capital expenditures	47	24	14	5	—	90

A reconciliation of our segment information to the corresponding amounts in the *Consolidated Financial Statements* is shown in the table below:

	2004	2003	2002
		$ Millions	
Segment EBIT	$ 545	$ 181	$ 147
Less:			
Interest expense	113	90	61
Loss on early retirement of debt	—	—	8
Provision (benefit) for income taxes	56	12	(38)
Minority interest in earnings of consolidated subsidiaries	26	14	16
Dividends on preferred securities of subsidiary trust	—	11	21
Cumulative effect of change in accounting principles, net of tax	—	4	(3)
Net earnings	$ 350	$ 50	$ 82

	2004	2003	2002
		$ Millions	
Net assets for operating segments	$ 3,168	$ 2,384	$ 2,244
Liabilities deducted in arriving at net assets	3,168	2,559	2,402
Minimum pension liability excluded from net assets	(826)	(698)	(624)
Deferred tax assets not allocated to segments	990	855	790
Debt-related costs not allocated to segments	27	26	25
Total assets	$ 6,527	$ 5,126	$ 4,837

The table below presents certain segment information by geographic area. Net sales attributed to geographic areas are based on the location of the customer.

	2004	2003	2002
		$ Millions	
Net sales			
United States	$ 4,363	$ 3,356	$ 3,202
United Kingdom	395	314	310
Canada	549	292	283
Other foreign countries	3,131	2,334	2,058
Total net sales	$ 8,438	$ 6,296	$ 5,853
Long-lived assets			
United States	$ 1,472	$ 1,300	$ 1,216
United Kingdom	238	231	229
Other foreign countries	407	366	331
Total long-lived assets	$ 2,117	$ 1,897	$ 1,776

Our largest customer is DaimlerChrysler. Worldwide sales to this customer were $1.1 billion in 2004, $1.0 billion in 2003 and $0.8 billion in 2002, representing 13 percent, 15 percent and 14 percent, respectively, of consolidated net sales. No other customer accounted for more than 10 percent of consolidated net sales.

SELECTED QUARTERLY FINANCIAL DATA

UNAUDITED

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
	2004			
	$ Millions, except per share amounts			
Net sales	$ 1,771	$ 2,124	$ 2,194	$ 2,349
Gross margin	345	428	434	473
Net earnings(a)	33	82	116	119
Net earnings per share—basic	$ 0.81	$ 1.97	$ 2.71	$ 2.73
Net earnings per share—diluted	$ 0.76	$ 1.76	$ 2.40	$ 2.41
Dividends per share	$ 0.30	$ 0.30	$ 0.30	$ 0.30
Stock price per share				
High	$ 56.30	$ 65.95	$ 72.87	$ 84.42
Low	$ 48.70	$ 54.40	$ 59.23	$ 66.25

	2003			
Net sales	$ 1,387	$ 1,539	$ 1,634	$ 1,736
Gross margin	218	276	293	336
Earnings (loss) before cumulative effect of change in accounting principles(b)	(31)	14	24	47
Cumulative effect of change in accounting principles, net of tax(c)	—	—	—	(4)
Net earnings (loss)(b)	(31)	14	24	43
Earnings (loss) per share:				
Basic				
Earnings (loss) before cumulative effect of change in accounting principles	$ (0.79)	$ 0.34	$ 0.62	$ 1.17
Cumulative effect of change in accounting principles, net of tax	—	—	—	(.09)
Net earnings (loss)	$ (0.79)	$ 0.34	$ 0.62	$ 1.08
Diluted				
Earnings (loss) before cumulative effect of change in accounting principles	$ (0.79)	$ 0.34	$ 0.60	$ 1.07
Cumulative effect of change in accounting principles, net of tax	—	—	—	(.07)
Net earnings (loss)	$ (0.79)	$ 0.34	$ 0.60	$ 1.00
Dividends per share	$ 0.30	$ 0.30	$ 0.30	$ 0.30
Stock price per share				
High	$ 29.50	$ 41.67	$ 49.96	$ 52.30
Low	$ 22.21	$ 24.60	$ 35.60	$ 43.80

(a) The 2004 quarterly tax provisions are $14 million, $34 million, $(4) million and $12 million for the first, second, third and fourth quarters, respectively. These provisions represent 28%, 28%, (3)% and 8% of earnings before taxes for the first, second, third and fourth quarters, respectively. The decline in the tax provision in the second half of the year includes recognition of tax benefits related to prior years which were reassessed as realizable as a result of continued earnings and cash flow improvement

during 2004. See Note 9 for additional information on the nonrecurring tax benefits in the 2004 provision.

(b) The first quarter of 2003 includes a charge of $3 million, net of tax, for a prior period adjustment related to certain isolated matters that were treated incorrectly in the restatement of our pre-2002 *Consolidated Financial Statements.*

(c) The fourth quarter of 2003 includes a charge of $4 million, net of tax, to reflect a change in accounting principle related to the adoption of FIN 46. This charge is more fully discussed in Note 2.

At December 31, 2004, there were approximately 3,981 holders of record of the Company's $2.50 par value common stock.

SIGNATURES

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

CUMMINS INC.

By:	/s/ JEAN S. BLACKWELL Jean S. Blackwell *Vice President—Chief Financial Officer and Chief of Staff (Principal Financial Officer)*	By:	/s/ MARSHA L. HUNT Marsha L. Hunt *Vice President—Corporate Controller (Principal Accounting Officer)*

Date: March 15, 2005

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

Signatures	Title	Date
* Theodore M. Solso	Director and Chairman and Chief Executive Officer (Principal Executive Officer)	March 15, 2005
* Robert J. Darnall	Director	March 15, 2005
* John M. Deutch	Director	March 15, 2005
* Carl Ware	Director	March 15, 2005
* Alexis M. Herman	Director	March 15, 2005
* William I. Miller	Director	March 15, 2005
* William D. Ruckelshaus	Director	March 15, 2005
* Georgia R. Nelson	Director	March 15, 2005
* J. Lawrence Wilson	Director	March 15, 2005

By: /s/ JEAN S. BLACKWELL
Jean S. Blackwell
Attorney-in-fact

CUMMINS INC.
EXHIBIT INDEX

Exhibit No.	Description of Exhibit
3(a)	Restated Articles of Incorporation of Cummins Inc., as amended (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 25, 2001, by reference to Quarterly Report on Form 10-Q for the quarter ended April 3, 1994, by reference to Quarterly Report on Form 10-Q for the quarter ended October 1, 1989 and by reference to Form 8-K dated July 26, 1990).
3(b)	By-laws of Cummins Inc., as amended and restated effective as of October 8, 2002 (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 2003).
4(a)	Credit Agreement, dated December 1, 2004, among Cummins Inc., Cummins Engine Co. Ltd., Cummins Power Generation Ltd. and Newage International Limited, as Borrowers, and JPMorgan Chase Bank, N.A., as Administrative Agent, Issuing Bank and Swingline Lender, Citicorp USA, Inc., as Syndication Agent, and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents (filed herewith).
4(b)	Guarantee and Security Agreement dated as of November 5, 2002 between Cummins, Inc., the Subsidiary Guarantors party thereto and JPMorgan Chase Bank as Collateral Agent Agents (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 2003).
4(c)	Rights Agreement, as amended (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1989, by reference to Form 8-K dated July 26, 1990, by reference to Form 8 dated November 6, 1990, by reference to Form 8-A/A dated November 1, 1993, by reference to Form 8-A/A dated January 12, 1994 and by reference to Form 8-A/A dated July 15, 1996).
4(d)	Indenture between Cummins Inc. and BNY Midwest Trust Company, as Trustee, dated as of June 18, 2001, in connection with 7% Junior Subordinated Convertible Debentures Due June 15, 2031 (incorporated by reference to Quarterly Report Form 10-Q for the quarter ended June 24, 2001).
4(e)	Amended and Restated Trust Agreement among Cummins Inc. as Depositor, BNY Midwest Trust Company as Property Trustee, The Bank of New York (Delaware) as Delaware Trustee, and The Administrative Trustees Named Therein, Dated as of June 18, 2001 (incorporated by reference to Quarterly Report Form 10-Q for the quarter ended June 24, 2001).
4(f)	Guarantee Agreement between Cummins Inc. and BNY Midwest Trust Company Relating to the Preferred Securities of Cummins Capital Trust I, Dated as of June 18, 2001 (incorporated by reference to Quarterly Report Form 10-Q for the quarter ended June 24, 2001).
4(g)	Indenture Agreement between Cummins Inc., as Issuer and BNY Midwest Trust company, as Trustee, Registrar and Paying Agent dated November 20, 2002 for issuance of 9 $^1/_2$% Senior Notes due 2010 (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 2003).
10(a)	2003 Stock Incentive Plan (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended September 28, 2003).
10(a)	Target Bonus Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1996).

10(b)	Deferred Compensation Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1994).
10(c)	Key Employee Stock Investment Plan, as amended (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 3, 1994).
10(d)	Supplemental Life Insurance and Deferred Income Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1996).
10(e)	Financial Counseling Program (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended July 3, 1994).
10(f)	1986 Stock Option Plan (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 30, 1986, Exhibit 10(g)).
10(g)	Deferred Compensation Plan for Non-Employee Directors, as amended, effective as of April 15, 1994 (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1994).
10(h)	Key Executive Compensation Protection Plan (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended October 2, 1994).
10(i)	Excess Benefit Retirement Plan (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended October 2, 1994).
10(j)	Employee Stock Purchase Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1998).
10(k)	Retirement Plan for Non-Employee Directors of Cummins Inc., as amended February 1997 (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 30, 1997).
10(l)	Three Year Performance Plan, as amended February 1997 (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 30, 1997).
10(m)	1992 Stock Incentive Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1995, Exhibit 10(s)).
10(n)	Restricted Stock Plan for Non-Employee Directors, as amended February 11, 1997 (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 30, 1997).
10(o)	Executive Retention Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1995, Exhibit 10(u)).
10(p)	Senior Executive Bonus Plan (incorporated by reference to Annual Report on Form 10-K for the year ended December 31, 1996).
10(q)	Senior Executive Three Year Performance Plan, as amended February 11, 1997 (incorporated by reference to Quarterly Report on Form 10-Q for the quarter ended March 30, 1997).
21	Subsidiaries of the Registrant (filed herewith).
23	Consent of PricewaterhouseCoopers LLP (filed herewith).
24	Powers of Attorney (filed herewith).
31(a)	Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
31(b)	Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32	Certifications Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

Exhibit 4(a)
CONFORMED COPY

CREDIT AGREEMENT

dated as of

December 1, 2004

among

CUMMINS INC.,
CUMMINS ENGINE CO. LTD.,
CUMMINS POWER GENERATION LTD.,
NEWAGE INTERNATIONAL LIMITED,

THE ELIGIBLE SUBSIDIARIES AND SUBSIDIARY GUARANTORS REFERRED TO HEREIN

The Lenders Party Hereto,

JPMORGAN CHASE BANK, N.A.
(formerly known as JPMorgan Chase Bank)
as Administrative Agent, Issuing Bank and Swingline Lender,

CITICORP USA, INC.,
as Syndication Agent,

and

BANK OF AMERICA, N.A.,
THE BANK OF NOVA SCOTIA
and
THE ROYAL BANK OF SCOTLAND plc.,
as Co-Documentation Agents.

J.P. MORGAN SECURITIES INC.

and

CITIGROUP GLOBAL MARKETS, INC.,
as Joint Bookrunners and Co-Lead Arrangers

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CREDIT AGREEMENT dated as of December 1, 2004 among CUMMINS INC., CUMMINS ENGINE CO. LTD., CUMMINS POWER GENERATION LTD., NEWAGE INTERNATIONAL LIMITED, the ELIGIBLE SUBSIDIARIES referred to herein, the ORIGINAL SUBSIDIARY GUARANTORS referred to herein, the LENDERS party hereto, JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank) as Administrative Agent, CITICORP USA, INC., as Syndication

Agent, and BANK OF AMERICA, N.A., THE BANK OF NOVA SCOTIA and THE ROYAL BANK OF SCOTLAND plc., as Co-Documentation Agents.

The parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. *Defined Terms.* As used in this Agreement, the following terms have the meanings specified below:

"**1986 Indenture**" means the indenture dated as of March 1, 1986 between the Company and JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank, successor by merger to The Chase Manhattan Bank (National Association)).

"**2002 Indenture**" means the indenture dated as of November 20, 2002 between the Company and BNY Midwest Trust Company, as trustee, register and paying agent.

"**ABR**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"**Additional Letter of Credit**" means a letter of credit issued hereunder by the Issuing Bank on or after the Effective Date.

"**Adjusted LIBO Rate**" means, with respect to any Euro-Currency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a)(i) the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate plus (b) in the case of a Euro-Currency Loan of a Lender which is lent from a branch or office in England or a Participating Member State, the Mandatory Costs.

"**Administrative Agent**" means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as administrative agent for the Lenders hereunder.

"**Administrative Questionnaire**" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"**Affiliate**" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"**Agents**" means the Administrative Agent, the Syndication Agent and each Co-Documentation Agent.

"**Alternate Base Rate**" means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"**Alternative Currency**" means Euro or Pound Sterling.

"**Alternative Currency Loan**" means a Revolving Loan that is made in an Alternative Currency pursuant to the applicable Borrowing Request. Any Loan made in the currency of a Participating Member State before the date on which such Participating Member State adopts the Euro as its currency (the "**Entry Date**") and still outstanding on the Entry Date shall be prepaid on the last day of the Interest Period applicable thereto on the Entry Date.

"**Alternative Currency Exposure**" means the sum of (a) the aggregate Dollar Amount of outstanding Alternative Currency Loans plus (b) the aggregate Dollar Amount of LC Exposure with respect to Letters of Credit which are denominated in an Alternative Currency.

"**Alternative Currency Sublimit**" means $60,000,000.

"**Applicable Lending Office**" means, with respect to any Lender, (a) in the case of its ABR Loans, its Domestic Lending Office, (b) in the case of its Euro-Currency Loans, its Euro-Currency Lending Office and (c) in the case of its Swingline Loans, its Swingline Lending Office.

"**Applicable Percentage**" means, with respect to any Lender, the percentage of the total Commitments represented by such Lender's Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

"**Applicable Rate**" means, for any day, with respect to any ABR Loan or Euro-Currency Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum for ABR Loans and Euro-Currency Loans or the Commitment Fee Rate, respectively, in each case as determined for such day in accordance with the Pricing Schedule.

"**Approved Fund**" has the meaning assigned to such term in Section 12.04.

"**Assignment and Assumption**" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 12.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent and the Company.

"**Attributable Value**" of any Sale and Lease-Back Transaction means, at any time, an amount equal to the product of (a) the greater of (i) the net proceeds of the sale of the property

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subject thereto and (ii) the fair market value of such property at the time of such sale (as determined by the board of directors of the Company or by an independent appraiser) and (b) a fraction the numerator of which equals the number of full years in the term of the relevant lease remaining at such time and the denominator of which equals the number of full years in the term of such lease at such time, in each case computed without regard to any renewal or extension options (other than those at the option of the lessor) contained in such lease.

"**Availability Period**" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"**Board**" means the Board of Governors of the Federal Reserve System of the United States of America.

"**Borrower**" means the Company, any Original Subsidiary Borrower or any Eligible Subsidiary, as the context may require, and their respective successors, and "**Borrowers**" means all of the foregoing. When used in relation to any Loan or Letter of Credit, references to "the Borrower" are to the particular Borrower to which such Loan is or is to be made or at whose request such Letter of Credit is or is to be issued.

"**Borrowing**" means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Euro-Currency Loans, denominated in the same currency and as to which a single Interest Period is in effect or (b) a Swingline Loan.

"**Borrowing Request**" means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03.

"**Capital Expenditures**" means, for any period, without duplication, (a) the additions to property, plant and equipment and other capital expenditures of the Company and its Subsidiaries that are (or would be) set forth in a consolidated statement of cash flows of the Company and its Subsidiaries for such period prepared in accordance with GAAP and (b) any Capital Lease Obligations incurred by the Company and its Subsidiaries during such period.

"**Capital Lease Obligations**" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"**Change in Control**" means that (a) any Person or group of persons within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934 becomes the beneficial owner, directly or indirectly, of 30% or more of the outstanding common stock of the Company or (b) individuals who constitute the Continuing Directors cease for any reason to constitute at least a majority of the board of directors of the Company (which, for the purpose of this definition, shall be deemed not to mean any committee of the board of directors of the Company).

"**Change in Law**" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or

application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.14(b), by any Applicable Lending Office of such Lender or by such Lender's or the Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

"**Class**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

"**CLO**" has the meaning assigned to such term in Section 12.04.

"**Co-Documentation Agents**" means Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., in their capacity as co-documentation agents in respect of this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time.

"**Collections**" has the meaning specified in Annex X to the RPA.

"**Commitment**" means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate Dollar Amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 12.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate amount of the Lenders' Commitments is $650,000,000.

"**Commitment Fee Rate**" means the applicable rate determined in accordance with the Pricing Schedule.

"**Company**" means Cummins Inc., an Indiana corporation.

"**Consolidated**" means, as applied to any financial or accounting term with respect to any Person, such term determined on a consolidated basis in accordance with GAAP for such Person and all consolidated subsidiaries thereof.

"**Consolidated EBITDA**" means, for any period, Consolidated Net Income for such period plus (a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of (i) consolidated interest expense for such period, (ii) consolidated income tax expense for such period, (iii) all amounts attributable to depreciation and amortization for such period and (iv) any extraordinary or non-recurring non-cash charges for such period and minus (b) without duplication and to the extent included in determining such Consolidated Net Income, (i) any extraordinary gains for such period and (ii) any income of any joint venture, except to the extent that dividends or other distributions were actually paid by such joint venture to the Company and its Subsidiaries during such period, all determined on a consolidated basis in accordance with GAAP.

"**Consolidated Interest Expense**" means, for any period, the interest expense (including imputed interest expense in respect of Capital Lease Obligations) of the Company and its Subsidiaries for such period, determined on a Consolidated basis in accordance with GAAP.

"**Consolidated Net Income**" means, for any period, the net earnings (loss) of the Company and its Subsidiaries for such period, computed and Consolidated in accordance with GAAP.

"**Consolidated Subsidiary**" means, at any date, any Subsidiary or other entity the accounts of which would be Consolidated with those of the Company in its consolidated financial statements if such statements were prepared as of such date.

"**Continuing Director**" means any member of the board of directors of the Company who is (i) a director of the Company on the date of this Agreement, (ii) nominated by the board of directors of the Company or (iii) appointed by directors so nominated.

"**Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "**Controlling**" and "**Controlled**" have meanings correlative thereto.

“**Credit Party**” means each Borrower and each Subsidiary Guarantor.

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Disclosed Matters**” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.13.

“**Dollars**” or “**$**” refers to lawful money of the United States of America.

“**Dollar Amount**” means, at any time:

(a) with respect to any Dollar-Denominated Loan, the principal amount thereof then outstanding;

(b) with respect to any Alternative Currency Loan, the principal amount thereof then outstanding in the relevant Alternative Currency, converted to Dollars in accordance with Section 2.20(a); and

(c) with respect to any Letter of Credit or LC Disbursement, (A) if denominated in Dollars, the amount thereof and (B) if denominated in an Alternative Currency, the amount thereof converted to Dollars in accordance with Section 2.20(b).

“**Dollar-Denominated Loan**” means a Loan that is made in Dollars.

“**Dollar-Denominated Revolving Borrowing**” means a Revolving Borrowing denominated in Dollars.

“**Domestic Business Day**” means any day except a Saturday, Sunday or other day on which commercial banks in New York City are authorized by law to close.

“**Domestic Lending Office**” means, as to each Lender, its office located at its address set forth in its Administrative Questionnaire (or identified in its Administrative Questionnaire as its Domestic Lending Office) or such other office as such Lender may hereafter designate as its Domestic Lending Office by notice to the Company and the Administrative Agent.

“**Effective Date**” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 12.02).

“**Election to Participate**” means an Election to Participate substantially in the form of Exhibit D.

“**Election to Terminate**” means an Election to Terminate substantially in the form of Exhibit E.

“**Eligible Subsidiary**” means any Wholly-Owned Consolidated Subsidiary (i) as to which an Election to Participate shall have been delivered to the Administrative Agent, (ii) as to which an Election to Terminate with respect to such Election to Participate shall not have been delivered to the Administrative Agent and (iii) in the case of a Wholly-Owned Subsidiary that is incorporated under the laws of a jurisdiction other than the United States or England and Wales in the United Kingdom, which has been approved by each of the Lenders. Each such Election to Participate and Election to Terminate shall be duly executed on behalf of such Wholly-Owned Consolidated Subsidiary and the Company in such number of copies as the Administrative Agent may request. If at any time a Subsidiary theretofore designated as an Eligible Subsidiary no longer qualifies as a Wholly-Owned Consolidated Subsidiary, the Company shall cause to be delivered to the Administrative Agent an Election to Terminate terminating the status of such Subsidiary as an Eligible Subsidiary. The delivery of an Election to Terminate shall not affect any obligation of an Eligible Subsidiary theretofore incurred or the Company’s guarantee thereof. The Administrative Agent shall promptly give notice to the Lenders of the receipt of any Election to Participate or Election to Terminate.

“**Environmental Laws**” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**Equity Interests**” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**ERISA Event**” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived, (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (e) the receipt by the Company or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (f) the incurrence by the Company or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, or (g) the receipt by the Company or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“**Euro**” means the single currency of the Participating Member States.

“**Euro-Currency Business Day**” means a Euro Dollar Business Day; *provided* that (a) when used in connection with an Alternative Currency Loan or LC Exposure denominated in an Alternative Currency, the term “Euro-Currency Business Day” shall exclude any day on which banks are not open for dealings in deposits in the applicable currency in the London interbank market and (b) when used in connection with any Loan or LC Exposure denominated in Euro, the term “Euro-Currency Business Day” shall exclude any day on which the TARGET payment system is not open for the settlement of payment in Euro.

“**Euro-Currency Lending Office**” means, as to each Lender, its office, branch or affiliate located at its address set forth in its Administrative Questionnaire (or identified in its Administrative Questionnaire as its Euro-Currency Lending Office) or such other office, branch or affiliate of such Lender as it may hereafter designate as its Euro-Currency Lending Office by notice to the Company and the Administrative Agent; *provided* that any Lender may from time to time by notice to the Borrower and the Administrative Agent designate separate Euro-Currency Lending Offices for its Loans in different currencies, in which case all references

herein to the Euro-Currency Lending Office of such Lender shall be deemed to refer to any or all of such offices, as the context may require.

“**Euro-Currency Loan**” means either a Euro-Dollar Loan or an Alternative Currency Loan.

“**Euro-Dollar**”, when used in reference to any Loan or Borrowing made in Dollars, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“**Euro-Dollar Business Day**” means any Domestic Business Day on which commercial banks are open for international business (including dealings in Dollar deposits) in London.

“**Event of Default**” has the meaning assigned to such term in Article 8.

“**Evergreen Letter of Credit**” means a Letter of Credit that is automatically extended unless the Issuing Bank gives notice to the beneficiary thereof stating that such Letter of Credit will not be extended.

“**Excluded Taxes**” means, with respect to the Administrative Agent, any Lender, the Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any Loan Document, (a) income or franchise taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction described in clause (a) above and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.19(b)), any withholding tax that (i) is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new Applicable Lending Office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Applicable Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16(a) or (ii) is attributable to such Foreign Lender’s failure to comply with Section 2.16(e).

“**Exempt SPV**” means Cummins, LLC Member, Inc., Cummins Trade Receivables, LLC and any other special purpose entity that is (a) created and utilized by the Company or any Subsidiary solely to effect a securitization transaction, (b) identified by the Company in written notice to the Administrative Agent as an Exempt SPV and (c) approved in writing by the Administrative Agent (such approval not to be unreasonably withheld), and their respective successors.

“**Existing Credit Agreement**” means the Credit Agreement dated as of November 5, 2002, as amended, among the Company, Cummins Engine Co. Ltd., Cummins Power Generation Ltd., Newage International Limited, the Eligible Subsidiaries referred to therein, the banks parties thereto and JPMorgan Chase Bank, as Administrative Agent and Collateral Agent, Citicorp USA, Inc., as Syndication Agent and Bank of America, N.A. and Bank of Nova Scotia, as Co-Documentation Agents.

“**Existing Letters of Credit**” means the letters of credit issued by the Issuing Bank before the Effective Date and listed in Schedule 2.05.

“**Federal Funds Effective Rate**” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Domestic Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Domestic Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“**Financial Officer**” means the chief financial officer, principal accounting officer, treasurer or assistant treasurer.

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

“**Foreign Subsidiary**” means any Subsidiary which is a “controlled foreign corporation” within the meaning of the Code.

“**GAAP**” means generally accepted accounting principles in the United States as described in Section 1.04.

“**Governmental Authority**” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“**Guarantor**” means the Company and each Subsidiary Guarantor.

“**Guarantee**” of or by any Person means any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness, (b) to purchase property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment of such Indebtedness or (c) to maintain working capital, equity capital or other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness; *provided*, however, that, the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"**Indebtedness**" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person, (e) all obligations of such Person issued or assumed as the deferred purchase price of property or services, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person (i) all obligations of such Person as an account party in respect of letters of credit and bankers' acceptances and (j) net obligations under Swap Agreements. The Indebtedness of any Person shall also include the Indebtedness of any partnership in which such Person is a general partner, except to the extent that recourse against such general partner (as a general partner) has been contractually waived or limited. Notwithstanding the foregoing, the term "Indebtedness", in respect of the Company and its Subsidiaries, shall not include (i) deferred compensation for officers and employees of the Company or any of its Subsidiaries and (ii) trade payables incurred in the ordinary course of business.

"**Indemnified Taxes**" means Taxes other than Excluded Taxes.

"**Indentures**" means each of the 1986 Indenture and the 2002 Indenture.

"**Information Memorandum**" means the Confidential Information Memorandum dated October 2004 relating to the Company and the Transactions.

"**Interest Election Request**" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.07.

"**Interest Payment Date**" means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December, (b) with respect to any Euro-Currency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Euro-Currency Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid.

"**Interest Period**" means, with respect to any Euro-Currency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months, or (subject to the availability of matching deposits for such periods in the London interbank market) nine or twelve months thereafter, as the Borrower may elect; *provided*, that: (a) if any Interest Period would end on a

day other than a Euro-Currency Business Day, such Interest Period shall be extended to the next succeeding Euro-Currency Business Day unless such next succeeding Euro-Currency Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Euro-Currency Business Day; and (b) any Interest Period pertaining to a Euro-Currency Borrowing that commences on the last Euro-Currency Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Euro-Currency Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"**Issuing Bank**" means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.05(j). The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"**Joinder Agreement**" means an agreement substantially in the form of Exhibit H hereto.

"**LC Disbursement**" means a payment made by the Issuing Bank pursuant to a Letter of Credit.

"**LC Exposure**" means, at any time, the sum of (a) the aggregate Dollar Amount of the undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate Dollar Amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

"**Lenders**" means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "**Lenders**" includes the Swingline Lender.

"**Letter of Credit**" means any Existing Letter of Credit or Additional Letter of Credit.

"**LIBO Rate**" means, with respect to any Euro-Currency Borrowing for any Interest Period, the rate appearing on the Screen at approximately 11:00 a.m., London time, two Euro-Currency Business Days prior to the commencement of such Interest Period, as the rate for deposits in Dollars or the relevant Alternative Currency with a maturity comparable to such Interest Period. In the event that such rate is not available for such currency at such time for any reason, then the "**LIBO Rate**" with respect to such Euro-Currency Borrowing for such Interest Period shall be the rate at which deposits of the relevant currency with a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Euro-Currency Business Days prior to the commencement of such Interest Period.

"**Lien**" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"**Loan Documents**" means this Agreement, each Joinder Agreement, each Election to Participate and any promissory notes issued to any Lender hereunder.

"**Loans**" means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“**Mandatory Cost**” means an amount determined in accordance with Schedule 1.01B hereto.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Company and the Subsidiaries taken as a whole, (b) the ability of the Company in any material respect to perform any of its obligations under the Loan Documents or (c) the rights of or benefits available to the Lenders under the Loan Documents.

“**Material Subsidiary**” means (i) each of Cummins Engine IP, Inc., Cummins Filtration IP, Inc., Cummins Intellectual Property, Inc., Cummins PowerGen IP, Inc., Fleetguard, Inc., Onan Corporation and Universal Silencer, Inc.; (ii) any other Subsidiary of the Company organized under the laws of a jurisdiction in the United States which owns total assets exceeding 5% of the Consolidated total assets of the Company and its subsidiaries as of the end of the most recent completed fiscal year of the Company for which financial statements have been delivered pursuant to Section 5.04(a) other than Cummins International Finance Corp., Cummins Trade Receivables, LLC, Consolidated Diesel Company and Cummins Capital Trust I; *provided* that an Exempt SPV shall not be a “Material Subsidiary” by virtue of the operation of this clause (ii); and (iii) any Subsidiary of the Company that is a guarantor of any notes issued pursuant to the terms of the Indentures.

“**Maturity Date**” means December 1, 2009, or, if such day is not a Euro-Currency Business Day, the next preceding Euro-Currency Business Day.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Multiemployer Plan**” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“**Original Subsidiary Borrower**” means each of Cummins Engine Co. Ltd., a company incorporated under the laws of England and Wales in the United Kingdom, Cummins Power Generation Ltd., a company incorporated under the laws of England and Wales in the United Kingdom, and Newage International Limited, a company incorporated under the laws of England and Wales in the United Kingdom.

“**Original Subsidiary Guarantor**” has the meaning set forth in Section 3.03.

“**Other Taxes**” means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

“**Participant**” has the meaning set forth in Section 12.04.

“**Participating Member States**” means those members of the European Union from time to time which adopt a single, shared currency.

“**PBGC**” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“**Permitted Onan Lease Obligations**” has the meaning set forth in Section 6.04(b).

“Permitted Receivables Financing” means the receivables financing to be provided pursuant to the RPA and the RSA.

“**Permitted Receivables Financing Indebtedness**” has the meaning set forth in Section 6.04(a).

“**Person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“**Pound Sterling**” means the lawful currency of the United Kingdom.

“**Pricing Schedule**” means Schedule 1.01A.

“**Prime Rate**” means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“**Priority Indebtedness**” shall mean, at any time, without duplication, (i) the aggregate principal amount of all Indebtedness of the Company then outstanding which Indebtedness is secured by Liens on property and assets of the Company or any Subsidiary (other than Indebtedness secured by Liens described in paragraphs (a) through (k) or (m) of Section 6.01), (ii) the Attributable Value at such time of all Sale and Lease-Back Transactions which are restricted by Section 6.02 and (iii) the aggregate principal amount of all outstanding Indebtedness of all Subsidiaries (other than (x) Indebtedness hereunder, (y) Indebtedness of

Subsidiaries payable to the Company or any Wholly-Owned Consolidated Subsidiary and (z) any unsecured Guarantee of Indebtedness under notes or bonds issued by the Company; *provided* that such Subsidiary shall also have guaranteed the obligations hereunder on or prior to the date on which such Guarantee is given);*provided* that Priority Indebtedness shall not include (a) the Permitted Receivables Financing Indebtedness or (b) the Permitted Onan Lease Obligations.

“**Purchasers**” has the meaning specified in the RPA.

“**Receivables Agent**” means General Electric Capital Corporation, as administrative agent under the RPA.

“**Receivables Seller**” means, collectively, (i) Cummins Trade Receivables, LLC, a special purpose limited liability company formed under the laws of Delaware that is wholly-owned by the Company, (ii) Fleetguard, Inc., (iii) Onan Corporation and (iv) Cummins LLC Member, Inc., a Delaware corporation that is a wholly-owned subsidiary of the Company.

“**Register**” has the meaning set forth in Section 12.04.

“**Regulation D**” shall mean Regulation D of the Board, as the same is from time to time in effect, and all official rulings and interpretations thereunder or thereof.

“**Regulation U**” shall mean Regulation U of the Board, as from time to time in effect, and all official rulings and interpretations thereunder or thereof.

"**Regulation X**" shall mean Regulation X of the Board, as from time to time in effect, and all official rulings and interpretations thereunder or thereof.

"**Related Parties**" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"**Related Security**" has the meaning specified in Annex X to the RPA.

"**RPA**" means that certain Receivables Purchase and Servicing Agreement dated as of January 15, 2004 among the Receivables Seller, the Company, as Servicer, the Receivables Agent, Cummins LLC Member, Inc. and the Purchasers, as such Receivables Purchase and Servicing Agreement may be amended, extended, renewed, restated, replaced, supplemented or otherwise modified from time to time with the approval of the Administrative Agent.

"**RSA**" means that certain Receivables Sale and Contribution Agreement dated as of January 15, 2004 among the Company, the Transferring Subsidiary and the Receivables Seller, as such Receivables Sale and Contribution Agreement may be amended, extended, renewed, restated, replaced, supplemented or otherwise modified from time to time with the approval of the Administrative Agent.

"**Required Lenders**" means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

"**Restricted Subsidiary**" has the meaning set forth in the 1986 Indenture.

"**Revolving Credit Exposure**" means, with respect to any Lender at any time, the sum of the outstanding Dollar Amount of such Lender's Revolving Loans and the aggregate Dollar Amount of its LC Exposure and Swingline Exposure at such time.

"**Revolving Loan**" means a Loan made pursuant to Section 2.03.

"**S&P**" means Standard & Poor's.

"**Sale and Lease-Back Transaction**" has the meaning set forth in Section 6.02.

"**Screen**" means (a) with respect to Dollar-Denominated Loans, Telerate Page 3750 and (b) with respect to Alternative Currency Loans, the Telerate Page selected by the Administrative Agent that displays rates for interbank deposits in the appropriate Alternative Currency or, in the case of either (a) or (b), any successor or substitute Telerate Page or any successor to or substitute source for such rates, providing rate quotations comparable to those currently provided on such Telerate Page, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to deposits in the London interbank market.

"**Securitization Financing**" means, at any date, the aggregate amount of financing raised through securitization transactions by the Company and its Consolidated Subsidiaries and outstanding at such date to the extent the same do not give rise to Indebtedness of the Company or a Consolidated Subsidiary.

"**Significant Subsidiary**" means any Material Subsidiary and any Subsidiary (which term, as used in this definition, includes such Subsidiary's subsidiaries) which meets any of the following conditions:

(i) the Company's and the other Subsidiaries' investments in and advances to such Subsidiary exceed 10% of the Consolidated total assets of the Company as of the end of the most recently completed fiscal year of the Company for which financial statements have been delivered pursuant to Section 5.04(a);

(ii) the total assets (after intercompany eliminations) of such Subsidiary exceed 10% of the Consolidated total assets of the Company as of the end of the most recently completed fiscal year of the Company for which financial statements have been delivered pursuant to Section 5.04(a);

(iii) the net sales of such Subsidiary exceed 10% of the Consolidated net sales of the Company for the most recently completed fiscal year of the Company for which financial statements have been delivered pursuant to Section 5.04(a); or

(iv) such Subsidiary is deemed to be a Significant Subsidiary pursuant to Section 6.03(b)(i).

"**Spot Rate**" means, for any Alternative Currency on any day, the average of the Administrative Agent's spot buying and selling rates for the exchange of such Alternative Currency and Dollars as of approximately 11:00 A.M. (London time) on such day.

"**Statutory Reserve Rate**" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D). Such reserve percentages shall include those imposed pursuant to Regulation D. Euro-Currency Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"**subsidiary**" means, with respect to any Person (herein referred to as the "**parent**"), any corporation, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the ordinary voting power are, at the time any determination is being made, owned, controlled or held by the parent or one or more subsidiaries of the parent or (b) which is, at the time any determination is made, otherwise controlled (by contract or agreement or otherwise) by the parent or one or more subsidiaries of the parent.

"**Subsidiary**" means any subsidiary of the Company.

"**Subsidiary Guarantor**" means each Subsidiary listed on the signature pages hereof under the caption "Subsidiary Guarantors" and each Subsidiary that shall, at any time after the date hereof, become a "Subsidiary Guarantor" pursuant to Section 5.09.

"**Swap Agreement**" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Company or the Subsidiaries shall be a Swap Agreement.

“**Swingline Exposure**” means, at any time, the aggregate Dollar Amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time.

“**Swingline Lender**” means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as lender of Swingline Loans hereunder.

“**Swingline Lending Office**” means, as to the Swingline Lender, its office located at its address set forth in its Administrative Questionnaire (or identified in its Administrative Questionnaire as its Swingline Lending Office) or such other office as such Lender may hereafter

designate as its Swingline Lending Office by notice to the Company and the Administrative Agent.

“**Swingline Loan**” means a Loan made pursuant to Section 2.04.

“**Syndication Agent**” means Citicorp USA, Inc., in its capacity as syndication agent in respect of this Agreement.

“**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

“**Total Debt**” means the Indebtedness of the Company and its Subsidiaries, Consolidated in accordance with GAAP;*provided* that the term “Total Debt” shall in any event exclude (i) contingent obligations of the Company or any Subsidiary in respect of letters of credit, unless such letter of credit supports other Indebtedness of any Person other than the Company and its Subsidiaries and (ii) net obligations under Swap Agreements.

“**Transactions**” means the execution, delivery and performance by the Credit Parties of the Loan Documents, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“**Transferred Receivables**” has the meaning specified in Annex X to the RPA.

“**Transferring Subsidiary**” means, collectively, Onan Corporation and Fleetguard, Inc.

“**Type**”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“**United States**” or “**U.S.**” means the United States of America, including the States thereof and the District of Columbia, but excluding its territories and possessions.

“**Unrestricted Subsidiary**” has the meaning set forth in the 1986 Indenture.

“**Wholly-Owned Consolidated Subsidiary**” means any Consolidated Subsidiary all of the shares of capital stock or other ownership interests of which (except directors’ qualifying shares) are at the time owned by the Company or one or more Wholly-Owned Consolidated Subsidiaries.

“**Withdrawal Liability**” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section 1.02. *Classification of Loans and Borrowings.* For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a “**Revolving Loan**”) or by Type (*e.g.*, an “**ABR Loan**”) or by Class and Type (*e.g.*, an “**ABR Revolving Loan**”). Borrowings also may be classified and referred to by Class (*e.g.*, a “**Revolving Borrowing**”) or by Type (*e.g.*, an “**ABR Borrowing**”) or by Class and Type (*e.g.*, an “**ABR Revolving Borrowing**”).

Section 1.03. *Terms Generally.* The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall” and the word “permit” shall be construed to have the same meaning and effect as the word “suffer”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.04. *Accounting Terms; GAAP.* Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP; *provided* that, if the Company notifies the Administrative Agent that the Company wishes to amend any provision hereof to eliminate the effect of any change in GAAP (or if the Administrative Agent notifies the Company that the Required Lenders wish to amend any provision hereof for such purpose), then such provision shall be applied on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such provision is amended in a manner satisfactory to the Company and the Required Lenders.

ARTICLE 2
THE CREDITS

Section 2.01. *Commitments.* Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans denominated in Dollars or in an Alternative Currency as the Borrower elects pursuant to Section 2.03 to the Borrower from time to time during the Availability Period; *provided* that, immediately after each such Loan is made, (x) the amount of each Lender’s Revolving Credit Exposure shall not exceed such Lender’s Commitment and (y) the Alternative Currency Exposure shall not exceed the Alternative Currency Sublimit. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

Section 2.02. *Loans and Borrowings*. (a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; *provided* that the

Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.13, each Revolving Borrowing shall be comprised entirely of ABR Loans or Euro-Currency Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Euro-Currency Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the time that any Revolving Borrowing is made, such Borrowing shall be in an aggregate Dollar Amount that is not less than $10,000,000 and, in the case of a Dollar-Denominated Borrowing, an integral multiple of $1,000,000; *provided* that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(f). Each Swingline Loan shall be in a Dollar Amount that is an integral multiple of $100,000 and not less than $500,000. Borrowings of more than one Type and Class may be outstanding at the same time; *provided* that there shall not at any time be more than a total of six Euro-Currency Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.03. *Requests for Revolving Borrowings.* To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Euro-Dollar Borrowing, not later than 11:00 a.m., New York City time, three Euro-Dollar Business Days before the date of the proposed Borrowing, (b) in the case of an Alternative Currency Borrowing, at its London office not later than 3:00 p.m. London time, three Euro-Currency Business Days before the date of the proposed Borrowing or (c) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, one Domestic Business Day before the date of the proposed Borrowing; *provided* that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(f) may be given not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the currency and the aggregate amount (in such currency) of the requested Borrowing;

(ii) the date of such Borrowing, which shall be a Domestic Business Day in the case of an ABR Revolving Borrowing and a Euro-Currency Business Day in the case of a Euro-Currency Borrowing;

(iii) in the case of a Revolving Borrowing in Dollars, whether such Borrowing is to be an ABR Borrowing or a Euro-Dollar Borrowing;

(iv) in the case of a Euro-Currency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.06.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Euro-Currency Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04. *Swingline Loans. (a)* Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrower in Dollars or in an Alternative Currency, as the Borrower elects, from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding a Dollar Amount equal to $50,000,000, (ii) the total Revolving Credit Exposures of all Lenders exceeding the total Commitments or (iii) the Alternative Currency Exposure exceeding the Alternative Currency Sublimit; *provided* that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Company may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Borrower shall notify the Administrative Agent of such request by telephone (confirmed by facsimile), (i) in the case of an Alternative Currency Borrowing, at its London office no later than 12:00 p.m. London time on the date of the proposed Swingline Loan, and (ii) in the case of a Dollar-Denominated Borrowing, not later than 2:00 p.m., New York City time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Domestic Business Day in the case of Dollar-Denominated Loans or a Euro-Currency Business Day in the case of an Alternative Currency Loan), currency and amount of the requested Swingline Loan and the location and number of the Borrower's account to which the funds are to be disbursed. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrower. The Swingline Lender shall make each Swingline Loan available to the Borrower by means of a credit to the account designated by the Borrower for such purpose (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(f), by remittance to the Issuing Bank) by (i) 4:00 p.m. London time, in the case of Alternative Currency Loans and (ii) 4:00 p.m., New York City time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than (i) 10:00 a.m., London time, on any Euro-Currency Business Day, in the case of Alternative Currency Loans or (ii) 10:00 a.m., New York City time, on any Domestic Business Day, in the case of Dollar-Denominated Loans, require the Lenders to acquire participations on such Euro-Currency Business Day or Domestic Business Day (as applicable) in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; *provided* that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

Section 2.05. *Letters of Credit.* (a) Existing Letters of Credit. On the Effective Date, without further action by any party hereto, the Issuing Bank shall be deemed to have granted to each Lender, and each Lender shall be deemed to have acquired from the Issuing Bank, a participation in each Existing Letter of Credit equal to such Lender's Applicable Percentage of (i) the aggregate amount available to be drawn thereunder and (ii) the aggregate unpaid amount of any outstanding reimbursement obligations in respect thereof. Such participations shall be on all the same terms and conditions as participations granted in Additional Letters of Credit under Section 2.05(e).

(b) General. Subject to the terms and conditions set forth herein, any Borrower may request the issuance of Additional Letters of Credit denominated in Dollars or in an Alternative Currency for its own account in a form acceptable to the Administrative Agent and the Issuing

Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Issuing Bank relating to any Additional Letter of Credit, the terms and conditions of this Agreement shall control.

(c) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of an Additional Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of an Additional Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Euro-Currency Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (d) of this Section), the currency and amount in such currency of such Additional Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed $200,000,000 (ii) the Alternative Currency Exposure shall not exceed the Alternative Currency Sublimit and (iii) the total Revolving Credit Exposures of all Lenders shall not exceed the total Commitments.

(d) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Additional Letter of Credit or, in the case of any renewal or extension thereof, one year after such renewal or extension (or, if any such day is not a Euro-Currency Business Day, the next preceding Euro-Currency Business Day) and (ii) the date that is five Euro-Currency Business Days prior to the Maturity Date. The expiry date of any Letter of Credit may be extended from time to time (i) at the Borrower's request in accordance with (c) above or (ii) in the case of an Evergreen Letter of Credit, automatically, in each case so long as such extension is for a period not exceeding one year, does not extend beyond the date referred to in clause (ii) of the immediately preceding sentence and is granted (or the last day on which notice can be given to prevent such extension occurs) no earlier than three months before the then existing expiry date thereof.

(e) Participations. By the issuance of an Additional Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank in the applicable currency, such Lender's Applicable Percentage of each LC Disbursement

made by the Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (f) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(f) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement in the currency of such LC Disbursement (i) if such LC Disbursement shall have been denominated in Dollars, not later than 2:00 p.m., New York City time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 9:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 2:00 p.m., New York City time, on (x) the Domestic Business Day that the Borrower receives such notice, if such notice is received prior to 9:00 a.m., New York City time, on the day of receipt or (y) the Domestic Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt and (ii) if such LC Disbursement shall have been denominated in an Alternative Currency, not later than 12:00 noon, London time, on the Euro-Currency Business Day following the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 4:00 p.m., London time, on the date such LC Disbursement is made, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 noon, London time, on (x) the Euro-Currency Business Day following the date that the Borrower receives such notice, if such notice is received prior to 4:00 p.m., London time, on the day of receipt or (y) the second Euro-Currency Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; *provided* that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.04 that such payment be financed with (A) in the case of LC Disbursements denominated in Dollars, an ABR Revolving Borrowing (of not less than $10,000,000) or a Swingline Loan (of not less than $500,000) in an equivalent Dollar amount and (B) in the case of LC Disbursements denominated in an Alternative Currency, a Euro-Currency Borrowing for an equivalent amount in such currency and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan or Euro-Currency Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that

Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(g) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; *provided* that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by facsimile) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; *provided* that any failure to give or delay

in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Bank and the Lenders with respect to any such LC Disbursement.

(i) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, (i) if such amount is denominated in Dollars, at the rate per annum then applicable to ABR Revolving Loans, (ii) if such amount is denominated in an Alternative Currency, at the rate per annum equal to the sum of the Applicable Rate with respect to Euro-Currency Loans plus the rate per annum at which one-day deposits in relevant currency in an amount approximately equal to such unpaid amount are offered by the principal London office of the Administrative Agent in the London Interbank market for such day; *provided* that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then Section 2.12(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (f) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(j) Replacement of the Issuing Bank. The Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(k) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Domestic Business Day that the Company receives notice from the Administrative Agent on behalf of the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Company shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash in the relevant currency equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; *provided* that the obligation to deposit such cash collateral will become effective immediately, and such deposit will become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (g) or (h) of Article 8. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Company hereby grants a lien and

security interest in, and sole and exclusive dominion and control, including the exclusive right of withdrawal, over such account to the Administrative Agent. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other obligations of the Borrowers under this Agreement. If the Company is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Company within three Business Days after all Events of Default have been cured or waived.

Section 2.06. *Funding of Borrowings. (a)* Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof:

(i) if such Borrowing is to be made in Dollars, not later than 12:00 Noon (New York City time), in funds immediately available in New York City, to the account of the Administrative Agent most recently designated for such purpose by notice to the Lenders; *provided* that Swingline Loans shall be made as provided in Section 2.04; or

(ii) if such Borrowing is to be made in an Alternative Currency, not later than 12:00 Noon (London time), in such Alternative Currency (in such funds as may then be customary for the settlement of international transactions in such Alternative Currency) to the account of the Administrative Agent as shall have most recently been designated by the Administrative Agent for such purpose by notice to the Lenders.

The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower designated by the Borrower in the applicable Borrowing Request; *provided* that Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(f) shall be remitted by the Administrative Agent to the Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at the Federal Funds Effective Rate (if such amount was distributed in

Dollars) or the rate per annum at which one-day deposits in the relevant currency are offered by the principal London office of the Administrative Agent in the London interbank market (if such amount was distributed in an Alternative Currency).

Section 2.07. *Interest Elections. (a)* Each Dollar-Denominated Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Euro-Dollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Euro-Dollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to Section 2.07(a), the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Dollar-Denominated Loan of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to paragraphs (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Domestic Business Day in the case of an ABR Borrowing and a Euro-Dollar Business Day in the case of a Euro-Dollar Borrowing;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Euro-Dollar Borrowing; and

(iv) if the resulting Borrowing is a Euro-Dollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Euro-Dollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Euro-Dollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Euro-Dollar Borrowing and (ii) unless repaid, each Euro-Dollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

(f) Each Alternative Currency Loan shall have an initial Interest Period as specified in the applicable Borrowing Request. Thereafter, the Borrower may elect to continue such Borrowing and may elect Interest Periods therefore, by notifying the Administrative Agent of such election by telephone by the time and at the office that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting an Alternative Currency Loan to be made on the effective date of such election. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. Promptly following receipt of such Interest Election Request the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing. If the Borrower fails to deliver a timely Interest Election Request with respect to an Alternative Currency Borrowing prior to the end of the Interest Period applicable thereto, or any Interest Election Request fails to specify an Interest Period, then unless such Borrowing is repaid as provided herein, the Borrower shall be deemed to have elected a subsequent Interest Period of one month's duration.

Section 2.08. *Termination and Reduction of Commitments.* (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Company may at any time terminate, or from time to time reduce, the Commitments; *provided* that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of $5,000,000 and not less than $10,000,000 and (ii) the Company shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, the total Revolving Credit Exposures of all Lenders would exceed the total Commitments.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least five Domestic Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; *provided* that a notice of termination of the Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

Section 2.09. *Repayment of Loans; Evidence of Debt.* (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date, and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the date which is 15 Domestic Business Days after such Swingline Loan is made.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the currency and amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be*prima facie* evidence of the existence and amounts of the obligations recorded therein; *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it to any Borrower be evidenced by a promissory note. In such event, such Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent and the Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 12.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.10. *Prepayment of Loans. (a)* The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section.

(b) The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by facsimile)

of any prepayment hereunder (i) in the case of prepayment of a Euro-Dollar Borrowing, not later than 11:00 a.m., New York City time, three Euro-Dollar Business Days before the date of prepayment, (ii) in the case of prepayment of an Alternative Currency Borrowing, to its London office not later than 11:00 a.m. London time three Euro-Currency Business Days before the date of prepayment, (iii) in the case of prepayment of an ABR Revolving Borrowing, not later than 11:00 a.m., New York City time, one Domestic Business Day before the date of prepayment or (iv) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, New York City time (London time if such Swingline Loan is denominated in Alternative Currencies or made to a Borrower other than the Company), on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; *provided* that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

Section 2.11. *Fees. (a)* The Company agrees to pay to the Administrative Agent for the account of each Lender a commitment fee in Dollars, which shall accrue at the Applicable Rate on the average daily unused amount of the Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee in Dollars with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Euro-Dollar Loans on such Lender's average daily LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to the Issuing Bank a fronting fee in Dollars, which shall accrue at the rate of 0.125% per annum on the average daily LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Domestic Business Day following such last day, commencing on the first such date to occur after the Effective Date; *provided* that all such fees shall be payable on the date on which the Commitments terminate and

any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

Section 2.12. *Interest. (a)* The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Euro-Currency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) The Loans comprising each Swingline Borrowing shall bear interest, at the election of the applicable Borrower, at (x) solely in the case of Swingline Loans denominated in Dollars, the Alternative Base Rate plus the Applicable Rate, (y) the Adjusted LIBO Rate that would be applicable to Euro-Currency Loans with a one-month Interest Period commencing on the date such loan is made, plus the Applicable Rate, or (z) at such other rate as shall from time to time be agreed between the Swingline Lender and the applicable Borrower.

(d) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(e) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Commitments; *provided* that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Euro-Currency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) interest computed with respect to Loans denominated in Pound

Sterling shall be computed on the basis of a year of 365 days, and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.13. *Alternate Rate of Interest.* If prior to the commencement of any Interest Period for a Euro-Currency Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for deposits in the relevant currency for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate applicable to Euro-Currency Borrowings in the relevant currency for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Company and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice no longer exist (which the Administrative Agent shall do promptly after becoming aware thereof), (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Euro-Currency Borrowing of the affected currency shall be ineffective and (ii) if any Borrowing Request requests a Euro-Currency Borrowing in the affected currency, such Borrowing shall be made as an ABR Borrowing in an equal Dollar Amount.

Section 2.14. *Increased Costs.* (a) If any Change in Law shall

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or its Applicable Lending Office (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank; or

(ii) impose on any Lender (or its Applicable Lending Office) or the Issuing Bank or the London interbank market any other condition affecting this Agreement or Euro-Currency Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender (or its Applicable Lending Office) of making or maintaining any Euro-Currency Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender (or its Applicable Lending Office) or the Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender (or its Applicable Lending Office) or the Issuing Bank hereunder (whether of principal, interest or otherwise), then the Company will pay (or will cause the relevant Borrower to pay) to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will

compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and the calculation of such amount or amounts in reasonable detail shall be delivered to the Company and shall be conclusive absent manifest error. The Company or the relevant Borrower, as the case may be, shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation, as the case may be; *provided* that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section 2.14 for any increased costs or reductions incurred more than 120 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; *provided further* that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 120-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.15. *Break Funding Payments.* In the event of (a) the payment of any principal of any Euro-Currency Loan (or Swingline Loan that is not an ABR Loan) other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Euro-Currency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Euro-Currency Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.10(b) and is revoked in accordance therewith) or (d) the assignment of any Euro-Currency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the relevant Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which

would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars or other applicable currency of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.16. *Taxes*. (a) Any and all payments by or on account of any obligation of any Borrower under the Loan Documents shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; *provided* that if any Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Borrower shall make such deductions and (iii) such Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, each Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The relevant Borrower shall indemnify the Administrative Agent, each Lender and the Issuing Bank, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or the Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of such Borrower under the Loan Documents (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; *provided*, that the relevant Borrower shall not be obligated to indemnify the Administrative Agent, such Lender or the Issuing Bank, as the case may be, pursuant to this Section in respect of penalties, interest or similar liabilities arising therefrom or with respect thereto to the extent such penalties, interest or similar liabilities are attributable to the gross negligence or willful misconduct by the Administrative Agent, such Lender or the Issuing Bank. A certificate as to the amount of such payment or liability delivered to the relevant Borrower by a Lender or the Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower to a Governmental Authority, such Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority

evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which a Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under any Loan Document shall deliver to the Company (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Company as will permit such payments to be made without withholding or at a reduced rate.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to this Section 2.16, it shall pay over such refund to such Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by such Borrower under this Section 2.16 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses with respect to such refund of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided*, that such Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

Section 2.17. *Foreign Subsidiary Costs.* If the cost to any Lender of making or maintaining any Loan to or of issuing or maintaining any Letter of Credit for the account of an Eligible Subsidiary is increased, or (except as permitted by Section 2.16), the amount of any sum received or receivable by any Lender (or its Applicable Lending Office) is reduced in each case by an amount deemed by such Lender to be material, by reason of the fact that such Eligible Subsidiary is incorporated in, or conducts business in, a jurisdiction outside the United States, the Company shall indemnify such Lender for such increased cost or reduction within 10 days after demand by such Lender (with a copy to the Administrative Agent). A certificate of such Lender claiming compensation under this Section 2.17 and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error.

Section 2.18. *Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a)*The Borrower shall make each payment of principal of, and interest on, the Dollar-Denominated Loans, of LC Exposures denominated in Dollars and of fees hereunder, not later than 12:00 Noon (New York City time) on the date when due, in Dollars in funds immediately available in New York City. The Borrower shall make each payment of principal of, and interest on, the Alternative Currency Loans and of LC Exposures denominated in an Alternative Currency in the relevant Alternative Currency in such funds as may then be customary for the settlement of international transactions in such Alternative Currency. Each such payment shall be made without reduction by reason of any set-off or counterclaim. Any amounts received after such

time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Domestic Business Day (in the case of amounts denominated in Dollars) or Euro-Currency Business Day (in the case of amounts denominated in an Alternative Currency) for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 270 Park Avenue, New York, New York, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16, 2.17 and 12.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Domestic Business Day (in the case of ABR Loans and LC Exposures denominated in Dollars) or a Euro-Currency Business Day (in the case of Euro-Currency Loans and LC Exposures denominated in an Alternative Currency), the date for payment shall be extended to the next succeeding Domestic Business Day (in the case of ABR Loans and LC Exposures denominated in Dollars) or Euro-Currency Business Day (in the case of Euro-Currency Loans and LC Exposures denominated an Alternative Currency), and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements and Swingline Loans; *provided* that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by any Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender

acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Company or the applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that a Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at (i) the Federal Funds Effective Rate (if such distribution was made in Dollars) or (ii) the rate per annum at which one-day deposits in the relevant currency are offered by the principal London office of the Administrative Agent in the London interbank market (if such distribution was made in an Alternative Currency).

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(c), 2.05(e), 2.05(f), 2.06(b) or 2.18(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.19. *Mitigation Obligations; Replacement of Lenders. (a)* If any Lender requests compensation under Section 2.14 or 2.17, or if any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different Applicable Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14, 2.16 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Company hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.14 or 2.17, or if any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, or if any Lender defaults in its obligation to fund Loans hereunder, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 12.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (i) the Company shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received

payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company or the relevant Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or 2.17 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.

Section 2.20. *Currency Equivalents.* (a) The Administrative Agent shall determine the Dollar Amount of each Alternative Currency Loan as of the first day of each Interest Period applicable thereto and, in the case of any such Interest Period of more than three months, at three-month intervals after the first day thereof, and shall promptly notify the Borrower and the Lenders of each Dollar Amount so determined by it. Each such determination shall be based on the Spot Rate (i) on the date of the related Borrowing Request for purposes of the initial such determination for any Alternative Currency Loan and (ii) on the fourth Euro-Currency Business Day prior to the date as of which such Dollar Amount is to be determined, for purposes of any subsequent determination.

(b) The Administrative Agent shall determine the LC Exposure related to each Letter of Credit as of the date of issuance thereof and at three-month intervals after the date of issuance thereof. Each such determination shall be based on the Spot Rate (i) on the date of the related notice of issuance, in the case of the initial determination in respect of any Letter of Credit and (ii) on the fourth Euro-Currency Business Day prior to the date as of which such Dollar Amount is to be determined, in the case of any subsequent determination with respect to an outstanding Letter of Credit.

(c) If after giving effect to any such determination of a Dollar Amount, the total Revolving Credit Exposures of all Lenders exceed the aggregate amount of the Commitments or the aggregate Dollar Amount of Alternative Currency Loans and LC Exposures denominated in an Alternative Currency exceeds 105% of the Alternative Currency Sublimit, the Borrowers shall within five Euro-Currency Business Days prepay outstanding Loans (as selected by the Company and notified to the Lenders through the Administrative Agent not less than three Euro-Currency Business Days prior to the date of prepayment) or take other action to the extent necessary to eliminate any such excess.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

The Company and each Original Subsidiary Borrower represents and warrants to the Administrative Agent and the Lenders that:

Section 3.01. *Organization; Powers.* The Company and each Subsidiary (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its

organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in every jurisdiction where such qualification is required, except where the failure so to qualify could not reasonably be expected to result in a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each Loan Document to which it is a party and under each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of any Borrower, to borrow hereunder.

Section 3.02. *Authorization.* The Transactions (a) have been duly authorized by all requisite corporate, partnership, limited liability company or analogous and, if required, stockholder, partner, member or analogous action and (b) will not (i) materially violate any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of the Company or any Subsidiary, (ii) materially violate any order of any Governmental Authority or (iii) materially violate any provision of any material indenture, agreement or other instrument to which the Company or any Subsidiary is a party or by which any of them or any of their property is or may be bound, (iv) be in material conflict with, result in a material breach of or constitute (alone or with notice or lapse of time or both) a material default under any such indenture, agreement or other instrument or (v) result in the creation or imposition of any Lien (other than the Transaction Liens) upon any property or assets of the Company or any Subsidiary.

Section 3.03. *Enforceability.* This Agreement has been duly executed and delivered by the Company, each Original Subsidiary Borrower and each Guarantor (each an "**Original Subsidiary Guarantor**") listed on the signature pages hereof as a "Subsidiary Guarantor" and constitutes, and each other Loan Document to which any Credit Party is party, when executed and delivered by such Credit Party, will constitute, a legal, valid and binding obligation of each such Credit Party enforceable against each such Credit Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. The Loans and all other obligations or liabilities of the Company and each Original Subsidiary Guarantor or Original Subsidiary Borrower hereunder shall not be subordinated in right of payment to any other Indebtedness of the Company or such Original Subsidiary Guarantor or Original Subsidiary Borrower, respectively.

Section 3.04. *Governmental Approvals.* No action, consent or approval of, registration or filing with or other action by any Governmental Authority is or will be required in connection with the Transactions, except such as will have been made or obtained on or before the Effective Date and thereafter will be in full force and effect.

Section 3.05. *Financial Statements.* (a) The Company has heretofore furnished to the Lenders (i) its Consolidated balance sheet and related Consolidated statements of earnings, cash flows and shareholders' equity as of and for the fiscal year ended December 31, 2003, audited by and accompanied by the opinion of Pricewaterhouse Coopers LLP, independent public accountants and (ii) its Consolidated balance sheet and related Consolidated statements of earnings and cash flows as of and for the fiscal quarter ended June 27, 2004, certified by its chief financial officer. Such financial statements present fairly in all material respects the financial

position of the Company and its Consolidated Subsidiaries as of such dates and their results of operations and cash flows for such periods. Such statements of financial position and the notes thereto disclose all material liabilities, direct or contingent, of the Company and its Consolidated Subsidiaries as of the dates thereof. Such financial statements were prepared in accordance with GAAP applied on a consistent basis.

(b) Since December 31, 2003, there has been no material adverse change in the business, assets, property, condition (financial or otherwise) or prospects of the Company and its Subsidiaries taken as whole.

Section 3.06. *Title to Properties; Possession Under Leases.* (a) The Company and each of the Subsidiaries has good and marketable title to, or valid leasehold interests in, all its material properties and assets, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes. All such material properties and assets are free and clear of Liens, other than Liens expressly permitted by Section 6.01.

(b) The Company and each of the Subsidiaries has complied with all obligations under all material leases to which it is a party and all such leases are in full force and effect. The Company and each of the Subsidiaries enjoys peaceful and undisturbed possession under all such material leases.

Section 3.07. *Subsidiaries.* Schedule 3.07 sets forth as of the Effective Date a list of each Subsidiary of the Company that is a Significant Subsidiary, a Material Subsidiary, an Excluded SPV or an Unrestricted Subsidiary and identifies them as such, and sets forth the percentage ownership interest of the Company and any intermediate Subsidiary therein.

Section 3.08. *Litigation; Compliance with Laws.* (a) There are not any actions, suits, proceedings, inquiries or investigations at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of the Company or Original Subsidiary Borrower, threatened against or affecting the Company or any Subsidiary or any business, property or rights of any such Person (i) which involve the Loan Documents or the Transactions or (ii) as to which there is a reasonable possibility of an adverse determination and which, if adversely determined, could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Company nor any of the Subsidiaries is in violation of any law, rule or regulation, or in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default could reasonably be expected to result in a Material Adverse Effect.

Section 3.09. *Non-existence of Certain Types of Agreements or Obligations.* (a) As of the Effective Date, neither the Company nor any of the Subsidiaries is a party to any agreement or instrument or subject to any corporate restriction that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Company nor any of the Subsidiaries is in default in any manner under any provision of any material agreement or instrument (excluding any indenture or other

agreement or instrument evidencing Indebtedness) to which it is a party or by which it or any of its properties or assets are or may be bound, where such default could reasonably be expected to result in a Material Adverse Effect.

(c) Except as set forth in Schedule 3.09(c), as of the Effective Date neither the Company nor any Subsidiary is a party to or is bound by the terms of (i) any indenture or other agreement or instrument evidencing Indebtedness or (ii) any certificate of designation or other certificate, agreement or instrument relating to any capital stock, in either case which contains a provision granting the holders thereof the right to require the Company or any Subsidiary to buy all or any part of such Indebtedness or capital stock (or any other provision having substantially the same effect) other than sinking fund and conversion provisions and provisions requiring repayment upon default.

(d) Schedule 3.09(d) sets forth the total amount of each category of Priority Indebtedness (as set forth in the definition thereof) of the Company and its Subsidiaries existing as of the Effective Date.

(e) Schedule 3.09(e) sets forth the total amount of all Guarantees by the Company and its Subsidiaries of Indebtedness (other than Indebtedness under the Loan Documents and Indebtedness of the Company or any Subsidiary owing to the Company or any Subsidiary) existing as of the Effective Date.

Section 3.10. *Federal Reserve Regulations.* The making of the Loans hereunder and the use of the proceeds thereof as contemplated hereby will not violate or be inconsistent with Regulation U or Regulation X.

Section 3.11. *No Regulatory Restrictions on Borrowing.* Neither the Company nor any Original Subsidiary Borrower is (a) an "**investment company**" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended, (b) a "**holding company**" or a "**subsidiary company**" of a holding company as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935 or (c) subject to any other applicable regulatory scheme which restricts its ability to incur the indebtedness to be incurred hereunder.

Section 3.12. *Tax Returns.* The Company and each Subsidiary has filed or caused to be filed all Federal, state and local tax returns required to have been filed by it and has paid or caused to be paid all taxes shown to be due and payable on such returns or on any assessments received by it, except (a) taxes that are being contested in accordance with Section 5.03 or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 3.13. *Environmental Matters.* Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Company nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received written notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

Section 3.14. *ERISA.* No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The excess, if any, of the present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) over the fair market value of the assets of such Plan, as of the date of the most recent financial statements reflecting such amounts, could not reasonably be expected to have a Material Adverse Effect.

Section 3.15. *No Material Misstatements.* (a) As of the Effective Date, the Information Memorandum does not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not materially misleading, and (b) no other information, report, financial statement, exhibit or schedule furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of the Loan Documents or included therein or delivered pursuant thereto, when taken together with all other such information, reports, financial statements, exhibits or schedules, contained, contains or will contain any material misstatement of fact or omitted, omits or will omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were, are or will be made, not materially misleading.

Section 3.16. *Solvency.* Immediately following the making of each Borrowing and after giving effect to the application of the proceeds of such Borrowing, the Company and its Subsidiaries on a consolidated basis will be Solvent. The Company and its Subsidiaries on a consolidated basis do not intend to, and do not believe that the Company and its Subsidiaries on a consolidated basis will, incur debts beyond their ability to pay such debts as they mature, taking into account the timing of and amounts of cash anticipated to be received by the Company and its Subsidiaries on a consolidated basis and the timing of the amounts of cash anticipated to be payable on or in respect of the Indebtedness of the Company and its Subsidiaries on a consolidated basis. For the purpose of this Section, "**Solvent**" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property owned by such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person, (b) such Person is able to meet its obligations as those obligations mature and (c) such Person is not engaged in business or a transaction for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

ARTICLE 4
CONDITIONS

Section 4.01. *Effective Date.* The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 12.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Cravath, Swaine & Moore LLP, special New York counsel for the Company, substantially in the form of Exhibit B-1, Marya M. Rose, internal counsel to the Company, substantially in the form of Exhibit B-2 and Raymond J. Eyres, internal counsel to the Original Subsidiary Borrowers, substantially in the form of Exhibit B-3, in each case covering such other matters relating to the Credit Parties, the Loan Documents or the Transactions as the Administrative Agent shall reasonably request. The Company and each Original Subsidiary Borrower hereby requests such counsel to deliver such opinions.

(c) The Administrative Agent shall have received an opinion of Davis Polk & Wardwell, special counsel for the Administrative Agent, substantially in the form of Exhibit C and covering such additional matters relating to the transactions contemplated by the Loan Documents as the Administrative Agent may reasonably require.

(d) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrowers and the Subsidiary Guarantors, the authorization of the Transactions and any other legal matters relating to the Borrowers and the Subsidiary Guarantors, the Loan Documents or the Transactions, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(e) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Company, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(f) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrowers under the Loan Documents.

(g) The Administrative Agent shall have received evidence reasonably satisfactory to it of the payment of all principal of and interest on any loans outstanding under, and all accrued commitment fees under the Existing Credit Agreement.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding. The Company and the Lenders party to the Existing Credit Agreement hereby agree that upon Effective Date: (i) the commitments of the banks under the Existing Credit Agreement shall terminate in their entirety immediately and automatically on the Effective Date, and such Existing Credit Agreement shall be terminated, without further action by any party to the Existing Credit Agreement, (ii) all accrued facility fees

under the Existing Credit Agreement shall be due and payable at such time and (iii) subject to Section 2.15 of the Existing Credit Agreement, the Company may prepay any and all loans outstanding thereunder on the Effective Date and any requirement for notice of such prepayment shall be waived.

Section 4.02. *Each Credit Event.* The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of each Credit Party set forth in each Loan Document to which it is party (other than, solely in the case of a Borrowing to be made to repay maturing commercial paper of the Company, that set forth in Section 3.05(b)) shall be true and correct on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

Section 4.03. *First Borrowing by Each Eligible Subsidiary.* The obligation of each Lender to make a Loan, and the obligation of an Issuing Bank to issue a Letter of Credit, on the occasion of the first Borrowing by or issuance of a Letter of Credit for the account of each Eligible Subsidiary is subject to the satisfaction of the following further conditions:

(a) Receipt by the Administrative Agent of an opinion of counsel for such Eligible Subsidiary reasonably acceptable to the Administrative Agent, substantially to the effect of Exhibit F hereto and covering such other matters relating to the transactions contemplated hereby as the Required Lenders may reasonably require.

(b) Receipt by the Administrative Agent of all documents which it may reasonably request relating to the existence of such Eligible Subsidiary, the corporate authority for and the validity of the Election to Participate of such Eligible Subsidiary and this Agreement of such Eligible Subsidiary, and any other matters relevant thereto, all in form and substance reasonably satisfactory to the Administrative Agent.

ARTICLE 5
AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit

shall have expired or terminated and all LC Disbursements shall have been reimbursed, the Company covenants and agrees with the Lenders that it will, and will cause each of its Subsidiaries to:

Section 5.01. *Existence; Businesses and Properties.* (a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except (i) in the case of each Subsidiary that is not a Borrower to the extent that the failure to take any such action could not reasonably be expected to have a Material Adverse Effect or (ii) as otherwise expressly permitted under Section 6.03.

(b) Do or cause to be done all things necessary to (i) obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises, authorizations, patents, copyrights, trademarks and trade names material to the conduct of its business; (ii) comply in all material respects with all applicable laws, rules, regulations and orders of any Governmental Authority, whether now in effect or hereafter enacted and (iii) at all times maintain and preserve all property material to the conduct of such business and keep such property in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be properly conducted at all times.

Section 5.02. *Insurance.* Keep its insurable properties insured at all times by financially sound and reputable insurers in such amounts (with no greater risk retention) and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations; maintain such other insurance, to such extent and against such risks, including fire and other risks insured against by extended coverage, as is customary with companies in the same or similar businesses, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it; and maintain such other insurance as may be required by law.

Section 5.03. *Obligations and Taxes.* Pay its obligations (other than Indebtedness) promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise which, if unpaid, might give rise to a Lien upon such properties or any part thereof; *provided* that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy or claim so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings and the Company or such Subsidiary shall, to the extent required by GAAP applied on a consistent basis, set aside on its books adequate reserves with respect thereto.

Section 5.04. *Financial Statements, Reports, Etc.* In the case of the Company, furnish to the Administrative Agent and each Lender:

(a) within 90 days after the end of each fiscal year, its Consolidated balance sheet and related Consolidated statements of earnings, cash flows and shareholders' equity, showing the

financial position of the Company and its Consolidated Subsidiaries as of the close of such fiscal year and their results of operations and cash flows for such year, all audited by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which shall not be qualified in any material respect except with the consent of the Required Lenders) to the effect that such Consolidated financial statements fairly present in all material respects the financial position, results of operations and cash flows of the Company on a Consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, its Consolidated balance sheet and related Consolidated statements of earnings and cash flows showing the financial position of the Company and its Consolidated Subsidiaries as of the close of such fiscal quarter and their results of operations for such fiscal quarter and the then elapsed portion of the fiscal year and their cash flows for the then elapsed portion of the fiscal year, all certified by one of its Financial Officers as fairly presenting the financial position, results of operations and cash flows of the Company on a Consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments;

(c) concurrently with any delivery of financial statements under paragraph (a) or (b) above, a certificate, substantially in the form of Exhibit G hereto, of the accounting firm or Financial Officer opining on or certifying such statements (which certificate, when furnished by an accounting firm, may be limited to accounting matters and disclaim responsibility for legal interpretations) (i) certifying that no Default has occurred or, if such Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto and (ii) setting forth computations in reasonable detail reasonably satisfactory to the Administrative Agent demonstrating compliance with the covenants contained in Sections 7.01 and 7.02;

(d) promptly after the occurrence of any event or condition which makes the information thereon inaccurate, incomplete or untrue, an update to Schedule 3.07;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by it with the Securities and Exchange Commission, or any governmental authority succeeding to any of or all the functions of such Commission, or with any national securities exchange, or distributed to its shareholders, as the case may be; and

(f) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of the Company or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may reasonably request.

Information required to be delivered pursuant to paragraphs 5.04(a), 5.04(b) or 5.04(e) above shall be deemed to have been delivered on the date on which the Company provides notice to the Lenders that such information has been posted on the Company's website on the Internet at www.cummins.com, at sec.gov/edaux/searches.htm or at another website identified in such notice and accessible by the Lenders without charge; *provided* that (i) such notice may be included in a certificate delivered pursuant to paragraph 5.04(c) and (ii) the Borrower shall

deliver paper copies of the information referred to in paragraphs 5.04(a), 5.04(b) or 5.04(e) to any Lender which requests such delivery.

Section 5.05. *Litigation and Other Notices.* Furnish to the Administrative Agent and each Lender prompt written notice of the following:

(a) any Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written threat or notice of intention of any Person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, against the Company or any Affiliate thereof as to which there is a reasonable possibility of an adverse determination and which, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events which have occurred, could reasonably be expected to result in a Material Adverse Effect;

(d) any development that has resulted in, or could reasonably be expected to result in, a Material Adverse Effect; and

(e) any change in the Company's senior unsecured debt rating from S&P or Moody's or in its corporate credit rating from S&P.

Section 5.06. *Maintaining Records; Access to Properties and Inspections.* Maintain all financial records in accordance with GAAP and permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect the financial records and the properties of the Company or any Subsidiary at reasonable times and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any representatives designated by any Administrative Agent or any Lender to discuss the affairs, finances and condition of the Company or any Subsidiary with the officers thereof and independent accountants therefor; *provided* that (i) the Company or such Subsidiary may require that a representative appointed by it be present at such inspections or discussions and (ii) the obligations of the Company and its Subsidiaries under this Section are subject to, and the Administrative Agent and any such Lender shall comply with, all applicable confidentiality restrictions.

Section 5.07. *Use of Proceeds and Letters of Credit.* Use the proceeds of the Loans and request the issuance of Letters of Credit only for the general corporate purposes of the Company and its Subsidiaries. No part of the proceeds of any Loan will be used, whether directly or indirectly, (a) for any purpose that entails a violation of any of the Regulations of the Board, including Regulation T, Regulation U and Regulation X, or (b) in any hostile acquisition of another Person.

Section 5.08. *Compliance with Laws.* Comply with all applicable laws, statutes, rules and regulations (including all applicable Environmental Laws) and obtain, maintain and comply with, in each case in all material respects, any and all licenses, approvals, notifications,

registrations or permits required by applicable laws, statutes, rules and regulations (including all applicable Environmental Laws) except to the extent that, in any such case, failure to do so could not be reasonably expected to have a Material Adverse Effect.

Section 5.09. *Additional Subsidiaries.* In the case of the Company, if any additional Material Subsidiary is formed or acquired, or any existing Subsidiary becomes a Material Subsidiary, in either case after the Effective Date, within ten Domestic Business Days after such Subsidiary becomes a Material Subsidiary, notify the

Administrative Agent thereof and cause such Subsidiary to become a Subsidiary Guarantor by executing and delivering a Joinder Agreement.

ARTICLE 6
NEGATIVE COVENANTS

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated and all LC Disbursements shall have been reimbursed, the Company covenants and agrees with the Lenders that it will not, and will not cause or permit any of its Subsidiaries to:

Section 6.01. *Negative Pledge.* Create, incur, assume or permit to exist any Lien on any property or assets (including stock or other securities of Subsidiaries) now owned or hereafter acquired by it or on any income or rights in respect of any thereof, except:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.03;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.03;

(c) pledges and deposits and other Liens made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) Liens (including deposits) to secure the performance of bids, tenders, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of like nature, in each case in the ordinary course of business;

(e) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere materially with the ordinary conduct of business of the Company or any Subsidiary;

(f) any Lien existing on any property or asset prior to the acquisition thereof by the Company or any Subsidiary;*provided* that (i) such Lien is not created in contemplation of or in

connection with such acquisition and (ii) such Lien does not apply to any other property or assets of the Company or any Subsidiary;

(g) Liens (including deposits) in connection with self-insurance;

(h) judgment or other similar Liens in connection with legal proceedings in an aggregate principal amount (net of amounts for which relevant insurance providers have delivered written acknowledgements of coverage) not to exceed $125,000,000, *provided* that the execution or other enforcement of such liens is effectively stayed and the claims secured thereby are being actively contested in good faith by appropriate proceedings;

(i) Liens arising in connection with advances or progress payments under government contracts;

(j) Liens on assets of Subsidiaries securing Indebtedness payable to the Company or any Wholly-Owned Consolidated Subsidiary;

(k) Liens on Transferred Receivables, Related Security and Collections securing the Permitted Receivables Financing Indebtedness;

(l) Liens on the equipment identified in Schedule 6.01 securing the Permitted Onan Lease Obligations; and

(m) Liens securing Indebtedness other than Indebtedness described in paragraphs (a) through (l) above, to the extent and only to the extent that the aggregate amount of Priority Indebtedness shall not exceed $425,000,000 at any time.

Section 6.02. *Sale and Lease-Back Transactions.* Enter into any arrangement, directly or indirectly, with any Person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property which it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "**Sale and Lease-Back Transaction**"), unless, after giving effect to such Sale and Lease-Back Transaction, the aggregate amount of Priority Indebtedness shall not exceed $425,000,000; *provided* except that the Company or any Subsidiary may enter into Sale and Lease-Back Transactions without restriction if the property subject to such Sale and Lease-Back Transaction was purchased by the Company or any Subsidiary within six months of the date of such Sale and Leaseback Transaction.

Section 6.03. *Mergers, Consolidations, and Sales of Assets.* In the case of the Company and any Significant Subsidiary, merge with or into or consolidate with any other Person, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or any substantial part of its assets (whether now owned or hereafter acquired), except (a) that the Company and any Significant Subsidiary may sell inventory or receivables in the ordinary course of business, (b) that if at the time thereof and immediately after giving effect thereto no Default has occurred and is continuing (i) any Significant Subsidiary which is not a Subsidiary Guarantor may merge with or into, or sell, transfer, lease or otherwise dispose of all or any substantial part of its assets to, the Company or a Wholly-Owned Consolidated Subsidiary; *provided* that such Wholly-Owned Consolidated Subsidiary shall thereafter be deemed a Significant Subsidiary

hereunder and (ii) any Subsidiary may merge with or into, or sell, transfer, lease or otherwise dispose of all or any substantial part of its assets to the Company or any Subsidiary Guarantor and (iii) any Credit Party or any other Significant Subsidiary may merge with or into or consolidate with any other Person if the surviving corporation in such merger or consolidation shall be such Credit Party or such Significant Subsidiary; *provided* that in each case under clause (b) above the Company shall have delivered to the Banks a certificate of a Financial Officer of the Company and an opinion of counsel for the Company, each stating that such consolidation, merger, sale, transfer, lease or other disposition complies with this Section 6.03 and that all conditions precedent herein provided for relating to such transaction have been complied with and (c) as otherwise permitted by Section 5.01(a); and *provided further* that it is understood that this Section 6.03 does not place any restriction on securitization transactions (including the Permitted Receivables Financing) which are not otherwise prohibited hereunder.

Section 6.04. *Priority Indebtedness.* In the case of the Subsidiaries, incur, create, assume or permit to exist any Indebtedness except:

(a) Indebtedness, if any, arising under the Permitted Receivables Financing in an aggregate principal amount (or an investment amount or purchase amount equivalent to a principal amount) not to exceed $200,000,000 (the "**Permitted Receivables Financing Indebtedness**");

(b) Capital Lease Obligations, if any, arising under any of the leases identified on Schedule 6.01 (as amended or modified from time to time), in an aggregate amount not greater than $150,000,000 (the "**Permitted Onan Lease Obligations**"); and

(c) other Indebtedness if, after giving effect thereto, Priority Indebtedness would not exceed $425,000,000.

Section 6.05. *Amendments of Certain Agreements.* In any respect material and adverse to the Lenders, amend, modify, supplement or waive any of the provisions of the Indentures or any instrument evidencing or relating to any subordinated Indebtedness unless such amendment, modification, supplement or waiver is approved in writing by the Required Lenders.

Section 6.06. *Swap Agreements.* Enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Company or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the Company or any of its Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Company or any Subsidiary.

Section 6.07. *Restrictive Agreements.* Directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Company or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Company or any other Subsidiary or to Guarantee Indebtedness of the Company or any

other Subsidiary; *provided* that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by the Loan Documents, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.07 (or any extension or renewal of, or any amendment or modification to, or any other restriction or condition contained in the agreements governing future Indebtedness of the Company that is substantially identical in substance to, such restriction or condition that does not expand the scope of such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or other asset pending such sale, provided such restrictions and conditions apply only to the Subsidiary or other asset that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to assets securing any Indebtedness, (v) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (vi) clause (b) of the foregoing shall not apply to customary restrictions contained in senior unsecured notes or bonds issued by the Company and (vii) the foregoing shall not apply to restrictions and conditions set forth in the Permitted Receivables Financing, but shall apply to any amendment or modification expanding the scope of any such restriction or condition.

Section 6.08. *Ownership of Significant Subsidiaries.* Cease to maintain at any time direct or indirect ownership of securities or other ownership interests representing not less than the greater of (a) a majority of the ordinary voting power of each Significant Subsidiary and (b) such voting power as provides effective control of the policy and direction of each Significant Subsidiary.

Section 6.09. *Fundamental Changes.* Engage to any material extent in any business except businesses of the types conducted by the Borrowers and their respective Subsidiaries on the date of this Agreement and businesses reasonably related thereto.

Section 6.10. *Unrestricted Subsidiaries.* In the case of the Company, (i) permit any Unrestricted Subsidiary (or any Subsidiary formed or acquired after the Effective Date) to be designated as a Restricted Subsidiary or (ii) permit any Unrestricted Subsidiary to merge or consolidate with or into, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or any substantial part of its assets (whether now owned or hereafter acquired) to any other Subsidiary except (x) dispositions of assets in the ordinary course of business or (y) a transaction otherwise permitted hereunder in which an Unrestricted Subsidiary is the resulting, surviving or transferee entity.

ARTICLE 7
FINANCIAL COVENANTS

Section 7.01. *Leverage.* The Company will not permit the ratio, on any date, of (a) the sum of Total Debt plus Securitization Financing, in each case on such date to (b) Consolidated EBITDA for the four fiscal quarters most recently ended on or prior to such date to be greater than (i) at any time prior to December 31, 2006, 3.25:1 and (ii) at any time on or after December 31, 2006, 3.0:1.

Section 7.02. *Coverage Ratio.* The Company will not permit the ratio of (a) Consolidated EBITDA minus Capital Expenditures to (b) Consolidated Interest Expense, in each case for any period of four consecutive fiscal quarters ending on any date on or after the Effective Date, to be less than 1.50:1.

ARTICLE 8
EVENTS OF DEFAULT

If any of the following events ("**Events of Default**") shall occur:

(a) any representation or warranty made, or deemed made, in or in connection with the Loan Documents or the Borrowings hereunder, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished in connection with or pursuant to the Loan Documents, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(b) default shall be made in the payment of any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or pursuant to any provision of the Loan Documents or otherwise;

(c) default shall be made in the payment of any interest on any Loan or any fee or any other amount (other than an amount referred to in (b) above) due under the Loan Documents, when and as the same shall become due and payable, and such default shall continue unremedied for a period of five Domestic Business Days;

(d) default shall be made in the due observance or performance by the Company or any Subsidiary of any covenant, condition or agreement contained in Section 5.05(a) or Section 5.05(b), Section 5.07, Article 6 or Article 7 and such default shall continue unremedied for a period of five Domestic Business Days after the earlier of (i) a Financial Officer of the Company becoming aware thereof and (ii) notice thereof from the Administrative Agent or any Lender to the Company;

(e) default shall be made in the due observance or performance by the Company or any Subsidiary of any covenant, condition or agreement contained in the Loan Documents (other than those specified in (b), (c) or (d) above) and such default shall continue unremedied for a period of ten Domestic Business Days after notice thereof from the Administrative Agent or any Lender to the Company;

(f) the Company or any Subsidiary shall (i) fail to pay any of its Indebtedness in excess of $10,000,000 in the aggregate when due and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness or (ii) fail to observe or perform any term, covenant or condition on its part to be observed or performed under any agreement or instrument relating to any such Indebtedness, when required to be observed or performed, and such failure shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such failure is to

accelerate, or permit the acceleration of, the maturity of such Indebtedness or such Indebtedness has been accelerated and such acceleration has not been rescinded; or any amount of Indebtedness in excess of $10,000,000 shall be required to be prepaid, defeased, purchased or otherwise acquired by the Company or any Subsidiary (other than by a regularly scheduled required prepayment and other than secured Indebtedness that becomes due as a result of the voluntary transfer of assets securing such Indebtedness), prior to the stated maturity thereof;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of the Company or any Subsidiary, or of a substantial part of the property or assets of the Company or any Subsidiary, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other Federal or state bankruptcy, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary, or for a substantial part of the property or assets of the Company or any Subsidiary, or (iii) the winding-up or liquidation of the Company or any Subsidiary; and such proceeding or petition shall continue undismissed for 60 days, or an order or decree approving or ordering any of the foregoing shall be entered;

(h) the Company or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other Federal or state bankruptcy, insolvency, receivership or similar law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in (g) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary, or for a substantial part of the property or assets of the Company or any Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability or fail generally to pay its debts as they become due or (vii) take any action for the purpose of effecting any of the foregoing;

(i) one or more judgments for the payment of money in an aggregate amount in excess of $10,000,000 shall be rendered against the Company, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed;

(j) a Change in Control shall occur;

(k) the provisions of Article 11 shall cease to constitute valid, binding and enforceable obligations of any Guarantor for any reason, or any Guarantor or any Eligible Subsidiary shall have so asserted in writing; or

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

then, and in every such event (other than an event with respect to any Borrower described in paragraph (g) or (h) above), and at any time thereafter during the continuance of such event, the

Administrative Agent shall, at the request of the Required Lenders, by notice to the Company, take either or both of the following actions at the same or different times: (i) terminate forthwith the Commitments and (ii) declare the Loans then outstanding to be forthwith due and payable, whereupon the principal of the Loans, together with accrued interest thereon and any unpaid accrued fees and all other liabilities of any Borrower accrued hereunder, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by each Borrower, anything contained herein to the contrary notwithstanding; and upon the occurrence of any event described in paragraph (g) or (h) above with respect to any Borrower, the Commitments shall automatically terminate and the principal of all Loans then outstanding, together with accrued interest thereon and any unpaid accrued fees and all other liabilities of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by each Borrower, anything contained herein to the contrary notwithstanding.

ARTICLE 9
THE AGENTS

Section 9.01. *Appointment and Authorization of Administrative Agent.* Each of the Lenders and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes it to take such actions on its behalf and to exercise such powers as are delegated to it by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Section 9.02. *Rights and Powers of Administrative Agent as a Lender.* The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

Section 9.03. *Limited Duties and Responsibilities of Administrative Agent.* The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 12.02) and (c) except as expressly set forth in any Loan Document, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the

circumstances as provided in Section 12.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Company or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered under any Loan Document or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04. *Authority of Administrative Agent to Rely on Certain Writings, Statements and Advice.* The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 9.05. *Sub-Agents and Related Parties.* The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Section 9.06. *Resignation; Successor Administrative Agent.* Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Company, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise

agreed between the Company and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 12.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Section 9.07. *Credit Decisions by Lenders.* Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon the Loan Documents, any related agreement or any document furnished hereunder or thereunder.

Section 9.08. *Administrative Agent's Fee.* The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

Section 9.09. *Other Agents.* Nothing in the Loan Documents shall impose on any Agent other than the Administrative Agent, in its capacity as Administrative Agent, any obligation or liability whatsoever.

ARTICLE 10
REPRESENTATIONS AND WARRANTIES OF ELIGIBLE SUBSIDIARIES

Each Eligible Subsidiary shall be deemed by the execution and delivery of its Election to Participate to have represented and warranted as of the date thereof that:

Section 10.01. *Organization; Powers.* Such Eligible Subsidiary (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the power and authority to execute, deliver and perform its obligations hereunder and under each other agreement or instrument contemplated thereby to which it is or will be a party and to borrow hereunder and (c) is a Wholly-Owned Consolidated Subsidiary.

Section 10.02. *Authorization.* The Transactions and the execution and delivery by such Eligible Subsidiary of its Election to Participate and the performance by such Eligible Subsidiary of this Agreement, (a) have been duly authorized by all requisite corporate, partnership, limited liability company or analogous and, if required, stockholder, partner, member or analogous action and (b) will not (i) materially violate any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of the Company or any Subsidiary, (ii) materially violate any order of any Governmental Authority or (iii) materially violate any provision of any material indenture, agreement or other instrument to which the Company or any Subsidiary is a party or by which any of them or any of their property is or may be bound, (iv) be in material conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a material default under any such indenture, agreement or

other instrument or (v) result in the creation or imposition of any Lien (other than the Transaction Liens) upon any property or assets of the Company or any Subsidiary.

Section 10.03. *Enforceability.* Its Election to Participate has been duly executed and delivered by such Eligible Subsidiary, and this Agreement constitutes a legal, valid and binding obligation of such Eligible Subsidiary enforceable against such Eligible Subsidiary in accordance with its terms.

Section 10.04. *Taxes.* Except as disclosed in such Election to Participate, there is no income, stamp or other tax of any country, or any taxing authority thereof or therein, imposed by or in the nature of withholding or otherwise, which is imposed on any payment to be made by such Eligible Subsidiary pursuant hereto, or is imposed on or by virtue of the execution, delivery or enforcement of its Election to Participate.

ARTICLE 11
GUARANTIES

Section 11.01. *The Guaranties.* Each Guarantor hereby unconditionally and absolutely guarantees the full and punctual payment (whether at stated maturity, upon acceleration or otherwise) of the principal of and interest on each Loan made to and each obligation to reimburse any LC Disbursement incurred by each Borrower pursuant to this Agreement, and the full and punctual payment of all other amounts payable by each Borrower under this Agreement. Upon failure by any Borrower to pay punctually any such amount, each Guarantor agrees that it shall forthwith on demand pay the amount not so paid at the place and in the manner specified in this Agreement.

Section 11.02. *Guaranties Unconditional.* The obligations of each Guarantor hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, compromise, waiver or release in respect of any obligation of any Borrower, any other Guarantor or any other Person under any Loan Document or by operation of law or otherwise;

(b) any modification or amendment of or supplement to any Loan Document;

(c) any release, impairment, non-perfection or invalidity of any direct or indirect security for any obligation of any Borrower, any other Guarantor or any other Person under any Loan Document;

(d) any change in the corporate existence, structure or ownership of any Borrower, any other Guarantor or any other Person or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Borrower, any other Guarantor or any other Person or its assets or any resulting release or discharge of any obligation of any Borrower, any other Guarantor or any other Person contained in any Loan Document;

(e) the existence of any claim, set-off or other rights which such Guarantor may have at any time against any Borrower, any other Guarantor, the Administrative Agent, any Lender or any other Person, whether in connection herewith or any unrelated transactions; *provided* that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(f) any invalidity or unenforceability relating to or against any Borrower, any other Guarantor or any other Person for any reason of any Loan Document, or any provision of applicable law or regulation purporting to prohibit the payment by any Borrower of the principal of or interest or any other amount payable by it under any Loan Document; or

(g) any other act or omission to act or delay of any kind by any Borrower, any other Guarantor, the Administrative Agent, any Lender or any other Person or any other circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of such Guarantor's obligations hereunder (in each case other than payment in full of the obligations guaranteed hereunder).

Section 11.03. *Discharge Only Upon Payment in Full; Reinstatement in Certain Circumstances.* (i) Each of the Guarantor's obligations hereunder shall remain in full force and effect until the Commitments shall have terminated and the principal of and interest on the Loans and all other amounts payable hereunder by the Guarantor and each Borrower under this Agreement shall have been paid in full in cash and all LC Disbursements shall have been reimbursed. If at any time any payment of the principal of or interest on any Loan or any other amount payable by any Borrower under this Agreement is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, the Guarantors' obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had been due but not made at such time.

(ii) If all the capital stock of a Subsidiary Guarantor or all the assets of a Subsidiary Guarantor are sold to a Person other than the Company or one of its Subsidiaries in a transaction not prohibited hereunder (any such sale, a "**Sale of Guarantor**"), such Subsidiary Guarantor will automatically without any further action by any Person be released from its guarantee hereunder.

Section 11.04. *Waiver by Guarantor.* Each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Borrower, any other Guarantor or any other Person.

Section 11.05. *Subrogation.* Upon making any payment with respect to any Borrower hereunder, a Guarantor shall be subrogated to the rights of the payee against such Borrower with respect to such payment; *provided* that no Guarantor shall enforce any payment by way of subrogation unless all amounts of principal of and interest on the Loans to such Borrower and all other amounts payable by such Borrower under this Agreement have been paid in full in cash.

Section 11.06. *Stay of Acceleration.* If acceleration of the time for payment of any amount payable by any Borrower under this Agreement is stayed upon insolvency, bankruptcy or

reorganization of such Borrower, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request of the Required Lenders.

Section 11.07. *Continuing Guaranty.* Each Guarantor's Guaranty hereunder is a continuing guarantee, shall be binding on each Guarantor and its successors and assigns, and shall be enforceable by the Lenders. If all or part of any Lender's interest in any obligation guaranteed by any Guarantor is assigned or otherwise transferred, the transferor's rights under the Guarantor's guarantee, to the extent applicable to the obligation so transferred, shall automatically be transferred with such obligation.

Section 11.08. *Limitation on Obligations of Subsidiary Guarantor.* (a) The obligations of each Subsidiary Guarantor under its Guaranty at any time shall be limited to an aggregate amount equal to the largest amount that (i) would not render such Guaranty subject to avoidance under Section 548 of the United States Bankruptcy Code or any comparable provisions of applicable law and (ii) is permissible under Section 11.08(b) hereof.

(b) It is the intention of the parties that the Guaranties given by Restricted Subsidiaries shall not contravene the limitations on Funded Debt (as defined in the Indentures) of Restricted Subsidiaries set forth in the Indentures, and the amount of such Subsidiary Guarantors' obligations under their Guaranties shall be limited to an aggregate amount equal to the maximum amount that may be guaranteed by them without contravention of such restrictions contained in the Indentures (the "**Maximum Guaranteed Amount**"), in each case to the extent that such restriction is in effect under the Indentures or any newly executed indenture containing a restriction on "Funded Debt" on the same terms as the restriction set forth in the Indentures. The Maximum Guaranteed Amount shall, to the extent permitted by the Indenture, be determined as of the date which results in the greatest amount.

(c) The Company represents and warrants that, as of the Effective Date, the Maximum Guaranteed Amount shall be an amount not less than $125,000,000. Without limiting the effect of Section 11.08(b) above, unless and until the contrary is established to their satisfaction, the Lenders and the Administrative Agent may assume for purposes of the Loan Documents that the Maximum Guaranteed Amount is $125,000,000, and shall incur no liability for any action or inaction taken in reliance on such assumption. Without limiting the effect of this Section 11.08(c), the Lenders and the Administrative Agent may in any case rely upon the advice of counsel as to the Maximum Guaranteed Amount, and shall incur no liability for any action or inaction taken in reliance on such advice.

(d) In the event of any inconsistency between the provisions of any Loan Document and this Section 11.08, the provisions of this Section 11.08 shall prevail.

ARTICLE 12
MISCELLANEOUS

Section 12.01. *Notices.* (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, as follows:

(i) if to the Company, to it at Cummins Inc., 500 Jackson Street, Box 3005, Columbus, Indiana 47202-3005, Attention of Vice President-Treasurer (Facsimile No. (812) 377-3347);

(ii) if to any other Borrower or Eligible Subsidiary, to it care of the Company;

(iii) if to the Administrative Agent:

(A) if such notice is required by the terms hereof to be given to the Administrative Agent at its London office, to J.P. Morgan Europe Limited, 125 London Wall, London EC24 5AJ, Attention of Steve Clark/Nichola Hall, (Facsimile No. 44 207 777 2360), with a copy to JPMorgan Chase Bank, N.A., 270 Park Avenue, New York, New York 10017, Attention of Frank Giacalone (Facsimile No. 212-552-5650);

(B) otherwise to JPMorgan Chase Bank, N.A., 1 Chase Manhattan Plaza, New York, New York 10081, Attention of Frank Giacalone (Facsimile No. 212-552-5650);

(iv) if to the Issuing Bank, to it at JPMorgan Chase Bank, N.A., 10420 Highland Manor Drive, Tampa, Florida 33610, Attention of Standby LC Dept. James Alonzo/Ralph Davis (Facsimile No. 813-432-5161);

(v) if to the Swingline Lender, to it at JPMorgan Chase Bank, N.A., 1 Chase Manhattan Plaza, New York, New York 10081, Attention of Frank Giacalone (Facsimile No. 212-552-5650); and

(vi) if to any other Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices pursuant to Article 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 12.02. *Waivers; Amendments.* (a) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders under the Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Borrower or any Subsidiary Guarantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) No Loan Document nor any provision thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Company and the Required Lenders; *provided* that no such agreement shall

(i) (A) increase the Commitment of any Lender without the written consent of such Lender, (B) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (D) change Section 2.18(b) or Section 2.18(c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (E) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender, or (F) release any Guarantor from its guarantee under Article 11 hereof (except as expressly permitted by Article 11), or limit its liability in respect of such guarantee, without the written consent of each Lender;

(ii) amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Issuing Bank or the Swingline Lender under any Loan Document without the prior written consent of the Administrative Agent, the Issuing Bank or the Swingline Lender, as the case may be; or

(iii) (A) subject any Eligible Subsidiary or Original Subsidiary Borrower to any additional obligation without the written consent of such Borrower, (B) increase the principal of or rate of interest on any outstanding Loan of any Eligible Subsidiary or Original Subsidiary Borrower without the written consent of such Borrower, (C) accelerate the stated maturity of any outstanding Loan of any Eligible Subsidiary or Original Subsidiary Borrower without the written consent of such Borrower or (D) change this *proviso* (iii) without the prior written consent of each Eligible Subsidiary and each Original Subsidiary Borrower.

Section 12.03. *Expenses; Indemnity; Damage Waiver.* (a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, and its Affiliates, including the reasonable fees, charges and disbursements of one counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative

Agent, the Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Administrative Agent, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) To the extent that the Company fails to pay any amount required to be paid by it to the Administrative Agent, the Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Issuing Bank or the Swingline Lender, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; *provided* that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, each Credit Party shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, the Loan Documents or any agreement or instrument contemplated thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

Section 12.04. *Successors and Assigns.* (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) no Credit Party may assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Credit Party without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; *provided* that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default under paragraph (b), (c), (g) or (h) of Article 8 has occurred and is continuing, any other assignee; and

(B) the Administrative Agent, the Issuing Bank and the Swingline Lender; *provided* that no consent of the Administrative Agent, the Issuing Bank

or the Swingline Lender, shall be required for an assignment to an assignee that is a Lender immediately prior to giving effect to such assignment.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment, the amount of the Commitment of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 unless each of the Company and the Administrative Agent otherwise consent; *provided* that no such consent of the Company shall be required if an Event of Default under paragraph (b), (c), (g) or (h) of Article 8 has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(E) in the case of an assignment to a CLO (as defined below), the assigning Lender shall retain the sole right to approve any amendment, modification or waiver of any provision of this Agreement, *provided* that the Assignment and Assumption between such Lender and such CLO may provide that such Lender will not, without the consent of such CLO, agree to any amendment, modification or waiver described in paragraph (i) of the first proviso to Section 12.02(b) that affects such CLO.

For the purposes of this Section 12.04(b), the terms "**Approved Fund**" and "**CLO**" have the following meanings:

"**Approved Fund**" means (a) a CLO and (b) with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"**CLO**" means any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Lender or an Affiliate of such Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16, 2.17 and 12.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 12.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and each Borrower, the Administrative Agent, the Issuing Bank and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of any Borrower, the Administrative Agent, the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); *provided* that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) each Borrower, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right

to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement;*provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in paragraph (i) of the first proviso to Section 12.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and Section 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.08 as though it were a Lender, *provided* such Participant agrees to be subject to Section 2.18(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.14, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.16(e) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 12.05. *Survival.* All covenants, agreements, representations and warranties made by the Company and any Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.14, 2.15, 2.16, 2.17 and 12.03 and Article 9 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

Section 12.06. *Counterparts; Integration; Effectiveness.* This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with

respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 12.07. *Severability.* Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 12.08. *Right of Set-off.* If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set-off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower or any Subsidiary Guarantor against any of and all the obligations of such Borrower or such Subsidiary Guarantor now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

Section 12.09. *Governing Law; Jurisdiction; Consent to Service of Process.* (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Credit Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment arising out of or relating to any Loan Document, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in any Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to any Loan Document against any Borrower or Subsidiary Guarantor or its properties in the courts of any jurisdiction.

(c) Each Credit Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to any Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 12.01. Nothing in any Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 12.10. *WAIVER OF JURY TRIAL.* EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 12.11. *Judgment Currency.* If, under any applicable law and whether pursuant to a judgment being made or registered against any Borrower or for any other reason, any payment under or in connection with any Loan Document is made or satisfied in a currency (the "**Other Currency**") other than that in which the relevant payment is due (the "**Required Currency**") then, to the extent that the payment (when converted into the Required Currency at the rate of exchange on the date of payment or, if it is not practicable for the party entitled thereto (the "Payee") to purchase the Required Currency with the Other Currency on the date of payment, at the rate of exchange as soon thereafter as it is practicable for it to do so) actually received by the Payee falls short of the amount due under the terms of any Loan Document, such Borrower shall, to the extent permitted by law, as a separate and independent obligation, indemnify and hold harmless the Payee against the amount of such short-fall. For the purpose of this Section, "rate of exchange" means the rate at which the Payee is able on the relevant date to purchase the Required Currency with the Other Currency and shall take into account any premium and other costs of exchange.

Section 12.12. *Headings.* Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 12.13. *Confidentiality.* Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the

Persons to whom such disclosure is made will be informed of the confidential nature of such Information and will agree to keep such Information confidential), (b) to the extent requested by any regulatory authority having jurisdiction over it, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to any Loan Agreement or the enforcement of rights hereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations under this Agreement, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section, "**Information**" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrower; *provided* that, in the case of information received from the Borrower after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 12.14. *USA Patriot Act Notification.* Each Lender hereby notifies the Borrowers that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Act**"), it is required to obtain, verify and record information that identifies the Borrowers, which information includes the name and address of the Borrowers and other information that will allow such Lender to identify the Borrowers in accordance with the Act. The Borrowers agree to cooperate with each Lender and provide true, accurate and complete information to such Lender in response to any such request.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BORROWERS:

CUMMINS INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Vice President - Treasurer

CUMMINS ENGINE CO. LTD.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

CUMMINS POWER GENERATION LTD.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

NEWAGE INTERNATIONAL LIMITED

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

SUBSIDIARY GUARANTORS:

FLEETGUARD, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

ONAN CORPORATION

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

UNIVERSAL SILENCER, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

CUMMINS ENGINE IP, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

CUMMINS FILTRATION IP, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

CUMMINS POWERGEN IP, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

CUMMINS INTELLECTUAL PROPERTY, INC.

By: /S/ Richard E. Harris
Name: Richard E. Harris
Title: Treasurer

JPMORGAN CHASE BANK, N.A.

as Administrative Agent, Swingline Lender, Issuing Bank and Lender

By: /S/ Karen M. Sharf
Name: Karen M. Sharf
Title: Vice President

CITICORP USA, INC.

as Syndication Agent and Lender

By: /S/ Judith Green
Name: Judith Green
Title: Vice President

BANK OF AMERICA, N.A.

as Co-Documentation Agent and Lender

By: /S/ Chris McDonnell
Name: Chris McDonnell
Title: Senior Vice President

THE BANK OF NOVA SCOTIA

as Co-Documentation Agent and Lender

By: /S/ V.H. Gibson
Name: V. Gibson
Title: Assistant Agent

The ROYAL BANK OF SCOTLAND plc.

as Co-Documentation Agent and Lender

By: /S/ Frank Guerra
Name: Frank Guerra
Title: Senior Vice President

LENDERS:

THE BANK OF TOKYO-MITSUBISHI LTD., CHICAGO BRANCH as Lender

By: /S/ Shinichiro Munechika
Name: Shinichiro Munechika
Title: Deputy General Manager

ING CAPITAL LLC

as Lender

By: /S/ John Kippax
Name: John Kippax
Title: Managing Director

SUNTRUST BANKS, INC.

as Lender

By: /S/ William C. Humphries
Name: William C. Humphries
Title: Managing Director

SUMITOMO MITSUI BANKING CORPORATION

as Lender

By: /S/ Yasuhiko Imai
Name: Yasuhiko Imai
Title: Senior Vice President

ABN AMRO BANK N.V.

as Lender

By: /S/ Pradeep Bhatia
Name: Pradeep Bhatia
Title: Vice President

BARCLAYS PLC

as Lender

By: /S/ Vincent Muldoon
Name: Vincent Muldoon
Title: Director- MCT

EXPORT DEVELOPMENT CANADA

as Lender

By: /S/ Karen Morandin
Name: Karen Morandin
Title: Financial Services Manager

By: /S/ Marc Blondin
Name: Marc Blondin
Title: Financial Services Manager

FIFTH THIRD BANCORP

as Lender

By: /S/ David O'Neal
Name: David O'Neal
Title: Vice President

MIZUHO CORPORATE BANK, LTD.

as Lender

By: /S/ Robert P. Gallagher
Name: Robert P. Gallagher
Title: Senior V.P. and Team Leader

NATIONAL AUSTRALIA BANK LIMITED

as Lender

By: /S/ Scott Tuhy
Name: Scott Tuhy
Title: Director

STANDARD CHARTERED BANK

as Lender

By: /S/ David B. Edwards
Name: David B. Edwards
Title: Senior Vice President

By: /S/ Robert Reddington
Name: Robert Reddingtion
Title: Assistant Vice President

THE BANK OF NEW YORK

as Lender

By: /S/ John M. Lokay, Jr.
Name: John M. Lokay, Jr.
Title: Vice President

THE NORTHERN TRUST COMPANY

as Lender

By: /S/ Ashish S. Bhagwat
Name: Ashish S. Bhagwat
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION

as Lender

By: /S/ Heather Hinkelman
Name: Heather Hinkelman
Title: Banking Officer

NATIONAL CITY BANK OF INDIANA

as Lender

By: /S/ Tracy J. Venable
Name: Tracy J. Venable
Title: Vice President

Schedule 1.01A

PRICING SCHEDULE

The Applicable Rate means, for any day with respect to any ABR Loan or any Euro-Currency Loan or with respect to the commitment fees payable hereunder, the rate set forth below in the row opposite the term "**ABR Spread**," "**Euro-Currency Spread**" and "**Commitment Fee Rate,**" respectively, and in the column corresponding to the "**Pricing Level**" that applies on such day:

	Level I	Level II	Level III	Level IV	Level V	Level VI
Commitment Fee Rate	0.20%	0.25%	0.30%	0.35%	0.40%	0.50%
Euro-Currency Spread	1.00%	1.25%	1.50%	1.625%	1.75%	2.00%
ABR Spread	0.00%	0.25%	0.50%	0.625%	0.75%	1.00%

For purposes of this Schedule, the following terms have the following meanings, subject to the concluding paragraph of this Schedule:

"**Level I Pricing**" applies at any date if, at such date, the Company's senior unsecured long-term debt is rated BBB or higher by S&P or Baa2 or higher by Moody's, except as provided below under "Split Rating Pricing".

"**Level II Pricing**" applies at any date if, at such date, the Company's senior unsecured long-term debt is rated BBB- by S&P or Baa3 by Moody's, except as provided below under "Split Rating Pricing".

"**Level III Pricing**" applies at any date if, at such date, the Company's senior unsecured long-term debt is (x) rated BB+ by S&P and Ba1 by Moody's.

"**Level IV Pricing**" applies at any date if, at such date, the Company's senior unsecured long-term debt is rated (x) BB+ by S&P and Ba2 by Moody's or (y) BB by S&P and Ba1 by Moody's.

"**Level V Pricing**" applies at any date if, at such date, the Company's senior unsecured long-term debt is rated BB by S&P or Ba2 by Moody's, except as provided below under "Split Rating Pricing".

"**Level VI Pricing**" applies at any date if, at such date, no other Pricing Level applies.

"**Pricing Level**" refers to the determination of which of Level I, Level II, Level III, Level IV, Level V or Level VI Pricing applies at any date.

"**Split Rating Pricing**" applies if the Company has a split rating, in which case (x) if the ratings differential is one level, the higher of the two ratings shall apply and, (y) if the ratings differential is two levels or more, the rating which is one level below the higher of the two ratings shall apply; *provided* that the foregoing shall not apply for purposes of determining whether the Pricing Level is Level III or Level IV.

The credit ratings to be utilized for purposes of this Schedule are those assigned by S&P or Moody's to the senior unsecured long-term debt securities of the Company without third-party credit enhancement, and any rating assigned to any other debt security of the Company shall be disregarded. The rating in effect at any date is that in effect at the close of business on such date. Notwithstanding the definition of Level VI Pricing above, if the rating system of Moody's or S&P shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Company and the Administrative Agent shall negotiate in good faith to amend this Pricing Schedule to reflect such changed rating system or the nonavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Pricing Level shall be determined by reference to the rating most recently in effect prior to such change or cessation.

Schedule 1.01B

APPLICABLE LENDING
OFFICE SCHEDULE

MANDATORY COST

1. The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Administrative Agent shall calculate, as a percentage rate, a rate (the "**Associated Costs Rate**") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Administrative Agent as a weighted average of the Lenders' Associated Costs Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.

3. The Associated Costs Rate for any Lender lending from an Applicable Lending Office in a Participating Member State will be the percentage notified by that Lender to the Administrative Agent. This percentage will be certified by that Lender in its notice to the Administrative Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Applicable Lending Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Applicable Lending Office.

4. The Associated Costs Rate for any Lender lending from an Applicable Lending Office in the United Kingdom will be calculated by the Administrative Agent as follows:

(a) in relation to a Loan in Pounds Sterling:

$$\frac{AB + C(B-D) + E \times 0.01}{100 - (A + C)} \text{ per cent. per annum}$$

(b) in relation to a Loan in any currency other than Pounds Sterling:

$$\frac{E \times 0.01}{300} \text{ per cent. per annum.}$$

Where:

A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as

an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

B is the percentage rate of interest (excluding the Applicable Rate and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in Section 2.12(d) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Administrative Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Administrative Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Administrative Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

(a) "**Eligible Liabilities**" and "**Special Deposits**" have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

(b) "**Fees Rules**" means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

(c) "**Fee Tariffs**" means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate);

(d) "**Reference Banks**" means, in relation to Mandatory Cost, the principal London offices of JPMorgan Chase Bank, N.A. and Citibank, N.A. and, in relation to EURIBOR, the principal offices of JPMorgan Chase Bank and Citibank, N.A. in the relevant jurisdiction or such other banks as may be appointed by the Administrative Agent in consultation with the Borrowers.

(e) "**Tariff Base**" has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

(f) "**Unpaid Sum**" means any sum due and payable but unpaid by a Borrower under the Loan Documents.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Administrative Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Administrative Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8. Each Lender shall supply any information required by the Administrative Agent for the purpose of calculating its Associated Costs Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

(a) the jurisdiction of its Applicable Lending Office; and

(b) any other information that the Administrative Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Administrative Agent of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Administrative Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Administrative Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with an Applicable Lending Office in the same jurisdiction as its Applicable Lending Office.

10. The Administrative Agent shall have no liability to any person if such determination results in an Associated Costs Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Administrative Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Associated Costs Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Administrative Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Associated Costs Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

13. The Administrative Agent may from time to time, after consultation with the relevant Borrowers and Lenders, determine and notify to all parties hereto any amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements form time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

Schedule 2.01

COMMITMENTS

	Commitment	Percentage of Total Commitment
JPMorgan Chase Bank, N.A.	$ 55,000,000.00	8.46 %
Citicorp USA, Inc.	$ 55,000,000.00	8.46 %
Bank of America, N.A.	$ 45,000,000.00	6.92 %
The Bank of Nova Scotia	$ 45,000,000.00	6.92 %
The Royal Bank of Scotland plc.	$ 45,000,000.00	6.92 %
The Bank of Tokyo-Mitsubishi Ltd., Chicago Branch	$ 45,000,000.00	6.92 %
ING Capital LLC	$ 35,000,000.00	5.38 %
SunTrust Banks, Inc.	$ 35,000,000.00	5.38 %
Sumitomo Mitsui Banking Corporation	$ 30,000,000.00	4.62 %
ABN AMRO Bank N.V.	$ 25,000,000.00	3.85 %
Barclays PLC	$ 25,000,000.00	3.85 %
Export Development Canada	$ 25,000,000.00	3.85 %
Fifth Third Bancorp	$ 25,000,000.00	3.85 %
Mizuho Corporate Bank, Ltd.	$ 25,000,000.00	3.85 %
National Australia Bank Limited	$ 25,000,000.00	3.85 %
Standard Chartered Bank	$ 25,000,000.00	3.85 %
The Bank of New York	$ 25,000,000.00	3.85 %
The Northern Trust Company	$ 25,000,000.00	3.85 %
U.S. Bank National Association	$ 25,000,000.00	3.85 %
National City Bank of Indiana	$ 10,000,000.00	1.54 %
Total	$ 650,000,000.00	100 %

EXHIBIT A

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "**Assignment and Assumption**") is dated as of the Effective Date set forth below and is entered into by and between [ ] (the "**Assignor**") and [ ] (the "**Assignee**"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "**Credit Agreement**"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "**Assigned Interest**"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and

Assumption, without representation or warranty by the Assignor.

1.	Assignor:	
2.	Assignee:	
		[and is an Affiliate/Approved Fund of [*identify Lender*](1)]
3.	Borrower(s):	Cummins Inc., Cummins Engine Co. Ltd., Cummins Power Generation Ltd. and Newage International Limited

(1) Select as applicable.

4.	Administrative Agent:	JPMorgan Chase Bank, N.A., as the Administrative Agent under the Credit Agreement
5.	Credit Agreement:	The Credit Agreement dated as of December 1, 2004 among Cummins, Inc., Cummins Engine Co. Ltd., Cummins Power Generation Ltd. and Newage International Limited, the Eligible Subsidiaries and Subsidiary Guarantors referred to therein, the Lenders parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, Issuing Bank and Swingline Lender, and the other agents parties thereto
6.	Assigned Interest:	

Aggregate Amount of Commitment/Loans for all Lenders	**Amount of Commitment/Loans Assigned**	**Percentage Assigned of Commitment/Loans(2)**
$	$	%
$	$	%
$	$	%

Effective Date: , 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

<u>ASSIGNOR</u>

[NAME OF ASSIGNOR]

By: ______________________________
Title:

<u>ASSIGNEE</u>

[NAME OF ASSIGNOR]

By: ______________________________
Title:

(2) Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

Consented to and Accepted:

JPMORGAN CHASE BANK, N.A., as
Administrative Agent

By: ______________________________
Title:

[Consented to:]

[NAME OF RELEVANT PARTY]

By: ______________________________
Title:

ANNEX 1

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents thereunder, (iii) the financial condition of the Borrowers, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrowers, any of their Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.04 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B-1

FORM OF OPINION OF COMPANY'S EXTERNAL COUNSEL

[TO BE PROVIDED BY CRAVATH]

EXHIBIT B-2

FORM OF OPINION OF INTERNAL COUNSEL FOR THE COMPANY

December 1, 2004
JPMorgan Chase Bank, N.A.,
as Administrative Agent,
and the Lenders, care of the
Administrative Agent
270 Park Avenue
New York, NY 10017

Ladies and Gentlemen:

Reference is made to the Credit Agreement dated as of December 1, 2004 (the "Credit Agreement"), among the Company, and Cummins Engine Co. Ltd., Cummins Power Generation Ltd. and Newage International Limited (collectively, the "Original Subsidiary Borrowers"), the Original Subsidiary Guarantors, the Lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, Issuing Bank and Swingline Lender, Citicorp USA, Inc., as Syndication Agent, and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents. This opinion is being delivered to you pursuant to Section 4.01(b) of the Credit Agreement. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

As chief legal officer of the Company and each Subsidiary listed on Schedule 1 hereto ("Subsidiary Guarantor") and each Subsidiary listed on Schedule 2 hereto ("Delaware Subsidiary Guarantor"), I advise you that, in my opinion:

1. The Company and each Subsidiary Guarantor is a corporation duly organized, validly existing and in good standing under the laws of Indiana; the Company and each Subsidiary Guarantor is duly qualified as a foreign corporation and in good standing in every other jurisdiction in which the failure to qualify would adversely affect the business, assets, operations, prospects or conditions (financial or otherwise) of the Company or such Subsidiary Guarantor or would impair the validity or enforceability of or the ability of the Company and each Subsidiary Guarantor to perform its obligations under the Loan Documents and the Notes or the rights and benefits of the Lenders under the Loan Documents or the Notes.

2. Each of the Company and each Subsidiary Guarantor has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, and to execute, deliver and perform the Loan Documents and all transactions contemplated thereby, to execute and deliver

the Notes and, in the case of the Company, make the contemplated borrowings thereunder.

3. The Transactions (a) have been duly authorized by all necessary corporate action (including any necessary stockholder action) on the part of the Company, each Subsidiary Guarantor and each Delaware Subsidiary Guarantor and (b) will not (i) materially violate any provision of any law, rule or regulation applicable to the Company, any Subsidiary Guarantor or any Delaware Subsidiary Guarantor, (ii) to the best of my knowledge, materially violate any order, writ, judgment, decree, determination or award having applicability to the Company, any Subsidiary Guarantor or any Delaware Subsidiary Guarantor, (iii) materially violate any provision of the Certificate or Articles of Incorporation or By-Laws of the Company, of any Subsidiary Guarantor or of any Delaware Subsidiary Guarantor, (iv) to the best of my knowledge, constitute a material default under any material indenture or loan or credit agreement, or any other material agreement or instrument, to which the Company, any Subsidiary Guarantor or any Delaware Subsidiary Guarantor is a party or by which any of them or their properties may be bound or affected or (v) result in, or require, the creation or imposition of any Lien (other than a Transaction Lien) of any nature upon it with respect to any of the properties now owned or hereafter acquired by the Company, Subsidiary Guarantor or any Delaware Subsidiary Guarantor. To the best of my knowledge, the Company, each Subsidiary Guarantor and each Delaware Subsidiary Guarantor is not in default under or in violation of its Certificate or Articles of Incorporation or other organizing document or its By-Laws or any such law, rule, or regulation, order, writ, judgment, decree, determination, award, indenture or agreement pertaining to borrowed money or similar instrument.

4. No authorization, consent, approval, license or exemption from, nor any filing, declaration or registration with, any court, governmental agency or regulatory authority (Federal, state or local), including, without limitation, the Securities and Exchange Commission (other than routine disclosure) or any public utility regulatory agency, or with any securities exchange, is or will be required in connection with the making and performance by the Company and each Subsidiary Guarantor of the Loan Documents or the contemplated borrowings thereunder except filings required to be made under the Security Agreement to perfect the Transaction Liens.

5. There are no actions, suits or proceedings pending or, to the best of my knowledge, threatened, against or affecting the Company or any Subsidiary or any of their respective assets in any court or before any arbitrator, commission, board, bureau or other administrative agency which if, in any such case, adversely determined, would be likely to have a material adverse effect on the businesses, assets, operations, prospects or condition (financial or otherwise) of the Company or of any Subsidiary Guarantor or would impair the validity or enforceability of or the ability of the Company or any Subsidiary Guarantor to perform its obligations under the Loan Documents or any of the Notes.

6. The Company is not (a) an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended, (b) "holding company" or a "subsidiary company" of a holding company as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935 or (c) subject to any other applicable regulatory scheme which restricts its ability to incur the indebtedness to be incurred under the Loan Documents and the Notes.

7. The making of the Loans under the Credit Agreement and the use of the proceeds thereof as contemplated by the Credit Agreement will not violate or be inconsistent with any of the provisions of Regulation U or Regulation X of the Board.

No opinion is expressed herein as to (i) Section 12.09(b) of the Credit Agreement and insofar as such Section relates to the subject matter jurisdiction of the United States District Court for the Southern District of New York to adjudicate any controversy related to the Credit Agreement, (ii) the waiver of inconvenient forum set forth in Section 12.09(c) of the Credit Agreement with respect to proceedings in the United States District Court for the Southern District of New York or (iii) Section 2.18(c) of the Credit Agreement.

The opinions expressed herein are limited to the laws of the State of Indiana and federal law.

Very truly yours,

EXHIBIT B-3

FORM OF OPINION OF COUNSEL FOR ORIGINAL SUBSIDIARY BORROWERS

TO:
The Lenders and Agents Referred to Below
c/o J. P. Morgan Chase Bank
270 Park Avenue
New York,
New York 10017, USA

Dear Sirs:

LEGAL OPINION
Credit Agreement dated December 1, 2004

I am Counsel to Cummins Engine Company Limited, Cummins Power Generation Limited and Newage International Limited, each a UK limited liability company (the "Original Subsidiary Borrowers") and give this opinion pursuant to Section 4.01 of the Credit Agreement (the "Credit Agreement") dated December 1, 2004 among Cummins Inc., the other Original Subsidiary Borrowers, the Original Subsidiary Guarantors and Lenders party thereto, J.P.Morgan Chase Bank, as Administrative Agent, Citicorp USA, Inc., as Syndication Agent and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents. Terms defined in the Credit Agreement are used herein as therein defined.

I have examined originals or copies, certified or otherwise identified to my satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as I have deemed necessary or advisable for purposes of this opinion.

Upon the basis of the foregoing, I am of the opinion:

1. THAT the Original Subsidiary Borrowers
   (a) are companies duly organized, validly existing and in good standing under the laws of the jurisdiction of the England and Wales; and
   (b) each is a Wholly-Owned Consolidated Subsidiary;

2. THAT each Original Subsidiary Borrower has the corporate power to execute and perform the Credit Agreement by authority of its Memorandum & Articles of Association;

3. THAT by virtue of board resolutions passed by the directors of the Original Subsidiary Borrowers:

(a) execution by, and delivery of and performance of, its obligations under the Credit Agreement has been duly approved;
(b) the Credit Agreement shall be construed in accordance with and governed by the law of the State of New York, USA; and
(c) Cummins, Inc. has been validly appointed by each of the Original Subsidiary Borrowers for the service and/or enforcement of judgment in respect of the Credit Agreement;

4. THAT execution and delivery of and performance of its obligations under, the Credit Agreement would not conflict with any statutory, regulatory or corporate obligations (including under its Memorandum and Articles of Association) nor constitute a breach of contract currently binding upon the Original Subsidiary Borrowers;

5. THAT no requirement exists for the Credit Agreement to be registered with, nor sanction or consent obtained from, any regulatory body;

6. AND THAT there is no tax, levy, impost, deduction, charge or withholding imposed by the United Kingdom or any governmental authority therein either (i) on or by virtue of the execution, delivery, performance, enforcement or admissibility into evidence of the Loan Documents; or (ii) on any payment to be made by the Original Subsidiary Borrowers pursuant to any Loan Document, except that a withholding tax is imposed by the United Kingdom on payments of interest on any Loan made to a Lender that is a non-resident of the United Kingdom for tax purposes.

Yours faithfully,

EXHIBIT C

FORM OF OPINION OF COUNSEL FOR ADMINISTRATIVE AGENT

To the Lenders and the Administrative Agent
Referred to Below
c/o JPMorgan Chase Bank, N.A., as Administrative Agent
270 Park Avenue
New York, New York 10017

Ladies and Gentlemen:

We have participated in the preparation of the Credit Agreement (the "**Credit Agreement**") dated as of December 1, 2004 among Cummins, Inc., an Indiana corporation (the "**Company**"), the other Borrowers, the Original Subsidiary Guarantors and Lenders parties thereto (the "**Lenders**"), JPMorgan Chase Bank, N.A., as Administrative Agent (the "**Administrative Agent**"), Citicorp USA, Inc., as Syndication Agent and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents, and have acted as special counsel for the Administrative Agent for the purpose of rendering this opinion pursuant to Section 4.01(c) of the Credit Agreement. Terms defined in the Credit Agreement are used herein as therein defined.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion. In our examination, we have assumed the (a) genuineness of all signatures, (b) the legal capacity of all natural persons executing documents, (c) the due existence of each Credit Party, (d) that each Credit Party has all necessary corporate power and authority to execute and deliver the Credit Agreement and to perform its obligations thereunder, (e) the due authorization, execution, and delivery of the Credit Agreement, (f) the authenticity of all documents submitted to us as originals, and (g) the conformity to originals of all documents submitted to us as copies.

Upon the basis of the foregoing, we are of the opinion that the Credit Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar laws relating to or affecting creditors' rights generally from time to time in effect and to general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding in equity or at law.

We are members of the Bar of the State of New York and the foregoing opinion is limited to the laws of the State of New York and the federal laws of the United States of America. In giving the foregoing opinion, we express no opinion as to the effect (if any) of any law of any jurisdiction (except the State of New York) in which any Lender is located which limits the rate of interest that such Bank may charge or collect.

This opinion is rendered solely to you in connection with the above matter. This opinion may not be relied upon by you for any other purpose or relied upon by any other person without our prior written consent.

Very truly yours,

EXHIBIT D

ELECTION TO PARTICIPATE

, 200

JPMorgan Chase Bank, N.A., as
Administrative Agent for
the Lenders party to the Credit
Agreement referred to below

Dear Sirs:

Reference is made to the Credit Agreement dated as of December 1, 2004 among Cummins, Inc., the other Borrowers, the Original Subsidiary Guarantors and the Lenders described therein, JPMorgan Chase Bank, N.A., as Administrative Agent, Citicorp USA, Inc., as Syndication Agent, and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents (as the same may be amended from time to time, the "**Credit Agreement**"). Terms not defined herein which are defined in the Credit Agreement have for purposes hereof the meanings provided therein.

The undersigned, [Name of Eligible Subsidiary], a [Jurisdiction of Incorporation] corporation, hereby elects to be an Eligible Subsidiary for purposes of the Credit Agreement, effective from the date hereof until an Election to Terminate shall have been delivered on behalf of the undersigned in accordance with the Credit Agreement. The undersigned confirms that the representations and warranties set forth in Article 10 of the Credit Agreement are true and correct as to the undersigned as of the date hereof, and the undersigned agrees to perform all the obligations of an Eligible Subsidiary under, and to be bound in all respects by the terms of, the Credit Agreement, including without limitation Section 12.09 thereof, as if the undersigned were a signatory party thereto.

[Tax disclosure pursuant to Section 10.04]

The address to which all notices to the undersigned under the Credit Agreement should be directed is:

[Address]

This instrument shall be construed in accordance with and governed by the laws of the State of New York.

Very truly yours,

[NAME OF ELIGIBLE SUBSIDIARY]

By: ______________________________
Name:
Title:

The undersigned confirms that [Name of Eligible Subsidiary] is an Eligible Subsidiary for purposes of the Credit Agreement described above.

CUMMINS, INC.

By: ______________________________
Name:
Title:

Receipt of the above Election to Participate is acknowledged on and as of the date set forth above.

JPMORGAN CHASE BANK, N.A.
as Administrative Agent

By: ______________________________
Name:
Title:

EXHIBIT E

ELECTION TO TERMINATE

, 200

JPMorgan Chase Bank, N.A., as
Administrative Agent for
the Lenders party to the Credit
Agreement referred to below

Dear Sirs:

Reference is made to the Credit Agreement dated as of December 1, 2004 among Cummins, Inc., the other Borrowers, the Original Subsidiary Guarantors and the Lenders described therein, JPMorgan Chase Bank, N.A., as Administrative Agent, Citibank USA, Inc., as Syndication Agent, and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents (as the same may be amended from time to time, the "**Credit Agreement**"). Terms not defined herein which are defined in the Credit Agreement have for purposes hereof the meanings provided therein.

The undersigned, [Name of Eligible Subsidiary], a [Jurisdiction of Incorporation] corporation, hereby elects to terminate its status as an Eligible Subsidiary for purposes of the Credit Agreement, effective as of the date hereof. The undersigned represents and warrants that all principal and interest on all Loans made to the undersigned and all other amounts payable by the undersigned pursuant to the Credit Agreement have been paid in full on or before the date hereof. Notwithstanding the foregoing, this Election to Terminate shall not affect any obligation of the undersigned heretofore incurred under the Credit Agreement.

This instrument shall be construed in accordance with and governed by the laws of the State of New York.

Very truly yours,

[NAME OF ELIGIBLE SUBSIDIARY]

By: ____________________________
Name:
Title:

The undersigned confirms that the status of [Name of Eligible Subsidiary] as an Eligible Subsidiary for purposes of the Credit Agreement described above is terminated as of the date hereof.

CUMMINS, INC.

By: ____________________________
Name:
Title:

Receipt of the above Election to Terminate is acknowledged on and as of the date set forth above.

JPMORGAN CHASE BANK, N.A., as
Administrative Agent

By: ____________________________
Name:
Title:

EXHIBIT F

FORM OF OPINION OF COUNSEL FOR AN ELIGIBLE SUBSIDIARY

To the Lenders and Agents
Referred to Below
c/o JPMorgan Chase Bank, N.A.
270 Park Avenue
New York, New York 10017

Dear Sirs:

I am counsel to [Name of Eligible Subsidiary], a [Jurisdiction of Incorporation] corporation (the "Borrower") and give this opinion pursuant to Section 4.03 of the Credit Agreement (the "Credit Agreement") dated as of December 1, 2004 among Cummins Inc., the other Borrowers, the Original Subsidiary Guarantors and Lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, Citicorp USA, Inc., as Syndication Agent and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents. Terms defined in the Credit Agreement are used herein as therein defined.

I have examined originals or copies, certified or otherwise identified to my satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as I have deemed necessary or advisable for purposes of this opinion.

Upon the basis of the foregoing, I am of the opinion that:

1. The [Eligible Subsidiary] (a) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and (b) is a Wholly-Owned Consolidated Subsidiary.

2. The Transactions and the execution and delivery by [Eligible Subsidiary] of its Election to Participate and the performance by [Eligible Subsidiary] of the Credit Agreement, (a) have been duly authorized by all requisite [corporate] (including any requisite [stockholder] action) and (b) will not (i) materially violate any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or bylaws of [Eligible Subsidiary], (ii) materially violate any order of any Governmental Authority or (iii) materially violate any provision of any material indenture, agreement or other instrument to which the [Eligible Subsidiary] is a party or by which any of them or any of their property is or may be bound, (iv) be in material conflict with, result in a material breach of or constitute (alone or with notice or lapse of time or both) a default under any such indenture, agreement or other

instrument or (v) result in or require the creation or imposition of any Lien upon any property or assets of the Company or any Subsidiary.

3. [Eligible Subsidiary's] Election to Participate, and the Credit Agreement constitutes a legal, valid and binding obligation of such [Eligible Subsidiary] enforceable against such [Eligible Subsidiary] in accordance with its terms.

4. Except as disclosed in such Election to Participate, there is no income, stamp or other tax of any country, or any taxing authority thereof or therein, imposed by or in the nature of withholding or otherwise, which is imposed on any payment to be made by [Eligible Subsidiary] pursuant hereto, or is imposed on or by virtue of the execution, delivery or enforcement of its Election to Participate.

Very truly yours,

EXHIBIT G

FORM OF COMPLIANCE CERTIFICATE

[Letterhead of Cummins Inc.]

Agreement:	Credit Agreement
Date of Agreement:	December 1, 2004
Description:	Five Year Multicurrency Revolving Facility
Relevant Section:	Section 5.04(c) of the Credit Agreement requires a Financial Officer's certificate to be delivered with quarterly and annual financial statements
Date of financial statements:	[ ]
Date of Certification:	[ ]

Certification:

I [ ], the [ ] of Cummins Inc., certify that no Default as defined in the Credit Agreement has occurred [other than those set forth in Schedule [ ] hereto, as to which the corrective actions set forth in such Schedule are being or are proposed to be taken].

I further certify the following statements of position relative to Sections 6.04, 7.01 and 7.02, in each case as more fully set forth on Annex 1 hereto:

1. The ratio of Total Debt plus Securitization Financing to Consolidated EBITDA for the four fiscal quarters most recently ended on or prior to this date was [ ] to 1.0.

2. The ratio of Consolidated EBITDA minus Capital Expenditures to Consolidated Interest Expense, in each case for the four consecutive fiscal quarters ended on or prior to this date, was [ ] to 1.0.

Information required to be delivered pursuant to Section 5.04(a), (b) and (c) has been posted to the Company's website at www.cummins.com and at the Edgar Database at www.sec.gov.

By: ______________________________
Name:
Title:

ANNEX 1

Credit Agreement
Dated as of December 1, 2004

1. Onan Lease Obligations (Section 6.04)

ONAN LEASE OBLIGATIONS	$
	Maximum Permitted amount is $150 million

2. Receivables Financing Indebtedness (Section 6.04)

RECEIVABLES FINANCING INDEBTEDNESS	$
	Maximum Permitted amount is $200 million

3. Leverage Ratio (Section 7.01)

TOTAL DEBT (1)	= $
SECURITIZATION FINANCING (2)	$
Consolidated Net Income	$
Interest Expense	+ $
plus consolidated income tax expense	+ $
plus all amounts attributable to depreciation and amortization	+ $

plus extraordinary or non-recurring cash charges	+ $
minus extraordinary gains	- $
minus income from joint ventures, except to the extent dividends or distributions were actually paid by such joint venture	- $
CONSOLIDATED EBITDA for the four fiscal quarters most recently ended on or prior to this date (3)	= $
LEVERAGE RATIO (((1)+(2))/(3))	
REQUIRED RATIO	< 3.25 to 1.0 at any date prior to December 31, 2006; OR < 3.0 to 1.0 at any time on or after December 31, 2006

4. <u>Coverage Ratio</u> (Section 7.02)

CONSOLIDATED EBITDA (3 above)	= $	
CAPITAL EXPENDITURES (4)	= $	
CONSOLIDATED INTEREST EXPENSE (5)	$	
CALCULATED RATIO (((3) –(4))/(5))		
REQUIRED RATIO		1.5:1

EXHIBIT H

JOINDER AGREEMENT

JOINDER AGREEMENT (the "**Joinder Agreement**"), dated as of [ ] between [ ] (the '**New Subsidiary Guarantor**"), Cummins Inc. (the "**Company**") and JPMorgan Chase Bank, N.A., as Administrative Agent (the "**Agent**").

WHEREAS, Cummins Inc., Cummins Engine Co. Ltd., Cummins Power Generation Ltd., Newage International Limited (collectively, the "**Borrowers**"), the Original Subsidiary Guarantors and the Lenders party thereto (the "**Lenders**"), the Agent, Citicorp USA, Inc. as Syndication Agent and Bank of America, N.A., The Bank of Nova Scotia and The Royal Bank of Scotland plc., as Co-Documentation Agents, entered into a Credit Agreement dated as of December 1, 2004 (as amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**");

WHEREAS, unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement; and

WHEREAS, the New Subsidiary Guarantor is a Material Subsidiary of the Company;

NOW, THEREFORE, for good and valid consideration, the sufficiency of which hereby is acknowledged, the parties hereto agree as follows:

1. *Guaranty.* The New Subsidiary Guarantor unconditionally guarantees the full and punctual payment (whether at stated maturity, upon acceleration or otherwise) of the principal of and interest on each Loan made to and each obligation to reimburse any LC Disbursement incurred by each Borrower pursuant to the Credit Agreeement, and the full and punctual payment of all other amounts payable by each Borrower under this Agreement.

2. *Party to the Credit Agreement.* The New Subsidiary Guarantor acknowledges that, by signing this Joinder Agreement and delivering it to the Administrative Agent, the New Guarantor: (a) shall be a Subsidiary Guarantor for all purposes under the Credit Agreement, and, as such, shall be deemed to be a Subsidiary Guarantor for such purposes and (b) shall (i) be bound by all covenants, agreements, acknowledgements and other terms and provisions applicable to it as a Subsidiary Guarantor pursuant to the Credit Agreement and the documents executed in connection therewith to the same extent, and in the same manner, as if it (in its capacity as a Subsidiary Guarantor) were a direct party thereto and (ii) perform all obligations required of it pursuant to the Credit Agreement and the documents executed in connection therewith.

3. *Review of Credit Agreement.* The New Subsidiary Guarantor hereby acknowledges that it has received and reviewed a copy (in execution form) of the Credit Agreement and the documents executed in connection therewith (including, without limitation, all amendments, supplements and other modifications thereto).

4. *Representations and Warranties.* The New Subsidiary Guarantor hereby represents and warrants that (a) all representations and warranties contained in the Credit

Agreement and such other documents which are applicable to it (after giving effect to this Joinder Agreement) are true and correct in all material respects and (b) immediately prior to and immediately after the effectiveness of this Joinder Agreement, no Default or Event of Default shall have occurred and be continuing.

5. *Governing Law.* This Joinder Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York.

IN WITNESS HEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date of this Joinder Agreement.

[Name of New Subsidiary Guarantor]

By: ______________________________

Name:
Title:

ACKNOWLEDGED AND AGREED TO:

JPMorgan Chase Bank, N.A.,
as Administrative Agent

By: ______________________________

Name:
Title:

EXHIBIT 21

CUMMINS INC.
SUBSIDIARIES OF THE REGISTRANT

SUBSIDIARY/JOINT VENTURE	STATE OR COUNTRY OF INCORPORATION
14-15 Corporation	Nevada
35601 Yukon Inc	Canada
665217 B.C. Ltd.	Canada
A. F. Shane, Inc.	Pennsylvania
Anadarko Group, Inc.	United States
Atlas Crankshaft Corporation	Ohio
Auto Diesel Power Plant Ltd.	United Kingdom
AvK/SEG Holding GmbH & Co.	Germany
CBM Technologies Pty. Ltd.	Australia
CD Power Rent, S. de R.L. de C.V.	Mexico
CECO Diesel	Canada
Chongqing Cummins Engine Co., Ltd.	China
CNE S/A Industrial	Brazil
Consolidated Diesel Company	North Carolina
Consolidated Diesel of North Carolina, Inc.	North Carolina
Consolidated Diesel, Inc.	Delaware
Cummins Americas, Inc.	Indiana
Cummins Argentina-Servicios Mineros S.A.	Argentina
Cummins Auto Services Ltd.	India
Cummins Brasil Ltda.	Brazil
Cummins Bridgeway, LLC	Michigan
Cummins Cal Pacific Holding, LLC	Delaware
Cummins Cal Pacific, LLC	Delaware
Cummins Child Development Center, Inc.	Indiana
Cummins Comercializadora S. de R.L. de C.V.	Mexico
Cummins Construction Eastern Canada, Inc.	Canada
Cummins Corporation	Indiana
Cummins Czech Republic s.r.o.	Czech Republic
Cummins de Centro America Ltda.	Costa Rica
Cummins Diesel Botswana (Pty.) Ltd.	South Africa
Cummins Diesel Deutschland GmbH	Germany
Cummins Diesel International Limited	Barbados
Cummins Diesel Italia S.P.A.	Italy
Cummins Diesel Japan Ltd.	Japan
Cummins Diesel Limited	Canada
Cummins Diesel N.V.	Belgium
Cummins Diesel of Canada Limited	Canada
Cummins Diesel of South Africa (Pty.) Ltd.	South Africa
Cummins Diesel Sales and Service (India) Ltd.	India
Cummins Diesel Sales and Service (Korea) Ltd.	Korea
Cummins Diesel Sales Corporation	Indiana
Cummins Distribuidora de Baja S. de R.L. de C.V.	Mexico
Cummins Distributor Belgium S.A. N.V.	Belgium
Cummins Eastern Canada, LLP	Canada
Cummins Energetica Ltda.	Brazil
Cummins Engine Austria GmbH	Austria
Cummins Engine (Beijing) Co., Ltd.	China
Cummins Engine (China) Investment Co. Ltd.	China
Cummins Engine (Shanghai) Co. Ltd.	China
Cummins Engine (Singapore) Pte. Ltd.	Singapore
Cummins Engine Company Limited (NZ)	New Zealand
Cummins Engine Company Limited (UK)	United Kingdom
Cummins Engine Company Pty. Limited	Australia
Cummins Engine Holding Co., Inc.	Indiana
Cummins Engine IP, Inc.	Delaware
Cummins Engine Shanghai Services & Trading Co. Ltd.	China
Cummins Engine Venture Corporation	Indiana
Cummins Filtration IP, Inc.	Delaware
Cummins Financial, Inc.	Delaware
Cummins Funding Corporation	Delaware
Cummins Hong Kong Ltd.	Hong Kong
Cummins Infotech Ltd.	India
Cummins India Ltd.	India
Cummins Intellectual Property, Inc.	Delaware
Cummins International Finance Corporation	Delaware
Cummins Komatsu Engine Company	Indonesia
Cummins Korea, Ltd.	Korea
Cummins Japan Ltd.	Japan
Cummins LLC, Member Inc.	Indiana
Cummins Limited	United Kingdom
Cummins Mercruiser Diesel Marine, LLC	Delaware
Cummins Mercruiser Diesel South Pacific, Pty. Ltd	Australia
Cummins Mercruiser Diesel UK Limited	United Kingdom
Cummins Mercruiser Diesel Europe S.P.R.L.	Belgium
Cummins Mexicana, S.A. de C.V.	Mexico

Cummins Middle East FZE	Dubai
Cummins Mid-South, LLC	Tennessee
Cummins Natural Gas Engines, Inc.	Delaware
Cummins Npower LLC	Delaware
Cummins Power Construction Inc.	Canada
Cummins Power Eastern Canada Inc.	Canada
Cummins Power Generation (S) Pte. Ltd.	Singapore
Cummins Power Generation Australia Pty. Ltd.	Australia
Cummins Power Generation Deutschland GmbH	Germany
Cummins Power Generation Ltd.	United Kingdom
Cummins Power Generation Mali S.A.	South Africa
Cummins Power Rent Comercio, e Locacao, Ltd.	Brazil
Cummins Power Rent (SEA) Pte. Ltd.	Singapore
Cummins Power Service and Parts Corporation	Taiwan
Cummins Power Solutions Ltd.	India
Cummins PowerGen IP, Inc.	Delaware
Cummins Receivables Corp.	Delaware
Cummins Research and Technology India Private Ltd.	India
Cummins Rocky Mountain, LLC	Colorado
Cummins S. de R.L. de C.V.	Mexico
Cummins Sales & Service Philippines, Inc.	Philippines
Cummins Slovakia s.r.o.	Slovakia
Cummins Ten Holdings Ltd.	Canada
Cummins Trade Receivables, LLC	Indiana
Cummins U.K. Limited	United Kingdom
Cummins Venture Corporation	Delaware
Cummins Westport Inc.	Canada
Cummins Western Canada	Canada
Cummins Xiangfan Machining Co. Ltd.	China
Cummins Zimbabwe Pvt. Ltd.	Zimbabwe
Cummins Zambia Limited	Zambia
Cummins-Scania HPCR System, LLC	Delaware

Cummins-Scania High Pressure Injection, L.L.C.	Delaware
Diesel Recon De Mexico, S.A. de C.V.	Mexico
Dieselcomp, Inc.	Indiana
Distribuidora Cummins de S. de S.L. de C.V.	Mexico
Distribuidora Cummins Sao Paulo Ltda.	Brazil
Distribuidora Cummins S.A.	Argentina
Dongfeng Cummins Engine Co. Ltd.	China
EmeraChem LLC	Delaware
Empresas Cummins S.A. de C.V.	Mexico
Enceratec, Inc.	Maryland
Engine Systems Ltd.	Pakistan
European Engine Alliance EEIG	United Kingdom
European Engine Alliance SRL	Italy
Fleetguard Filtration Systems India Pte. Ltd.	India
Fleetguard, Inc.	Indiana
Fleetguard International Corp.	Indiana
Fleetguard Korea Ltd.	Korea
Fleetguard Nelson Brasil Comercial Ltda.	Brazil
Fleetguard Nelson Mexico S. de R.L. ale C.V.	Mexico
Fleetguard SARL	France
Fleetguard South Africa (Pty.) Limited	South Africa
Fourstroke Automotive Pvt Ltd	India
Holset Engineering Company Ltd.	United Kingdom
Industria Automotores de Nordeste S.A.	Brazil
Industria E Comercio Cummins Ltda.	Brazil
Industrial Power Alliance, Ltd.	Japan
Innovative Computing Company	Oklahoma
Komatsu Cummins Chile, Ltda.	Chile
Komatsu Cummins Engine Co. Ltd.	Japan
KPIT Cummins Infosystems Ltd	India
Kuss Corporation	Ohio
Lubricant Consultants, Inc.	New Jersey
Markon Engineering Company Ltd.	United Kingdom
Markon Sawafuji Ltd.	Japan
MRC Auto Solutions Pvt Ltd.	India
Nelson Burgess Ltd.	Canada
Nelson Engine Systems India Private Ltd.	India
Nelson Export Sales Corp.	U.S. Virgin Islands
Nelson Industries Europe, GmbH	Germany
Nelson Muffler Canada, Inc.	Canada
Newage Asia Pacific Pte. Ltd.	Singapore
Newage Electrical India Ltd.	India
Newage Engineers GmbH	Germany
Newage Engineers Pty Ltd.	Australia
Newage International Ltd.	United Kingdom
Newage Italia S.R.L.	Italy
Newage Ltd. (U.K.)	United Kingdom
Newage Ltd.	Pennsylvania

Newage Machine Tools Ltd.	United Kingdom
Newage Norge A/S	Norway
No. 379 Taurus Ventures Ltd.	Canada
Northwest Dieselguard Ltd.	Canada
NWMW, Inc.	Washington
OOO Cummins Inc.	Russia
Ona Corporation	Alabama
Onan Corporation	Delaware
Onan Foreign Holdings, Ltd.	Delaware

Onan International Limited	United Kingdom
PGI (Overseas Holdings) B.V.	Holland
P.T. Newage Engineers Indonesia	Indonesia
Pacific World Trade, Inc.	Indiana
PBB Transit Corp.	Delaware
Petbow Asia Pacific Pty. Ltd.	Australia
Petbow Limited	United Kingdom
Power Group International Limited	United Kingdom
Power Group International (Overseas Holdings) Limited	United Kingdom
Powertrain Industria e Comercio Ltda.	Brazil
Quality Used Parts, Inc.	Canada
Shanghai Fleetguard Filter Co., Ltd.	China
Shanghai Fleetguard International Trading Co.	China
Shenzhen Chongfa Cummins Co. Ltd.	Hong Kong
Southern Marine Shiplift Pty. Ltd.	Australia
Stamford Iberica S.A.	Spain
Stamford Mexico, S. de R.L. de C.V.	Mexico
Supreme Holdings Limited	Singapore
Swagman Australia Pty. Ltd.	Australia
Tata Cummins Ltd.	India
Tata Holset Private Ltd.	India
Turbo Drive Ltd.	Hong Kong
Turbo Europa BV	The Netherlands
Universal Silencer, Inc.	Indiana
Usina Termelectrica de Anapolis Ltd.	Brazil
UTE Anapolis Power Plant	Brazil
VC Lubricating Oil Co. Ltd.	Hong Kong
Valvoline Cummins Ltd.	India
Wabco Compressor Manufacturing, Inc.	Delaware
Wuxi Holset Engineering Co. Limited	China
Wuxi Newage Alternators Ltd.	China

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (Nos. 333-68592, 333-88384) and on Form S-8 (Nos. 033-37690, 003-46097, 333-67391) of Cummins Inc. of our report dated March 15, 2005 relating to the financial statements, management's assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting, which appears in the Annual Report on Form 10-K.

PricewaterhouseCoopers LLP

Indianapolis, IN
March 15, 2005

Exhibit 24

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Robert J. Darnall
Robert J. Darnall
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/John M. Deutch
John M. Deutch
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Alexis M. Herman
Alexis M. Herman
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/William I. Miller
William I. Miller
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Georgia R. Nelson
Georgia R. Nelson
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/William D. Ruckelshaus
William D. Ruckelshaus
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the Company's fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Carl Ware
Carl Ware
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. ("the Company") for the

Company’s fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/J. Lawrence Wilson
J. Lawrence Wilson
Director

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. (“the Company”) for the Company’s fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Theodore M. Solso
Theodore M. Solso
Director and Chairman
and Chief Executive Officer
(Principal Executive Officer)

CUMMINS INC.
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the person whose signature appears below constitutes and appoints Jean S. Blackwell and Marsha L. Hunt with full power to act without the other as their true and lawful attorneys-in-fact and agents, with full and several powers of substitution and re-substitution for them in their name, place and stead, in any and all capacities, to sign the Annual Report on Form 10-K, and any and all amendments thereto, of Cummins Inc. (“the Company”) for the Company’s fiscal year ended December 31, 2004 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Dated: March 8, 2005

/s/Jean S. Blackwell
Jean S. Blackwell
Vice President – Chief Financial
Officer and Chief of Staff
(Principal Financial Officer)

EXHIBIT 31(a)

Certification

I, Theodore M. Solso, Chairman and Chief Executive Officer of Cummins, Inc. (Cummins), certify that:

1. I have reviewed the annual report on Form 10-K of Cummins;
2. Based on my knowledge, the annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the periods covered by the annual report;
3. Based on my knowledge, the financial statements, and other financial information included in the annual report, fairly present in all material respects the financial condition, results of operations and cash flows of Cummins as of, and for, the periods presented in the annual report;
4. Cummins other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for Cummins and have:
   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to Cummins, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the periods in which the annual report is being prepared;
   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c) evaluated the effectiveness of Cummins disclosure controls and procedures and presented in the annual report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the annual report based on such evaluation; and
   d) disclosed in the annual report any change in Cummins internal control over financial reporting that occurred during the fourth quarter that has materially affected, or is reasonably likely to materially affect, Cummins internal control over financial reporting; and
5. Cummins other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to Cummins auditors and the Audit Committee of Cummins Board of Directors:
   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Cummins ability to record, process, summarize and report financial information; and
   b) any fraud, whether or not material, that involves management or other employees who have a significant role in Cummins internal controls over financial reporting.

Date: March 15, 2005

/s/ THEODORE M. SOLSO
Title: *Chairman and Chief Executive Officer*
(Principal Executive Officer)

EXHIBIT 31 (b)

Certification

I, Jean S. Blackwell, Vice President and Chief Financial Officer of Cummins, Inc. (Cummins), certify that:

1. I have reviewed the annual report on Form 10-K of Cummins;

2. Based on my knowledge, the annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the periods covered by the annual report;

3. Based on my knowledge, the financial statements, and other financial information included in the annual report, fairly present in all material respects the financial condition, results of operations and cash flows of Cummins as of, and for, the periods presented in the annual report;

4. Cummins other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for Cummins and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to Cummins, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the periods in which the annual report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of Cummins disclosure controls and procedures and presented in the annual report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the annual report based on such evaluation; and

   d) disclosed in the annual report any change in Cummins internal control over financial reporting that occurred during the fourth quarter that has materially affected, or is reasonably likely to materially affect, Cummins internal control over financial reporting; and

5. Cummins other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to Cummins auditors and the Audit Committee of Cummins Board of Directors:

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Cummins ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in Cummins internal controls over financial reporting.

Date: March 15, 2005

/s/JEAN S. BLACKWELL
Title: *Vice President—Chief Financial Officer and Chief of Staff (Principal Financial Officer)*

EXHIBIT 32

Cummins Inc.
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Cummins Inc. (the "Company") on Form 10-K for the period ended December 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Theodore M. Solso, Chairman and Chief Executive Officer of the Company, and Jean S. Blackwell, Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. ss. 1350, as adopted pursuant to ss. 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

	/s/THEODORE M. SOLSO
March 15, 2005	*Chairman and Chief Executive Officer*
	/s/JEAN S. BLACKWELL
March 15, 2005	*Vice President—Chief Financial Officer and Chief of Staff*