UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-K

(Mark One)

☑ **Annual Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934**

For the fiscal year ended December 25, 2004

or

o **Transition Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934**

For the transition period from ______________ to ______________

Commission file number 1-10948

Office Depot, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**59-2663954** (I.R.S. Employer Identification No.)
2200 Old Germantown Road; Delray Beach, Florida (Address of principal executive offices)	**33445** (Zip Code)

(561) 438-4800
(Registrant's telephone number, including area code)

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

Title of each class	Name of each exchange on which registered
Common Stock, par value $0.01 per share	New York Stock Exchange
Preferred Share Purchase Rights	New York 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 X 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 the 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 X No ___

The aggregate market value of voting stock held by non-affiliates of the registrant as of June 26, 2004 (based on the closing market price on the Composite Tape on June 26, 2004) was approximately $5,608,949,029 (determined by subtracting from the number of shares outstanding on that date the number of shares held by directors and officers of Office Depot, Inc.).

The number of shares outstanding of the registrant's common stock, as of the latest practicable date: At February 25, 2005, there were 312,777,143 outstanding shares of Office Depot, Inc. Common Stock, $0.01 par value.

Documents Incorporated by Reference:
Portions of our Proxy Statement, to be mailed to shareholders on or about April 1, 2005 for the Annual Meeting to be held on May 13, 2005, are incorporated by reference in Part III hereof.

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PART I

Item 1. Business.

Office Depot, Inc. is a global supplier of office products and services. The company was incorporated in 1986 with the opening of our first retail store in Fort Lauderdale, Florida. In fiscal year 2004, we sold almost $14 billion of products and services to consumers and businesses of all sizes through our three business segments: North American Retail Division, Business Services Group, and International Group. These segments include multiple sales channels consisting of office supply stores, a contract sales force, Internet sites, and catalog and call centers, all supported by our network of crossdocks, warehouses and delivery operations.

Additional information regarding our business segments is presented below and in Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) elsewhere in this Annual Report on Form 10-K.

North American Retail Division

Our North American Retail Division sells a wide selection of merchandise, including brand name and private label office supplies (many carrying the Office Depot® brand), business machines and computers, computer software, office furniture and other business-related products and services through our chain of high-volume office supply stores. Most stores also contain a multipurpose copy and print center offering printing, reproduction, mailing, shipping, and other services.

Our retail stores are designed to provide a positive shopping experience for the customer, while promoting an effective and efficient supply chain. We strive to optimize visual presentation, product flow, product placement, shelf capacity, in-stock positions, and inventory turnover, as well as our distribution capacity and handling costs. Most store replenishment is handled through our crossdock flow-through distribution system. Bulk quantities of vendor merchandise is received at one of our central locations, sorted for distribution and generally shipped the same day to stores needing to replenish their inventory.

In recent years, we launched a pilot store re-design program, initially referred to as "Millennium." The initiative was intended to improve lines of sight, update signage, lighting and other features, and to enhance the overall shopping experience for customers. We subsequently modified the initial design to create an enhanced "M2" version that is now our standard retail store configuration, both for new and remodeled stores. We believe this design has better graphics and layout. At the end of 2004, we had 101 M2 stores in operation.

Additionally, we offer copy, print and ship services in many of our retail stores. We have an extensive selection of packaging and shipping supplies, and established relationships with carriers, such as United Parcel Service, that allow us to offer a portfolio of U.S. domestic and international shipping services at regular customer counter rates.

During 2004, we committed to purchase from Toys "R" Us 124 retail locations, formerly operated as Kids "R" Us stores, with plans to convert approximately 50 of these sites into Office Depot stores and to sell or sublease the remaining sites. This transaction closed in phases during the year, and by year-end, we had opened 36 of these locations, all configured in the M2 format. This transaction gave us an accelerated entry into many areas of the highly desirable Northeast region of the country where we historically have been under-represented. We plan to supplement these converted stores with new store openings in this region.

At the end of 2004, our North American Retail Division operated 969 office supply stores in 49 states, the District of Columbia and Canada. The largest concentration of our retail stores is in California, Texas and Florida, but we have broad representation across North America. As of December 25, 2004, the average size of our North American retail stores was approximately 26,000 square feet. Store opening and closing activity for the last three years has been as follows:

	Open at Beginning of Period	Opened	Closed	Open at End of Period	Relocated
2002	859	21	13	867	8
2003	867	36	3	900	12
2004	**900**	**80**	**11**	**969**	**11**

In 2005, we plan to continue our store expansion by adding approximately 100 new retail stores, averaging approximately 20,000 square feet, and remodeling approximately 50 existing locations. In recent years, we have launched initiatives into non-traditional retail selling, such as selling our products within other retailers' locations or on military bases. We expect to continue to pursue various types of non-traditional solutions to expand the reach of our products and services.

Business Services Group ("BSG")

We have provided office supply products and services to businesses through our catalog and contract sales operations for over ten years. In 1998, we expanded our catalog business and strengthened our international operations through our merger with Viking Office Products ("Viking"), a company that sold from catalogs and used customer call centers in the United States and several European countries. The European catalog business is now managed as part of our International Group.

Currently, BSG sells branded and private label products and services by means of a dedicated sales force, through catalogs and call centers, and electronically through our Internet sites. We strive to ensure that our customers' needs are satisfied through the delivery channel that is most appropriate for them, and continue to develop the systems and processes to enable us to do that flawlessly and cost-effectively.

Our contract business employs a dedicated sales force that services the office supply needs of medium- to large-sized businesses. Depending on the size and type of customer, our sales force tailors its service offerings to optimally serve the customer's needs at the lowest possible cost. Sales representatives increase revenues, we believe, by building relationships with customers and providing information, business tools and problem-solving services to them. We also allow contract customers the convenience of shopping in our retail locations, while honoring their contract pricing. These sales are included in the results of our North American Retail Division.

Our direct business is tailored to serve small- to medium-sized companies. Our direct customers order products using our Office Depot and Viking brand catalogs and via the Internet at our Office Depot and Viking public web sites (www.officedepot.com and www.vikingop.com), and our public web site for technology purchases (www.techdepot.com).

BSG orders are filled primarily through our 22 Customer Service Centers ("CSCs") located across the United States, although some orders are filled from delivery stores. CSCs provide warehouse and delivery functions for our catalog, contract and Internet customers. Some CSCs also house sales offices, call centers and administrative offices. During 2004, we announced plans to consolidate our call centers from 13 down to three locations and to outsource certain aspects of call center processes by the end or the third quarter of 2005. However, we plan to retain what we believe to be the most critical points of customer interaction.

Over the past several years, we have implemented advanced technologies to assist with reordering, stocking, the pick-and-pack process, and delivery operations. We have also increased our use of third party delivery services and reduced our own fleet of vehicles where cost reductions can be achieved without compromising customer service levels. As a result of these and other initiatives, warehouse costs have continued to decline in recent years. Furthermore, we are more aggressively cross-utilizing our CSCs and crossdocks to better serve our customers and reduce costs. We expect to continue to find ways to take out supply chain costs while improving service levels.

Because sales and marketing efforts and catalog production have similarities between BSG and International, those topics are addressed separately after the three segment discussions, though they are integral to understanding the processes and management of BSG.

International Group

Our International Group sells office products and services in 21 countries outside the United States and Canada through direct mail catalogs, a contract sales force, Internet sites, retail stores (in France, Japan, Spain and Hungary), and through international joint venture and licensing agreements. In June 2003, we doubled the size of our business in Europe through the acquisition of Guilbert, S.A. ("Guilbert") and established Office Depot as the leading seller of office products in the larger European countries.

International operations are managed predominately on a country basis, rather than a channel basis; however, for consistency of discussion, channels will be used to describe the International Group's activities.

The international catalog business was launched in 1990 under the Viking Direct® brand with the start-up of operations in the United Kingdom. We now have catalog offerings in 13 countries outside of North America. In March 1999, we introduced our first international public web site (www.viking-direct.co.uk) for consumers and businesses in the United Kingdom. Today, we operate over 30 separate international web sites. Our international e-commerce business increased 58% during 2004 and additional growth is expected in future years.

We launched our Office Depot contract business in the United Kingdom in 2000 and subsequently expanded into Ireland, the Netherlands, France, Japan, Italy, Germany, Switzerland and Hungary. In June 2003, we further expanded our contract business with the Guilbert acquisition. Guilbert sold to business customers in France, the U.K. Germany, Italy, Ireland, the Netherlands, Spain, Belgium, Portugal, and Luxembourg through a contract sales force and through e-commerce and other Internet solutions, under the Guilbert® and NiceDay™ brand names. Our acquisition of Guilbert has added purchasing power and scale to the International Group. We have made substantial progress with integrating Guilbert into our existing country systems and operations.

We have been selective about opening retail stores internationally. At the end of 2004, our International Group served customers through 78 company-owned stores, and 153 additional stores operated under licensing and joint venture agreements. During 2004, we acquired three stores in Hungary that formerly were operated as Office Depot stores under a licensing agreement. We opened an additional store in Hungary during 2004 and intend to continue to expand our presence in Eastern Europe. In 2005, we plan to open five to ten company-owned stores in existing retail markets in Europe.

International Group company-owned store and CSC operations for the last three years are detailed below.

	Office Supply Stores			
	Open at Beginning of Period	Opened/ Acquired	Closed	Open at End of Period
2002	39	13	2	50
2003	50	16	2	64
2004	**64**	**15(1)**	**1**	**78**

	Customer Service Centers			
	Open at Beginning of Period	Opened/ Acquired	Closed	Open at End of Period
2002(2)	14	3	2	15
2003	15	10(3)	—	25
2004	**25**	**2(4)**	**2(5)**	**25**

(1) Includes three retail stores obtained in the acquisition of the business in Hungary.

(2) Fiscal year 2002 information adjusted to reflect Australia as a discontinued operation.

(3) Acquired and operating (post-integration) warehouses obtained as a result of June 2003 acquisition of Guilbert.

(4) Includes one customer service center obtained in the acquisition of the business in Hungary.

(5) Represents updates to the Guilbert post-integration estimates.

Merchandising and Product Life Cycle

Our merchandising strategy is to meet our existing and target customers' needs by offering a broad selection of branded office products, as well as an increasing array of private label products. Our selection of private label products has increased in breadth and level of sophistication in recent years. We currently offer general office supplies, computer supplies, business machines and related supplies, and office furniture under various labels, including Office Depot®, Viking® Office Products, Guilbert®, and NiceDay™. In North America, we currently have over 3,000 private label stock keeping units, or SKUs, and we anticipate increasing our offerings within and across product categories. Our domestic office supply superstores and customer service centers stock approximately 8,500 and 14,500 SKUs, respectively, including multiple brands and variations in color and size.

Total sales by product group were as follows:

	2004	2003*	2002*
Supplies	**55.0%**	55.6%	52.2%
Technology	**25.1%**	24.6%	27.1%
Furniture, low tech and other	**19.9%**	19.8%	20.7%
	100.0%	100.0%	100.0%

* Conformed to current year product classification.

We classify our products into three categories: (1) supplies, (2) technology, and (3) "furniture, low tech and other." The supplies category includes paper, filing, binders, writing instruments, adhesives, school supplies, and ink and toner. The technology category includes desktop and laptop computers, monitors, printers, copiers, cables, software, digital cameras, telephones, and wireless communications products. The "furniture, low tech and other" category includes desks, chairs, luggage, calculators, products and services sold at our copy centers, and other miscellaneous items. The table above is based on total company sales. Management also views the business on a comparable (or "comp") sales basis. This measures the sales for stores that have been open for one year or more and all BSG and Internet sales. Store relocations are included in the comp calculation after one year of operation in the new location. Comp sales are used in MD&A to address important factors affecting our business.

We buy substantially all of our merchandise directly from manufacturers and other primary suppliers. We also enter into arrangements with vendors that can lower our unit product costs if certain volume thresholds or other criteria are met. For additional discussion of these arrangements, see the Critical Accounting Policies section of MD&A. In most cases, our suppliers deliver merchandise directly to our CSCs or our crossdocks. The latter are centralized distribution centers for re-supplying our retail stores at low handling and freight costs.

Merchandising functions are located in both the U.S. and Europe. Each group is responsible for selecting, purchasing and pricing merchandise as well as managing the product life cycle of our key inventory. The merchandising and marketing departments are integrated in the U.S. under a single executive. This alignment helps ensure the right products are available to satisfy customer demand. Two years ago, we launched a three-year program to improve our North American merchandising and supply chain processes, enabled by installation of a comprehensive retail merchandising software suite. While this installation is not yet complete, it is delivering the benefits planned at this point in the program.

Sales and Marketing

We are able to maintain our competitive pricing policy primarily as a result of the significant cost efficiencies we achieve through our purchasing power and operating format. Our marketing programs are designed to attract new customers and to drive frequency of customer visits to our stores and increase the "share of wallet" of our existing customers by capturing more of what they spend in total on the products we sell. We regularly advertise in major newspapers in most of our local markets using both color inserts and run of press (ROP) advertisements. These advertisements are supplemented with local and national radio, network and cable television advertising campaigns, direct marketing efforts, signage in various sports venues and a naming rights agreement for a sports and entertainment arena in south Florida, the "Office Depot Center." ™

To enhance our brand awareness, we announced two new strategic marketing initiatives at the beginning of 2005. First, we have re-committed ourselves to the *Taking Care of Business*™ tagline, and incorporated that line into our logo and our advertising. We also reached an alliance with NASCAR® as part of a multi-year sponsorship that includes both sponsorship of a NASCAR® racing car and overall supporting sponsorship of NASCAR® itself, including designation as NASCAR®'s official office products partner.

During 2004, we launched our Advantage™ customer loyalty program. The program rewards customers with an Office Depot merchandise card, valued commensurate with their level of purchases from our company. The cost of these rewards is included in cost of goods sold, primarily in the North American Retail segment. Other marketing costs related to these programs are included in store and warehouse operating and selling expenses. By the end of the year, almost two million customers had enrolled in the Advantage™ program, and almost half were newly identified retail customers. We anticipate that this program will increase in popularity in the future, and we expect to make enhancements to this program over time.

We have a low price guarantee policy for merchandise sold in our stores, through catalogs and over the Internet (see *www.officedepot.com* for more information). Additionally, we perform periodic competitive pricing analyses to monitor each market, and prices are adjusted as necessary to adhere to this pricing philosophy and further our competitive positioning. We generally expect our everyday prices to be highly competitive with other resellers of office products.

We continuously acquire new customers by selectively mailing specially designed catalogs to prospective customers. Sometimes we obtain the names of prospective customers in new and existing markets through the purchase of selected mailing lists from outside marketing information services and other sources. We use a proprietary mailing list system for our Viking Office Products brand catalogs and other promotional mailings. We plan to use this same technology to increase the effectiveness of our Office Depot brand catalogs in the future.

No single customer in any of our segments accounts for more than 5% percent of our total sales.

Catalog Production and Circulation

We use our catalogs to market directly to both existing and prospective customers throughout the world. Separate catalog assortments promote our dual brand (Office Depot and Viking Office Products) mail order strategy. We currently circulate both Office Depot and Viking Office Products brand catalogs through our Business Services Group domestically and our International Group outside the United States. Following the acquisition of Guilbert in June 2003, we also publish separate catalogs bearing the Guilbert name in certain European countries in which the Guilbert name is highly recognized. Each catalog is printed in color with pictures and narrative descriptions that emphasize key product benefits and features. We have developed a distinctive style for our catalogs, most of which are produced in-house by our designers, writers and production artists. Recently, we introduced a Green Book™ catalog, which features products that are recyclable, energy efficient, or otherwise have a reduced impact on the environment.

Our Viking Office Products brand catalog mailings include monthly sale catalogs, which are mailed to active Viking customers and present our most popular items. A complete buyers guide, containing all of our products at their regular discount prices, is delivered to our Office Depot and Viking Office Products brand catalog customers every six months. This buyers' guide, which is mailed to our active customers, varies in size among countries. Prospecting catalogs with special offers designed to attract new customers are mailed frequently. In addition, Office Depot and Viking Office Products specialty catalogs are delivered each month to selected customers.

During 2004, we mailed approximately 296 million copies of Office Depot and Viking Office Products brand catalogs to existing and prospective customers. During 2003 and 2002, we mailed approximately 264 million and 297 million copies, respectively.

Industry and Competition

We operate in a highly competitive environment. Historically, our markets have been served by traditional office products retailers and contract stationers. We believe that we compete favorably against such dealers on the basis of price and selection. We compete with other full service contract stationers on the basis of service and value-added technology. We also compete with other office supply superstores, wholesale clubs selling general merchandise, discount stores, mass merchandisers, food and drug stores, computer and electronics superstores, Internet-based companies and direct mail companies. These companies, in varying degrees, compete with us on both price and selection in substantially all of our current markets.

Other office supply superstore companies are similar to us in terms of store format, pricing strategy and product selection and availability in the markets where we operate, primarily those in the United States and Canada. We anticipate that in the future we will face increased competition from these chains as each of us expands our operations both in North America and abroad.

In Europe, we sell through contract and catalog channels in 13 countries. Retail stores are operated in four countries outside of the U.S. and Canada (excluding our participation under licensing and joint venture agreements). We believe the European market is more fragmented than the U.S. market and that we are among the market leaders in each country of operation. As in the U.S., we compete in Europe on the basis of selection, price, service and customer relationships.

Employees

As of February 19, 2005, we had approximately 47,000 employees worldwide, the majority of which were full time. Our labor relations are generally good, and the overwhelming majority of our facilities are not organized by any labor union .

Environmental Activities

As both a significant user and seller of paper products, we have developed an environmental strategy that is values-based and market-driven. Our environmental initiatives center on three guiding principles: (1) recycling and pollution reduction; (2) sustainable forest management; and (3) issue awareness and market development for environmentally preferable products. We offer thousands of different products containing recycled content, including from 35% to 100% post consumer waste content paper. To obtain additional information on our initiatives, and to download a copy of Office Depot's *2004 Environmental Stewardship Report*, please visit our web site at *www.officedepot.com/environment*. You may also request a printed copy by contacting our Director, Investor Relations at our corporate headquarters in Deiray Beach, Florida.

Available Information

We maintain a web site at *www.officedepot.com*. We make available, free of charge, on the "Investor Relations" section of our web site, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file or furnish such materials to the U.S. Securities and Exchange Commission ("SEC").

Additionally, our corporate governance materials, including governance guidelines; the charters of the audit, compensation, finance, and governance and nominating committees; and the code of ethical behavior may also be found under the "Investor Relations" section of our web site at *www.offficedepot.com*. Office Depot makes no provisions for waivers of the code of ethical behavior. A copy of the foregoing corporate governance materials is available upon written request.

We submitted our 2004 annual Section 12(a) CEO certification with the New York Stock Exchange ("NYSE"). The certification was not qualified in any respect. Additionally, we filed with the SEC as exhibits to our Form 10-K for the year ended December 27, 2003 the CEO and CFO certifications required under Section 302 of the Sarbanes-Oxley Act of 2002.

Executive Officers of the Registrant

Neil R. Austrian – Age: 65

Mr. Austrian has served as our Chairman and Chief Executive Officer since October 4, 2004, immediately following the resignation of our former Chairman and CEO, Bruce Nelson. He has served as one of our directors since August 1998. Mr. Austrian served as President and Chief Operating Officer of the National Football League from April 1991 until December 1999. He was a Managing Director of Dillon, Read & Co. Inc. from October 1987 until March 1991. Mr. Austrian served as a director of Viking from January 1988 until August 1998 when Office Depot merged with Viking. He also serves as a director of the DirecTV Group, Inc. (formerly Hughes Electronics Corporation), a publicly traded company.

Rolf van Kaldekerken – Age: 54

Mr. van Kaldekerken has been President, European Operations since August 2000. Prior to that appointment, he served as Executive Vice President, European Operations from January 2000 to August 2000. Previously, he was Vice President & Country Manager for Germany, Benelux and Austria from 1998 to January 2000 for Office Depot International. He also served as Managing Director and Vice President for the same countries for Viking Office Products from November 1994 until August 1998, when Viking was merged into our company. Prior to joining Viking, Mr. van Kaldekerken was European Operations and Purchasing Director for INMAC Corporation.

Charles E. Brown – Age: 51

Mr. Brown has been our Executive Vice President and Chief Financial Officer since October 2001. Prior to assuming that position, Mr. Brown was Senior Vice President, Finance and Controller since he joined our company in May 1998. Before joining Office Depot, he was Senior Vice President and Chief Financial Officer of Denny's, Inc. from January 1996 until May 1998; from August 1994 until December 1995, he was Vice President and Chief Financial Officer of ARAMARK International; and from September 1989 until July 1994, he was Vice President and Controller of Pizza Hut International, a Division of PepsiCo, Inc.

Cynthia Campbell – Age: 53

Ms. Campbell has been our Executive Vice President, North American Delivery Sales since September 2003. Prior to being promoted to that position, she was Senior Vice President, Contract Sales for the eastern half of the U.S., a position she assumed in June 2000. She began her Office Depot career in March 1995 as Zone Vice President – Southeast Region, with responsibility for contract sales and operations. Prior to joining our company, Ms. Campbell spent 19 years with GTE Corporation in a variety of positions, the latest being Vice President and General Manager of Retail Information Services.

David C. Fannin – Age: 59

Mr. Fannin has been our Executive Vice President, General Counsel and Secretary since August 2000. Previously, he was Senior Vice President and General Counsel since he joined our company in November 1998, and our Corporate Secretary since January 1999. Mr. Fannin was Executive Vice President, General Counsel and Corporate Secretary of Sunbeam Corporation, a manufacturer and wholesaler of durable household and outdoor consumer products, from January 1994 until August 1998. In connection with his tenure at Sunbeam Corporation, Mr. Fannin was the subject of administrative proceedings brought by the U. S. Securities and Exchange Commission with respect to Section 17(a)(3) of the Securities Act of 1933. These proceedings culminated in Mr. Fannin's consent in May 2001 (without admitting or denying any liability) to the entry of a Commission cease-and-desist order.

Mark Holifield – Age: 48

Mr. Holifield was named our Executive Vice President, Supply Chain in September 2003. Mr. Holifield joined Office Depot in May 1994 as Director of Transportation. He was named Vice President of Transportation and Logistics in July 1996, and was promoted to Senior Vice President, Supply Chain in 1997. Prior to joining Office Depot, Mr. Holifield worked for Dallas Systems Corporation, a supply chain systems provider, in various logistics consulting positions from June 1988 to May 1994. Prior to Dallas Systems, from June 1986 to May 1988, Mr. Holifield worked in logistics for Frito-Lay, a division of PepsiCo. He began his retail career with H-E-B Grocery Company, where he worked in various logistics capacities from May 1977 through May 1986.

Rick Lepley – Age: 54

Mr. Lepley has been Executive Vice President, North American Retail Stores, since March 2004 and before that was President of Office Depot Japan since May 2001. Prior to that, he served as founder and President of Retail Investment Concepts, Inc. (RIC), an independent retailer and Office Depot licensee for Eastern Europe. In that capacity, he opened the first Office Depot branded retail store in Warsaw, Poland and also the first Office Depot store in Hungary. He also built a delivery business for the Office Depot brand in both countries. Prior to the founding of RIC, Mr. Lepley was Sr. Vice President of Sales and Marketing for Mitsubishi Motor Sales of America, where he worked for 11 years.

Monica Luechtefeld – Age: 56

Ms. Luechtefeld has been our Executive Vice President, E-Commerce since August 2000. Previously, she was Senior Vice President of E-Commerce from February 2000 until August 2000. From September 1997 until February 2000, she was Vice President, Marketing and Sales Administration; and from February 1996 to September 1997 she was Vice President of Contract Marketing & Business Development. Ms. Luechtefeld joined Office Depot in 1993, serving as General Manager of the Southern California Region of Office Depot until 1996.

Patricia Morrison – Age: 45

Ms. Morrison joined our company in January 2002 as Executive Vice President and Chief Information Officer. From June 2000 to December 2001, she was Vice President-Information Systems and Chief Information Officer of Quaker Oats Company. From April 1997 to June 2000, she was employed by the General Electric Company as Chief Information Officer of GE Industrial Systems (1998 to 2000) and Chief Information Officer, GE Electrical Distribution & Control (1997 to 1998). Prior to her employment at GE, Ms. Morrison was employed by Procter & Gamble Company from 1981 to 1997, in various positions, including Manager-Management Systems for the Cosmetics & Fragrance Division (1995 to 1997); Associate Director – Center for Excellence (1993 to 1995) and Associate Director, U.S. Finance & Accounting Systems (1992 to 1993).

Carl (Chuck) Rubin – Age: 45

Mr. Rubin joined our company in 2004 as Executive Vice President and Chief Merchandising Officer. Before joining the company, Mr. Rubin spent six years with Accenture Ltd., most recently as Partner, where he worked for clients, including Office Depot, across retail formats in the department, specialty and e-commerce channels, as well as new business startups. Prior to joining Accenture, Mr. Rubin spent six years in specialty retailing and 11 years in department store retailing, where he served as General Merchandise Manager and a member of the Executive Committees for two publicly held companies.

Frank P. Scruggs, Jr. – Age: 53

Mr. Scruggs joined the management of our company in March 2004 as Executive Vice President, Human Resources. In this role, he leads the company's efforts to attract, develop, engage and reward talent and to align it in support of the business units' pursuit of operating success. Mr. Scruggs spent 25 years prior to joining our company as a practicing attorney in the State of Florida (Greenberg Traurig LLP and Steel Hector & Davis LLP). He was a member of the Office Depot board of directors for over seven years prior to joining management. He serves as a member of the board of Blue Cross and Blue Shield of Florida and the Board of Trustees of the University of Miami. He previously served on the Florida Board of Regents for six years. Mr. Scruggs served as Secretary of Labor and Employment Security for the State of Florida from January 1991 to July 1992.

James A. Walker – Age: 48

Mr. Walker has been Senior Vice President, Finance and Controller since October 2001. Mr. Walker joined Office Depot in February 1999 as Vice President-Finance, Retail Stores Division until October 2001. From May 1996 until February 1999, when he joined Office Depot, Mr. Walker served as Vice President, Financial Planning for Advantica Restaurants, Inc. (operator of Denny's ® Restaurants); from May 1991 until May 1996, Mr. Walker was employed by PepsiCo, Inc. in various capacities in the finance and strategic planning areas.

Information with respect to our directors is incorporated herein by reference to the information under the caption "Election of Directors/Biographical Information of the Candidates" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

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Item 2. Properties.

As of February 19, 2005, we operate 951 office supply stores in 49 states and the District of Columbia, 33 office supply stores in five Canadian provinces and 78 office supply stores (excluding our participation under licensing and joint venture agreements) in four countries outside of the United States and Canada. We also operate 22 CSCs in 18 U.S. states and 25 CSCs in 11 countries outside of the United States. The following table sets forth the locations of these facilities.

STORES

State/Country	#	State/Country	#
UNITED STATES:			
Alabama	17	North Carolina	27
Alaska	2	North Dakota	1
Arizona	4	Ohio	13
Arkansas	10	Oklahoma	14
California	143	Oregon	16
Colorado	32	Pennsylvania	18
Connecticut	2	Rhode Island	1
District of Columbia	2	South Carolina	17
Delaware	2	South Dakota	1
Florida	98	Tennessee	24
Georgia	44	Texas	118
Hawaii	3	Utah	4
Idaho	5	Virginia	24
Illinois	43	Washington	32
Indiana	18	West Virginia	3
Iowa	3	Wisconsin	12
Kansas	8	Wyoming	1
Kentucky	15	TOTAL UNITED STATES	951
Louisiana	29		
Maryland	19	**CANADA:**	
Maine	1	Alberta	8
Massachusetts	4	British Columbia	9
Michigan	21	Manitoba	3
Minnesota	10	Ontario	11
Mississippi	13	Saskatchewan	2
Missouri	20	TOTAL CANADA	33
Montana	2		
Nebraska	5		
Nevada	15	FRANCE	44
New Hampshire	1	HUNGARY	4
New Jersey	15	JAPAN	25
New Mexico	5	SPAIN	5
New York	14	TOTAL OUTSIDE	78

CSCs

State/Country	#	State/Country	#	State/Country	#
UNITED STATES:					
Arizona	1	Massachusetts	1	BELGIUM	1
California	3	Michigan	1	FRANCE	4
Colorado	1	Minnesota	1	GERMANY	4
Connecticut	1	New Jersey	1	HUNGARY	1
Florida	2	North Carolina	1	THE NETHERLANDS	2
Georgia	1	Ohio	1	IRELAND	2
Illinois	1	Texas	2	ITALY	2
Louisiana	1	Utah	1	JAPAN	1
Maryland	1	Washington	1	SPAIN	1
				SWITZERLAND	1
				UNITED KINGDOM	6
		TOTAL UNITED STATES	22	TOTAL OUTSIDE THE UNITED STATES	25

Most of our facilities are leased or subleased, with initial lease terms expiring in various years through 2027, except for 91 facilities, including certain corporate office buildings and our systems data center, which we own. Our owned facilities are located in 22 states, primarily in Florida, Texas and California; three Canadian provinces; the United Kingdom; the Netherlands; and France.

Our corporate offices in Delray Beach, Florida consist of approximately 575,000 square feet in three adjacent buildings—two of which are owned and one is leased. We also own a corporate office building in Torrance, California, which is approximately 180,000 square feet in size, a corporate office in Venlo, the Netherlands which is approximately 226,000 square feet in size, and a systems data center in Charlotte, North Carolina which is approximately 53,000 square feet in size.

Item 3. Legal Proceedings.

We are involved in litigation arising in the normal course of our business. While from time to time claims are asserted that make demands for large sums of money, including ones asserted in the form of class action suits, we do not believe that the resolution of any of these matters, either individually or in the aggregate, will materially affect our financial position or the results of our operations.

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

None.

PART II

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

Our common stock is listed on the New York Stock Exchange (“NYSE”) under the symbol “ODP.” As of the close of business on February 25, 2005, there were 3,657 holders of record of our common stock. The last reported sale price of the common stock on the NYSE on February 25, 2005 was $19.02.

The following table sets forth, for the periods indicated, the high and low sale prices of our common stock, as quoted on the NYSE Composite Tape. These prices do not include retail mark-ups, markdowns or commission.

2004	High	Low
First Quarter	**$18.180**	**$15.430**
Second Quarter	**19.500**	**15.850**
Third Quarter	**18.660**	**14.690**
Fourth Quarter	**17.380**	**13.870**
2003		
First Quarter	$15.390	$10.280
Second Quarter	15.270	11.150
Third Quarter	18.500	14.190
Fourth Quarter	16.990	13.600

We have never declared or paid cash dividends on our common stock. While we regularly assess our dividend policy, we have no current plans to declare a dividend. Earnings and other cash resources will continue to be used in the expansion of our business.

The following table provides information with respect to our purchases of Office Depot, Inc. common stock during the fourth quarter of the 2004 fiscal year:

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(1)	(d) Maximum Number of Shares (or Approximate Dollar Value) that May Yet Be Purchased Under the Plans or Programs
Balance as of September 25, 2004	2,155,056(2)	$16.68	2,130,715	$514,747,000
September 26, 2004 – October 23, 2004	377,200	14.83	377,200	509,153,000
October 24, 2004 – November 20, 2004	650,523	16.63	650,523	498,332,000
November 21, 2004 – December 25, 2004	816,000	16.70	816,000	484,701,000
Total / Balance as of December 25, 2004	3,998,779	16.50	3,974,438	484,701,000

(1) On October 26, 2001, we announced that the board of directors authorized a common stock repurchase program. Under the program, we are authorized to repurchase up to $50 million of its common stock annually until the board terminates such program. The 2004 program was completed on November 11, 2004. On September 16, 2004, we announced that the board of directors authorized a separate common stock repurchase program whereby we are authorized to repurchase up to $500 million of our common stock over the following 12 to 24 months. This amount is inclusive of the repurchases authorized under the 2001 program for 2005 and 2006. This program commenced on November 12, 2004.

(2) Includes 24,341 shares of common stock delivered or restricted shares of common stock withheld to pay income tax or other tax liabilities with respect to the vesting of restricted stock, exercise of stock options, or the settlement of performance share awards.

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Item 6. Selected Financial Data.

The following table sets forth selected consolidated financial data at and for each of the five fiscal years in the period ended December 25, 2004. It should be read in conjunction with the Consolidated Financial Statements and Notes thereto, included in Item 8 of this report, and Management's Discussion and Analysis of Financial Condition and Results of Operations, included in Item 7 of this report.

(In thousands, except per share amounts and statistical data)	**2004**	2003(1)(2)	2002(1)	2001(3)	2000(3)(5)
Statements of Earnings Data:					
Sales	**$13,564,699**	$12,358,566	$11,356,633	$11,082,112	$11,495,493
Earnings from continuing operations before cumulative effect of accounting change	**$ 335,504**	$ 299,244	$ 309,415	$ 201,657	$ 48,315
Net earnings	**$ 335,504**	$ 273,515	$ 308,640	$ 201,043	$ 49,332
Earnings per share from continuing operations before cumulative effect of accounting change:					
Basic	**$ 1.08**	$ 0.97	$ 1.01	$ 0.68	$ 0.16
Diluted	**1.06**	0.95	0.98	0.66	0.16
Net earnings per share:					
Basic	**$ 1.08**	$ 0.88	$ 1.01	$ 0.67	$ 0.16
Diluted	**1.06**	0.87	0.97	0.66	0.16
Statistical Data:					
Facilities open at end of period:					
United States and Canada:					
Office supply stores	**969**	900	867	859	888
Customer service centers	**22**	22	24	24	25
Call centers	**13**	13	13	13	7
International (4):					
Office supply stores	**78**	64	50	39	35
Customer service centers	**25**	25	15	14	12
Call centers	**31**	31	13	11	11
Total square footage — North American Retail Division	**24,791,255**	23,620,343	23,203,013	22,842,403	24,384,355
Percentage of sales by segment:					
North American Retail Division	**43.8%**	45.7%	51.1%	52.7%	56.4%
Business Services Group	**29.8%**	32.1%	34.5%	34.0%	31.5%
International Group	**26.4%**	22.2%	14.4%	13.3%	12.1%
Balance Sheet Data:					
Total assets	**$ 6,767,351**	$ 6,194,679	$ 4,765,812	$ 4,331,643	$ 4,196,334
Long-term debt, excluding current maturities	**583,680**	829,302	411,970	317,552	598,499

(1) Statements of Earnings Data for fiscal years 2003 and 2002, and Balance Sheet Data for 2003, have been restated to reflect adjustments that are further discussed in Note B–Restatement of Financial Statements of the Notes to Consolidated Financial Statements included in Item 8 of this report. Earlier periods have not been adjusted as the impact was immaterial.

(2) Reflects the acquisition of Guilbert in June. Also, net earnings and net earnings per share data reflect cumulative effect of adopting EITF 02-16.

(3) As applicable, amounts have been adjusted to reflect the Australian business as discontinued operations.

(4) Company-owned facilities of our International Group.

(5) Includes 53 weeks in accordance with our 52 – 53 week reporting convention. Fiscal year 2005 will include 53 weeks.

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

RESULTS OF OPERATIONS

GENERAL

Office Depot, Inc. is a global supplier of office products and services. We sell to consumers and businesses of all sizes through our three business segments: North American Retail Division, Business Services Group, and International Group. Our management views our overall business in the context of the performance of these three principal business segments.

These segments include multiple sales channels consisting of office supply stores, a contract sales force, Internet sites, and catalog and call centers, all supported by our crossdock, warehouse and delivery operations. Each of these segments is described in more detail in Item 1, Business. We operate on a 52- or 53-week fiscal year ending on the last Saturday in December. All years in the discussion below contained 52 weeks. Fiscal year 2005 will include 53 weeks.

FORWARD LOOKING STATEMENTS

This Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to provide information to assist you in better understanding our business. We recommend that you read this MD&A in conjunction with our Consolidated Financial Statements and the Notes to those statements. This MD&A contains significant amounts of forward-looking information, and is qualified by our Cautionary Statements regarding forward-looking information. You will find some of our Cautionary Statements throughout this MD&A; however, most of them can be found in a separate section immediately following this MD&A. Without limitation, wherever in this Annual Report we use the words "believe," "estimate," "plan," "expect," "intend," "anticipate," "continue," "project," "should," and similar expressions, we are identifying forward-looking statements, and our Cautionary Statements apply to these terms and expressions and the text in which such terms and expressions are used. The purposes of this MD&A include providing the reader with the perspectives of our management on our business, and providing you with insights that are not necessarily obvious or clear from reading our financial statements (including footnotes) alone.

RESTATEMENT OF FINANCIAL STATEMENTS

On February 7, 2005, the Chief Accountant of the U.S. Securities and Exchange Commission ("SEC") released a letter expressing the SEC's views on certain lease accounting matters. We have identified areas where our historical accounting practices have differed from the SEC's views as to appropriate lease accounting under generally accepted accounting principles ("GAAP"). We have consistently accounted for leases in accordance with our interpretation of generally accepted accounting principles and common industry practice. However, we have restated our financial statements for prior periods to correct these errors. We do not consider the differences in prior years' financial statements to be material.

We have reviewed our property lease portfolio and adjusted initial lease terms to include option renewals that are reasonably assured of being exercised and included the straight-line effect over the lease term of escalating rents during the option periods and have recognized the effect of pre-opening "rent holidays" over the related lease terms. We have also reviewed our leasehold improvements to ensure amortization over the shorter of their economic lives or the adjusted lease term. Tenant allowances have been reclassified from a contra asset in property and equipment, net to other long-term liabilities in the Consolidated Balance Sheets. Tenant allowances have also been reclassified from a reduction of depreciation and amortization expense to a reduction of rent expense in the Consolidated Statements of Earnings and from a reduction of capital expenditures to an increase in cash provided by operating activities in the Consolidated Statements of Cash Flows. Retained earnings at the beginning of fiscal year 2002 have been adjusted for the after-tax impacts of earlier periods.

While we do not consider the net dollar amounts to be material to net earnings, financial position or net cash flows for the periods presented, we believe it is appropriate to align our historical accounting results with the SEC's comments on lease accounting under GAAP, and we have done so, as reflected in our decision to restate results for certain prior years. These accounting changes reduced net earnings by $2.8 million and $2.1 million for the fiscal years ended 2003 and 2002, respectively, and resulted in a $42.1 million reduction in retained earnings at the beginning of fiscal year 2002.

See Note B to the Consolidated Financial Statements for a summary of the effects of these changes on our Consolidated Balance Sheets as of December 27, 2003, as well as on our Consolidated Statements of Earnings and Cash Flows for fiscal years 2003 and 2002. The accompanying MD&A gives effect to these corrections.

OVERVIEW

Full year net earnings were higher in 2004, compared to the previous two years. The 2004 increase reflects a significant fourth quarter contribution from volume rebates and event-based promotional incentives received from our vendors. While we estimate these effects throughout the year, our full year contribution from these programs exceeded our earlier expectations. We increased purchases during the fourth quarter to add inventory for early 2005 initiatives and to protect against certain anticipated product cost increases. We do not consider these increases to be outside the normal parameters of our purchasing for these needs. The higher purchases resulted in reaching higher volume rebate tiers with some vendors and therefore additional rebate amounts on related purchases for the year. To the extent the additional rebates related to product sold during the year, that amount was included in fourth quarter earnings; the remaining amount was deferred in inventory. The increase in event-based support resulted from finalization of program agreements with vendors for promotional activity that occurred throughout the year. The fourth quarter 2004 results also include charges related to actions designed to streamline operations, as well as a net benefit from the release of accruals for previously recorded uncertain tax positions based upon changes in the facts and circumstances, partially offset by taxes on the decision to repatriate some foreign earnings.

Our North American Retail Division reported positive comparable sales in each quarter of 2004, reversing a previous trend of 15 consecutive quarters of decline. The increase in sales was led by higher sales of technology products. The overall gross profit percentage for this segment increased over 2003, primarily from higher vendor contributions. Operating costs as a percentage of sales declined with the leverage of higher sales, payroll efficiencies and the comparison to costs incurred in 2003 to adjust closed store reserves.

Our Business Services Group again reduced the operating costs for our warehouse and delivery function, and contract sales increased, but total sales were hampered by a continued decline in catalog sales.

Our International Group benefited from purchasing efficiencies as a result of the Guilbert acquisition, but to date we have not realized the sales growth we expected from this transaction. We have taken specific steps to address the need to increase sales in Europe, particularly in the Guilbert contract sales channel. Changes in foreign currency exchange rates during 2004 also had a positive effect on reported sales and operating profit, but, of course, exchange rates are outside of our control. In the course of our annual testing, we concluded that the goodwill balance relating to our operations in Japan was unrecoverable and therefore resulted in an impairment charge in the fourth quarter.

At our corporate headquarters, our Chairman and CEO resigned in October, and our board of directors is actively searching for a permanent replacement. In the interim, veteran board member Neil Austrian is functioning as our Chairman and CEO on an interim basis, and, among other initiatives, has approved a number of cost reduction programs. However, a permanent CEO may alter the current strategic initiatives or effect other changes.

Under Mr. Austrian's leadership, our senior management team has sharpened the company's focus in several key areas. These include expanding the contract sales teams in the U.S. and Europe, improving and expanding North American retail stores at an accelerated pace, growing our private label initiatives substantially, and implementing a key merchandising software platform. Our corporate culture, emphasizing adherence to stated core values that we have developed internally over the past several years, remains intact, but our primary emphasis is now more sharply focused on execution and accountability for results.

In many ways, 2004 has been a year of transition. We believe the stage is set for a stronger performance in 2005. However, we must be cautious in our outlook as we face the reality of selecting and bringing on board a new CEO and ensuring that our senior management team is the right team to achieve success under new leadership, while continuing to address the many challenges that continue to face us, both in North America and internationally.

Diluted earnings per share presented in accordance with GAAP were $1.06, $0.87 and $0.97 for fiscal years 2004, 2003 and 2002, respectively. We maintain our commitment to emphasizing reported GAAP-based results, but we also recognize that GAAP does not always provide sufficient insight into our current operations to develop expectations for future performance.

We have provided below a summary of items included in current earnings, both increases and decreases, which may help a reader of our financial statements to better understand the results of our ongoing operations. The inclusion in this MD&A of this summation to a non-GAAP EPS is not intended to imply that we consider it to be a more meaningful presentation than the actual reported amounts under GAAP, but by providing the significant income statement components in one place, a reader can interpret the information that is useful for his or her purposes. We use these non-GAAP numbers internally to assess the underlying business trends, while always mindful that we are accountable for the GAAP-based results of the company.

	2004	2003	2002
Diluted EPS — GAAP	$ 1.06	$ 0.87	$ 0.97
Add/(deduct):			
Severance arrangements, contract terminations, and property disposition	.04		
Goodwill impairment	.04		
Litigation settlement, net	(.01)		.03
Bond pre-payment	.09		
Tax rate and position changes	(.04)		
Closed store and investment adjustments		.08	.01
Cumulative effect of adopting EITF 02-16		.08	
Currency gain		(.04)	
Adjusted EPS – Non-GAAP	$ 1.18	$ 0.99	$ 1.01

The choice of items involves judgment and is not intended to be exhaustive. Of particular note, however, is the impact of an operating cost review announced at the end of the third quarter and which remains ongoing. As part of that review, over 1,500 positions were either eliminated or transferred to an outsourcing firm, resulting in severance and exit-related costs in 2004 and 2005. We redeemed our highest cost debt and cancelled plans to construct a new corporate office facility, resulting in the write off of capitalized development costs. The table above presents amounts that resulted from specific events or were otherwise considered to be noteworthy, but does not include all charges or credits related to each line item. For example, in addition to the amounts presented, our financial results include some level of store closure costs and foreign currency gains and losses that we consider to be components of normal operations. To make this MD&A more meaningful to readers, these and certain related items are discussed in the individual business segment sections below.

OVERALL
(Dollars in millions)

	2004		2003		2002	
Sales	**$ 13,564.7**	**100.0%**	$ 12,358.6	100.0%	$ 11,356.6	100.0%
Cost of goods sold and occupancy costs	**9,308.6**	**68.6%**	8,483.9	68.7%	8,021.4	70.6%
Gross profit	**4,256.1**	**31.4%**	3,874.7	31.3%	3,335.2	29.4%
Store and warehouse operating and selling expenses	**3,037.2**	**22.4%**	2,807.1	22.7%	2,342.6	20.6%
Segment operating profit	**1,218.9**	**9.0%**	1,067.6	8.6%	992.6	8.8%
General and administrative expenses	**665.8**	**4.9%**	578.8	4.7%	486.3	4.3%
Other operating expenses	**23.1**	**0.2%**	22.8	0.1%	9.8	0.1%
Operating profit	**$ 530.0**	**3.9%**	$ 466.0	3.8%	$ 496.5	4.4%

Our overall sales increased 10% in 2004 following an increase of 9% in 2003. The 2004 increase reflects higher sales in each business unit, but primarily the International Group. A full year contribution from our June 2003 acquisition of Guilbert, as well as positive effects of changes in exchange rates, were the main contributors to that increase. Currency exchange rates and that acquisition also drove the 2003 increase when compared to 2002. Internally, we analyze our international operations in terms of local currency performance to allow focus on operating trends and results.

Comparable sales (or “comp” sales) measure the sales from stores that have been operating for one year or more. Relocated stores are excluded from the comp calculation until one year of operation in the new location. The term is also used on an industry basis to describe contract and catalog sales, but it is most commonly used when referring to retail store sales. We use this measure to manage our business and have used this term throughout MD&A to explain our results. From time to time, we regroup product categories for better product management. Accordingly, comp sales reported in prior periods for certain product groupings have been adjusted to conform to current year group classifications. Our total comp sales increased 1% in 2004, following a 2% decline in 2003. Comp sales in North American Retail increased 3% in 2004, after a prior year decline of 4%.

Gross profit as a percentage of sales increased slightly in 2004 because of higher volume rebates and promotional incentives received from our vendors, offset in BSG by higher product cost and promotional activity, and in our International Group by a higher mix of contract customers and prospecting catalogs.

At the start of fiscal year 2003, we adopted new accounting guidance, Emerging Issues Task Force ("EITF") Issue No. 02-16, *Accounting by a Reseller for Cash Consideration Received from a Vendor.* As a result of this standard, we now classify amounts earned under cooperative advertising arrangements as a credit to the cost of goods sold. Previously, these amounts were classified as a reduction of advertising expense. Additionally, under this standard a portion of the amount received is deferred in inventory and reduces the cost of products as they are sold, similar to our practice for vendor rebate arrangements.

To record the initial amount of cooperative advertising deferred into inventory at the beginning of 2003, we recorded an after-tax cumulative effect adjustment of $25.9 million, or $0.08 per share. The impact on continuing operations of applying this method in 2003 decreased cost of goods sold by $240.4 million and increased advertising expense by $234.2 million when compared to the prior accounting classification. Operating profit increased by $6.2 million, net earnings by $4.3 million and diluted earnings per share by $0.01. Fiscal years 2004 and 2003 are presented on a like basis, but pro forma information for 2002 is presented in the discussion of each business segment.

Store and warehouse operating and selling expenses consist of personnel costs, maintenance and other facility costs, advertising expenses, delivery and transportation costs, and certain other operating and selling costs. Freight costs incurred to bring merchandise to stores and warehouses are included as a component of inventory and cost of goods sold. Warehouse costs and freight costs incurred to ship merchandise, primarily related to our delivery customers, are included in store and warehouse expenses. Because of our multi-channel operations, and because some retail companies include shipping, handling and other distribution costs as a component of cost of goods sold, you should be aware that their measure of gross profit may not be comparable to ours.

Total store and warehouse operating and selling expenses as a percentage of sales declined in 2004 because of operating efficiency gains in both North American Retail and BSG. Severance costs, exit costs, and goodwill impairment charges are included in this line item in 2004. Fiscal year 2003 includes a charge to adjust our closed store reserve. Store and warehouse operating and selling expenses in 2002 include costs associated with our settlement of certain class action litigation in the state of California involving wage and hour claims relating to whether certain employees should be classified as "non-exempt" rather than "exempt."

The Financial Accounting Standards Board ("FASB") has issued a new accounting pronouncement that will require companies to expense the fair value of stock options granted to employees. This rule will be applicable for all public companies beginning with the third quarter of 2005. Because we currently provide stock options to a large number of our employees, this change could have a significant impact on our results in 2005 and beyond. Our assessment of this rule change is not yet complete, but our financial statement footnote disclosures have indicated that under one acceptable methodology for valuing stock option grants, the full year impact of expensing stock options in recent years would have reduced EPS in the range of $0.06 to $0.09 per share. We anticipate refining our analysis during the first half of 2005.

Corporate and other items not classified within our three main segments are addressed below following the discussions of segment results.

The Overall results table provides a subtotal for segment operating profit. We use this measure of performance to assess the operations of each business unit, and we believe it is useful to investors because it reflects the sales and operating expenses directly related to the segment's activities. Our general and administrative expenses primarily consist of personnel and related costs associated with support functions. Because these functions typically support all segments of our business, we have historically not considered these costs in determining our segment profitability, but rather have applied this expense when looking at total company profitability. Other companies may charge more or less general and administrative costs to their segments, and our presentation therefore may not be comparable to similarly titled measurements used by some other entities. Our measure of segment operating profit should not be considered as an alternative to operating income or net earnings determined in accordance with GAAP. The table above reconciles segment operating profit to operating profit determined in accordance with GAAP.

NORTH AMERICAN RETAIL DIVISION
(Dollars in millions)

	2004		2003		2002	
Sales	**$ 5,940.7**	**100.0%**	$ 5,650.1	100.0%	$ 5,804.4	100.0%
Cost of goods sold and occupancy costs	**4,367.9**	**73.5%**	4,161.0	73.6%	4,349.9	74.9%
Gross profit	**1,572.8**	**26.5%**	1,489.1	26.4%	1,454.5	25.1%
Store and warehouse operating and selling expenses	**1,184.5**	**19.9%**	1,177.9	20.9%	1,037.6	17.9%
Segment operating profit	**$ 388.3**	**6.6%**	$ 311.2	5.5%	$ 416.9	7.2%

Sales in our North American Retail Division increased 5% in 2004 over the prior year, compared to a decrease of 3% in 2003. Comparable sales in 2004 from the 892 stores that were open for more than one year increased 3%. In 2003, comp sales in the 870 stores that were open for at least one year were down 4%. Comp sales were positive in each quarter of 2004, reversing a trend of 15 consecutive quarters of decline. We completed a chain-wide technology remerchandising effort during the year, which improved both the breadth of product selection and presentation. This, plus increased promotional activity, drove significant technology sales increases. Overall, while not achieving our desired attachment rate goals, we did see improvement over last year in many categories. The comp sales increase in 2004 reflects a higher average transaction size but fewer transactions and the decrease in 2003 reflects both lower average transaction size and fewer transactions. We believe our sales in 2002 and part of 2003 were negatively impacted by the overall soft U.S. economy at that time.

The overall technology products category increased 13% in 2004, following an 11% decline in 2003. Sales of desktops, laptops, and networking equipment were all positive in 2004 while such trends had been negative in 2003. The increase in 2004 in part reflects the remerchandising efforts in technology and increased promotional activity. Generally, technology products produce lower margin rates as a percent of sales, and those margins are reduced further by promotions; however, promotions are frequently supported by our vendors, which protects our margins. Sales of supplies remained flat in 2004, with higher ink and toner sales offset by lower paper sales. The furniture and low tech category comp sales declined, but margin contribution was positive, reflecting increased margin rates for each sub-group in this category. During 2004, we launched our Advantage customer loyalty program and enrolled almost two million customers by year end. Merchandise costs associated with this program are included in cost of goods sold. Overall segment gross margin increased for the year, primarily from additional volume rebates and promotional support received from our vendors, particularly in the fourth quarter of the year. Also during 2004, we expanded our selection of private label brands. We currently offer in our stores and catalogs over 3,000 private label stock keeping units, or SKUs, and expect to expand this offering in the future.

During 2004, we opened 36 stores that we acquired from Toys "R" Us. The acquisition has provided us access to markets in the Northeast region of the U.S. where we were under-represented in retail. An additional 15 stores from the acquisition will be opened during 2005. We expect to open a total of 100 new stores during 2005 and remodel about 50 existing locations. All of these stores will be opened or remodeled using the M2 design, which we believe shoppers find more appealing than previous formats.

We adopted EITF 02-16 at the beginning of 2003. This accounting change reclassified cooperative advertising payments received from our vendors from a reduction of advertising expense to a reduction of product cost, primarily cost of goods sold. Had this change been effective for 2002, the pro forma impact on the North American Retail Division would have decreased cost of goods sold by $150.9 million and increased advertising expense by $151.5 million.

Total operating and selling expenses as a percent of sales decreased 100 basis points in 2004, largely the result of leverage from additional sales and a broad-based focus on operating expenses. Payroll cost reductions reflect a shift towards a higher percentage of part-time employees and an average reduction in per store headcount. Severance-related costs of approximately $2.0 million were incurred in 2004 to reduce staffing and streamline operations. Advertising expenses decreased as a percent of sales but increased in dollars, reflecting additional newspaper inserts, direct mail and the launch of our customer loyalty program. Other operating costs in 2004 include the impact of new stores and remerchandising efforts, partially offset by lower bank and credit fees. During 2003, increases in wage rates and in certain employee benefit costs were more than offset by streamlining certain operational processes and by reduced incentive costs. Facility expense increased in 2003 as we added stores and made changes to our store layout.

During 2003, we conducted a comprehensive review of our closed store commitments and recorded a $23.9 million charge to terminate some obligations and adjust the remaining commitments to current market values. We recorded similar charges in 2002 of

$6.7 million. Additionally, charges for asset impairments for under performing stores were $3.9 million, $2.7 million, and $5.4 million in 2004, 2003 and 2002, respectively. We regularly review actual and projected store performance and record any asset impairment charges as a component of store and warehouse operating expenses.

Operating and selling expenses in 2002 also included $14.4 million to settle potential class action litigation in the state of California relating to certain employee classifications as exempt from overtime.

BUSINESS SERVICES GROUP
(Dollars in millions)

	2004		2003		2002	
Sales	**$ 4,045.5**	**100.0%**	$ 3,965.3	100.0%	$ 3,913.9	100.0%
Cost of goods sold and occupancy costs	**2,746.2**	**67.9%**	2,671.3	67.4%	2,684.6	68.6%
Gross profit	**1,299.3**	**32.1%**	1,294.0	32.6%	1,229.3	31.4%
Operating and selling expenses	**899.8**	**22.2%**	906.1	22.8%	864.4	22.1%
Segment operating profit	**$ 399.5**	**9.9%**	$ 387.9	9.8%	$ 364.9	9.3%

Sales in our BSG segment increased 2% in 2004 and 1% in 2003. Sales in our contract channel increased in both 2004 and 2003. Contract sales in the eastern U.S. have outperformed those in the western U.S., primarily because of weak economic conditions in the west. The increase in 2004 reflects revenue growth in most customer segments, with the national account segment growing at faster rates than the other account segments. Total direct sales (Office Depot catalog, Viking catalog and Tech Depot) were slightly positive in 2004, but sales in the catalog channel decreased in both 2004 and 2003. Comparable sales of office supplies, the largest category in BSG's sales mix, increased 1% in 2004 and 3% in 2003. Higher paper costs and promotional activity negatively impacted gross profit in 2004, partially offset by higher vendor rebates. Furniture and low tech category sales increased 3% in 2004 after declining 3% in 2003.

We earn higher gross profit percentages in our BSG segment than in our North American Retail Division, principally because of lower occupancy costs and a sales mix that includes less technology products.

We adopted EITF 02-16 at the beginning of 2003. Had this change been effective for 2002, the pro forma impact would have decreased BSG's cost of goods sold in that year by $66.1 million and increased advertising expense by $66.6 million.

In early 2004, we reorganized our contract sales force, with a greater emphasis on generating new accounts and increasing penetration of existing accounts. In late 2004, we began adding contract sales representatives to drive penetration in existing markets and to expand into new markets. We expect these additional representatives to accelerate sales in 2005. During 2004, we decided to consolidate our call centers from 13 locations to three and outsource certain activities, a process we expect to be completed by the third quarter of 2005. We incurred approximately $2.9 million of severance and other exit-related costs during 2004 and expect to incur $10.2 million of severance and exit costs in 2005 related to this consolidation and outsourcing. We expect significant savings from these initiatives in 2006. Catalog advertising expense decreased in 2004 as we eliminated certain unproductive programs; and bad debt expense declined because of improved systems and processes, and greater collaboration between our contract sales force and our credit management function.

Operating and selling expenses as a percent of sales continued to decline in 2004 as compared to 2003, a comparable trend that spans 16 consecutive quarters. In 2004, we realized additional benefits from optimizing our delivery model by using a more cost effective blend of company-owned and third party carriers. In 2002, call center consolidation contributed to lower personnel-related costs, and the introduction of new technologies streamlined operations and reduced delivery costs by 13%.

INTERNATIONAL GROUP
(Dollars in millions)

	2004		2003		2002	
Sales	**$ 3,580.8**	**100.0%**	$ 2,746.5	100.0%	$ 1,641.4	100.0%
Cost of goods sold and occupancy costs	**2,196.2**	**61.3%**	1,653.2	60.2%	988.3	60.2%
Gross profit	**1,384.6**	**38.7%**	1,093.3	39.8%	653.1	39.8%
Operating and selling expenses	**953.2**	**26.6%**	724.0	26.4%	441.6	26.9%
Segment operating profit	**$ 431.4**	**12.1%**	$ 369.3	13.4%	$ 211.5	12.9%

Sales in our International Group grew 30% in 2004 and 67% in 2003. In local currencies, sales grew 21% in 2004 and 52% in 2003, though those increases primarily reflect the acquisition of Guilbert in mid-year 2003. Other than Guilbert, the growth in local currency sales was strongest in the United Kingdom, while sales declined in Germany and Japan in both 2004 and 2003. The integration of Guilbert continues. Integrating the sales force was more challenging than anticipated, and the post-acquisition sales performance has been below our expectations. We have strengthened the contract management team across Europe and continue investing in the sales force. Currency adjusted, sales contribution across all channels strengthened over the second half of the year, with four months of successive overall International Group sales improvement. Retail stores reported positive comp sales throughout 2004, although they make up less than 10% of our total sales mix.

During 2004, we acquired Elso Iroda Superstore Kft in Hungary, which included three stores and a contract sales business that formerly operated as Office Depot businesses under a licensing agreement. We opened an additional store in Hungary in 2004 and will look for opportunities to expand our presence in Eastern Europe. We also opened four stores in France and seven stores in Japan, and closed one store in Spain. In addition to our acquisition of Guilbert in 2003, we initiated contract operations in Germany in January 2003 and launched our retail business in Spain in March 2003. In 2003, we opened three stores in France and had a net increase of five stores in Japan. In 2002, we added catalog operations in three countries, increased the size of our contract sales force in four countries, initiated contract sales in Italy, added a net of seven new stores in France, and launched nine new web sites. We expect to continue to grow all sales channels in our European operations.

We adopted EITF 02-16 at the beginning of 2003. Had this change been effective for 2002, the pro forma impact on our International Group would have decreased cost of goods sold by $24.3 million and increased advertising expense by $24.6 million.

Gross profit as a percentage of sales decreased in both 2004 and 2003 (considering the pro forma impact of EITF 02-16), reflecting a higher mix of lower margin contract sales from the addition of Guilbert, and to a lesser extent, the increased distribution of prospecting catalogs (which feature lower priced products) in Europe to support growth into new markets and increased customer acquisition in established markets. Also, the change in 2004 reflects margin pressures in both the catalog and contract channels related to paper and ink and toner. Since mid-2003, the decrease has been partially offset by lower net product costs from increased vendor purchasing discounts achieved with higher volume following the Guilbert acquisition.

Operating and selling expenses as a percentage of sales have been higher in our International Group than in our other segments, primarily because of expansion activities, and in 2004 and 2003, costs related to acquisition integration activities. During 2004, we realigned a portion of our sales force throughout Europe and decided to relocate a warehouse in France to improve customer service at lower costs and recognized $16.7 million of related severance and moving costs. The new warehouse began fulfilling orders in November 2004. We also recognized a $9.4 million gain from the favorable settlement of certain claims related to our distribution network. As our operations grow in a particular market, fixed operating expenses decline as a percent of sales. For example, advertising costs in the form of prospecting and delivery costs, which are affected by the density of the delivery areas, decline as a percentage of sales as our operations in a given market grow.

During 2004, as a result of our customary fourth quarter impairment analysis, we made a determination that the goodwill balance existing in our Japanese reporting unit was impaired. In recent years, several initiatives were put in place in efforts to improve the profitability of this business, including streamlining from two brands to one brand, consolidating warehouses, and improving retail assortment and layout. However, the anticipated improvements have been less than expected, and we have recorded an impairment charge of approximately $11.5 million to reduce the carrying value of the goodwill to zero. We continue our efforts to improve the sales performance and profit of our Japanese operations.

As noted above, sales in local currencies have substantially increased in recent years. For U.S. reporting, these sales are translated into U.S. dollars at average exchange rates experienced during the year. International Group sales were positively impacted by foreign exchange rates in 2004 by $268.7 million, in 2003 by $253.2 million and in 2002 by $67.0 million. International Group segment operating profit also benefited from foreign exchange rates by $36.8 million in 2004, by $32.7 million during 2003 and by $9.0 in 2002. Future volatility in exchange rates could affect translated sales and operating profit of our International Group operations.

In 2003, we sold our operations in Australia with no significant impact on earnings. The Australian business has been accounted for as a discontinued operation.

CORPORATE AND OTHER

Other Operating Expenses

Other operating expenses primarily reflect pre-opening expenses and, in 2003, costs related to the integration of Guilbert.

Pre-opening expenses consist of personnel, property and advertising expenses incurred in opening or relocating stores and customer service centers (“CSCs”). We typically incur pre-opening expenses during a six-week period prior to a store opening, but the period was longer in 2004 for some of the stores acquired in the transaction with Toys “R” Us. Because we expense these items as they are incurred, the amount of pre-opening expenses each year is generally proportional to the number of new stores and CSCs opened during the period. On a world-wide basis, we opened or relocated 103 stores in 2004, 64 in 2003, and 42 in 2002. We relocated one CSC in Europe during 2004 and expect to complete another relocation during 2005. We opened three CSCs in 2002. For 2004, our pre-opening expenses were approximately $190,000 per domestic office supply store and $75,000 per international office supply store. Our cost to open a new CSC varies significantly with the size and location of the facility. We estimate pre-opening costs to open a domestic or international CSC to be approximately $1.0 million per facility.

In 2003, we incurred approximately $17.7 million of non-capitalizable integration costs in connection with our acquisition of Guilbert in June 2003. These costs primarily related to professional consulting fees for assistance with integration, management, internal communications plans, and human resource aspects of the acquisition.

General and Administrative Expenses

(Dollars in thousands)	**2004**	2003	2002
General and administrative expenses	**$665,825**	$578,840	$486,279
Percentage of sales	**4.9%**	4.7%	4.3%

Our general and administrative (“G&A”) expenses primarily consist of personnel-related costs associated with global support functions. Because these functions typically support all segments of our business, we have not considered these costs in determining our segment profitability.

The increase during 2004 includes a full year of Guilbert-related G&A expenses, as well as the impact of translating all international G&A expenses at higher exchange rates. The increase as a percentage of sales, however, reflects the write off of costs associated with terminating plans for a new corporate office site, dispute resolutions, executive severance following the departure of our Chairman and CEO, exit costs associated with corporate staff reductions, additional professional fees to comply with new legislation requiring additional documentation of controls over financial reporting, and corporate systems enhancements.

The increase in 2003 reflects the mid-year acquisition of Guilbert, the impact of exchange rates on other international expenses, and costs relating to finance, human resources and merchandising software applications. Employee-related costs declined in 2003 because of lower performance-based compensation, partially offset by higher costs for healthcare and other employee benefits.

The comments above and in the Overall section of this MD&A describe how our management has historically presented our G&A expenses. Other companies may charge more or less G&A expenses and other costs to their segments, and our results therefore may not be comparable to similarly titled measures used by other entities.

Other Income and Expense

(Dollars in thousands)	**2004**	2003	2002
Interest income	**$ 20,042**	$ 14,196	$ 18,509
Interest expense	**(61,108)**	(54,805)	(46,195)
Loss on extinguishment of debt	**(45,407)**	—	—
Miscellaneous income, net	**17,729**	15,392	7,183

Interest income increased in 2004, reflecting higher average cash and cash equivalent balances and higher interest-based investment yields. The decrease in 2003 reflects lower interest rates and lower cash balances for part of the year following the acquisition of Guilbert in mid-2003.

The increase in interest expense over the three-year period ended in 2004 results from the change in borrowings outstanding by period. Fiscal year 2004 includes interest on a full year of $400 million in senior notes that were issued in August 2003 at an effective interest rate of 5.87%, essentially a full year of interest on the $250 million in senior subordinated notes with an effective interest rate of 8.7% that were redeemed in December 2004, a full year of interest on approximately $100 million outstanding under our revolving credit facility, as well as interest expense on capital leases. Interest expense also includes accretion on lease obligations for stores closed before the end of 2002; the accrued lease obligations totaled $58.8 million at December 25, 2004. Following a change in accounting rules, accretion on lease obligations for stores closed after January 2003 is included as a component of operating expenses.

In December 2004, we redeemed the entire issue of the $250 million senior subordinated notes, pursuant to the optional redemption provisions of the subordinated notes indenture. The payment of approximately $302 million included the principal, accrued interest to the termination date, and contractual interest, discounted at the appropriate U.S. Treasury rate plus 50 basis points. The net loss on extinguishment of debt of $45.4 million included the make whole payment, removal of deferred issuance costs, and recognition of a previously deferred gain related to an interest rate swap.

Our net miscellaneous income (expense) consists of equity in the earnings of our joint venture investments, royalty and franchise income, and realized gains and impairments of other investments. Our equity-method investments are non-controlling interests in office supply selling operations outside of the United States and Canada. Earnings from these investments increased $4.3 million in 2004. In 2003, we sold or abandoned a majority of our interest in certain Internet companies, resulting in a fourth quarter charge of $8.4 million. In 2002 we recorded charges of $3.0 million related to the impairment of these investments. In 2003, this category also included recognition of approximately $11.8 million of net foreign currency gains, primarily resulting from holding euro investments in anticipation of purchasing Guilbert in June 2003.

Income Taxes

(Dollars in thousands)	**2004**	2003	2002
Income Taxes	**$125,729**	$141,524	$166,554
Effective income tax rate*	**27%**	32%	35%

* Income Taxes as a percentage of earnings from continuing operations before income taxes.

The effective income tax rate in 2004 has been affected by four significant factors: (1) an $11.5 million tax expense related to the anticipated repatriation of foreign earnings, (2) an $11.3 million tax benefit from reducing existing valuation allowances on deferred tax assets, (3) settlements of tax audits of $12.4 million, and (4) a release of previously recorded accruals for uncertain tax positions based on changes in the facts and circumstances.

The American Jobs Creation Act was passed by Congress and signed into law in 2004. This Act allows a one-time reduction in U.S. Federal taxes on repatriated earnings of foreign affiliates. We have decided to repatriate at least $200 million of foreign earnings and have recognized the incremental U.S. tax expense. We have not yet decided whether to repatriate any additional amounts. Should we decide to bring additional foreign earnings back to the U.S. during 2005, our tax expense will increase accordingly.

Because of a projected increase in taxable income of certain international entities, and a reassessment of certain state tax circumstances, we changed our assessment of the need for the valuation allowances on the related deferred tax assets. Tax expense was reduced because we now believe the related tax benefits are more likely than not to be realized.

The consolidated effective income tax rate has decreased over the three years presented, reflecting an increasing proportion of international activity, which is generally taxed at lower effective tax rates and, in 2003, realization of certain state tax credits. The effective tax rate in future periods can be affected by variability in our mix of income and tax rates in the various jurisdictions and therefore may be higher or lower than it has been over the past three years. Currently, we are in the final stages of completing routine taxing authority examinations of certain earlier tax years. Resolution of these examinations for amounts other than those that we have reserved as probable exposures will impact tax expense in future periods.

We are a multi-national corporation engaged in complex business, legal and tax transactions in various countries. Our current effective tax rate is dependent in part upon both agreements with taxing authorities in a number of jurisdictions and tax filing positions taken in various jurisdictions, which tax filing positions we believe to have been taken in good faith and to be well founded based upon our understanding of the applicable tax codes. Our agreements with tax authorities and our tax filing positions are subject to ongoing review by us and by various taxing authorities. A material change in any of our agreements with taxing authorities, or a successful challenge to any one or more of our tax filing positions, could have a material impact on our overall corporate tax rate, causing this rate to be higher or lower than the current tax rate.

In 2005, we anticipate resolution of various issues pertaining to certain tax agreements and/or tax filing positions in various taxing jurisdictions, which could result in a higher effective tax rate. Such change in our tax rate could be material. We have made no determination at this time as to whether there will definitely be a change in our tax rate, the magnitude of any such change in our tax rate or the impact on future periods from any such change.

LIQUIDITY AND CAPITAL RESOURCES

Cash provided by (used in) our operating, investing and financing activities is summarized as follows:

(Dollars in thousands)	**2004**	2003	2002
Operating activities	$ 645,865	$ 656,280	$ 702,334
Investing activities	(426,606)	(1,184,377)	(199,903)
Financing activities	(256,477)	388,851	(212,625)

Operating Activities

We have consistently satisfied operating liquidity needs and planned capital expenditure programs through our normal conversion of sales to cash. Over the three years ended in 2004, we generated over $2.0 billion of cash flows from operating activities. At December 25, 2004, we had over $565 million available under our revolving credit facility, and incurred no new borrowings under this program during this year, in spite of significant outflows for investing and financing activities.

Our major sources of cash from operations include: store sales, a majority of which are generated on a cash and carry basis, our private label credit card program, which is administered by a third party financial services company and converted to cash daily, and collection of our receivables. We generate receivables from our contract and certain direct mail customers, and as we expand this business here and abroad, we anticipate our accounts receivable portfolio will grow. Additionally, amounts due us under rebate, cooperative advertising, and other programs with our vendors comprised over 25% of total receivables at the end of 2004 and 2003, respectively. These receivables tend to fluctuate seasonally (growing during the second half of the year and declining during the first half), because certain collections do not occur until specified milestones are reached or the program year is complete. These receivables, however, are typically high quality and are collected quickly after reaching specified milestones. Our primary outflow of cash from operations is the purchase of inventory, net of customary credit arrangements with vendors, operational costs such as payroll and rent, and the payment of current taxes.

Cash flows provided by operating activities in 2004 decreased 2% as compared to 2003. The change reflects the comparison to higher non-cash charges in 2003 from inventory obsolescence and adjustment to our closed store reserves, offset by lower working capital needs in 2004. The increase in accounts payable and inventory at year end 2004 reflects the addition of 52 new stores during the fourth quarter, as well as an addition to inventory for anticipated first quarter 2005 needs. Accounts receivable balances increased because of a 7% increase in fourth quarter sales for 2004 compared to 2003, as well as an increase in receivables from vendors. The increased volume of purchases finalized at the end of the year, along with the increase in promotional activity contributed to the increase in receivables from our vendors compared to 2003.

For 2003 compared to 2002, the decrease in current liabilities reflects payments on closed store liabilities, accrued employee compensation, and settlement of accrued expenses, as well as the timing of year-end purchases and vendor payments. The increase in inventories reflects lower than expected sales in our North American Retail Division during the fourth quarter, and an intentional build up of certain products to support the holiday season and, our new retail merchandising initiatives. The non-cash operating items primarily include an increase in our deferred income tax expense, an increase in our closed store reserve, and various asset impairments. The additional depreciation includes the impact of acquiring Guilbert assets.

Investing Activities

During 2004, we invested $391.2 million in capital expenditures. This activity includes the opening, relocating and remodeling of retail stores worldwide, as well as opening one Customer Service Center in Europe. The capital expenditures in North America include $90.6 million to buy 91 retail store locations from Toys “R” Us. The original transaction included 124 store locations. Of that total, we have opened 36 during 2004, and we plan to open an additional 15 in 2005. Seventeen others were transferred directly to a separate buyer, 24 are being held for sale or sublease, and 32 were removed from the transaction by mutual agreement. We also acquired retail stores in Hungary that had operated as Office Depot stores under separate licensing agreements.

Investing activities for 2003 include approximately $919 million for payments made in connection with our acquisition of Guilbert, net of cash acquired. See Note D to our Consolidated Financial Statements for additional discussion of the purchase transaction. Investing activities in 2004 and 2003 also include $55 million and $100 million, respectively, invested in a mutual fund that primarily invests in U.S. Government agency obligations.

We currently plan to open 100 stores in our North American Retail Division (including the 15 stores discussed above) and approximately five to ten stores in our International Group during 2005. We estimate that our cash investing requirements will be approximately $1.0 million for each new domestic office supply store. The $1.0 million includes approximately $0.4 million for leasehold improvements, fixtures, point-of-sale terminals and other equipment, and approximately $0.6 million for the portion of our inventories that will not be financed by our vendors. In addition, our average new office supply store requires pre-opening expenses of approximately $0.2 million. We also anticipate remodeling approximately 50 retail locations during 2005 at an average cost of $250,000 per location.

Financing Activities

Our existing credit agreement is a $750 million 5-year unsecured multi-currency revolving credit facility, which includes up to $350 million available for standby and trade letters of credit. This facility runs through March 2009. Upon mutual agreement, the maximum borrowing may be increased to $900 million. The agreement provides borrowings up to the total amount in U.S. dollars, British pounds, euro, or yen. We may elect interest periods of one, two, three, six, nine or twelve months. Interest is based on the London Interbank Offering Rate (“LIBOR”), plus a spread determined at the time of usage. Based on our current credit ratings, borrowings include a spread of 0.70%. The effective interest rate on yen borrowings at the end of 2004 was 0.763%. At December 25, 2004, we had approximately $565.0 million of available credit under our revolving credit facility, which covers $81.9 million outstanding letters of credit. We had an additional $8.2 million of letters of credit outstanding under a separate trade agreement.

In December 2004, we redeemed the entire issue of our $250 million senior subordinated notes, pursuant to the optional redemption provisions of the subordinated notes indenture. The payment of approximately $302 million included the principal, accrued interest to the termination date, and contractual interest, discounted at the appropriate U.S. Treasury rate plus 50 basis points. The redemption resulted in a fourth quarter 2004 charge of $45.4 million which included the make whole payment, removal of deferred issuance costs, and a previously deferred gain related to an interest rate swap. The charge is reported as a loss on extinguishment of debt in the other income (expense), net section of the Consolidated Statements of Earnings.

In August 2003, we issued $400 million of senior notes due August 2013. These notes are not callable and bear interest at the rate of 6.250% per year, to be paid on February 15 and August 15 of each year. The notes contain provisions that, in certain circumstances, place financial restrictions or limitations on us. Simultaneous with completing the offering, we liquidated a treasury rate lock. The proceeds of $16.6 million are being amortized over the term of the notes, reducing the effective interest rate to 5.87%. During 2004, we entered into a series of fixed-to-variable interest rate swap agreements as fair value hedges on the $400 million of senior notes. The swaps qualify for shortcut hedge accounting and no ineffectiveness has been recognized.

We are in compliance with all restrictive covenants included in the above debt agreements.

The Office Depot board of directors has approved two common stock repurchase plans, both of which were in effect during 2004. In 2001, the board approved an annual share repurchase plan, subject to their annual review, of up to $50 million per year until cancelled by the board. Under this plan, we purchased 3.0 million shares in 2004, at a cost of $50.0 million; 3.2 million shares in 2003, for $50.0 million; and 2.9 million shares in 2002, for $45.9 million.

In September 2004, the board of directors authorized an additional $500 million common stock repurchase program to be completed over the following 12 to 24 months. The $50 million annual purchases in each of 2005 and 2006 that would be available under that program are included in this $500 million program. At December 25, 2004, approximately 900,000 shares have been repurchased for $15.5 million under this program.

During 2002, we exercised our option and redeemed all of the outstanding shares of convertible subordinated notes, originally issued in 1992 and 1993. The shares were redeemed at original issue price plus accrued interest, totaling $243 million.

We continually review our financing options. Although we currently anticipate that we will fund our 2005 operations, expansion and other activities through cash on hand, funds generated from operations, property and equipment leases and funds available under our credit facilities, we will continue to consider alternative financing as appropriate for market conditions.

We have never paid a cash dividend on our common stock. While our board of directors regularly assesses our dividend policy, there are no current plans to declare a dividend.

The following table summarizes our contractual cash obligations at December 25, 2004, and the effect such obligations are expected to have on liquidity and cash flow in future periods:

(Dollars in thousands)		Payments due by Period			
Contractual Obligations	Total	Less than 1 year	1 – 3 years	4 – 5 years	After 5 years
Long-term debt obligations (1)	$ 731,473	$ 25,786	$ 51,572	$154,115	$ 500,000
Capital lease obligations (2)	128,456	18,795	24,379	18,871	66,411
Operating leases (3)	3,689,728	412,247	695,723	576,543	2,005,215
Purchase obligations (4)	90,127	71,711	13,583	4,350	483
Other long-term liabilities (5)	—	—	—	—	—
Total contractual cash obligations	$4,639,784	$528,539	$785,257	$753,879	$2,572,109

(1) Long-term debt obligations include our $400 million senior notes and borrowings under our revolving credit facility, excluding any related discount. Amounts include contractual interest payments (using the interest rate as of December 25, 2004 for the revolving credit facility). Amounts due under our revolving credit facility have been classified according to its scheduled maturity in March 2009; however, we may refinance this borrowing under a future credit facility.

(2) The present value of these obligations, are included on our Consolidated Balance Sheets. See Note G of the Notes to Consolidated Financial Statements for additional information about our capital lease obligations.

(3) Our operating lease obligations are described in Note I of the Notes to Consolidated Financial Statements.

(4) Purchase obligations include all commitments to purchase goods or services of either a fixed or minimum quantity that are enforceable and legally binding on us that meet any of the following criteria: (1) they are noncancelable, (2) we would incur a penalty if the agreement was cancelled, or (3) we must make specified minimum payments even if we do not take delivery of the contracted products or services. If the obligation is noncancelable, the entire value of the contract is included in the table. If the obligation is cancelable, but we would incur a penalty if cancelled, the dollar amount of the penalty is included as a purchase obligation. If we can unilaterally terminate the agreement simply by providing a certain number of days notice or by paying a termination fee, we have included the amount of the termination fee or the amount that would be paid over the "notice period." As of December 25, 2004, purchase obligations include television, radio and newspaper advertising, a sports facility naming right and other sports sponsorship commitments, telephone services, and software licenses and service and maintenance contracts for information technology. Contracts that can be unilaterally terminated without a penalty have not been included.

(5) Our Consolidated Balance Sheet as of December 25, 2004 includes $342.3 million classified as "Deferred income taxes and other long-term liabilities." This caption primarily consists of our net long-term deferred income taxes, the unfunded portion of the Guilbert pension plans, deferred lease credits, and liabilities under our deferred compensation plans. These liabilities have been excluded from the above table as the timing and/or the amount of any cash payment is uncertain. See Note H of the Notes to Consolidated Financial Statements for additional information regarding our deferred tax positions and Note J for a discussion of our employee benefit plans, including the Guilbert pension plans and the deferred compensation plan.

In addition to the above, we have letters of credit totaling $90.1 million outstanding at the end of the year, and we have recourse for private label credit card receivables transferred to a third party. We record a fair value estimate for losses on these receivables in our financial statements. The total outstanding amount transferred to a third party at the end of the year was approximately $254.3 million.

CRITICAL ACCOUNTING POLICIES

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (i.e., GAAP). Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies can be found in Note A in the Notes to Consolidated Financial Statements. We have also identified certain accounting policies that we consider critical to understanding our business and our results of operations and we have provided below additional information on those policies.

Vendor arrangements – Each year, we enter into purchase arrangements with our vendors which provide for certain payments, including rebates, to be paid to our Company by certain vendors, that we generally refer to as “vendor programs. ” These arrangements typically fall into two broad categories, with some underlying sub-categories. The largest category is volume-based rebates. Generally, our product costs per unit decline as higher volumes of purchases are reached. Many of our vendor agreements provide that we pay higher per unit costs prior to reaching a predetermined milestone, at which time the vendor rebates the per unit differential on past purchases, and also applies the lower cost to future purchases until the next milestone is reached. Current accounting rules provide that companies with a sound basis for estimating their full year purchases, and therefore the ultimate rebate level, can use that estimate to value inventory and cost of goods sold throughout the year. We believe our history of purchases with many vendors provides us with a sound basis for using such an estimation process.

However, if the anticipated volume of purchases is not reached, or if we form the belief in any given point in the year that it is not likely to be reached, cost of goods sold and the remaining inventory balances are adjusted to reflect that change in our outlook. We review sales projections and related purchases against vendor program estimates at least quarterly and adjust these balances accordingly. While vendor rebates are recognized throughout the year based on judgment and estimates, the final amounts due from vendors are generally known soon after year-end. Substantially all vendor program receivables outstanding at the end of the year are collected within the three months immediately following year-end. We believe that our historic collection rates against vendor programs provides a sound basis for our estimates of anticipated vendor payments throughout the year.

We also have arrangements with our vendors that are event-based. These arrangements can take many forms, but two primary types cover (i) reimbursement for our advertising (sometimes referred to as “cooperative” or “co-op” advertising) and (ii) specific promotional activities. Prior to 2003, the co-op advertising reimbursements were classified as a reduction of advertising expense for the period. With our adoption of EITF 02-16 at the beginning of 2003, cooperative advertising arrangements are classified as a reduction of product costs, reducing costs of goods sold and inventory. See Note C of the Notes to Consolidated Financial Statements for information regarding the impact of adopting EITF 02-16.

Other types of event-based arrangements include special pricing offered by certain of our vendors for a limited time, payments for special placement or promotion of a product, reimbursement of costs incurred to launch a vendor’s product, price protection, and various other special programs. Such special programs are often associated with a vendor’s decision to launch a new product, or in some cases to, discontinue a given product or product line. These payments are classified as a reduction of costs of goods sold or inventory, as appropriate for the program. Additionally, we receive payments from vendors for activities that lower the vendor’s cost of product shipment. Such receipts are recognized as a reduction of our cost of goods sold.

Agreements reached with vendors generally cover one year, but vendor program and cooperative advertising arrangements can change between years. These arrangements can be influenced by increases or reductions in inventory purchases compared to company plans and programs offered by the vendors. While there are long-standing volume and pricing conventions in the office products industry, such program arrangements are regularly renegotiated, and as such, are subject to change. If these vendor program arrangements were materially less beneficial, we could either increase the selling price of the vendor’s product, which may impact sales volume, or experience a decline in profitability.

We recognize the area of vendor programs as an area in which there are opportunities for abuse by either vendors or our own employees. In recent years, other retailers have experienced issues and abuses in this area. We have taken various steps to ensure that our own vendor programs are operated as honestly and appropriately as possible, including extending our Code of Ethical Behavior to our vendors, and use of our internal audit resources to ensure that we are diligent in policing the operation of vendor programs by our own employees. We are aware of reported abuses at other retailers, and when these come to our attention, we direct our internal resources towards ensuring that the particular reported abuses are the focus of our attention.

Inventory valuation – Our selling model is predicated on the breadth and availability of our product assortment, and our profitability is dependent on high inventory turnover rates. Our merchants monitor inventory on hand by location, particularly as it relates to trailing and projected sales trends. Once a product has been identified for discontinuance, we record a charge to reduce the carrying value to our assessment of the lower of cost or market. This assessment is based on the quality of the merchandise, the rate of sale, and our assessment of market conditions. Additional cost adjustments and sales markdowns will be taken as considered appropriate until the product is sold or otherwise disposed. Estimates and judgments are required in determining what items to stock and at what level, and what items to discontinue and how to value them prior to sale.

Goodwill testing - Under accounting rules that became effective at the beginning of fiscal 2002, goodwill is not amortized but is tested at least annually for impairment. Absent any circumstances that warrant testing at another time, this is customarily done as part of our year-end closing process.

Our testing consists of comparing the estimated fair values of each of our reporting units to their carrying amounts, including recorded goodwill. We estimate the fair values of each of our reporting units by discounting their projected future cash flows. Our projections are based on the budget for the succeeding year and multi-year forecasts. Developing these future cash flow projections requires us to make significant assumptions and estimates regarding the sales, gross margin and operating expenses of our reporting units, as well as economic conditions and the impact of planned business or operational strategies. Should future results or economic events cause a change in our projected cash flows, or should our operating plans or business model change, future determinations of fair value may not support the carrying amount of one or more of our reporting units, and the related goodwill would need to be written down to an amount considered recoverable. Any such write down would be included in the operating expenses of the business unit. The performance of our business in Japan in 2004 did not meet the assumptions used in the prior year's testing of goodwill. This under-performance, combined with the decline in our future expectations for certain initiatives put in place in 2003 and 2004, caused us to record an impairment charge relating to Japan's goodwill.

Closed store reserves and asset impairments – We assess on a regular basis the performance of each retail store against historic patterns and projections of future profitability. These assessments are based on management's estimates for sales growth, gross margin attainments, and cash flow generation. If, as a result of these evaluations, management determines that a store will not achieve certain targets, the decision may be made to close the store. When the decision is made to close a store, and the store is no longer used for operating purposes, we recognize a liability for the remaining costs related to the property, reduced by an estimate of any sublease income. The calculation of this liability requires us to make assumptions and to apply judgment regarding the remaining term of the lease (including vacancy period), anticipated sublease income, and costs associated with vacating the premises. With assistance from independent third parties, we periodically review these judgments and estimates and adjust the liability accordingly. In 2003, as a result of a detailed portfolio review and changes in commercial real estate markets where we have lease commitments, we increased our liability for closed stores by $23.9 million. Future fluctuations in the economy and the market place demand for commercial properties could result in material changes in this liability. Costs associated with facility closures are included in store and warehouse operating expenses.

In addition to the decision about whether or not to close a store, store assets are regularly reviewed for recoverability of their carrying amounts. The recoverability assessment requires judgment and estimates of a store's future cash flows. New stores may require two or more years to develop a customer base necessary to achieve expected cash flows and we typically do not test for impairment during this early stage. However, if in subsequent periods, the anticipated cash flows of a store cannot support the carrying amount of the store's assets, an impairment charge is recorded to operations as a component of operating and selling expenses. To the extent that management's estimates of future performance are not realized, future assessments could result in material impairment charges.

Income taxes – Income tax accounting requires management to make estimates and apply judgments to events that will be recognized in one period under rules that apply to financial reporting and in a different period in the company's tax returns. In particular, judgment is required when estimating the value of future tax deductions, tax credits, and net operating loss carryforwards (NOLs), as represented by deferred tax assets. Some tax credits and NOLs may expire before they can be used and certain deductions by jurisdiction may not meet the recognition standard. Accordingly, to the extent that we believe the recovery of all or a portion of a deferred tax asset is not likely, we establish a valuation allowance. Generally, changes in judgments that increase or decrease these valuation allowances impact current earnings.

When we acquired Guilbert, we recorded valuation allowances for the deferred tax assets related to their existing NOLs because of the uncertainty of their realization. Should we be able to realize a tax benefit from these deferred tax assets, the benefit would reduce goodwill, rather than affect current earnings.

In addition to judgments associated with valuation accounts, our current tax provision can be affected by our mix of income and identification or resolution of uncertain tax positions. Because income from domestic and international sources may be taxed at different rates, the shift in mix during a year or over years can cause the effective tax rate to change. We base our rate during the year on our best estimate of an annual effective rate, and update those estimates quarterly. We also regularly evaluate the status and likely outcome of uncertain tax positions.

We file our tax returns based on our best understanding of the appropriate tax literature. However, complexities in the rules and our operations, as well as positions taken publicly by the taxing authorities may lead us to conclude that accruals for uncertain tax positions are required. We generally maintain accruals for uncertain tax positions until examination of the tax year is completed by the taxing authority, available review periods expire, or additional facts and circumstances cause us to change our assessment of the appropriate accrual amount. The Financial Accounting Standards Board has indicated that they will be reviewing the accounting for uncertain tax positions and may issue new or revised accounting rules during 2005. We believe our current processes are consistent with accounting principles generally accepted in the United States of America.

SIGNIFICANT TRENDS, DEVELOPMENTS AND UNCERTAINTIES

Over the years, we have seen continued development and growth of competitors in all segments of our business. In particular, mass merchandisers and warehouse clubs have increased their assortment of home office merchandise, attracting additional back-to-school customers and year-round casual shoppers. We also face competition from other office supply superstores that compete directly with us in numerous markets. This competition is likely to result in increased competitive pressures on pricing, product selection and services provided. Many of these retail competitors, including discounters, warehouse clubs, and even drug stores and grocery chains, carry at least limited numbers of basic office supply products, including ink and toner cartridges, printer paper and other basic supplies. Some of them have also begun to feature technology products. Many of them price certain of these offerings lower than we do, but they have not shown an indication of greatly expanding their somewhat limited product offerings at this time. This trend towards a proliferation of retailers offering a limited assortment of office products is a potentially serious trend in our industry.

We have also seen growth in competitors that offer office products over the Internet, featuring special purchase incentives and one-time deals (such as close-outs). Through our own successful Internet and business-to-business web sites, we believe that we have positioned ourselves competitively in the e-commerce arena.

Another trend in our industry has been consolidation, as competitors in the superstores channel and the copy/print channel have been acquired and consolidated into larger, well-capitalized corporate conglomerates. This trend towards consolidation, coupled with acquisitions by financially strong organizations, is potentially a significant trend in our industry.

We regularly consider these and other competitive factors when we establish both offensive and defensive aspects of our overall business strategy and operating plans.

MARKET SENSITIVE RISKS AND POSITIONS

We have market risk exposure related to interest rates and foreign currency exchange rates. Market risk is measured as the potential negative impact on earnings, cash flows or fair values resulting from a hypothetical change in interest rates or foreign currency exchange rates over the next year. We manage the exposure to market risks at the corporate level. The portfolio of interest-sensitive assets and liabilities is monitored and adjusted to provide liquidity necessary to satisfy anticipated short-term needs. The percentage of fixed and variable rate debt is managed to fall within a desired range. Our risk management policies allow the use of specified financial instruments for hedging purposes only; speculation on interest rates or foreign currency rates is not permitted.

Interest Rate Risk

We are exposed to the impact of interest rate changes on cash equivalents and debt obligations. The impact on cash and short-term investments held at the end of 2004 from a hypothetical 10% decrease in interest rates would be a decrease in interest income of approximately $2.5 million in 2004.

Market risk associated with our debt portfolio is summarized below:

	2004			2003		
(Dollars in thousands)	**Carrying Value**	**Fair Value**	**Risk Sensitivity**	Carrying Value	Fair Value	Risk Sensitivity
$250 million senior subordinated notes	**$ —**	**$ —**	**$ —**	$ 259,440	$ 300,000	$ 5,760
$400 million senior notes	**$ 403,771**	**$ 433,200**	**$ 14,800**	$ 398,923	$ 420,320	$ 16,016
Revolving Credit Facility (1)	**$ 103,068**	**$ 103,068**	**$ 515**	$ 100,102	$ 100,102	$ 501

(1) Including current maturities.

The risk sensitivity of fixed rate debt reflects the estimated increase in fair value from a 50 basis point decrease in interest rates, calculated on a discounted cash flow basis. The sensitivity of variable rate debt reflects the possible increase in interest expense during the next period from a 50 basis point change in interest rates prevailing at year-end.

In 2004, we entered into a series of interest rate swap agreements to receive fixed and pay floating rates, converting the equivalent of $400 million of this portfolio to variable rate debt through 2013.

Foreign Exchange Rate Risk

We conduct business in various countries outside the United States where the functional currency of the country is not the U.S. dollar. Our expansion in Europe and our acquisition of Guilbert in June 2003 increased the proportion of our operations in countries with euro and British pound functional currencies. The recent weakening of the U.S. dollar compared to other currencies, primarily the euro and British pound, has positively impacted our results by increasing reported sales and operating profit; however, a strengthening of the U.S. dollar will adversely impact our results. While we look for opportunities to reduce our exposure to foreign currency fluctuation against the U.S. dollar, at this point we have determined not to pursue translation hedging opportunities generally. As of December 25, 2004, a 10% change in the applicable foreign exchange rates would result in an increase or decrease in our operating profit of approximately $21 million.

Although operations generally are conducted in the relevant local currency, we are also subject to foreign exchange transaction exposure when our subsidiaries transact business in a currency other than their own functional currency. This exposure arises primarily from a limited amount of inventory purchases in a foreign currency. Foreign exchange forward contracts to hedge certain inventory exposures were $65 million at their highest point during 2004.

Generally speaking, we view our international businesses internally by focusing on the “local currency” results of the business, and not with regard to the translation into U.S. dollars, as the latter is generally beyond our control. A comparative view of the results of our international operations is most meaningful, in our view, by a focus on the comparative results in local currencies.

INFLATION AND SEASONALITY

Although we cannot determine the precise effects of inflation on our business, we do not believe inflation has a material impact on our sales or the results of our operations. We consider our business to be only somewhat seasonal, with sales in our North American Retail Division and Business Services Group slightly higher during the first and third quarters of each year, and sales in our International Group slightly higher in the first and fourth quarters.

NEW ACCOUNTING STANDARDS

In March 2004, Emerging Issues Task Force Issue No. 03-1, *The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments* (“EITF 03-1”), was released. This guidance relates to impairment measurements of debt and equity securities, and essentially requires companies to recognize an impairment unless they believe declines in value will be recovered over the company’s intended investment horizon. The staff of the Financial Accounting Standards Board (“FASB”) issued FASB Staff Position (“FSP”) EITF 03-1-1, *Effective Date of Paragraphs 10-20 of EITF Issue No. 03-1, The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments*, which delayed the effective date for the measurement and recognition criteria contained in EITF 03-1 until final application guidance is issued. Our current investment portfolio contains only a limited amount of the type of securities covered by this guidance; however, a change in the method of accounting for other-than-temporary declines could impact our results of operations, when that guidance is finalized.

In December 2004, the FASB issued Statement of Financial Accounting Standard No. 123 (Revised 2004), *Share-Based Payment,* (“FAS 123(R)”). This Statement requires companies to expense the estimated fair value of stock options and similar equity instruments issued to employees. Currently, companies are required to calculate the estimated fair value of these share-based payments and can elect to either include the estimated cost in earnings or disclose the pro forma effect in the footnotes to their financial statements. We have chosen to disclose the pro forma effect. The fair value concepts were not changed significantly in FAS 123(R); however, in adopting this Standard, companies must choose among alternative valuation models and amortization assumptions. The valuation model and amortization assumption we have used continues to be available, but we have not yet completed our assessment of the alternatives. FAS 123(R); will be effective for our company beginning with the third quarter of 2005. Transition options allow companies to choose whether to adopt prospectively, restate results to the beginning of the year, or to restate prior periods with the amounts that have been included in their footnotes. We have not yet concluded on which transition option we will select. For the pro forma effect of a full year application, using our existing valuation and amortization assumptions, see Note A of Notes to Consolidated Financial Statements included in Item 15 of this Report on Form 10-K.

FASB Staff Position No. 109-2, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004* ("FSP 109-2"), was issued in December 2004. This FSP provides guidance on accounting for special reductions in taxes included in the American Jobs Creation Act of 2004. In particular, the Act allows a one-time decrease in U.S. taxes on repatriated foreign earnings. FSP 109-2 clarifies that a company's consideration of the Act does not overrule their prior contention that the foreign earnings were permanently reinvested. Also, the FSP indicates that companies should provide tax expense when a decision is made to repatriate some or all foreign earnings, and provide disclosure about the possible range of repatriation if the analysis is not yet complete. We have decided to repatriate at least $200 million of foreign earnings during 2005 and have provided approximately $11.5 million of tax expense in 2004. We continue to assess whether additional earnings will be repatriated. For additional information about our income tax accounts, see Note H of Notes to Consolidated Financial Statements included in Item 15 of this Report on Form 10-K.

CAUTIONARY STATEMENTS FOR PURPOSES OF THE "SAFE HARBOR" PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

CAUTIONARY STATEMENTS

In December 1995, the Private Securities Litigation Reform Act of 1995 (the "Act") was enacted by the United States Congress. The Act, as amended, contains certain amendments to the Securities Act of 1933 and the Securities Exchange Act of 1934. These amendments provide protection from liability in private lawsuits for "forward-looking" statements made by public companies under certain circumstances, provided that the public company discloses with specificity the risk factors that may impact its future results. We want to take advantage of the "safe harbor" provisions of the Act. In doing so, we have disclosed these forward-looking statements by informing you in the following specific cautionary statements of certain circumstances which may cause the information in these statements not to transpire as expected.

This Annual Report contains both historical information and other information that you can use to infer future performance. Examples of historical information include our annual financial statements and the commentary on past performance contained in our MD&A. While we have specifically identified certain information as being forward-looking in the context of its presentation, we caution you that, with the exception of information that is *clearly historical*, all the information contained in this Annual Report should be considered to be "forward-looking statements" as referred to in the Act. Without limiting the generality of the preceding sentence, any time we use the words "estimate," "project," "intend," "expect," "believe," "anticipate," "continue" and similar expressions, we intend to clearly express that the information deals with possible future events and is forward-looking in nature. Certain information in our MD&A is clearly forward-looking in nature, and without limiting the generality of the preceding cautionary statements, we specifically advise you to consider our MD&A in the light of the cautionary statements set forth herein.

Forward-looking information involves risks and uncertainties, including certain matters that we discuss in more detail below in this Report on Form 10-K. Much of the information in this report that looks towards future performance of our company is based on various factors and important assumptions about future events that may or may not actually come true. As a result, our operations and financial results in the future could differ materially and substantially from those we have discussed in the forward-looking statements in this Report. In particular, the factors we discuss below could affect our actual results and could cause our actual results in 2005 and in future years to differ materially from those expressed in any forward-looking statement made by us or on our behalf in this Report. We believe that the following risk factors should be considered by persons reading any part of this Report on Form 10-K, and we hereby expressly qualify this Report and future filings with the SEC (unless and until we modify these cautionary statements in a future filing) by the inclusion of these cautionary statements regarding future performance:

Competition – Retail: We compete with a variety of retailers, dealers and distributors in a highly competitive marketplace that includes such competitors as high-volume office supply chains (so-called "office supplies superstores"), warehouse clubs, computer stores, contract stationers and well-established mass merchant retailers. Even grocery and drug-store chains have begun to carry at least limited supplies of basic office supplies and technology items, including printer supplies such as ink cartridges and toner cartridges. While most of these retailers, other than the office supplies superstores, have not yet elected to carry the broad range of SKUs that our company carries in its various channels of distribution, many of them have elected to carry the most popular and fastest selling items, often selling those limited SKUs at highly competitive prices relative to the prices at which our company sells its products. Well-established mass merchant retailers have the financial and distribution ability to compete very effectively with us should they choose to enter more broadly into the office superstore retail category, Internet office supply or contract stationer business or substantially expand their offering in their existing retail outlets. In addition, there is substantial competition on the Internet from other merchants who may or may not have a "brick and mortar" presence. There is a possibility that any or all of these competitors could become more aggressive in the future, thereby increasing the number and breadth of our competitors, potentially having a material adverse effect on our business and results of our operations.

Competition – Contract and Direct: We compete with a number of contract stationers, mail order and Internet operators and retailers who supply office products and services to large and small businesses, both nationally and internationally, by selling on a contract basis to such businesses, as well as offering products through the convenience of catalog and Internet channels. In order to achieve and maintain expected profitability levels in this segment and as a company, we must continue to grow this segment of our business by adding new customers and taking market share from competitors, while maintaining the service levels and aggressive pricing necessary to retain existing customers. There can be no assurance we will be able to continue to expand our contract and direct business while retaining our base of existing customers, and any failure to do so could have a material adverse effect on our profitability.

We are also working on various initiatives to improve margin levels in this business segment by growing the percentage of small to medium sized businesses and by increasing our presence in terms of the numbers of sales representatives we use to call on customers, but there is no assurance that these initiatives will prove successful. Some of our competitors operate only in the contract and/or direct channels and therefore may be able to focus more attention on the business services segment, thereby providing formidable competition. Our failure to adequately address this segment of our business could put us at a competitive disadvantage relative to these competitors.

In addition, we are near maximum capacity in some of our distribution centers that serve our contract and direct customers, which may impede our ability to efficiently grow our business in certain markets. The economic problems of the past several years have had an adverse impact on a number of our contract and direct customers, resulting in some cases in cutbacks in expenditures of our existing customers for office supplies and other items we sell to them.

Competition – Consolidation: The past year has seen movements to consolidate certain aspects of the competitive landscape, including the entry of new and well-funded competitors in certain aspects of our business. For example, two major common carriers of goods have either completed or are in the process of completing acquisitions of retail outlets that will allow them to compete directly for copy, printing, packaging and shipping business. This is a material part of our business, and presents a new competitive challenge to us. In addition, two of our major competitors, one in the retail segment and the other in the contract and commercial business, have merged to form a new and potentially more formidable competitive presence, capable of competing in a more unified manner than was the case when these companies were separate entities.

Competition – International: In 2003, we acquired a large contract stationer in Europe, Guilbert, S.A., and thereby increased the significance of our European operations in many of the major commercial centers of Europe, including the U.K. However, the landscape in Europe remains highly competitive in all the channels in which we compete. Many of the same competitors we face in North America have established major operations in Europe. Historically, Europe has been our fastest growing business geography, and we have enjoyed excellent margins in that area. As competition increases in Europe, both from traditionally aggressive European companies, and the increased presence of U.S. and other international/multi-national competitors, we will be challenged to maintain both our growth rates and our margins in Europe. These pressures could have a material adverse impact on our financial results.

Internet: As mentioned above, many Internet-based merchandisers also compete with us. While this industry segment has recently sustained somewhat slower growth rates than in previous years, the remaining competitors in the Internet-only segment are substantially stronger and better able to compete than was necessarily the case in the past. The stronger competitors have established strong distribution capabilities and are formidable competitors to the more traditional “brick and mortar” office supplies superstores. This competition may increase in the future as the companies that have survived the ‘shakeout’ in the Internet segment continue to expand their operations.

In addition, certain manufacturers of computer hardware, software and peripherals, including certain of our suppliers, have expanded their own direct marketing of products, particularly over the Internet. The largest manufacturer of personal computers is also now the largest direct seller of such products over the Internet, along with the attendant accessories and supplies. In addition to selling technology hardware, some of these manufacturers have also begun to expand their offerings to include machine supplies, such as ink and toner. The number of these direct sellers has increased in recent years. Even as we expand our own Internet efforts, our ability to anticipate and adapt to the developing Internet marketplace and the capabilities of our network infrastructure to efficiently handle our rapidly expanding operations are of critical importance. Failure to execute well in any of these key areas could have a material adverse effect on our future sales growth and profitability.

Execution of Expansion Plans: We plan to open approximately 100 stores in the United States and Canada and approximately 5 to 10 stores in our International Group during 2005. We consider our retail expansion program to be an integral part of our plans to achieve anticipated operating results in future years. Circumstances outside our control, such as adverse weather conditions affecting construction schedules, unavailability of acceptable sites or materials, labor disputes and similar issues could impact anticipated store openings. At times in the past, our expansion activities have been hampered by sometimes poor selection of real estate locations, resulting in some stores that have failed to meet their planned financial results. Our future expansion plans also include opening retail stores of different sizes than our traditional superstore models and using different store formats and layouts. We have also considered opening a retail presence within other retailer's locations, utilizing so-called "stores within stores." We cannot determine with certainty whether these newly sized or formatted stores will be successful. The failure to expand by opening new stores as planned and/or the failure to generate the anticipated sales growth in markets where new stores are opened (including the opening of new sizes and formats of stores) could have a material adverse effect on our future sales growth and profitability.

During 2004, we agreed to purchase 124 stores from Toys "R" Us, with the expectation of opening approximately 50 of these as Office Depot stores and selling the others. By the end of 2004, we had removed several stores from the transaction by mutual agreement, sold several properties and opened 36 Office Depot stores in these locations; others will be opened during 2005. With this purchase, we gained access to markets in the mid-Atlantic states and the Northeast corridor of the United States, areas where we previously were under-represented in retail. Many of the locations that we expect to open as Office Depot retail stores will face strong competitive pressures. Throughout their useful lives, these retail locations must generate operating cash flows that are at least sufficient to recover the remaining book value of the initial purchase price and related capitalized and operating costs. Should these stores fail to meet future cash flow expectations, the carrying value of the stores and related assets may need to be written down. If required, such a write down could have a material adverse effect on future results of operations. Also, we have estimated the selling value and holding costs of stores that will not be opened as Office Depot stores. If we are unsuccessful in disposing of these locations as quickly as anticipated or at price levels that we expect, we may be required to adjust their carrying value which could have an adverse impact on our reported results in the period of adjustment.

Cannibalization of Sales in Existing Office Depot Stores: As we expand the number of our stores in existing markets, pursuing a 'fill-in' strategy that is both offensive and defensive in nature, sales in our existing stores may suffer from cannibalization (as customers of our existing stores begin shopping at our new stores). Our new stores typically require an extended period of time to reach the sales and profitability levels of our existing stores. Moreover, the opening of new stores does not ensure that those stores will ever be as profitable as existing stores, particularly when new stores are opened in highly competitive markets or markets in which other office supply superstores may have achieved "first mover" advantage. Our comparable sales are affected by a number of factors, including the opening of additional Office Depot stores; the expansion of our contract business in new and existing markets; migration of our customers from the retail channel to other channels, including our own Internet, direct and contract channels, competition from other office supply chains, mass merchandisers, warehouse clubs, computer stores, other contract stationers and Internet-based businesses; and regional, national and international economic conditions. In addition, our profitability would be adversely affected if our competitors were to attempt to capture market share by reducing prices. Any or all of these circumstances could have a material adverse effect on our anticipated future revenue and profitability models.

Costs of Remodeling and Re-merchandising Stores: The remodeling and re-merchandising of our stores has contributed to increased store expenses, and these costs are expected to continue impacting store expenses throughout 2005 and beyond. While a necessary aspect of maintaining a fresh and appealing image to our customers, the expenses associated with such activities could have a significant negative impact on our net income in the future. In addition, there is no guarantee that these changes will generate any of the benefits that we have anticipated. Furthermore, our growth, through both store openings and acquisitions, will continue to require the expansion and upgrading of our informational, operational and financial systems, as well as necessitate the hiring of new managers at the store and supervisory level. As mentioned in our MD&A, we adopted a new retail format that we call 'M2'. At the end of 2004, we have opened or remodeled 101 stores to the M2 design. If we are unsuccessful in achieving an acceptable ROI on this design, such failure could have a material adverse effect on our future sales growth and profitability.

Historical Fluctuations in Performance: Fluctuations in our quarterly operating results have occurred in the past and may occur in the future. A variety of factors could contribute to this quarter-to-quarter variability, including new store openings which require an outlay of pre-opening expenses, generate lower initial profit margins and cannibalize existing stores; timing of warehouse integration; competitors' pricing; changes in our product mix; fluctuations in advertising and promotional expenses; the effects of seasonality; acquisitions of contract stationers; competitive store openings; an increase in activity by non-traditional resellers of office supplies, technology or other products we sell, or other events. Such quarterly fluctuations could have a material adverse effect on our financial results and/or the price of our securities.

International Activity: We have operations in a number of international markets. We intend to enter additional international markets as attractive opportunities arise. Each entry could take the form of a start-up, acquisition of stock or assets or a joint venture or licensing arrangement. We have made a decision to accelerate our growth in Europe, increasing more rapidly than originally planned the number of countries in which we operate. In addition to the risks described above (in our domestic operations) and the increased level of competition in Europe and elsewhere, internationally we face such risks as foreign currency fluctuations, unstable political and economic conditions, and, because some of our foreign operations are not wholly owned, compromised operating control in certain countries. Recent world events have served to underscore even further the risks and uncertainties of operating in other parts of the world. Risks of civil unrest, war and economic crisis in portions of the world outside North America in which we operate represent a more significant factor than may have been the case in the past.

Also, we have experienced significant fluctuations in foreign currency exchange rates in 2004, including large swings in the exchange rate between the dollar and the euro and the dollar and the pound sterling during the prior year, which affected the sales and earnings in our International Group. Our results may continue to be affected by these fluctuations, both positive and negative, in the future as the value of the U.S. dollar changes against other currencies. All of these risks could have a material adverse effect on our financial position or our results from operations. Moreover, as we increase the relative percentage of our business that is operated globally, we also increase the impact these factors have on our future operating results.

Our operation in Japan, in particular, has proven to be disappointing to date and has generated losses that have materially affected our financial results in the past and may do so in the future. Because of differing commercial practices, laws and other factors, our ability to use the Internet and electronic commerce to substantially increase sales in international locations may not progress at the same rate as in North America.

Integration of Guilbert in Europe: In June 2003, we completed the acquisition of Guilbert, S.A., a leading contract stationer in Europe and formerly a wholly owned subsidiary of the PPR Group in France. In addition to the risks associated with making such a large investment (nearly $1 billion in U.S. dollars at 2003 year-end exchange rates), we also faced a formidable challenge in the integration of the Guilbert organization into our European Office Depot and Viking businesses. We appointed new country managers in nearly every country in which we operate in Europe. Some of these managers came from the Guilbert organization and some from the Office Depot/Viking organization. Failures of any of these managers to adapt to a new culture and the challenges in most cases of managing substantially larger businesses in their respective countries could have a material impact on our results of operations in Europe. To date, results have been mixed and in some cases have not met our expectations. In addition to the merger of somewhat different cultures, we also faced the challenges of physically integrating facilities from both the former Guilbert side of the business and the former Office Depot/Viking side of the business. The integration process continues. To the extent that we close or consolidate additional facilities, we are likely to face high social costs associated with such moves, and the possibility of work stoppages in the form of strikes in some locales in Europe. Any or all of these integration issues could have a material impact on our future financial performance and results of operations.

Global Sourcing of Products/Private Label: In recent years, we have substantially increased the number and types of products which we sell under our own Office Depot®, Viking®, Guilbert®, NiceDay™ and other private label brands. We expect this trend to continue and even accelerate in the future. We source many of these products from outside the United States, particularly in the Far East. While these products have attractive margins and may enhance our brand image, the increased reliance on foreign sourced products introduces its own set of risks and uncertainties. Sources of supply may prove to be unreliable, or the quality of the globally sourced products may vary from our expectations. Unlike the situation with our traditional suppliers, when we source in this manner, we must bear the risks and uncertainties of warranty, product liability and intellectual property issues.

Economic and civil unrest in areas of the world where we source such products, as well as shipping and dockage labor issues could adversely impact the availability or cost of such products, or both. Moreover, while we seek indemnities from the manufacturers of these products, the uncertainty of realizing on any such indemnity and the lack of understanding of U.S. product liability laws in certain parts of the Far East make it more likely that we may have to respond to claims or complaints from our customers as if we were the manufacturer of the products. In addition, while the initial margins on such products are generally more attractive than we can achieve by sourcing from traditional sources of supply, other factors, such as the lack of vendor program income, including cooperative advertising contributions, may make such sourcing less attractive in the future. Any of these circumstances could have a material adverse effect on our financial performance in the future.

Sources and Uses of Cash: We believe that our current level of cash and cash equivalents, future operating cash flows, lease financing arrangements and funds available under our credit facilities and term loans should be sufficient to fund our planned expansion, integration and other operating cash needs for at least the next year. However, there can be no assurance that additional sources of financing will not be required during the next twelve months as a result of unanticipated cash demands, opportunities for expansion, acquisition or investment, changes in growth strategy, changes in our warehouse integration plans or adverse operating results. We could attempt to meet our financial needs through the capital markets in the form of either equity or debt financing. Alternative financing will be considered if market conditions make it financially attractive. There can be no assurance that any additional funds required by us, whether within the next twelve months or thereafter, will be available to us on satisfactory terms. Our inability to access needed financial resources could have a material adverse effect on our financial position or operating results.

M&A Activity: In 2003, we made a major investment in the growth of our business in Europe through the acquisition of Guilbert, S.A. from the PPR Group, at a cost of almost $1 billion (U.S. dollars at 2003 year-end exchange rates). This acquisition occurred five years after our previous major acquisition of Viking in 1998. Other than these two acquisitions, we have limited our merger and acquisition activity to relatively small acquisitions. However, as we seek ways to more aggressively expand and grow our business, we may need to increase our level of M&A activity, both domestically and internationally. While the opportunities from such activity cannot be ignored, neither can the clear reality that many acquisitions do not measure up to the expectations of the acquiring company for a host of reasons. Moreover, M&A activity may divert attention of our executive management team away from our existing core businesses. We may do a less than optimal job of due diligence or evaluation of target companies; and, as always, the task of integrating substantial businesses can prove difficult. Failure to grow our businesses through M&A activity, or failure to execute M&A activity in a satisfactory manner, as well as adding substantial leverage to our balance sheet in order to accomplish major acquisitions, could have a significant and material adverse effect on our future business prospects and/or our financial performance in the future.

Effects of Certain Charges: From time to time in the past, we have recorded charges and credits to adjust past estimates, such as facility closure costs, to reflect current conditions. There can be no assurance that additional charges of this nature will not be required in the future as well. In particular, we expect that a retail store chain, such as our North American Retail Division, should expect to close a certain number of stores each year, while remodeling and/or relocating a number of other stores. We cannot be certain that our decisions to close, remodel and/or relocate stores will have the desired favorable results on our financial performance, nor can we anticipate the size and nature of charges associated with such matters. Moreover, an increase in M&A activity increases our exposure to having to take such charges, as we learn more about the acquired entity and reach conclusions to consolidate, etc. that may or may not have been contemplated at the time of acquisition. Such charges, if any, could have a materially adverse impact on our financial position or operating results in the future.

Impact of New Legislation and New Accounting Rules: Since 2002, our company, along with other publicly held companies, has worked diligently to comply with new legislation that has been called the most comprehensive set of reforms of public companies in over a half century, the Sarbanes-Oxley Act of 2002 (“SOA”). Moreover, the implementation of various mandates under SOA has resulted in the promulgation of a host of new regulations by the Securities and Exchange Commission (“SEC”) and the Public Company Accounting Oversight Board. During 2004, substantial costs have been incurred, and will continue to be incurred to comply with various of these mandates, including the engagement of separate public accounting firms to perform work that is now prohibited to be performed by our regular independent accounting firm, internal costs associated with documenting the adequacy of our internal controls over financial reporting and similar compliance activities, and increased costs of audit by our independent accounting firm.

While Office Depot believes that it has been at all times in material compliance with laws and regulations pertaining to the proper recording and reporting of our financial results, there can be no assurance that future regulations, implementing SOA and otherwise, will not have a material adverse impact on our reported results as compared with prior reporting periods. Any or all of the foregoing could have a material adverse impact on our reported financial results.

Of current note, the Financial Accounting Standards Board ("FASB") has issued several new accounting standards and is considering others, some of which could have a material impact on our reported results. In particular, beginning with the third quarter of 2005, all public companies will be required to record an expense associated with the estimated fair value of stock options issued to employees. In the past, this information has been disclosed on a pro forma basis in the notes to our financial statements, but not recorded. The disclosure indicated that expensing the fair value of stock options would have reduced annual diluted earnings per share in the range of $0.06 to $0.09 per share. The FASB has an active agenda of items to consider, several of which also could have a significant impact on the reported financial results and financial condition of the company. Issues being considered that could affect us include accounting for income taxes, revenue recognition and business combinations, to name a few. Also, all public companies are required to assess the continuing value of goodwill and long-lived assets. This assessment requires judgment and estimates about future cash flows, which may or may not be realized. Changes in facts or assumptions could cause the write-down or write-off of long-lived assets or goodwill associated with our operations. For example, the carrying value of goodwill relating to our investment in Japan was written down in 2004. The impact of any required write-off of goodwill associated with any units of our company could have a material adverse impact on our reported financial results in future periods.

Office Depot is confident that our past practices and reports filed with the SEC, the New York Stock Exchange and other reports are in material compliance with all laws and regulations, but the continued obligation to further enhance disclosures and make filings that increase the transparency of our reported results will undoubtedly add to the overall cost of doing business. And some of the many proposed changes in accounting policies and principles could dramatically alter the reported results of our company, as contemplated by at least certain currently pending proposals among various regulatory bodies.

Executive Management: Our former Chairman and Chief Executive Officer resigned his positions in October 2004. That role is being filled currently by a member of the company's board of directors, Neil R. Austrian, while a search for a permanent replacement is conducted. It is possible that the search process for a new CEO may take longer than currently anticipated. It is also possible that an extended delay in identifying and recruiting a new CEO may have an adverse impact on the performance of our company. Further, it is possible that during a period of uncertainty while the recruiting process is underway, certain other senior executives may elect to depart the company, resulting in the necessity of filling other senior level managerial positions. Even if they do not elect to leave the company, their performance may suffer during the interim period, due to lack of focus on operating matters. Such departures or lack of management focus, if any, could also have an adverse impact on the performance of our company.

Possible Changes to our Global Tax Rate: Our Company is a multi-national, multi-channel reseller of office products. As a result of our operations in many foreign countries, in addition to the United States, our global tax rate is derived from a combination of applicable tax rates in the various jurisdictions in which we operate. Depending upon the sources of our income, any agreements we may have with taxing authorities in various jurisdictions, and the tax filing positions we take, our overall tax rate may be lower or higher than that of other companies. Our overall tax rate is dependent upon numerous factors, any one or more of which may change from time to time, resulting in a change in our overall tax rate that could be material. Because income from domestic and international sources may be taxed at different rates, the shift in mix during a year or over years can cause the effective tax rate to change. We base our estimate of an annual effective tax rate at any given point in time upon a calculated mix of the tax rates applicable to our Company and to estimates of the amount of business likely to be done in any given geography. We update those estimates quarterly. We also regularly evaluate the status and likely outcome of uncertain tax positions. The loss of one or more agreements with taxing jurisdictions, a change in the mix of our business from year to year and from country to country, or changes in tax laws in any of the multiple jurisdictions in which we operate could result in a favorable or unfavorable change in our overall tax rate, which change could be material to our reported financial results.

Disclaimer of Obligation to Update

We assume no obligation (and specifically disclaim any such obligation) to update these Cautionary Statements or any other forward-looking statements contained in this Annual Report to reflect actual results, changes in assumptions or other factors affecting such forward-looking statements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

See the information in the "Market Sensitive Risks and Positions" subsection of Management's Discussion and Analysis of Financial Condition and Results of Operation set forth in Item 7 hereof.

Item 8. Financial Statements and Supplementary Data.

See Item 15(a) in Part IV.

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

None.

Item 9A. Controls and Procedures.

Disclosure Controls and Procedures

The company's management, with the participation of the company's Chief Financial Officer, Charles E. Brown, and the company's interim Chief Executive Officer, Neil R. Austrian, has evaluated the effectiveness of the company's disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this report. Based on that evaluation, these officers have concluded that the corporation's disclosure controls and procedures are effective for the purpose of ensuring that material information required to be in this report is made known to them by others on a timely basis and that information required to be disclosed by the company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

Internal Control Over Financial Reporting

(a) Management's Report on Internal Control Over Financial Reporting

See Item 15(a)1 in Part IV.

(b) Attestation Report of the Independent Registered Public Accounting Firm

See Item 15(a)1 in Part IV.

(c) Changes in Internal Controls

The company is continuously seeking to improve the efficiency and effectiveness of its operations and of its internal controls. This results in refinements to processes throughout the company. However, there has been no change in the company's internal control over financial reporting that occurred during the company's most recent fiscal year that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting.

Item 9B. Other Information.

None.

PART III

Item 10. Directors and Executive Officers of the Registrant.

Information concerning our executive officers is set forth in Item 1 of this Form 10-K under the caption "Executive Officers of the Registrant."

Information with respect to our directors and the nomination process is incorporated herein by reference to the information "Election of Directors/Biographical Information on the Candidates" and "How Nominees to our Board are Selected" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

Information regarding our audit committee and our audit committee financial experts is incorporated by reference to the information "Committees of our Board" and "Audit Committee Report" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

Information required by Item 405 of Regulation S-K is incorporated herein by reference to "Section 16(a) Beneficial Ownership Reporting Compliance" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

We have adopted a Code of Ethical Behavior in compliance with applicable rules of the Securities and Exchange Commission that applies to its principal executive officer, its principal financial officer, and its principal accounting officer or controller, or persons performing similar functions. A copy of the Code of Ethical Behavior is available free of charge on the "Investor Relations" section of our web site at *www.offficedepot.com*. We intend to satisfy any disclosure requirement under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this Code of Ethical Behavior by posting such information on our website at the address and location specified above.

Item 11. Executive Compensation.

Information with respect to executive compensation is incorporated herein by reference to the information under the caption "Executive Compensation" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

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

Information with respect to security ownership of certain beneficial owners and management is incorporated herein by reference to the information under the caption "Stock Ownership Information" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

Securities Authorized for Issuance Under Equity Compensation Plans

The following table provides information regarding compensation plans under which Office Depot equity securities are authorized for issuance as of December 25, 2004:

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants, and rights (a)	Weighted-average exercise price of outstanding options, warrants, and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (c)
Equity compensation plans approved by security holders:			
Long-Term Equity Incentive Plan (including the Long-Term Incentive Stock Plan)(1)	26,109,787	$ 16.04	18,224,591(2)
Employee Stock Purchase Plan (ESPP)	Not Applicable	Not Applicable	388,194(3)
Retirement Savings Plans	Not Applicable	Not Applicable	Not Applicable(3)
Equity compensation plans not approved by security holders:			
None	—	Not Applicable	—
Total	26,109,787	$ 16.04	18,612,785

(1) Outstanding options under the Long-Term Incentive Stock Plan are satisfied with available securities from the Long-Term Equity Incentive Plan.

(2) As of December 25, 2004, the number of securities remaining available for future issuance has been reduced by approximately 497,000 shares of restricted stock.

(3) We currently settle essentially all share needs under the ESPP, the 401(k) Plan, and related deferred compensation plan, by open market purchases through the respective plan administrators. The number of securities remaining available for future issuance has been adjusted for activity prior to open market settlement conversion.

For a description of the equity compensation plans above, see Note J – Employee Benefit Plans included under the heading "Notes to Consolidated Financial Statements."

Item 13. Certain Relationships and Related Transactions.

Information with respect to such contractual relationships is incorporated herein by reference to the information under the captions "CEO Compensation" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

Item 14. Principal Accountant Fees and Services.

Information with respect to principal accounting fees and services and pre-approval policies are incorporated herein by reference to the information under the captions "Information About Our Independent Accountants, "Audit & Other Fees," and "All Other Fees" in the Proxy Statement for our 2005 Annual Meeting of Shareholders.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

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

1. The financial statements listed in "Index to Financial Statements."

2. The financial statement schedule listed in "Index to Financial Statement Schedule."

3. The exhibits listed in the "Index to Exhibits."

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on this 10th day of March 2005.

OFFICE DEPOT, INC.

By /s/ NEIL R. AUSTRIAN
Neil R. Austrian
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities indicated on March 10, 2005.

Signature	Capacity
/s/ NEIL R. AUSTRIAN Neil R. Austrian	Chief Executive Officer (Principal Executive Officer) and Chairman, Board of Directors
/s/ CHARLES E. BROWN Charles E. Brown	Executive Vice President, Finance and Chief Financial Officer (Principal Financial Officer)
/s/ JAMES A. WALKER James A. Walker	Senior Vice President, Finance and Controller (Principal Accounting Officer)
/s/ LEE A. AULT, III Lee A. Ault, III	Director
/s/ DAVID W. BERNAUER David W. Bernauer	Director
/s/ ABELARDO E. BRU Abelardo E. Bru	Director
/s/ DAVID I. FUENTE David I. Fuente	Director
/s/ BRENDA J. GAINES Brenda J. Gaines	Director
/s/ MYRA M. HART Myra M. Hart	Director
/s/ W. SCOTT HEDRICK W. Scott Hedrick	Director
/s/ JAMES L. HESKETT James L. Heskett	Director
/s/ PATRICIA A. McKAY Patricia A. McKay	Director
/s/ MICHAEL J. MYERS Michael J. Myers	Director

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INDEX TO FINANCIAL STATEMENTS

Management's Report on Internal Control Over Financial Reporting

Management of Office Depot is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers and effected by the company's board of directors, management and other personnel 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 and 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.

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

Management assessed the effectiveness of the company's internal control over financial reporting as of December 25, 2004. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control-Integrated Framework*.

Based on our assessment, management believes that, as of December 25, 2004, the company's internal control over financial reporting is effective.

The company's independent registered public accounting firm, Deloitte & Touche LLP, has issued an attestation report on our assessment of the company's internal control over financial reporting. Their report appears on the following page.

/s/ NEIL R. AUSTRIAN

Neil R. Austrian
Chief Executive Officer and
Chairman, Board of Directors

March 10, 2005

/s/ CHARLES E. BROWN

Charles E. Brown
Executive Vice President, Finance and
Chief Financial Officer
March 10, 2005

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors of Office Depot, Inc.:

We have audited management's assessment, included in the accompanying Management's Report on Internal Control Over Financial Reporting, that Office Depot, Inc. and subsidiaries (the "Company") maintained effective internal control over financial reporting as of December 25, 2004, based on criteria established in *Internal Control–Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that the Company maintained effective internal control over financial reporting as of December 25, 2004, is fairly stated, in all material respects, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee on Sponsoring Organizations of the Treadway Commission. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 25, 2004, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee on Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 25, 2004 of the Company and our report dated March 7, 2005 expressed an unqualified opinion on those financial statements.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Fort Lauderdale, Florida
March 7, 2005

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors of Office Depot, Inc.:

We have audited the accompanying consolidated balance sheets of Office Depot, Inc. and subsidiaries (the "Company") as of December 25, 2004 and December 27, 2003 and the related consolidated statements of earnings, stockholders' equity and cash flows for each of the three years in the period ended December 25, 2004. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements based on our audits.

We conducted our audits in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Office Depot, Inc. and subsidiaries at December 25, 2004 and December 27, 2003 and the results of their operations and their cash flows for each of the three years in the period ended December 25, 2004, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of the Company's internal control over financial reporting as of December 25, 2004, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee on Sponsoring Organizations of the Treadway Commission and our report dated March 7, 2005 expressed an unqualified opinion on management's assessment of the effectiveness of the Company's internal control over financial reporting and an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

As discussed in Note C to the consolidated financial statements, in 2003 the Company changed its method of accounting for cooperative advertising arrangements to conform to the requirements of Emerging Issues Task Force Issue No. 02-16 upon adoption of such guidance.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Fort Lauderdale, Florida
March 7, 2005

OFFICE DEPOT, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share data)

	December 25, 2004	December 27, 2003 (As Restated -See Note B)
ASSETS		
Current assets:		
Cash and cash equivalents	**$ 793,727**	$ 790,889
Short-term investments	**161,133**	100,234
Receivables, net of allowances of $38,007 in 2004 and $34,173 in 2003	**1,303,888**	1,112,417
Merchandise inventories, net	**1,408,778**	1,336,341
Deferred income taxes	**133,282**	169,542
Prepaid expenses and other current assets	**115,363**	67,305
Total current assets	**3,916,171**	3,576,728
Property and equipment, net	**1,463,028**	1,293,755
Goodwill	**1,049,669**	1,004,122
Other assets	**338,483**	320,074
Total assets	**$ 6,767,351**	$ 6,194,679
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Trade accounts payable	**$ 1,569,862**	$ 1,261,788
Other accounts payable	**80,455**	61,391
Accrued expenses and other current liabilities	**819,631**	813,642
Income taxes payable	**133,266**	129,290
Current maturities of long-term debt	**15,143**	12,916
Total current liabilities	**2,618,357**	2,279,027
Deferred income taxes and other long-term liabilities	**342,266**	339,229
Long-term debt, net of current maturities	**583,680**	829,302
Commitments and contingencies		
Stockholders' equity:		
Common stock — authorized 800,000,000 shares of $.01 par value; issued 404,925,515 in 2004 and 398,822,742 in 2003	**4,049**	3,988
Additional paid-in capital	**1,257,619**	1,175,497
Unamortized value of long-term incentive stock grant	**(2,125)**	(1,362)
Accumulated other comprehensive income	**339,708**	214,764
Retained earnings	**2,593,275**	2,257,771
Treasury stock, at cost – 92,623,768 shares in 2004 and 88,628,803 shares in 2003	**(969,478)**	(903,537)
Total stockholders' equity	**3,223,048**	2,747,121
Total liabilities and stockholders' equity	**$ 6,767,351**	$ 6,194,679

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

OFFICE DEPOT, INC.
CONSOLIDATED STATEMENTS OF EARNINGS
(In thousands, except per share amounts)

	2004	2003 (As Restated - See Note B)	2002 (As Restated - See Note B)
Sales	**$13,564,699**	$12,358,566	$11,356,633
Cost of goods sold and occupancy costs	**9,308,560**	8,483,820	8,021,471
Gross profit	**4,256,139**	3,874,746	3,335,162
Store and warehouse operating and selling expenses	**3,037,257**	2,807,112	2,342,556
General and administrative expenses	**665,825**	578,840	486,279
Other operating expenses	**23,080**	22,809	9,855
Operating profit	**529,977**	465,985	496,472
Other income (expense):			
Interest income	**20,042**	14,196	18,509
Interest expense	**(61,108)**	(54,805)	(46,195)
Loss on extinguishment of debt	**(45,407)**	—	—
Miscellaneous income (expense), net	**17,729**	15,392	7,183
Earnings from continuing operations before income taxes and cumulative effect of accounting change	**461,233**	440,768	475,969
Income taxes	**125,729**	141,524	166,554
Earnings from continuing operations before cumulative effect of accounting change	**335,504**	299,244	309,415
Discontinued operations, net	**—**	176	(775)
Cumulative effect of accounting change, net	**—**	(25,905)	—
Net earnings	**$ 335,504**	$ 273,515	$ 308,640
Earnings per share from continuing operations before cumulative effect of accounting change:			
Basic	**$ 1.08**	$ 0.97	$ 1.01
Diluted	**1.06**	0.95	0.98
Cumulative effect of accounting change:			
Basic	**$ —**	$ (0.08)	$ —
Diluted	**—**	(0.08)	—
Net earnings per share:			
Basic	**$ 1.08**	$ 0.88	$ 1.01
Diluted	**1.06**	0.87	0.97

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

OFFICE DEPOT, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands, except share amounts)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Unamortized Value of Long-Term Incentive Stock Grant	Accumulated Other Comprehensive Income (Loss)	Compre-hensive Income	Retained Earnings	Treasury Stock
Balance at December 29, 2001 (As Restated – See Note B)	385,538,340	$ 3,855	$ 1,007,088	$ (2,578)	$ (1,675,616)		$ 1,675,616	$ (806,388)
Comprehensive income:								
Net earnings						$ 308,640	308,640	
Foreign currency translation adjustment					72,438	72,438		
Comprehensive income						$ 381,078		
Acquisition of treasury stock								(45,869)
Grant of long-term incentive stock	15,000	1	218	(218)				
Cancellation of long-term incentive stock	(73,524)	(1)	(549)	284				
Exercise of stock options (including income tax benefits)	8,195,441	82	108,478					(965)
Issuance of stock under employee stock purchase plans	139,773	1	1,097					
Matching contributions under 401(k) and deferred compensation plans	90,022	1	1,663					
Direct Stock Purchase Plans			33					55
Amortization of long-term incentive stock grant				1,217				
Balance at December 28, 2002 (As Restated – See Note B)	393,905,052	3,939	1,118,028	(1,295)	1,165		1,984,256	(853,167)
Comprehensive income:								
Net earnings						$ 273,515	273,515	
Foreign currency translation adjustment					197,570	197,570		
Proceeds from cash flow hedge, net of amortization					16,029	10,095		
Comprehensive income						$ 481,180		
Acquisition of treasury stock								(50,064)
Grant of long-term incentive stock	60,000	1	867	(867)				
Cancellation of long-term incentive stock	(4,500)		(75)	75				
Exercise of stock options (including income tax benefits)	4,850,481	48	57,710					(358)
Issuance of stock under employee stock purchase plans	11,709		(1,056)					
Direct Stock Purchase Plans			23					52
Amortization of long-term incentive stock grant				725				
Balance at December 27, 2003 (As Restated – See Note B)	398,822,742	3,988	1,175,497	(1,362)	214,764		2,257,771	(903,537)
Comprehensive income:								
Net earnings						**$ 335,504**	**335,504**	
Foreign currency translation adjustment					**126,603**	**126,603**		
Amortization of gain on cash flow hedge					**(1,659)**	**(1,045)**		
Comprehensive income						**$ 461,062**		
Acquisition of treasury stock								**(65,578)**
Grant of long-term incentive stock	**105,531**	**1**	**1,700**	**(1,700)**				
Cancellation of long-term incentive stock	**(32,304)**		**(186)**	**186**				
Exercise of stock options (including income tax benefits)	**6,029,546**	**60**	**81,695**					**(400)**
Issuance of stock under employee stock purchase plans			**(1,114)**					
Direct Stock Purchase Plans			**27**					**37**
Amortization of long-term incentive				**751**				

stock grant								
Balance at December 25, 2004	**404,925,515**	**$ 4,049**	**$ 1,257,619**	**$ (2,125)**	**$ 339,708**		**$ 2,593,275**	**$ (969,478)**

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

OFFICE DEPOT, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	2004	2003 (As Restated - See Note B)	2002 (As Restated - See Note B)
Cash flows from operating activities:			
Net earnings	**$ 335,504**	$ 273,515	$ 308,640
Adjustments to reconcile net earnings to net cash provided by operating activities:			
Cumulative effect of accounting change, net	**—**	25,905	—
Depreciation and amortization	**269,166**	253,217	205,175
Charges for losses on inventories and receivables	**87,927**	118,282	93,220
Net earnings from equity method investments	**(16,171)**	(11,056)	(9,279)
Accreted interest on zero coupon, convertible subordinated notes	**—**	—	7,558
Deferred income tax provision	**10,889**	31,746	9,096
Net loss on investment securities	**—**	8,428	2,998
(Gain) loss on disposition of assets	**(3,242)**	6,912	1,465
Facility closure costs and impairment charges	**24,791**	26,675	12,130
Other operating activities	**(3,998)**	17,726	29,243
Changes in assets and liabilities:			
(Increase) decrease in receivables	**(150,821)**	30,171	11,668
(Increase) decrease in merchandise inventories	**(114,160)**	(52,419)	(99,487)
Net (increase) decrease in prepaid expenses and other assets	**(20,615)**	4,935	(18,169)
Net increase (decrease) in accounts payable, accrued expenses and deferred credits	**226,595**	(77,757)	148,076
Total adjustments	**310,361**	382,765	393,694
Net cash provided by operating activities	**645,865**	656,280	702,334
Cash flows from investing activities:			
Purchases of investment securities	**—**	—	(2,151)
Purchase of short-term investments	**(67,975)**	(100,000)	(6,435)
Sale of short-term investments	**5,000**	6,435	—
Acquisition, net of cash acquired	**(7,900)**	(918,966)	—
Capital expenditures	**(391,222)**	(216,481)	(202,655)
Purchase of properties held for sale	**(19,570)**	—	—
Proceeds from sale of business	**—**	36,210	—
Proceeds from disposition of assets and deposits received	**55,061**	8,425	11,338
Net cash used in investing activities	**(426,606)**	(1,184,377)	(199,903)
Cash flows from financing activities:			
Net proceeds from exercise of stock options and sale of stock under employee stock purchase plans	**70,592**	46,664	88,898
Acquisition of treasury stock	**(65,578)**	(50,064)	(45,869)
Proceeds from issuance of notes	**—**	398,880	—
Proceeds from issuance of long-term borrowings	**—**	28,505	—
Net payments on long- and short-term borrowings	**(11,491)**	(35,134)	(12,350)
Redemption of notes	**(250,000)**	—	—
Repurchase of zero coupon, convertible subordinated notes	**—**	—	(243,304)
Net cash (used in) provided by financing activities	**(256,477)**	388,851	(212,625)
Effect of exchange rate changes on cash and cash equivalents	**40,056**	53,047	21,894
Net increase (decrease) in cash and cash equivalents	**2,838**	(86,199)	311,700
Cash and cash equivalents at beginning of period	**790,889**	877,088	565,388
Cash and cash equivalents at end of period	**$ 793,727**	$ 790,889	$ 877,088

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE A — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Business: Office Depot, Inc. is a global supplier of office products and services, with sales in 21 countries outside the United States and Canada under the Office Depot®, Viking Office Products®, Viking Direct®, 4Sure.com®, Guilbert®, and NiceDay™ brand names. Products and services are offered through wholly owned retail stores, contract business-to-business sales relationships, commercial catalogs and multiple web sites.

Basis of Presentation: The consolidated financial statements of Office Depot, Inc. and its subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America. All intercompany transactions have been eliminated in consolidation. Non-controlling investments in joint ventures selling office products and services in Mexico and Israel are accounted for using the equity method. Their results are included in miscellaneous income (expense), net in the Consolidated Statements of Earnings.

Discontinued Operations: In August 2002, we announced our decision to sell the Australian operations and completed the sale in January 2003 with no significant impact on net earnings. This business has been reported as a discontinued operation. Australia's sales and pre-tax loss, respectively, were $80.9 million and $(1.0) million for 2002. The impact on basic earnings per share was $(0.01) for 2002.

Fiscal Year: Fiscal years are based on a 52- or 53-week period ending on the last Saturday in December. All periods presented consist of 52 weeks. Fiscal year 2005 will include 53 weeks.

Estimates and Assumptions: Preparation of these financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect amounts reported in the financial statements and related notes. Actual results may differ from those estimates.

Foreign Currency: Assets and liabilities of international operations are translated into U.S. dollars using the exchange rate at the balance sheet date. Revenues and expenses are translated at average monthly exchange rates. Translation adjustments resulting from this process are recorded in stockholders' equity as a component of other comprehensive income.

Monetary assets and liabilities denominated in a currency other than a consolidated entity's functional currency result in transaction gains or losses from the remeasurement at spot rates at the end of the period. Foreign currency gains and losses that relate to non-operational accounts, such as cash and investments, are recorded in miscellaneous income (expense), net in the Consolidated Statements of Earnings. During 2003, approximately $11.8 million was recognized as a foreign currency gain resulting from holding euro investments in a dollar functional currency subsidiary in advance of an acquisition (see Note D). Foreign currency gains and losses on operational accounts, such as receivables and payables, are included as a component of operating expenses, though historically these amounts have been immaterial.

Cash Equivalents: All short-term highly liquid securities with maturities of three months or less from the date of acquisition are classified as cash equivalents. Cash and cash equivalents consist of funds held in general checking accounts and money market accounts.

Short-term Investments: Investments in debt and auction rate securities are classified as available-for-sale and are reported at fair market value, based on quoted market prices using the specific identification method. Unrealized gains and losses, net of applicable income taxes, are reported as a component of other comprehensive income. Interest earned on these funds is used to purchase additional units. The historical cost and fair value of this investment was $161.1 million and $100.2 million at December 25, 2004 and December 27, 2003, respectively. There were no unrealized losses at either period.

Receivables: Trade receivables, net, totaled $871.7 million and $797.7 million at December 25, 2004 and December 27, 2003, respectively. An allowance for doubtful accounts has been recorded to reduce receivables to an amount expected to be collectible from customers. The allowance recorded at December 25, 2004 and December 27, 2003 was $38.0 million and $34.2 million, respectively. Receivables generated through a private label credit card program are transferred to financial services companies, a portion of which have recourse to Office Depot.

Our exposure to credit risk associated with trade receivables is limited by having a large customer base that extends across many different industries and geographic regions. However, receivables may be adversely affected by an economic slowdown in the U.S. or internationally.

Other receivables are $432.2 million and $314.7 million as of December 25, 2004 and December 27, 2003, respectively, of which $356.8 and $284.7 are amounts due from vendors under purchase rebate, cooperative advertising and various other marketing programs. These vendor receivables are net of collection allowances of $11.0 million and $17.5 million at December 25, 2004 and December 27, 2003, respectively.

Merchandise Inventories: Inventories are stated at the lower of cost or market value. The weighted average method is used to determine the cost of a majority of our inventory and the first-in-first-out method is used for international operations.

Income Taxes: Income tax expense is recognized at applicable U.S. or international tax rates. Certain revenue and expense items may be recognized in one period for financial statement purposes and in a different period's income tax return. The tax effects of such differences are reported as deferred income taxes.

Historically, earnings of foreign subsidiaries have been the source for overseas expansion. Because these earnings have been considered permanently reinvested, they have not been subject to an incremental U.S. tax provision. Cumulative undistributed earnings of our foreign subsidiaries for which no income taxes have been provided was $1,203.5 million and $1,046.2 million as of December 25, 2004 and December 27, 2003, respectively.

The American Jobs Creation Act of 2004 included a one-time reduction in U.S. Federal taxes on the repatriation of foreign earnings of an affiliate. We are still evaluating the potential impact of this legislation and awaiting further clarification and interpretation of the Act. However, we have determined that we will repatriate at least $200 million during 2005 and have included a current expense of $11.5 million in the 2004 Consolidated Statement of Earnings for this U.S. tax consequence. During 2005, we may decide to repatriate an additional amount of these foreign earnings, and would recognize the tax expense at that time. The maximum repatriation allowable to us is $778.7 million, which would add approximately $32.9 million of tax expense. Repatriation of lesser amounts will result in proportionally lower tax expense.

Property and Equipment: Property and equipment additions are recorded at cost. Depreciation and amortization is recognized over their estimated useful lives using the straight-line method. The useful lives of depreciable assets are estimated to be 15-30 years for buildings and 3-10 years for furniture, fixtures and equipment. Computer software is amortized over three years for common office applications, five years for larger business applications and seven years for certain enterprise-wide systems. Leasehold improvements are amortized over the shorter of the terms of the underlying leases or the estimated economic lives of the improvements.

Other Investments: In prior years, we made various investments in Internet-based companies and funds. These investments are carried at cost and their value is reduced if a decline is considered other than temporary. During 2003, we liquidated various investments and recognized an $8.4 million charge in miscellaneous income (expense), net. Impairment charges of $3.0 million were recorded in 2002. At December 25, 2004 and December 27, 2003, the portfolio totaled $4.9 million and $5.0 million, respectively.

Goodwill and Other Intangible Assets: Goodwill represents the excess of the purchase price and related costs over the value assigned to net tangible and identifiable intangible assets of businesses acquired and accounted for under the purchase method. Accounting rules require that we test at least annually for possible goodwill impairment. We perform our test in the fourth quarter of each year using a discounted cash flow analysis that requires that certain assumptions and estimates be made regarding industry economic factors and future profitability. As a result of the 2004 impairment analysis, we determined that the goodwill balance existing in our Japanese reporting unit was impaired. Accordingly, we recorded an impairment charge of approximately $11.5 million which is included in store and warehouse operating and selling expenses in the Consolidated Statements of Earnings. No other indication of goodwill impairment was identified. See Note F for goodwill balances and related information.

We amortize the cost of other intangible assets over their estimated useful lives unless such lives are deemed indefinite. Amortizable intangible assets are tested as appropriate for impairment based on undiscounted cash flows and, if impaired, written down to fair value based on either discounted cash flows or appraised values. Intangible assets with indefinite lives are tested annually for impairment and written down to fair value as required. We test for impairment of intangible assets each year during the fourth quarter; no impairment has been identified.

Impairment of Long-Lived Assets: Long-lived assets are reviewed for possible impairment annually or whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Impairment is assessed at the location level, considering the estimated undiscounted cash flows over the asset's remaining life. If estimated cash flows are insufficient to recover the investment, an impairment loss is recognized based on the fair value of the asset less any costs of disposition.

Impairment losses of $3.9 million, $2.7 million and $5.4 million were recognized in 2004, 2003 and 2002, respectively, relating to certain under-performing retail stores.

Facility Closure Costs: We regularly review store performance against expectations and close stores not meeting our investment requirements. Costs associated with store closures, principally lease cancellation costs, are recognized when the facility is no longer used in an operating capacity or when a liability has been incurred. Store assets are also reviewed for possible impairment, or reduction of useful lives.

Accruals for lease termination costs are based on the future commitments under contract, adjusted for anticipated sublease and termination benefits. We conducted a comprehensive review of closed store commitments during the fourth quarter of 2003 and recorded a $23.9 million charge to terminate some existing commitments and to adjust the remaining commitments to current market values. We recorded similar charges in 2002 of $6.7 million. The accrued balance relating to our future commitments under operating leases of our closed stores was $58.8 million and $57.6 million at December 25, 2004 and December 27, 2003, respectively.

Fair Value of Financial Instruments: The estimated fair values of financial instruments recognized in the Consolidated Balance Sheets or disclosed within these Notes to Consolidated Financial Statements have been determined using available market information, information from unrelated third party financial institutions and appropriate valuation methodologies, primarily discounted projected cash flows. However, considerable judgment is required when interpreting market information and other data to develop estimates of fair value. Accordingly, the estimates presented are not necessarily indicative of the amounts that could be realized in a current market exchange.

Short-term Assets and Liabilities: The fair values of cash and cash equivalents, short-term investments, receivables, accounts payable and accrued expenses and other current liabilities approximate their carrying values because of their short-term nature.

Notes Payable: The fair value of the senior subordinated notes and senior notes were determined based on quoted market prices.

Interest Rate Swaps and Foreign Currency Contracts: The fair values of our interest rate swaps and foreign currency contracts are the amounts receivable or payable to terminate the agreements at the reporting date, taking into account current interest and exchange rates. During 2004, we entered into a series of fixed-for-variable interest rate swaps as fair value hedges on $400 million of senior notes. The swaps qualified for shortcut hedge accounting and no ineffectiveness has been recognized.

There were no significant differences as of December 25, 2004 and December 27, 2003 between the carrying values and fair values of the financial instruments except as disclosed below:

	2004		2003	
(Dollars in thousands)	**Carrying Value**	**Fair Value**	Carrying Value	Fair Value
$250 million senior subordinated notes	**$ —**	**$ —**	$259,440	$300,000
$400 million senior notes	**$403,771**	**$433,200**	$398,923	$420,320

Accounting for Stock-Based Compensation: We account for stock-based compensation plans under Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees,* and related Interpretations. Essentially all employee stock options are issued at market value on the date of grant. Under APB 25, no compensation expense is recognized for such options. The compensation cost charged against income for the Long-Term Equity Incentive Plan, Long-Term Incentive Stock Plan, Employee Stock Purchase Plans and retirement savings plans was $12.6 million, $10.9 million and $9.4 million in 2004, 2003 and 2002, respectively. Had compensation cost for awards under our stock-based compensation plans been determined using the fair value method prescribed by Statement of Financial Accounting Standard ("FAS") No. 123, *Accounting for Stock-Based Compensation,* as amended, we would have recognized additional compensation expense, net of related tax effects, of approximately $19.5 million, $22.4 million and $29.4 million in 2004, 2003 and 2002, respectively. The pro forma disclosure is based on the assumptions listed below, as well as an assumption of forfeiture rates for unvested options.

(In thousands, except per share amounts)	2004	2003	2002
Net earnings			
As reported	**$ 335,504**	$ 273,515	$ 308,640
Pro forma	**315,960**	251,086	279,264
Net earnings per share – Basic			
As reported	**$ 1.08**	$ 0.88	$ 1.01
Pro forma	**1.01**	0.81	0.91
Net earnings per share – Diluted			
As reported	**$ 1.06**	$ 0.87	$ 0.97
Pro forma	**1.00**	0.80	0.88

The fair value of each stock option granted is established on the date of the grant using the Black-Scholes option pricing model. The weighted average fair values of options granted during 2004, 2003, and 2002 were $4.43, $4.17, and $6.38, respectively, using the following weighted average assumptions for grants:

- Risk-free interest rates of 2.64% for 2004, 2.59% for 2003, and 4.69% for 2002
- Expected lives of 4.5, 4.3 and 4.4 years for 2004, 2003, 2002, respectively
- A dividend yield of zero for all three years
- Expected volatility of 35% for 2004 and 40% for 2003 and 2002

Beginning with the third quarter of 2005, we will include the expense associated with share-based payments issued to employees in our Consolidated Statement of Earnings. See New Accounting Standards below for discussion of the transition to this new accounting standard.

Revenue Recognition: Revenue is recognized at the point of sale for retail transactions and at the time of successful delivery for contract, catalog and Internet sales. An accrual for sales returns has been recorded based on historical experience. Revenue from sales of extended warranty service plans is either recognized at the point of sale or over the warranty period, depending on the determination of legal obligor status. All performance obligations and risk of loss associated with such contracts are transferred to an unrelated third-party administrator at the time the contracts are sold. Costs associated with these contracts are recognized in the same period as the related revenue.

Shipping and Handling Fees and Costs: Income generated from shipping and handling fees is classified as revenues for all periods presented. Freight costs incurred to bring merchandise to stores and warehouses are included as a component of inventory and costs of goods sold. Freight costs incurred to ship merchandise to customers are recorded as a component of store and warehouse operating and selling expenses. Shipping costs, combined with warehouse handling costs, totaled $940.0 million in 2004, $827.7 million in 2003 and $717.8 million in 2002.

Advertising: Advertising costs are either charged to expense when incurred or, in the case of direct marketing advertising, capitalized and amortized in proportion to the related revenues.

We participate in cooperative advertising programs with our vendors in which they reimburse us for a portion of our advertising costs. Prior to 2003, these vendor arrangements reduced advertising expense for the period. Following a change in accounting rules that became effective at the beginning of fiscal year 2003, we now classify such reimbursements as a reduction of the costs of our inventory and cost of goods sold (see Note C). Advertising expense recognized was $571.5 million in 2004 and $546.9 million in 2003. Advertising expense in 2002 was $317.6 million, which was net of $242.7 million of cooperative advertising allowances.

Pre-opening Expenses: Pre-opening expenses related to opening new stores and warehouses or relocating existing stores and warehouses are expensed as incurred and included in other operating expenses.

Self-Insurance: Office Depot is primarily self-insured for workers' compensation, auto and general liability and employee medical insurance programs. Self-insurance liabilities are based on claims filed and estimates of claims incurred but not reported. These liabilities are not discounted.

Comprehensive Income: Comprehensive income represents the change in stockholders' equity from transactions and other events and circumstances arising from non-stockholder sources. Comprehensive income consists of net earnings, foreign currency translation adjustments, realized or unrealized gains (losses) on investment securities that are available-for-sale and elements of qualifying cash flow hedges, net of applicable income taxes.

Derivative Financial Instruments: Certain derivative financial instruments may be used to hedge the exposure to foreign currency exchange rate and interest rate risks, subject to an established risk management policy. Financial instruments authorized under this policy include swaps, options, caps, forwards and futures. Use of derivative financial instruments for trading or speculative purposes is prohibited by company policies.

Vendor Arrangements: We enter into arrangements with many of our vendors that entitle us to a partial refund of the cost of merchandise purchased during the year, or payments for reimbursement of certain costs we incur to advertise or otherwise promote their product. The volume based rebates, supported by a vendor agreement, are estimated throughout the year and reduce the cost of inventory and cost of goods sold during the year. This estimate is regularly monitored and adjusted for current or anticipated changes in purchase levels and for sales activity. Other promotional rebates are generally event-based and are recognized as a reduction of cost of goods sold or inventory, as appropriate based on the type of promotion and the agreement with the vendor, generally when the promotion or event has occurred. See Note C for additional discussion of cooperative advertising arrangements.

New Accounting Standards: In March 2004, Emerging Issues Task Force Issue No. 03-1, *The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments* ("EITF 03-1"), was released. This guidance relates to impairment measurements of debt and equity securities, and essentially requires companies to recognize an impairment unless they believe declines in value will be recovered over the company's intended investment horizon. The staff of the Financial Accounting Standards Board ("FASB") issued FASB Staff Position ("FSP") EITF 03-1-1, *Effective Date of Paragraphs 10-20 of EITF Issue No. 03-1, The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments*, which delayed the effective date for the measurement and recognition criteria contained in EITF 03-1 until final application guidance is issued. Our current investment portfolio contains only a limited amount of the type of securities covered by this guidance; however, a change in the method of accounting for other-than-temporary declines could impact our results of operations, when that guidance is finalized.

In December 2004, the FASB issued Statement of Financial Accounting Standards No. 123 (Revised 2004), *Share-Based Payment*, ("FAS 123(R)"). This Statement requires companies to expense the estimated fair value of stock options and similar equity instruments issued to employees. Currently, companies are required to calculate the estimated fair value of these share-based payments and can elect to either include the estimated cost in earnings or disclose the pro forma effect in the footnotes to their financial statements. We have chosen to disclose the pro forma effect. The fair value concepts were not changed significantly in FAS 123(R); however, in adopting this Standard, companies must choose among alternative valuation models and amortization assumptions. The valuation model and amortization assumption we have used continues to be available, but we have not yet completed our assessment of the alternatives. FAS123(R) will be effective for our company beginning with the third quarter of 2005. Transition options allow companies to choose whether to adopt prospectively, restate results to the beginning of the year, or to restate prior periods with the amounts that have been included in their footnotes. We have not yet concluded on which transition option we will select. See Accounting for Stock-Based Compensation discussion above for the pro forma effect of a full year application, using our existing valuation and amortization assumptions.

FASB Staff Position No. 109-2, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004* ("FSP 109-2"), was issued in December 2004. This FSP provides guidance on accounting for special reductions in taxes included in the American Jobs Creation Act of 2004. In particular, the Act allows a one-time decrease in U.S. Federal taxes on repatriated foreign earnings. FSP 109-2 clarifies that a company's consideration of the Act does not overrule their prior contention that the foreign earnings were permanently reinvested. Also, the FSP indicates that companies should provide tax expense when a decision is made to repatriate some or all foreign earnings, and provide disclosure about the possible range of repatriation if the analysis is not yet complete. We have decided to repatriate at least $200 million of foreign earnings during 2005 and have provided approximately $11.5 million of tax expense in 2004. We continue to assess whether additional earnings will be repatriated; see Note H.

Note B – RESTATEMENT OF FINANCIAL STATEMENTS

On February 7, 2005, the Chief Accountant of the U.S. Securities and Exchange Commission ("SEC") released a letter expressing the SEC's views on certain lease accounting matters. We have identified areas where our historical accounting practices differ from the SEC's views. We have restated our financial statements for prior periods to correct these errors.

We have reviewed our property lease portfolio and adjusted initial lease terms to include option renewals that are reasonably assured of being exercised and included the straight-line effect over the lease term of escalating rents during the option periods and have recognized the effect of pre-opening "rent holidays" over the related lease term. We have also reviewed our leasehold improvements to ensure amortization over the shorter of their economic lives or the adjusted lease term. Tenant allowances have been reclassified from a contra asset in property and equipment, net to other long-term liabilities in the Consolidated Balance Sheets. Tenant allowances have also been reclassified from a reduction of depreciation and amortization expense to a reduction of rent expense in the Consolidated Statements of Earnings and from a reduction of capital expenditures to an increase in cash provided by operating activities in the Consolidated Statements of Cash Flows. Retained earnings at the beginning of fiscal year 2002 have been adjusted for the after-tax impacts of earlier periods.

While the net dollar amounts are not material to net earnings, financial position or net cash flows for the periods presented, we believe it is appropriate to align our historical accounting results with the SEC's views on lease accounting and accordingly with GAAP. The restated amounts and line items impacted by these restatements are provided below.

(In thousands, except per share data)	Year Ended December 27, 2003 As Previously Reported	As Restated
Consolidated Balance Sheets:		
Property and equipment, net	$ 1,244,295	$ 1,293,755
Deferred income taxes and other long-term liabilities	244,600	339,229
Retained earnings	2,304,737	2,257,771
Total stockholders' equity	2,794,087	2,747,121
Total liabilities and stockholders' equity	6,145,242	6,194,679

	Year Ended December 27, 2003 As Previously Reported	As Restated	Year Ended December 28, 2002 As Previously Reported	As Restated
Consolidated Statements of Earnings:				
Cost of goods sold and occupancy costs	$ 8,484,420	$ 8,483,820	$ 8,022,663	$ 8,021,471
Store and warehouse operating and selling expenses	2,802,240	2,807,112	2,338,128	2,342,556
Operating profit	470,257	465,985	499,708	496,472
Earnings from continuing operations before income taxes and cumulative effect of accounting change	445,040	440,768	479,205	475,969
Income taxes	143,016	141,524	167,722	166,554
Net earnings	276,295	273,515	310,708	308,640
Net earnings per share:				
Basic	$ 0.89	$ 0.88	$ 1.01	$ 1.01
Diluted	0.88	0.87	0.98	0.97

	Year Ended December 27, 2003 As Previously Reported	As Restated	Year Ended December 28, 2002 As Previously Reported	As Restated
Consolidated Statements of Cash Flows:				
Net cash provided by operating activities	$ 651,740	$ 656,280	$ 701,897	$ 702,334
Net cash used in investing activities	(1,179,837)	(1,184,377)	(199,466)	(199,903)

The cumulative effect of these accounting changes reduced retained earnings by $42.1 million as of the beginning of fiscal 2002.

Note C – CUMULATIVE EFFECT OF ACCOUNTING CHANGE

At the beginning of fiscal year 2003, we adopted EITF 02-16. *Accounting by a Reseller for Cash Consideration Received from a Vendor.* This guidance primarily affects our accounting for cooperative advertising arrangements. Under these rules, there is a presumption that amounts received from vendors should be considered a reduction of product costs. This presumption can be overcome if certain restrictive provisions are met. We adopted a policy of classifying all cooperative advertising arrangements as a reduction of product cost, because the cost of tracking actual advertising costs by vendor to meet these criteria would exceed the benefit. These arrangements were previously accounted for as a reduction of advertising expense. A portion is now deferred in inventory and reduces the cost of products as they are sold, similar to the current practice for vendor rebate arrangements.

To record the initial amount of cooperative advertising deferred in inventory at the beginning of 2003, we recorded an after-tax cumulative effect adjustment of $25.9 million, or $0.08 per share. The impact on continuing operations of applying this method in 2003 decreased cost of goods sold by $240.4 million and increased advertising expense by $234.2 million. Operating profit increased by $6.2 million, net earnings by $4.3 million and diluted earnings per share by $0.01. Prior periods have not been restated. However, the estimated impact of applying this method in 2002 would have been to decrease the cost of goods sold by $241.3 million and increase advertising expense by $242.7 million. Pro forma operating profit would have decreased by $1.4 million, net earnings by $1.0 million and would have had no impact on diluted earnings per share.

Note D – ACQUISITIONS

On June 2, 2003, we acquired all of the common shares of Guilbert S.A. (“Guilbert”) from Pinault-Printemps-Redoute S.A. Guilbert was the French parent company of a corporate group that constituted one of the largest contract stationers in Europe. The acquisition provided us with an immediate presence in targeted markets, substantially increased the scope and breadth of our contract business in Europe, and established Office Depot as the leading multi-channel reseller of office products in continental Europe and the United Kingdom. The results of Guilbert’s operations have been included in the consolidated financial statements since the date of acquisition.

The cash purchase price was euro 780 million. The U.S. dollar value of the acquisition, including transaction costs, totaled $945.2 million at the date of acquisition, or $919.0 million, net of cash acquired, translated at currency rates in effect at the time of actual cash settlement. The purchase price is subject to a downward adjustment, contingent upon the value of any unfunded pension liability as measured at a future date. The existing unfunded pension liability has been recorded as part of the fair value assigned to liabilities assumed. The after-tax effect of the future settlement, if any, will reduce goodwill when received.

The integration of Guilbert and Office Depot operations have resulted in closing certain warehouses, customer service centers, and other facilities, as well as the sale or liquidation of certain operations and the consolidation of the combined workforce. The purchase date balance sheet included accrued Guilbert-related integration costs of approximately $14.9 million for facility closure costs and $33.8 million for employee-related costs. At December 25, 2004 exchange rates, approximately $1.2 million of employee-related costs remained, relating to integration activity expected to be complete in early 2005. Approximately $17.2 million of facility closure costs remain, primarily relating to lease commitments for closed facilities, net of assumed sublease income. Goodwill has been adjusted since the date of acquisition to reflect completed asset and liability valuations, revisions to integration plans and adjustment to acquired tax accounts, including the reduction of certain deferred tax asset valuation allowances. Goodwill may be adjusted in future periods from resolution of acquired tax-related provisions and for settlement of contingent consideration. Costs associated with Office Depot-related integration activity have been expensed as incurred. These costs totaled $2.2 million and $17.7 million in 2004 and 2003, respectively.

All assets and liabilities of Guilbert, including goodwill and intangibles, have been recorded in the International Group segment (see Note N).

The following unaudited pro forma financial information presents the combined results of operations of Office Depot as if the acquisition had occurred as of the beginning of 2003. Guilbert's results of operations have been modified from amounts originally prepared under French accounting principles to conform to accounting principles generally accepted in the United States of America. The unaudited pro forma financial information is not intended to represent or be indicative of the consolidated results of operations or financial condition of Office Depot that would have been reported had the acquisition been completed as of the beginning of the period presented, and should not be taken as representative of the future consolidated results of operations or financial condition of Office Depot. Unaudited pro forma information for fiscal year 2003 includes: revenues — $13.0 billion; earnings from continuing operations before cumulative effect of accounting change — $298 million, or $0.96 and $0.95 per basic and diluted share, respectively; and net earnings — $272 million, or $0.88 and $0.87 per basic and diluted share, respectively.

In April 2004, we acquired the business of Elso Iroda Superstore Kft for $7.9 million, net of cash acquired. This company operated Office Depot retail stores and direct sales businesses in Hungary under an Office Depot license agreement. This acquisition and subsequent expansion adds four retail stores, a distribution center and additional Internet sales capabilities to the International Group segment's operations. We have not presented the pro forma results of operations of the acquired business because the results are not material to our consolidated results of operations.

NOTE E – PROPERTY AND EQUIPMENT

Property and equipment consisted of:

(Dollars in thousands)	**December 25, 2004**	December 27, 2003
Land	**$ 118,498**	$ 105,120
Buildings	**449,038**	322,498
Leasehold improvements	**815,767**	779,031
Furniture, fixtures and equipment	**1,453,330**	1,286,082
	2,836,633	2,492,731
Less accumulated depreciation	**(1,373,605)**	(1,198,976)
	$ 1,463,028	$ 1,293,755

Depreciation expense was $248.4 million, $237.2 million and $201.4 million in 2004, 2003 and 2002, respectively.

The above table of property and equipment includes assets held under capital leases as follows:

(Dollars in thousands)	**December 25, 2004**	December 27, 2003
Buildings	**$ 80,519**	$ 70,942
Furniture, fixtures and equipment	**51,182**	49,352
	131,701	120,294
Less accumulated depreciation	**(52,452)**	(52,950)
	$ 79,249	$ 67,344

In March 2004, we reached an agreement with Toys "R" Us, Inc. to acquire 124 of their former Kids "R" Us stores for $197 million in cash plus the assumption of lease obligations. Also in March, we reached an agreement with PETCO Animal Supplies, Inc. under which PETCO agreed to acquire from us 20 of the former Kids "R" Us stores for approximately $45 million in cash plus the assumption of related lease obligations. Through December 25, 2004, we have closed on the purchase of 91 stores and 32 stores have been removed from the transaction through price adjustments and mutual agreement. Of the total number of stores (currently 92, after the agreed-upon removals), we plan to convert approximately 50 of these stores to Office Depot retail stores and intend to sell or sublease the remaining stores. This transaction closed in phases during the year, and by year end we had opened 36 of these locations, and 17 stores had been transferred to third-party buyers. We closed on the purchase of the final store in this transaction during January 2005 for approximately $2.2 million and settled remaining escrow and deposit accounts for approximately $8.8 million.

NOTE F – GOODWILL AND OTHER INTANGIBLE ASSETS

The components of goodwill by segments are listed below:

(Dollars in thousands)	**December 25, 2004**	December 27, 2003
Goodwill:		
North American Retail Division	**$ 1,831**	$ 1,739
Business Services Group	**229,950**	229,950
International Group	**817,888**	772,433
Total goodwill	**$ 1,049,669**	$ 1,004,122

The net increase in goodwill reflects an increase of $66.7 million from changes in foreign currency exchange rates, an increase of $9.3 million related to the purchase of a business in Hungary, and the net impact of adjustments to integration plans and values estimated related to the acquisition of Guilbert, partially offset by an $11.5 million impairment charge.

As a result of our fourth quarter 2004 impairment analysis, we determined that the goodwill balance existing in our Japanese reporting unit was impaired. In recent years, several initiatives were put in place to enhance the business, including streamlining to one brand, consolidating warehouses, and improving retail assortment and layout. However, the anticipated improvements have not generated the expected benefits and we recorded an impairment charge of approximately $11.5 million to reduce the carrying value of the goodwill to zero. This charge is included within store and warehouse operating and selling expenses in the Consolidated Statements of Earnings.

Intangible Assets

Indefinite-lived intangible assets were $77.6 million and $71.4 million, and definite-lived intangibles were $45.4 and $60.6, net of accumulated amortization, at December 25, 2004 and December 27, 2003, respectively, and are included in other assets in the Consolidated Balance Sheets. Amortization of intangible assets was $19.3 million in 2004, $13.8 million in 2003 and $1.4 million in 2002 (at average foreign currency exchange rates).

Estimated future amortization expense related to finite-lived intangible assets at December 25, 2004 exchange rates is as follows:

(Dollars in millions)	December 25, 2004
2005	$ 14.1
2006	12.1
2007	10.6
2008	5.1
2009	0.2

NOTE G – DEBT

The debt components consisted of the following:

(Dollars in thousands)	**December 25, 2004**	December 27, 2003
Current maturities of long-term debt:		
Capital lease obligations	**$ 13,673**	$ 11,219
Other	**1,470**	1,697
	$ 15,143	$ 12,916
Long-term debt, net of current maturities:		
Revolving credit facility	**$ 103,068**	$ 100,102
$250 million senior subordinated notes	**—**	259,440
$400 million senior notes	**403,771**	398,923
Capital lease obligations	**76,841**	69,367
Other	**—**	1,470
	$ 583,680	$ 829,302

In April 2004, we replaced our existing credit facility with a $750 million 5-year unsecured multi-currency revolving credit facility, which includes up to $350 million available for standby and trade letters of credit. Upon mutual agreement, the maximum borrowing may be increased to $900 million. The agreement provides borrowings up to the total amount in U.S. dollars, British pounds, euro, or yen. We may elect interest periods of one, two, three, six, nine or twelve months. Interest is based on the London Interbank Offering Rate (“LIBOR”), plus a spread determined at the time of usage. Based on current credit ratings, borrowings include a spread of 0.70%. The effective interest rate on yen borrowings at the end of 2004 was 0.763%. At December 25, 2004, we had approximately $565.7 million of available credit under our revolving credit facility, which covers $81.9 million outstanding letters of credit. We had an additional $8.2 million of letters of credit outstanding under a separate trade agreement.

The credit facility in effect at December 27, 2003 allowed borrowings up to $600 million and was an unsecured revolving credit facility that was due to mature in April 2005. Similar to the current facility, this previous facility allowed us to select currencies, and interest periods. Interest was based on either LIBOR, U.S. prime, or a Eurocurrency rate, plus a spread to be determined at the time of borrowing. At December 27, 2003, we had yen borrowings equivalent to $100.1 million outstanding with an average effective interest rate of 0.988%, and outstanding letters of credit totaled $72.8 million.

In July 2001, we issued $250 million of senior subordinated notes due on July 15, 2008. The notes were issued with a coupon interest rate of 10.00%, payable semi-annually on January 15 and July 15. In August 2001, we entered into LIBOR-based fixed-to-variable rate swap agreements as a fair value hedge of these notes. In September 2002, these interest rate swap agreements were terminated and we received proceeds of $18.8 million. The benefit associated with these proceeds was being amortized over the remaining term of the notes, lowering the effective interest rate on this borrowing to 8.7%. In December 2004, we redeemed the entire issue of the $250 million senior subordinated notes, pursuant to the optional redemption provisions of the subordinated notes indenture. The payment of approximately $302 million included the principal, accrued interest to the termination date, and contractual interest, discounted at the appropriate U.S. Treasury rate plus 50 basis points. The redemption resulted in a fourth quarter 2004 charge of $45.4 million which included the make whole payment, removal of deferred issuance costs, and the previously deferred gain related to the interest rate swap. The charge is reported as loss on extinguishment of debt in the other income (expense), net section of the Consolidated Statements of Earnings.

In August 2003, we issued $400 million senior notes due August 2013. These notes are not callable and bear interest at the rate of 6.250% per year, to be paid on February 15 and August 15 of each year. The notes contain provisions that, in certain circumstances, place financial restrictions or limitations on us. Simultaneous with completing the offering, we liquidated a treasury rate lock. The proceeds of $16.6 million are being amortized over the term of the issue, reducing the effective interest rate to 5.87%. During 2004, we entered into a series of fixed-to-variable interest rate swap agreements as fair value hedges on the $400 million of notes. The swaps qualify for shortcut hedge accounting and no ineffectiveness has been recognized.

We are in compliance with all restrictive covenants included in the above debt agreements.

Our scheduled debt maturities over the next five years include $103 million for our revolving credit facility due in 2009; $400 million for our senior notes is due thereafter.

Under capital lease agreements, we are required to make certain monthly, quarterly or annual lease payments through 2027. The aggregate minimum capital lease payments for the next five years and beyond are as follows:

(Dollars in thousands)	December 25, 2004
2005	$ 18,795
2006	14,047
2007	10,332
2008	9,774
2009	9,097
Thereafter	66,411
Total minimum lease payments	128,456
Less amount representing interest at 5.00% to 10.27%	37,942
Present value of net minimum lease payments	90,514
Less current portion	13,673
Long-term portion	$ 76,841

NOTE H — INCOME TAXES

The income tax provision related to earnings from continuing operations consisted of the following:

(Dollars in thousands)	2004	2003	2002
Current:			
Federal	**$ 90,606**	$ 71,032	$114,497
State	**5,754**	(4,370)	13,967
Foreign	**18,480**	43,116	28,994
Deferred:			
Federal	**5,013**	39,822	8,699
State	**1,327**	(3,554)	468
Foreign	**4,549**	(4,522)	(71)
Total provision for income taxes	**$125,729**	$141,524	$166,554

The components of earnings from continuing operations before income taxes and cumulative effect of accounting change consisted of the following:

(Dollars in thousands)	2004	2003	2002
North America	**$232,561**	$225,150	$350,069
International	**228,672**	215,618	125,900
Total	**$461,233**	$440,768	$475,969

The tax-effected components of deferred income tax assets and liabilities consisted of the following:

(Dollars in thousands)	December 25, 2004	December 27, 2003
Self-insurance accruals	**$ 25,870**	**$ 24,348**
Inventory	**30,370**	**22,976**
Vacation pay and other accrued compensation	**35,084**	**26,672**
Reserve for bad debts	**7,497**	**7,926**
Reserve for facility closings	**22,151**	**28,226**
Acquisition and integration costs	**5,752**	**11,821**
Deferred rent credit	**47,626**	**51,137**
Foreign and state net operating loss carryforwards	**253,140**	**156,903**
State credit carryforwards, net of federal	**7,581**	**7,015**
Other items, net	**54,368**	**48,618**
Gross deferred tax assets	**489,439**	**385,642**
Valuation allowance	**(239,704)**	**(157,962)**
Deferred tax assets	**249,735**	**227,680**
Basis difference in fixed assets	**86,399**	**62,127**
Intangibles	**45,827**	**44,949**
Planned repatriation of foreign earnings	**11,540**	**—**
Other items, net	**6,258**	**20,560**
Deferred tax liabilities	**150,024**	**127,636**
Net deferred tax assets	**$ 99,711**	**$ 100,044**

As of December 25, 2004, we had approximately $636.9 million of foreign and $802.7 million of state net operating loss carryforwards. Of the foreign carryforwards, $490.8 million can be carried forward indefinitely, $16.9 million will expire in 2005, and the balance will expire between 2006 and 2019. Of the state carryforwards, $7.9 million will expire in 2005, and the balance will expire between 2006 and 2024. The valuation allowance has been developed to reduce our deferred asset to an amount that is more likely than not to be realized, and is based upon the uncertainty of the realization of certain foreign and state deferred assets related to net operating loss carryforwards.

The following is a reconciliation of income taxes at the Federal statutory rate to the provision for income taxes:

(Dollars in thousands)	**2004**	2003	2002
Federal tax computed at the statutory rate	**$161,432**	$154,269	$166,589
State taxes, net of Federal benefit	**6,289**	6,506	8,373
Repatriation of foreign earnings	**11,540**	—	—
Reduction in valuation allowance	**(11,295)**	—	—
State credits	**(1,386)**	(10,400)	—
Foreign income taxed at rates other than Federal	**(27,015)**	(17,741)	(12,543)
Settlement of tax audits	**(12,355)**	(217)	(2,144)
Change in accrual estimates relating to uncertain tax positions	**(4,418)**	8,090	4,127
Other items, net	**2,937**	1,017	2,152
Provision for income taxes	**$125,729**	$141,524	$166,554

In October 2004, the American Jobs Creation Act of 2004 was passed by Congress and signed into law. Among other things, the Act provided U.S. taxpayers a one-year reduction of taxes on the repatriation of foreign earnings. We are still evaluating the potential impact of this legislation and awaiting further clarification and interpretation of the Act. However, we have determined that we will repatriate at least $200 million of foreign earnings during 2005 and have included in the 2004 Statement of Earnings a tax expense of $11.5 million for this U.S. tax consequence. During 2005, we may decide to repatriate an additional amount of these foreign earnings, and would recognize the tax expense at that time. The maximum repatriation allowable to us under the Act is $778.7 million, which would add approximately $32.9 million of tax expense. Repatriation of lesser amounts will result in proportionally lower tax expense.

During 2004, because of a projected increase in taxable income of certain international entities, and a reassessment of certain state tax circumstances, we changed our assessment of the need for the valuation allowances on the related deferred tax assets. Accordingly, income tax expense was reduced by $11.3 million because of the increased likelihood of these benefits being realized.

We regularly assess our position with regard to individual tax exposures and record liabilities for our uncertain tax positions and related interest and penalties according to the principles of FAS 5, *Accounting for Contingencies*. These accruals, which relate primarily to cross-jurisdictional transactions, reflect management's view of the likely outcomes of current and future audits.

We operate in numerous taxing jurisdictions and are subject to regular examinations by various taxing authorities for differing tax periods. Currently, we are under audit in the United States for the tax periods 2000 – 2001, and in various foreign and state jurisdictions for various tax periods. Additionally, we are in the final stages of an appellate level review of contested issues related to the audit of our 1997 – 1999 tax returns by the Internal Revenue Service.

It is likely that the future resolution of these uncertain tax positions will be different from the amounts currently accrued and will impact future tax period expense. However, management believes those amounts will not be material to the financial condition of the company.

NOTE I — COMMITMENTS AND CONTINGENCIES

Operating Leases: We lease facilities and equipment under agreements that expire in various years through 2027. In addition to minimum rentals, there are certain executory costs such as real estate taxes, insurance and common area maintenance on most of our facility leases. Certain leases contain provisions for additional rent to be paid if sales exceed a specified amount, though such payments have been immaterial during the years presented. The table below shows future minimum lease payments due under non-cancelable leases as of December 25, 2004. These minimum lease payments include facility leases that were accrued as store closure costs.

(Dollars in thousands)	
2005	$ 426,180
2006	383,751
2007	336,561
2008	306,163
2009	288,337
Thereafter	2,033,205
	3,774,197
Less sublease income	(84,469)
	$3,689,728

We are in the process of opening new stores in the ordinary course of business, and leases signed subsequent to December 25, 2004 are not included in the above described commitment amounts. Rent expense, including equipment rental, was $443.7 million, $424.1 million and $401.4 million in 2004, 2003, and 2002, respectively. Rent expense was reduced by sublease income of $2.9 million in 2004, $3.1 million in 2003 and $2.9 million in 2002.

Guarantee of Private Label Credit Card Receivables: Office Depot has private label credit card programs that are managed by a third-party financial services company. We act as the guarantor of all loans between our commercial customers and the financial services company. The difference between the transfer amount and the amount received is recognized in store and warehouse operating and selling expense. Maximum exposure to off-balance sheet credit risk is represented by the outstanding balance of private label credit card receivables, less reserves held by the financial services company which we fund. At December 25, 2004, the outstanding balance of credit card receivables sold was approximately $254.3 million. The estimated fair value liability associated with risk of loss is included in accrued expenses.

Other: We are involved in litigation arising in the normal course of business. In our opinion, the resolution of these matters will not materially affect our financial position or results of operations.

NOTE J — EMPLOYEE BENEFIT PLANS

Long-Term Equity Incentive Plan

The Long-Term Equity Incentive Plan, which was approved by Office Depot's stockholders, became effective October 1, 1997. This plan provides for the grants of stock options and other incentive awards, including restricted stock, to directors, officers and key employees. Under this plan, stock options must be granted at an option price that is greater than or equal to the market price of the stock on the date of the grant. If an employee owns 10% or more of Office Depot's outstanding common stock, the option price must be at least 110% of the market price on the date of the grant. Options granted under this plan become exercisable from one to five years after the date of grant, provided that the individual is continuously employed with the company. All options granted expire no more than 10 years following the date of grant.

Long-Term Incentive Stock Plan

A summary of the status of and changes in our stock option plans for the last three years is presented below.

	2004		2003		2002	
	Shares	**Weighted Average Exercise Price**	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
Outstanding at beginning of year	**29,452,938**	**$ 14.89**	31,499,632	$ 14.36	35,750,521	$ 13.46
Granted	**5,483,750**	**17.53**	5,679,500	11.46	6,926,250	16.39
Canceled	**(2,792,564)**	**16.60**	(2,875,713)	14.44	(3,014,831)	14.74
Exercised	**(6,034,337)**	**11.56**	(4,850,481)	9.50	(8,162,308)	10.80
Outstanding at end of year	**26,109,787**	**$ 16.04**	29,452,938	$ 14.89	31,499,632	$ 14.36

As of December 25, 2004, the weighted average fair values, as calculated under the Black-Scholes option pricing model, of options granted during 2004, 2003, and 2002 were $4.43, $4.17, and $6.38, respectively.

The following table summarizes information about options outstanding at December 25, 2004.

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercise Price
$4.43 - $6.64	44,788	5.5	$ 6.39	44,788	$ 6.39
6.65 - 9.97	1,893,167	5.5	8.80	1,784,667	8.78
9.98 - 14.96	6,319,067	4.9	11.64	3,803,749	11.67
14.97 - 22.45	16,362,736	4.6	17.86	9,802,369	18.29
22.46 - 25.00	1,490,029	3.3	24.19	1,490,029	24.19
$4.43 - $25.00	26,109,787	4.7	$ 16.04	16,925,602	$ 16.29

As discussed in Note A, the FASB has issued a new accounting pronouncement that will be applicable beginning with the third quarter of 2005. Under this revised rule, companies are required to expense the estimated fair value of stock options and similar equity instruments issued to employees. This rule will also modify the way companies recognize the tax impacts of employee share-based payments in the Statement of Earnings and the Statement of Cash flows. Currently, tax benefits received on certain nonqualified stock options and employee stock purchase plan share dispositions are credited to additional paid-in capital. Following this rule change, a portion of these benefits may be included in the Statement of Earnings and a portion may continue to be credited to additional paid-in capital.

Restricted Stock and Performance-Based Grants

Prior to our merger with Viking Office Products (“Viking”) in 1998, Viking’s Long-Term Incentive Stock Plan allowed awards of restricted shares of common stock to key Viking employees. As part of the merger, shares issued under this plan were converted to restricted shares of Office Depot common stock, and no additional shares will be issued under the plan. Restrictions on these remaining 300,000 shares are scheduled to expire at the end of June 2007. Compensation expense is recognized on a straight-line basis over the vesting period.

To date under the Long-Term Equity Incentive Plan, 496,724 shares of restricted stock have been issued at no cost to the employees, 68,565 of which have been canceled and 155,531 remain outstanding but restricted. The fair market value of these awards was approximately $6.7 million at the date of the grants. Restricted stock issued under this plan may have vesting periods of up to four years from the date of grant. Compensation expense is recognized on a straight-line basis over the vesting period.

In April 2002, stockholders approved an amendment to the Long-Term Equity Incentive Plan allowing the compensation committee of the board of directors to grant performance-based shares to our senior executives and directors. Performance-based shares are used as an incentive to increase shareholder returns with actual awards currently based on Office Depot’s total shareholder return over a three-year period, compared to an industry peer group. Under our current accounting method, compensation expense for the anticipated number of shares to be issued, if any, is recognized over the vesting period. Revised accounting rules that take effect in the third quarter of 2005 will require us to expense the estimated fair value of these grants over the vesting period, regardless of the likelihood of achieving the total shareholder return. Depending on actual company performance, shares issued may be more or less than amounts assigned. As of December 25, 2004, target awards of 466,250 shares have been assigned, but no performance-based shares have been issued.

Employee Stock Purchase Plan

The Employee Stock Purchase Plan, which was approved by Office Depot's stockholders, permits eligible employees to purchase our common stock at 85% of its fair market value. Essentially all share needs under this plan are now satisfied through open market purchases; however, we are authorized to issue up to 388,194 shares under this plan.

Retirement Savings Plans

The Office Depot Retirement Savings Plan, which was approved by the board of directors, allows eligible employees to contribute up to 18% of their salary, commissions and bonuses, up to $13,000 in 2004, to the plan on a pretax basis in accordance with the provisions of Section 401(k) of the Internal Revenue Code. Employer matching contributions, which are allocated in shares of Office Depot common stock, are equivalent to 50% of the first 6% of an employee's contributions and within the limits of the plan. Discretionary matching common stock contributions in addition to the normal match may be made. We also have a deferred compensation plan that permits eligible employees who are limited in the amount they can contribute to the 401(k) plan to alternatively defer compensation of up to 18% of their salary, commissions and bonuses to this plan. Employer matching contributions to the deferred compensation plan are the same as those under our 401(k) Retirement Savings Plan described above. During 2004, 2003, and 2002, $11.9 million, $10.1 million and $8.4 million, respectively, was recorded as compensation expense for company contributions to these programs.

Pension Plans

The acquisition of Guilbert in June 2003 included defined benefit pension plans in two countries that cover a limited number of employees in Europe. The aggregate information for these foreign plans for fiscal year 2004 and for the seven months of 2003 from the date of acquisition is as follows:

(Dollars in thousands)	**2004**	2003
Service cost	**$ 7,164**	$ 3,404
Interest cost	**8,540**	3,279
Expected return on plan assets	**(6,640)**	(2,276)
Net periodic pension cost	**9,064**	4,407
Changes in projected benefit obligation:		
Obligation at beginning of period	**144,546**	142,313
Service cost	**7,164**	3,404
Interest cost	**8,540**	3,279
Member contributions	**2,204**	866
Benefits paid	**(2,908)**	(544)
Actuarial loss (gain)	**7,497**	(7,570)
Currency translation	**22,740**	2,798
Obligation at October 31	**189,783**	144,546
Changes in plan assets:		
Fair value at beginning of period	**88,352**	78,794
Actual return on plan assets	**9,418**	5,009
Company contributions	**6,605**	2,604
Member contributions	**2,204**	866
Benefits paid	**(2,908)**	(544)
Currency translation	**14,059**	1,623
Plan assets at October 31	**117,730**	88,352
Benefit obligation in excess of plan assets	**(72,053)**	(56,194)
Unrecognized gain	**(6,124)**	(10,549)
Post-valuation contributions	**730**	690
Currency translation	**(258)**	(3,923)
Net amount recognized at end of period	**$ (77,705)**	$ (69,976)

Plan accounts are generally measured as of October 31 each year, with post-valuation contributions and subsequent foreign currency effects noted above. The net unfunded amount is classified as a non-current liability in the caption deferred taxes and other long-term liabilities in the Consolidated Balance Sheets. The table above presents projected benefit obligations, which include the estimated effect of future salary increases. The accumulated benefit obligations were $168.2 million and $133.5 million at the 2004 and 2003 valuation dates, respectively. The pension plans' assets are invested in managed pension funds, with an objective of meeting or exceeding a pooled pension fund performance over a rolling three year period, as well as interest bearing securities timed to match estimated benefit payouts.

The allocation of assets is as follows:

	Percentage of Plan Assets		Target Allocation
	2004	2003	
Equity securities	**73%**	74%	50% - 85%
Debt securities	**21%**	22%	10% - 30%
Real estate	**1%**	1%	0% - 15%
Other	**5%**	3%	0% - 10%
Total	**100%**	100%	

Assumptions used in calculating the funded status included:

	2004	2003
Long-term rate of return on plan assets	**6.79%**	6.25%
Discount rate	**5.38%**	5.10%
Salary increases	**4.25%**	4.35%
Inflation	**2.45%**	2.62%

Anticipated benefit payments, at December 25, 2004 exchange rates, are as follows:

(Dollars in thousands)	
2005	$ 2,258
2006	3,180
2007	2,782
2008	3,853
2009	4,241
Next five years	35,102

The anticipated Office Depot contribution for fiscal year 2005 is $5.8 million, at December 25, 2004 exchange rates.

The purchase and sale agreement related to the Guilbert acquisition included a provision whereby the seller is required to pay to Office Depot an amount of unfunded benefit obligation as measured in a future period at the seller's option, but no later than five years following the purchase date. This provision is considered to be an element of the cost of the acquisition and the after-tax effect of the payment from the seller, if any, will reduce goodwill when received.

NOTE K — CAPITAL STOCK

Preferred Stock

As of December 25, 2004, there were 1,000,000 shares of $0.01 par value preferred stock authorized of which none were issued or outstanding.

Stockholder Rights Plan

Our stockholder rights plan ("the Plan") was adopted by the Office Depot board of directors on September 4, 1996 and amended on November 25, 2003. The Plan has certain anti-takeover provisions that may cause substantial dilution to a person or group that attempts to acquire Office Depot on terms not approved by the board of directors. Under the Plan, each stockholder is issued one right to acquire one one-thousandth of a share of Junior Participating Preferred Stock, Series A at an exercise price of $95.00, subject to adjustment, for each outstanding share of Office Depot common stock they own. These rights are only exercisable if a single person or company acquires 20% or more of our outstanding common stock or if an announced tender or exchange offer would result in 20% or more of our common stock being acquired. If Office Depot were acquired, each right, except those of the acquirer, shall have the right to receive the number of shares of common stock in Office Depot having a then-current market value of twice the exercise price of the right.

In addition, if Office Depot becomes involved in a merger or other business combination where (1) Office Depot is not the surviving company, (2) Office Depot's common stock is changed or exchanged, or (3) 50% or more of Office Depot's assets or earning power are sold, then each right, except those of the acquirer, will be exercisable for common stock of the acquiring corporation having a market value of twice the exercise price of the right. In addition, the board of directors has the option of exchanging all or part of the rights for an equal number of shares of common stock.

Office Depot may redeem the rights for $0.01 per right at any time prior to an acquisition.

In response to a shareholder vote at the 2003 annual meeting, the board of directors adopted certain amendments to the Plan, which became effective on November 25, 2003. Under the terms of this amendment, in the event of a cash or marketable securities offer for all of Office Depot's common stock, and if requested to do so by the holders of at least 10% of Office Depot's issued and outstanding stock, the board of directors shall either call a special stockholder meeting within 60 days to allow a vote on a resolution to redeem the rights or the rights automatically will be redeemed. There are certain other conditions on what constitutes a "Qualifying Offer" which are detailed in our filings with the SEC. The rights will expire on September 16, 2006, unless earlier redeemed or exchanged.

Treasury Stock

The Office Depot board of directors has approved two common stock repurchase plans, both of which were in effect during 2004. In 2001, the board approved an annual share repurchase plan, subject to their annual review, of up to $50 million per year until cancelled by the board. Under this plan, we purchased 3.0 million shares in 2004, at a cost of $50.0 million; 3.2 million shares in 2003, for $50.0 million; and 2.9 million shares in 2002, for $45.9 million.

In September 2004, the board of directors authorized an additional $500 million common stock repurchase program to be completed over the following 12 to 24 months. The $50 million annual purchases in each of 2005 and 2006 that would be available under that program are included in this $500 million program. At December 25, 2004 approximately 900,000 shares have been repurchased for $15.6 million under this program.

NOTE L — EARNINGS PER SHARE

Basic earnings per share is based on the weighted average number of shares outstanding during each period. Diluted earnings per share reflects the impact of assumed exercise of dilutive stock options and, prior to redemption in 2002, the net impact of convertible subordinated notes.

The information required to compute basic and diluted net earnings per share is as follows:

(In thousands)	**2004**	2003	2002
Basic:			
Weighted average number of common shares outstanding	**311,760**	309,699	306,778
Diluted:			
Net earnings	**$ 335,504**	$ 273,515	$ 308,640
Interest expense related to convertible notes, net of tax	**—**	—	4,795
Adjusted net earnings	**$ 335,504**	$ 273,515	$ 313,435
Weighted average number of common shares outstanding	**311,760**	309,699	306,778
Shares issued upon assumed conversion of convertible notes	**—**	—	9,033
Shares issued upon assumed exercise of stock options	**3,865**	3,989	6,389
Shares used in computing diluted net earnings per common share	**315,625**	313,688	322,200

For 2004, options to purchase 11.8 million shares of common stock were not included in our computation of diluted earnings per share because their effect would have been anti-dilutive.

NOTE M — SUPPLEMENTAL INFORMATION ON OPERATING, INVESTING AND FINANCING ACTIVITIES

Additional supplemental information related to the Consolidated Statements of Cash Flows is as follows:

(Dollars in thousands)	**2004**	2003	2002
Cash paid for:			
Interest	**$ 78,590**	$ 41,869	$ 47,114
Taxes	**112,771**	102,623	111,597
Non-cash asset additions under capital leases	**18,798**	10,664	10,395
Additional paid-in capital related to tax benefit on stock options exercised	**12,138**	11,059	20,453

NOTE N – SEGMENT INFORMATION

Office Depot operates in three reportable segments: North American Retail Division, Business Services Group (“BSG”), and International Group. Each of these segments is managed separately primarily because it serves different customer groups. The accounting policies for each segment are the same as those described in the summary of significant accounting policies (see Note A).

The following is a summary of our significant accounts and balances by segment, reconciled to our consolidated totals.

(Dollars in thousands)		North American Retail Division	BSG	International Group	Eliminations and Other*	Consolidated Total
Sales	**2004**	**$ 5,940,677**	**$ 4,045,501**	**$ 3,580,809**	**$ (2,288)**	**$ 13,564,699**
	2003	5,650,051	3,965,271	2,746,535	(3,291)	12,358,566
	2002	5,804,449	3,913,902	1,641,411	(3,129)	11,356,633
Segment operating profit	**2004**	**$ 388,308**	**$ 399,534**	**$ 431,434**	**$ (394)**	**$ 1,218,882**
	2003	311,184	387,867	369,288	(705)	1,067,634
	2002	416,914	364,871	211,467	(646)	992,606
Capital expenditures	**2004**	**$ 230,225**	**$ 16,891**	**$ 65,843**	**$ 78,263**	**$ 391,222**
	2003	62,712	17,362	68,532	67,875	216,481
	2002	50,586	28,524	67,551	55,994	202,655
Depreciation and amortization	**2004**	**$ 98,143**	**$ 30,530**	**$ 52,509**	**$ 87,984**	**$ 269,166**
	2003	96,027	35,315	40,577	81,298	253,217
	2002	92,817	39,208	16,963	56,187	205,175
Charges for losses on receivables and inventories	**2004**	**$ 51,108**	**$ 20,176**	**$ 16,643**	**—**	**$ 87,927**
	2003	56,857	32,065	29,360	—	118,282
	2002	36,627	36,991	19,602	—	93,220
Net earnings from equity method investments	**2004**	**—**	**—**	**$ 16,171**	**—**	**$ 16,171**
	2003	—	—	11,056	—	11,056
	2002	—	—	9,279	—	9,279
Assets	**2004**	**$ 1,844,632**	**$ 1,054,216**	**$ 2,456,944**	**$ 1,411,559**	**$ 6,767,351**
	2003	1,599,697	992,830	2,253,243	1,348,909	6,194,679

* Amounts included in “Eliminations and Other” consist of inter-segment sales, which are generally recorded at the cost to the selling entity, and assets (including all cash and equivalents) and depreciation related to corporate activities.

Senior management evaluates the performance of each business segment based on segment operating profit, which is defined as sales less cost of goods sold, and store and warehouse operating expenses. General and administrative expenses, financing costs and certain other items currently are not allocated to the business segments because they are viewed as corporate functions that support all activities. A reconciliation of the measure of segment operating profit to consolidated earnings from continuing operations before income taxes follows.

(Dollars in thousands)	**2004**	2003	2002
Segment operating profit	**$1,218,882**	$1,067,634	$992,606
(Add)/subtract:			
General and administrative expenses	**665,825**	578,840	486,279
Other operating expenses	**23,080**	22,809	9,855
Interest expense, net	**41,066**	40,609	27,686
Loss on extinguishment of debt	**45,407**	—	—
Miscellaneous income, net	**(17,729)**	(15,392)	(7,183)
Earnings from continuing operations before income taxes and cumulative effect of accounting change	**$ 461,233**	$ 440,768	$475,969

We sell office products and services through either wholly owned operations or through joint ventures or licensing arrangements, in Austria, Belgium, Canada, Costa Rica, El Salvador, France, Germany, Guatemala, Hungary, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, the Netherlands, Poland, Portugal, Spain, Switzerland, Thailand, the United Kingdom and the United States. There is no single country outside of the United States in which we generate 10% or more of our total revenues. Geographic financial information relating to our business is as follows (in thousands).

	Sales			Property and Equipment	
	2004	2003	2002	**2004**	2003
United States	**$ 9,846,856**	$ 9,469,563	$ 9,575,457	**$ 1,055,460**	$ 891,305
International	**3,717,843**	2,889,003	1,781,176	**407,568**	402,450
Total	**$13,564,699**	$12,358,566	$11,356,633	**$ 1,463,028**	$ 1,293,755

NOTE O – EXIT COSTS AND OTHER ACTIVITIES

During 2004, we conducted a cost review across all business units with the intent of identifying ways to streamline operations. During the fourth quarter, we announced a series of initiatives, including consolidating call centers, transferring certain employees and functions to an outsourcing company, and reducing staffing levels. Over 1,500 positions were transferred or eliminated. Additionally, during 2004, our former Chairman and CEO resigned and received severance payments under his existing employment agreement. The severance-related costs associated with these activities totaled $16.6 million, with $2.0 million incurred in North American Retail Division, $2.9 million in BSG, $2.8 million in the International Group, and $8.9 million at the corporate level. As of December 25, 2004, approximately $5.2 million of the severance-related costs remained accrued. In addition to severance-related costs, we accrued $1.7 million for lease termination costs which was paid in January 2005. All of the remaining payments will be made by the end of 2005. An additional $1.4 million of lease termination costs, $2.7 of termination benefits, and $6.1 of other exit activity costs are expected to be recorded in BSG during 2005 as the liabilities are incurred related to these announced programs.

During 2004, we also relocated one warehouse in Europe and incurred exit related costs of $13.9 million.

NOTE P — QUARTERLY FINANCIAL DATA (UNAUDITED)

The following changes were made to the previously reported quarterly information in connection with the restatement:

(In thousands, except per share amounts)	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Fiscal Year Ended December 25, 2004				
Net sales	**$ 3,605,153**	**$ 3,162,324**	**$ 3,327,804**	**$ 3,469,418**
Gross profit, as previously reported	**1,135,992**	**973,696**	**1,041,644**	**1,104,227**
Gross profit (as restated, see Note B)	**1,136,137**	**973,841**	**1,041,789**	**1,104,372**
Net earnings, as previously reported	**115,564**	**79,857**	**89,946**	**52,792**(1)
Net earnings (as restated, see Note B)	**114,900**	**79,193**	**89,282**	**52,129**
Net earnings per share, as previously reported:				
Basic	**$ 0.37**	**$ 0.26**	**$ 0.29**	**$ 0.17**
Diluted	**0.37**	**0.25**	**0.28**	**0.17**
Net earnings per share (as restated, see Note B):				
Basic	**$ 0.37**	**$ 0.25**	**$ 0.29**	**$ 0.17**
Diluted	**0.37**	**0.25**	**0.28**	**0.17**

(1) Net earnings in the fourth quarter of 2004 include charges of $45.4 million relating to debt extinguishment, $21.9 million relating to severance arrangements, contract termination and property disposal costs, $11.5 million of goodwill impairment charges, and net benefit of $11.3 million related to tax rate and position changes.

Fiscal Year Ended December 27, 2003	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Net sales	$ 3,055,869	$ 2,815,691	$ 3,235,580	$ 3,251,426
Gross profit, as previously reported	958,978	860,116	1,015,596	1,039,456
Gross profit (as restated, see Note B)	959,128	860,266	1,015,746	1,039,606
Earnings from continuing operations before cumulative effect of accounting change, as previously reported	103,935	59,629	91,666	46,794(2)
Earnings from continuing operations before cumulative effect of accounting change (as restated, see Note B)	103,240	58,934	90,971	46,099
Net earnings, as previously reported	79,196(1)	59,629	91,666	45,804
Net earnings (as restated, see Note B)	78,501	58,934	90,971	45,109
Earnings per share from continuing operations before cumulative effect of accounting change, as previously reported:				
Basic	$ 0.34	$ 0.19	$ 0.30	$ 0.15
Diluted	0.33	0.19	0.29	0.15
Earnings per share from continuing operations before cumulative effect of accounting change (as restated, see Note B):				
Basic	$ 0.34	$ 0.19	$ 0.29	$ 0.15
Diluted	0.33	0.19	0.29	0.15
Net earnings per share, as previously reported:				
Basic	$ 0.26	$ 0.19	$ 0.30	$ 0.15
Diluted	0.25	0.19	0.29	0.15
Net earnings per share (as restated, see Note B):				
Basic	$ 0.25	$ 0.19	$ 0.29	$ 0.14
Diluted	0.25	0.19	0.29	0.14

(1) Net earnings in the first quarter of 2003 includes a net charge of $25.9 million for the cumulative effect of adopting EITF 02-16. See Note C for further information.

(2) Earnings from continuing operations before cumulative effect of accounting change in the fourth quarter of 2003 includes pre-tax charges of $32.4 million to adjust our lease termination costs related to our stores closed in prior periods and our write-down of certain internet investments.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors of Office Depot, Inc.:

We have audited the consolidated financial statements of Office Depot, Inc. and subsidiaries (the "Company") as of December 25, 2004 and December 27, 2003, and for each of the three years in the period ended December 25, 2004, and have issued our report thereon dated March 7, 2005 (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the entity's change in method of accounting for cooperative advertising arrangements in 2003); such consolidated financial statements and report is included in Item 15(a)1 in this Form 10-K. Our audits also included the financial statement schedules of Office Depot, Inc. listed in Item 15(a)2. These financial statement schedules are the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, such financial statement schedules, when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein.

/s/ DELOITTE & TOUCHE LLP
Certified Public Accountants

Fort Lauderdale, Florida
March 7, 2005

INDEX TO FINANCIAL STATEMENT SCHEDULES

All other schedules have been omitted because they are not applicable, not required or the information is included elsewhere herein.

SCHEDULE II

OFFICE DEPOT, INC.
VALUATION AND QUALIFYING ACCOUNTS
(In thousands)

Column A	Column B	Column C	Column D	Column E
Description	Balance at Beginning of Period	Additions- Charged to Expense	Deductions- Write-offs Payments and Other Adjustments	Balance at End of Period
Allowance for doubtful accounts:				
2004	**$ 34,173**	**18,767**	**14,933**	**$ 38,007**
2003	29,149	25,645	20,621	34,173
2002	32,228	22,103	25,182	29,149

INDEX TO EXHIBITS

Exhibit Number	Exhibit	
3.1	Restated Certificate of Incorporation	(1)
3.2	Bylaws	(2)
4.1	Form of Certificate representing shares of Common Stock	(3)
4.2	Rights Agreement dated as of September 4, 1996, as amended and restated as of November 25, 2003, between Office Depot, Inc. and Mellon Investor Services, L.L.C., as Rights Agent, which includes as Exhibit B thereto the form of the Right Certificate	(15)
4.3	Indenture, dated as of August 11, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, between Office Depot, Inc. and SunTrust Bank	(4)
4.4	Supplemental Indenture No. 1, dated as of August 11, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, between Office Depot, Inc. and SunTrust Bank	(5)
4.5	Supplemental Indenture No. 2, dated as of October 9, 2003, for the $400 million 6.250% Senior Notes due August 15, 2013, between Office Depot, Inc. and SunTrust Bank	(5)
10.01	Office Depot, Inc. Amended Long-Term Equity Incentive Plan*	(6)
10.02	Form of Indemnification Agreement, dated as of September 4, 1996, by and between Office Depot, Inc. and each of David I. Fuente, Cynthia R. Cohen, W. Scott Hedrick, James L. Heskett, Michael J. Myers, Peter J. Solomon, William P. Seltzer, and Thomas Kroeger	(7)
10.03	Severance Agreement, including Release and Non-Competition Agreement, dated September 19, 2000 by and between Office Depot, Inc. and David I. Fuente (schedules and exhibits omitted)*	(8)
10.04	Lifetime Consulting and Non-Competition Agreement dated as of March 1, 2002 by and between Office Depot, Inc. and Irwin Helford*	(9)
10.05	Letter Agreement between Office Depot, Inc. and Neil R. Austrian dated October 4, 2004*	(10)
10.06	Executive Employment Agreement dated as of November 7, 2000 by and between Office Depot, Inc. and Rolf van Kaldekerken*	(11)
10.07	Change of Control Agreement, dated as of November 7, 2000, by and between Office Depot, Inc. and Rolf van Kaldekerken *	(11)
10.08	Executive Employment Agreement dated as of October 8, 2001 by and between Office Depot, Inc. and Charles E. Brown*	(9)
10.09	Change of Control Agreement, dated as of May 28, 1998, by and between Office Depot, Inc. and Charles E. Brown*	(12)
10.10	First Amendment to Executive Employment Agreement, dated March 7, 2005, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	v
10.11	Executive Employment Agreement dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	v
10.12	Change of Control Agreement, dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	v
10.13	Letter Agreement dated as of March 1, 2004, by and between Office Depot, Inc. and Carl (Chuck) Rubin*	v
10.14	Executive Employment Agreement dated as of March 22, 2004, by and between Office Depot, Inc. and Rick Lepley*	v
10.15	Change of Control Agreement, dated as of March 22, 2004, by and between Office Depot, Inc. and Rick Lepley*	v
10.16	Letter Agreement dated as of March 22, 2004, by and between Office Depot, Inc. and Rick Lepley*	v
10.17	Executive Employment Agreement dated as of August 1, 2000 by and between Office Depot, Inc. and David C. Fannin*	(11)
10.18	Change in Control Agreement, dated as of August 1, 2000, by and between Office Depot, Inc. and David C. Fannin *	(11)
10.19	Executive Employment and Change of Control Agreement dated as of December 29, 2001 by and between Office Depot, Inc. and M. Bruce Nelson*	(9)

10.20	Executive Employment Agreement dated as of January 30, 2001 by and between the Company and Jerry Colley*	(12)
10.21	Change of Control Agreement, dated as of January 30, 2001, by and between the Company and Jerry Colley*	(12)
10.22	Five Year Credit Agreement dated as of April 30, 2004 by and among Office Depot, Inc. and Citicorp USA, Inc. as syndication agent, Wachovia Bank, National Association as administrative agent, Citigroup Global Markets Inc. and Wachovia Capital Markets, LLC as lead arrangers, and Citigroup Global Markets Inc. as the sole bookrunner	(13)
10.23	Purchase and Sale Agreement dated as of March 11, 2004, by and between Office Depot, Inc. and Toys “R” Us, Inc. and its affiliated companies	(14)
10.24	Master Agreement for Business Process Outsourcing Services between Office Depot, Inc. and ACS Commercial Solutions, Inc. dated November 30, 2004, reported on Form 8-K dated December 6, 2004	v
10.25	Contract for Purchase and Sale for certain land and contractual rights dated December 29, 2004 between Office Depot, Inc. and Stiles Corporation, reported on Form 8-K dated December 30, 2004	v(16)
10.26	First Amendment to Contract for Purchase and Sale for certain land and contractual rights dated January 28, 2005 between Office Depot, Inc. and Stiles Corporation	v
10.27	Second Amendment to Contract for Purchase and Sale for certain land and contractual rights dated February 11, 2005 between Office Depot, Inc. and Stiles Corporation	v(16)
10.28	Form of Purchase Money Note related to Second Amendment to Contract for Purchase and Sale	v(16)
10.29	Form of Purchase Money Mortgage related to Second Amendment to Contract for Purchase and Sale	v(16)
10.30	Amendment to Office Depot, Inc. Amended Long-Term Equity Incentive Plan*	v
21	List of Office Depot, Inc.’s Significant Subsidiaries	
23	Consent of Independent Registered Public Accounting Firm	
31.1	Certification of CEO required by Securities and Exchange Commission Rule 13a-14(a) or 15d-14(a)	
31.2	Certification of CFO required by Securities and Exchange Commission Rule 13a-14(a) or 15d-14(a)	
32	Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	

* Management contract or compensatory plan or arrangement.

v This information appears only in the copy of this report filed electronically with the SEC.

(1) Incorporated by reference from the respective exhibit to the Proxy Statement for Office Depot, Inc.’s 1995 Annual Meeting of Stockholders.

(2) Incorporated by reference from Office Depot, Inc.’s Quarterly Report on Form 10-Q, filed with the SEC on November 2, 2001.

(3) Incorporated by reference from the respective exhibit to Office Depot, Inc.’s Registration Statement No. 33-39473 on Form S-4.

(4) Incorporated by reference from the respective exhibit to Office Depot, Inc.’s Registration Statement No. 333-108602 on Form S-4.

(5) Incorporated by reference from Office Depot, Inc.’s Quarterly Report on Form 10-Q, filed with the SEC on October 27, 2003.

(6) Incorporated by reference from Office Depot, Inc.’s Current Report on Form 8-K, filed with the SEC on December 23, 2004.

(7) Incorporated by reference from the respective exhibit to Office Depot, Inc.’s Annual Report on Form 10-K for the year ended December 28, 1996.

(8) Incorporated by reference from Office Depot, Inc.’s Quarterly Report on Form 10-Q, filed with the SEC on October 31, 2000.

(9) Incorporated by reference from the respective exhibit to Office Depot, Inc.’s Annual Report on Form 10-K for the year ended December 29, 2001.

(10) Incorporated by reference from Office Depot, Inc.’s Current Report on Form 8-K filed with the SEC on October 5, 2004.

(11) Incorporated by reference from the respective exhibit to Office Depot, Inc.’s Annual Report on Form 10-K for the year ended December 27, 2003.

(12) Incorporated by reference to the respective exhibit to Office Depot, Inc.’s Annual Report on Form 10-K for the year ended December 30, 2000.

(13) Incorporated by reference from Office Depot, Inc.’s Quarterly Report on Form 10-Q, filed with the SEC on July 22, 2004.

(14) Incorporated by reference from Office Depot, Inc.’s Quarterly Report on Form 10-Q, filed with the SEC on April 22, 2004.

(15) Incorporated by reference from Office Depot’s Current Report on Form 8-K filed with the SEC on November 25, 2003.

(16) Confidential portions of this exhibit have been omitted and filed separately with the SEC pursuant to a request for confidential treatment.

Upon request, we will furnish a copy of any exhibit to this report upon the payment of reasonable copying and mailing expenses.

EXHIBIT 10.10

FIRST AMENDMENT TO
EXECUTIVE EMPLOYMENT AGREEMENT
(For Executive Officers Who Also Have a Change of Control Employment Agreement)

THIS FIRST AMENDMENT TO EXECUTIVE EMPLOYMENT AGREEMENT (herein "Amendment Number One") is actually made and entered into on the last date reflected below, but is effective as of July 15, 2004, between Office Depot, Inc., a Delaware corporation (the "Company"), and Carl Rubin ("Executive").

Company and Executive are parties to an existing Employment Agreement dated as of March 1, 2004 (the "Existing Agreement") and desire herein to amend certain provisions of the Existing Agreement, to expand the duties and responsibilities of Executive as set forth in this Amendment Number One.

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Employment.

(a) The Company shall continue to employ Executive, and Executive hereby accepts employment with the Company, upon the terms and conditions set forth in the Existing Agreement, as amended by this Amendment Number One (said Existing Agreement, as amended by this Amendment Number One, being hereinafter referred to as the "Employment Agreement" or as "this Agreement") for the period beginning on the date hereof and ending as provided in paragraph 4 hereof (the "Employment Term").

(b) The parties also have previously entered into an Employment Agreement dated as of March 1, 2004, by and between the Company and the Executive (the "Change of Control Employment Agreement") which, by its terms, takes effect during the "Employment Period" as defined in such agreement. During any such Employment Period under the Change of Control Employment Agreement, the terms and provisions of the Change of Control Employment Agreement shall control to the extent such terms and provisions are in conflict with the terms and provisions of this Agreement. In addition, during such Employment Period, the Employment Term hereunder shall be tolled and upon expiration of the Employment Period under the Change of Control Employment Agreement the Employment Term hereunder shall recommence.

2. Position and Duties.

(a) During the Employment Period, Executive shall serve as Executive Vice President, Chief Merchandising Officer and Chief Marketing Officer and shall have the normal duties, responsibilities and authority attendant to such positions, subject to the power of the Company's Chairman and Chief Executive Officer ("CEO"), its President, North America ("President") or the Board of Directors (the "Board") to expand or limit such duties, responsibilities and authority.

(b) Executive shall report to the President, North America or to such other person(s) of comparable or greater duties, responsibilities, and authority as the CEO may direct from time to time, and Executive shall devote Executive's best efforts and Executive's full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company and its Subsidiaries; provided that Executive shall, with the prior written approval of the CEO, be allowed to serve as (i) a director or officer of any non-profit organization including trade, civic, educational or charitable organizations, or (ii) a director of any corporation which is not competing with the Company or any of its Subsidiaries in the office product and office supply industry so long as such duties do not materially interfere with the performance of Executive's duties or responsibilities under this Agreement. Executive shall perform Executive's duties and responsibilities under this Agreement to the best of Executive's abilities in a diligent, trustworthy, businesslike and efficient manner.

(c) Executive shall be based at or in the vicinity of the Company's headquarters but may be required to travel as necessary to perform Executive's duties and responsibilities under this Agreement.

(d) For purposes of this Agreement, "Subsidiaries" shall mean any corporation of which the securities having a majority of the voting power in electing directors are, at the time of determination, owned by the Company, directly or through one of more Subsidiaries.

3. Base Salary and Benefits.

(a) In his newly expanded position, Executive's base salary shall be $475,000 per annum (the "Base Salary"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. Executive's Base Salary shall be reviewed at least annually by the Compensation Committee of the Board and shall be subject to adjustment, but not reduction, as they shall determine based on among other things, market practice and performance. In addition, during the Employment Term, Executive shall be entitled to participate in the Company's Long Term Incentive Plan.

(b) In addition to the Base Salary, Executive shall be entitled to participate in the Company's Management Incentive Plan (the "Bonus Plan") as administered by the Compensation Committee of the Board of Directors. If the Board or the Compensation Committee modifies such Bonus Plan during the Employment Term, Executive shall continue to participate at a level no lower than the highest level established for any officer of the Company then at Executive's level. At the discretion of the Board or the Compensation Committee, Executive may be offered from time to time the opportunity to participate in other bonus plans of the Company in lieu of the Bonus Plan and, if Executive chooses to participate in such plan or plans, the provisions of this paragraph 3(b) shall be tolled during the period of such participation.

(c) Executive shall be entitled to paid vacation in accordance with the Company's general payroll practices for officers of the Company then at Executive's level.

(d) The Company shall reimburse Executive for all reasonable expenses incurred by Executive in the course of performing Executive's duties under this Agreement which are consistent with the Company's policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses.

(e) Executive will be entitled to all benefits as are, from time to time, maintained for officers of the Company then at Executive's level, including without limitation: medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans (collectively, "Insurance Benefits"), profit sharing and retirement benefits.

4. Term.

(a) The Employment Term shall end on the eighteen (18) month anniversary of the date of this Agreement; provided that (i) the Employment Term shall be extended for successive periods of one (1) year each (each of which is referred to as an "extension term" of the Employment Term) in the event that written notice of termination hereof is not given by one party hereof to the other at least six months prior to the end of the Employment Term or the then applicable extension term, as the case may be; provided further that (ii) the Employment Term shall terminate prior to such date (A) upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), (B) upon the mutual agreement of the Company and Executive, (C) by the Company's termination of this Agreement for Cause (as defined below) or without Cause or (D) by Executive's termination of this Agreement for Good Reason (as defined below) or without Good Reason.

(b) If the Employment Term is terminated by the Company without Cause or is terminated by the Executive for Good Reason, Executive (and Executive's family with respect to clause (iii) below) shall be entitled to receive (i) Executive's Base Salary through the eighteenth month anniversary of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below), if and only if Executive has not breached the provisions of paragraphs 5, 6 and 7 hereof (as determined by a court of competent jurisdiction or by an arbitrator pursuant to paragraph 19 hereof), (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, deferred compensation plans, and other employer programs of the Company in which Executive is then participating (other than the Pro Rata Bonus), (iii) Insurance Benefits through the eighteenth month anniversary of such termination pursuant to the Company's insurance programs, as in effect from time to time, to the extent Executive participated immediately prior to the date of such termination; provided that any such continuation of health insurance benefits will run concurrently with and satisfy the continuation coverage requirements of the Consolidated Omnibus Reconciliation Act of 1985 ("COBRA"), and provided further that any health insurance benefits which Executive becomes entitled to receive as a result of any subsequent employment shall serve as primary coverage for Executive and Executive's family, and (iv) the amount to which the Executive would have been entitled under the Bonus Plan (calculated as if the "target" amount under such plan had been reached, regardless of company performance) had the Executive remained employed through the eighteenth month anniversary of such termination. The amounts payable pursuant to paragraph 4(b)(i) (ii) and (iv) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other reasonable manner consistent with the Company's normal payment policies. No payment of any sum nor the receipt of any benefit shall be due to Executive under this subsection (b) unless and until Executive shall have executed and delivered to the Company a release of any and all claims against the Company and its Subsidiaries (and their respective present and former officers, directors, employees and agents – collectively the "Released Parties") and a covenant not to sue the Released Parties, all in form and substance as provided by counsel to the Company (the "Release"), which Release shall be reasonable and shall be provided to Executive promptly following termination of the Employment Term, and any waiting period or revocation period provided by law for the effectiveness of such Release shall have expired without Executive's having revoked such Release. The parties agree that the form of Release attached hereto is reasonable as of the date of execution of this Agreement, but may be required to be modified to conform to changes in legal requirements. Otherwise, the parties agree that this is the form of Release to be used, as referred to herein. In the event Executive shall decline or fail, except in connection with a good faith dispute about the reasonableness of the form and substance of the Release, to execute and deliver such Release, then Executive shall be entitled to receive only those amounts provided pursuant to subsection 4(c) below provided for an Executive whose employment is terminated by the Company for Cause or by Executive without Good Reason.

(c) If the Employment Term is terminated by the Company for Cause or by the Executive without Good Reason, Executive shall be entitled to receive (i) Executive's Base Salary through the date of such termination and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates; provided, however, that Executive shall not be entitled to payment of a Pro Rata Bonus.

(d) If the Employment Term is terminated upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), Executive, or Executive's estate if applicable, shall be entitled to receive the sum of (i) Executive's Base Salary through the date of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below) and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates. The amounts payable pursuant to this paragraph 4(d) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other manner consistent with the Company's normal payment policies.

(e) Except as otherwise provided herein, fringe benefits and bonuses (if any) which accrue or become payable after the termination of the Employment Term shall cease upon such termination.

(f) For purposes of this Agreement, "Cause" shall mean the willful engaging by the Executive in illegal conduct or gross misconduct, but only to the extent such conduct or misconduct is materially and demonstrably injurious to the Company in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the CEO or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, and after reasonable notice is given to the Executive and the Executive is given an opportunity, together with counsel, to be heard before the Board, the Executive is guilty of the conduct described in paragraph (f) above, and specifying the particulars thereof in detail.

(g) For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to the Executive of any duties inconsistent with the Executive's positions (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by paragraph 2 of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive, and excluding further any change in the reporting relationships of the Executive as directed by the CEO or the Board, unless such change results in Executive reporting to a position with lesser duties, responsibilities, and authority than the President, North America. Without limitation of the foregoing, in the event Executive should be required to relinquish either the position of Chief Marketing Officer or Chief Merchandising Officer, then such change would constitute Good Reason under the terms of this Agreement;

(ii) any failure by the Company to comply with any of the material provisions of this Agreement, including without limitation paragraph 3, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) the Company's requiring the Executive to be based at any location other than as provided in paragraph 2(c) hereof; or

(iv) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(v) any determination by a court of competent jurisdiction or an arbitrator that Executive is barred, for any reason, from working with the Company.

(h) For purposes of this Agreement, "Pro Rata Bonus" shall mean the sum of (i) the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any current annual incentive plan from the beginning of the year of termination through the date of termination and (ii) if and to the extent Executive is vested, the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any long-term incentive plan or performance plan from the beginning of the period of determination through the date of termination.

5. Confidential Information. Executive acknowledges that the information, observations and data obtained by Executive while employed by the Company and its Subsidiaries concerning the business or affairs of the Company or any other Subsidiary ("Confidential Information") are the property of the Company or such Subsidiary. Therefore, Executive agrees that Executive shall not disclose to any unauthorized person or use for Executive's own purposes any Confidential Information without the prior written consent of the CEO, unless and to the extent that the aforementioned matters become generally known to and available for use by the public other than as a result of Executive's acts or omissions. Executive shall deliver to the Company at the termination of the Employment Term, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) in any form or medium relating to the Confidential Information, Work Product (as defined below) or the business of the Company or any Subsidiary that Executive may then possess or have under Executive's control.

6. Inventions and Patents. Executive acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all

similar or related information (whether or not patentable) that relate to the Company's or any of its Subsidiaries' actual or anticipated business, research and development or existing or future products or services and that are conceived, developed or made by Executive while employed by the Company and its Subsidiaries ("Work Product") belong to the Company or such Subsidiary. Executive shall promptly disclose such Work Product to the CEO and perform all actions reasonably requested by the CEO (whether during or after the Employment Term) to establish and confirm such ownership (including, without limitation, assignments, consents, powers of attorney and other instruments).

7. Non-Compete, Non-Solicitation.

(a) In further consideration of the compensation to be paid to Executive hereunder, Executive acknowledges that in the course of Executive's employment with the Company Executive shall become familiar with the Company's trade secrets and with other Confidential Information concerning the Company and its Subsidiaries and that Executive's services shall be of special, unique and extraordinary value to the Company and its Subsidiaries. Therefore, Executive agrees that, during the Employment Term and for a period of eighteen (18) months thereafter (the "Noncompete Period"), Executive shall not directly or indirectly own any interest in, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with the businesses of the Company or its Subsidiaries, as such businesses exist or are in process on the date of the termination of Executive's employment, within any geographical area in which the Company or its Subsidiaries engage or plan to engage in such businesses. Nothing herein shall prohibit Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Executive has no active participation in the business of such corporation. The Company presently does not enforce this paragraph 7(a) in California. However, Executive is still required to sign this Agreement since Executive may already work, or may work in the future, in a state where this paragraph 7(a) is fully enforceable. Moreover, the Company reserves its right to enforce this paragraph 7(a) in all other states in which it is enforceable, and in California in the future, to reflect any legislative or legal developments which will permit its enforcement to the fullest extent permitted by California law.

(b) During the Noncompete Period, Executive shall not directly or indirectly through another entity (i) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (ii) hire any person who was an employee of the Company or any Subsidiary at any time during the Employment Term or (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor, franchisee, or business relation and the Company or any Subsidiary (including, without limitation, making any negative statements or communications about the Company or its Subsidiaries).

(c) The provisions of this paragraph 7 will be enforced to the fullest extent permitted by the law in the state in which Executive resides or is employed at the time of the enforcement of the provision. If, at the time of enforcement of this paragraph 7, a court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period, scope and area permitted by law. Executive agrees that the restrictions contained in this paragraph 7 are reasonable.

(d) In the event of the breach or a threatened breach by Executive of any of the provisions of this paragraph 7, the Company, in addition and supplementary to other rights and remedies existing in its favor, may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security). In addition, in the event of a breach or violation by Executive of this paragraph 7 (as determined by a court of competent jurisdiction or an arbitrator pursuant to paragraph 19 hereof), the Noncompete Period shall be tolled until such breach or violation has been duly cured.

8. Executive’s Representations. Executive hereby represents and warrants to the Company that (i) the execution, delivery and performance of this Agreement by Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, except as previously disclosed to the Company, (ii) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity, except as previously disclosed to the Company, and (iii) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms. Executive hereby acknowledges and represents that Executive has had an opportunity to consult with independent legal counsel regarding Executive’s rights and obligations under this Agreement and that Executive fully understands the terms and conditions contained herein.

9. Survival. Paragraphs 5, 6 and 7 and paragraphs 9 through 16 shall survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Term.

10. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

Notices to Executive:

Carl Rubin
6925 NW 62nd Terrace
Parkland, FL 33067

Or to such other residential address as may be reflected in the employment records of the Company

Notices to the Company:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Chairman and Chief Executive Officer

and

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Executive Vice President — Human Resources

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

11. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement. This Agreement and those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way (provided, however that during the “Employment Period,” as defined in the Change of Control Employment Agreement, the terms and provision of the

Change of Control Employment Agreement shall be effective and shall control to the extent there is any conflict between such agreement and this Agreement).

13. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

15. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's obligations hereunder without the prior written consent of the Company.

16. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

17. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

18. Confidentiality of this Agreement. The parties agree that the terms of this Agreement are confidential. Executive shall not divulge or publicize the terms hereof except as may be necessary to enforce the promises, covenants and/or understandings contained herein or as either party may be required to do so by law, court order, subpoena or other judicial action or government taxing authorities. Executive may disclose the contents of this Agreement to his immediate family, attorneys and accountants, provided however, that any further disclosure of the terms of this Agreement by any of these persons to anyone not included within the terms of this paragraph may be deemed a breach of the Agreement by Executive.

19. Arbitration Provisions. Except as to the right of the Company or the Executive to resort to any court of competent jurisdiction to obtain injunctive relief or specific enforcement of the parties' obligations under this Employment Agreement (or otherwise), any dispute or controversy between the Company and Executive arising out of or relating to Executive's employment or termination of employment, this Agreement or the breach of this Agreement, including but not limited to disputes involving discrimination arising under common

law, and/or federal, state and local laws, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its National Rules for the Resolution of Employment Disputes then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration shall be held before a single arbitrator who shall be selected by the mutual agreement of the Company and Executive, unless the parties are unable to agree to an arbitrator, in which case the arbitrator will be selected under the procedures of the AAA. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. Executive agrees to abide by and accept the final decision of the arbitrator as to the ultimate resolution of any and all covered disputes and understands that arbitration replaces any right to trial by a judge or jury. However, either party may, without inconsistency with this arbitration provision, apply to any court otherwise having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, or as may otherwise be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the Company and Executive. The Company and Executive acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding any choice of law provision included in this Agreement, the United States Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitration proceeding shall be conducted in Palm Beach County, Florida unless the parties mutually agree to another location. The Company shall pay the costs of any arbitrator appointed hereunder.

* * * * *

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

OFFICE DEPOT, INC.

By: /s/ NEIL R. AUSTRIAN
Name: Neil R. Austrian
Its: Chairman and Chief Executive Officer Date: March 7, 2005

EXECUTIVE

/s/ CARL RUBIN
Name: Carl Rubin
Date: March 7, 2005

EXHIBIT 10.11

EXECUTIVE EMPLOYMENT AGREEMENT
(For Executive Officers Who Also Have a Change of Control Employment Agreement)

THIS AGREEMENT is made as of March 1, 2004 between Office Depot, Inc., a Delaware corporation (the "Company"), and Carl Rubin ("Executive").

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Employment.

(a) The Company shall employ Executive, and Executive hereby accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the date hereof and ending as provided in paragraph 4 hereof (the "Employment Term").

(b) The parties hereto have entered into an Employment Agreement dated as of (same date as this agreement) by and between the Company and the Executive (the "Change of Control Employment Agreement") which, by its terms, takes effect during the "Employment Period" as defined in such agreement. During any such Employment Period under the Change of Control Employment Agreement, the terms and provisions of the Change of Control Employment Agreement shall control to the extent such terms and provisions are in conflict with the terms and provisions of this Agreement. In addition, during such Employment Period, the Employment Term hereunder shall be tolled and upon expiration of the Employment Period under the Change of Control Employment Agreement the Employment Term hereunder shall recommence.

2. Position and Duties.

(a) During the Employment Period, Executive shall serve as Executive Vice President, Chief Merchandising Officer and shall have the normal duties, responsibilities and authority attendant to such position, subject to the power of the Company's Chairman and Chief Executive Officer ("CEO"), its President, North America ("President") or the Board of Directors (the "Board") to expand or limit such duties, responsibilities and authority.

(b) Executive shall report to the President, North America or to such other person(s) of comparable or greater duties, responsibilities, and authority as the CEO may direct from time to time, and Executive shall devote Executive's best efforts and Executive's full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company and its Subsidiaries; provided that Executive shall, with the prior written approval of the CEO, be allowed to serve as (i) a director or officer of any non-profit organization including trade, civic, educational or charitable organizations, or (ii) a director of any corporation which is not competing with the

Company or any of its Subsidiaries in the office product and office supply industry so long as such duties do not materially interfere with the performance of Executive's duties or responsibilities under this Agreement. Executive shall perform Executive's duties and responsibilities under this Agreement to the best of Executive's abilities in a diligent, trustworthy, businesslike and efficient manner.

(c) Executive shall be based at or in the vicinity of the Company's headquarters but may be required to travel as necessary to perform Executive's duties and responsibilities under this Agreement.

(d) For purposes of this Agreement, "Subsidiaries" shall mean any corporation of which the securities having a majority of the voting power in electing directors are, at the time of determination, owned by the Company, directly or through one of more Subsidiaries.

3. Base Salary and Benefits.

(a) Initially, Executive's base salary shall be $450,000.00 per annum (the "Base Salary"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. Executive's Base Salary shall be reviewed at least annually by the Compensation Committee of the Board and shall be subject to adjustment, but not reduction, as they shall determine based on among other things, market practice and performance. In addition, during the Employment Term, Executive shall be entitled to participate in the Company's Long Term Incentive Plan.

(b) In addition to the Base Salary, Executive shall be entitled to participate in the Company's Management Incentive Plan (the "Bonus Plan") as administered by the Compensation Committee of the Board of Directors. If the Board or the Compensation Committee modifies such Bonus Plan during the Employment Term, Executive shall continue to participate at a level no lower than the highest level established for any officer of the Company then at Executive's level. At the discretion of the Board or the Compensation Committee, Executive may be offered from time to time the opportunity to participate in other bonus plans of the Company in lieu of the Bonus Plan and, if Executive chooses to participate in such plan or plans, the provisions of this paragraph 3(b) shall be tolled during the period of such participation.

(c) Executive shall be entitled to paid vacation in accordance with the Company's general payroll practices for officers of the Company then at Executive's level.

(d) The Company shall reimburse Executive for all reasonable expenses incurred by Executive in the course of performing Executive's duties under this Agreement which are consistent with the Company's policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses.

(e) Executive will be entitled to all benefits as are, from time to time, maintained for officers of the Company then at Executive's level, including without limitation: medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans (collectively, "Insurance Benefits"), profit sharing and retirement benefits.

4. Term.

(a) The Employment Term shall end on the eighteen (18) month anniversary of the date of this Agreement; provided that (i) the Employment Term shall be extended for successive periods of one (1) year each (each of which is referred to as an "extension term" of the Employment Term) in the event that written notice of termination hereof is not given by one party hereof to the other at least six months prior to the end of the Employment Term or the then applicable extension term, as the case may be; provided further that (ii) the Employment Term shall terminate prior to such date (A) upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), (B) upon the mutual agreement of the Company and Executive, (C) by the Company's termination of this Agreement for Cause (as defined below) or without Cause or (D) by Executive's termination of this Agreement for Good Reason (as defined below) or without Good Reason.

(b) If the Employment Term is terminated by the Company without Cause or is terminated by the Executive for Good Reason, Executive (and Executive's family with respect to clause (iii) below) shall be entitled to receive (i) Executive's Base Salary through the eighteenth month anniversary of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below), if and only if Executive has not breached the provisions of paragraphs 5, 6 and 7 hereof (as determined by a court of competent jurisdiction or by an arbitrator pursuant to paragraph 19 hereof), (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, deferred compensation plans, and other employer programs of the Company in which Executive is then participating (other than the Pro Rata Bonus), (iii) Insurance Benefits through the eighteenth month anniversary of such termination pursuant to the Company's insurance programs, as in effect from time to time, to the extent Executive participated immediately prior to the date of such termination; provided that any such continuation of health insurance benefits will run concurrently with and satisfy the continuation coverage requirements of the Consolidated Omnibus Reconciliation Act of 1985 ("COBRA"), and provided further that any health insurance benefits which Executive becomes entitled to receive as a result of any subsequent employment shall serve as primary coverage for Executive and Executive's family, and (iv) the amount to which the Executive would have been entitled under the Bonus Plan (calculated as if the "target" amount under such plan had been reached, regardless of company performance) had the Executive remained employed through the eighteenth month anniversary of such termination. The amounts payable pursuant to paragraph 4(b)(i) (ii) and (iv) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other reasonable manner consistent with the Company's normal payment policies. No payment of any sum nor the receipt of any benefit shall be due to Executive under this subsection (b) unless and until Executive shall have executed and delivered to the Company a release of any and all claims against the Company and its Subsidiaries (and their respective present and former officers, directors, employees and agents – collectively the "Released Parties") and a covenant not to sue the Released Parties, all in form and substance as provided by counsel to the Company (the "Release"), which Release shall be reasonable and shall be provided to Executive promptly following termination of the Employment Term, and any waiting period or revocation period provided by law for the effectiveness of such Release shall have expired without Executive's having revoked such Release. The parties agree that the form of Release attached hereto is reasonable as of the date of execution of this Agreement, but may be required to be modified to conform to changes in legal requirements. Otherwise, the parties agree that this is the form of Release to be used, as referred to herein. In the event Executive shall decline or fail, except in connection with a good faith dispute about the reasonableness of the form and substance of the Release, to execute and deliver such Release, then Executive shall be entitled to receive only those amounts provided pursuant to subsection 4(c) below provided for an Executive whose employment is terminated by the Company for Cause or by Executive without Good Reason.

(c) If the Employment Term is terminated by the Company for Cause or by the Executive without Good Reason, Executive shall be entitled to receive (i) Executive's Base Salary through the date of such termination and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates; provided, however, that Executive shall not be entitled to payment of a Pro Rata Bonus.

(d) If the Employment Term is terminated upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), Executive, or Executive's estate if applicable, shall be entitled to receive the sum of (i) Executive's Base Salary through the date of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below) and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates. The amounts payable pursuant to this paragraph 4(d) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other manner consistent with the Company's normal payment policies.

(e) Except as otherwise provided herein, fringe benefits and bonuses (if any) which accrue or become payable after the termination of the Employment Term shall cease upon such termination.

(f) For purposes of this Agreement, "Cause" shall mean the willful engaging by the Executive in illegal conduct or gross misconduct, but only to the extent such conduct or misconduct is materially and demonstrably injurious to the Company in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the CEO or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, and after reasonable notice is given to the Executive and the Executive is given an opportunity, together with counsel, to be heard before the Board, the Executive is guilty of the conduct described in paragraph (f) above, and specifying the particulars thereof in detail.

(g) For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to the Executive of any duties inconsistent with the Executive's position (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by paragraph 2 of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive, and excluding further any change in the reporting relationships of the Executive as directed by the CEO or the Board, unless such change results in Executive reporting to a position with lesser duties, responsibilities, and authority than the President, North America;

(ii) any failure by the Company to comply with any of the material provisions of this Agreement, including without limitation paragraph 3, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) the Company's requiring the Executive to be based at any location other than as provided in paragraph 2(c) hereof; or

(iv) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(v) any determination by a court of competent jurisdiction or an arbitrator that Executive is barred, for any reason, from working with the Company.

(h) For purposes of this Agreement, "Pro Rata Bonus" shall mean the sum of (i) the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any current annual incentive plan from the beginning of the year of termination through the date of termination and (ii) if and to the extent Executive is vested, the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any long-term incentive plan or performance plan from the beginning of the period of determination through the date of termination.

5. Confidential Information. Executive acknowledges that the information, observations and data obtained by Executive while employed by the Company and its Subsidiaries concerning the business or affairs of the Company or any other Subsidiary ("Confidential Information") are the property of the Company or such Subsidiary. Therefore, Executive agrees that Executive shall not disclose to any unauthorized person or use for Executive's own purposes any Confidential Information without the prior written consent of the CEO, unless and to the extent that the aforementioned matters become generally known to and available for use by the public other than as a result of Executive's acts or omissions. Executive shall deliver to the Company at the termination of the Employment Term, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) in any form or medium relating to the Confidential Information, Work Product (as defined below) or the business of the Company or any Subsidiary that Executive may then possess or have under Executive's control.

6. Inventions and Patents. Executive acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable) that relate to the Company's or any of its Subsidiaries' actual or anticipated business, research and development or existing or future products or services and that are conceived, developed or made by Executive while employed by the Company and its Subsidiaries ("Work Product") belong to the Company or such Subsidiary. Executive shall promptly disclose such Work Product to the CEO and perform all actions reasonably requested by the CEO (whether during or after the Employment Term) to establish and confirm such ownership (including, without limitation, assignments, consents, powers of attorney and other instruments).

7. Non-Compete, Non-Solicitation.

(a) In further consideration of the compensation to be paid to Executive hereunder, Executive acknowledges that in the course of Executive's employment with the Company Executive shall become familiar with the Company's trade secrets and with other Confidential Information concerning the Company and its Subsidiaries and that Executive's services shall be of special, unique and extraordinary value to the Company and its Subsidiaries. Therefore, Executive agrees that, during the Employment Term and for a period of eighteen (18) months thereafter (the "Noncompete Period"), Executive shall not directly or indirectly own any interest in, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with the businesses of the Company or its Subsidiaries, as such businesses exist or are in process on the date of the termination of Executive's employment, within any geographical area in which the Company or its Subsidiaries engage or plan to engage in such businesses. Nothing herein shall prohibit Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Executive has no active participation in the business of such corporation. The Company presently does not enforce this paragraph 7(a) in California. However, Executive is still required to sign this Agreement since Executive may already work, or may work in the future, in a state where this paragraph 7(a) is fully enforceable. Moreover, the Company reserves its right to enforce this paragraph 7(a) in all other states in which it is enforceable, and in California in the future, to reflect any legislative or legal developments which will permit its enforcement to the fullest extent permitted by California law.

(b) During the Noncompete Period, Executive shall not directly or indirectly through another entity (i) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (ii) hire any person who was an employee of the Company or any Subsidiary at any time during the Employment Term or (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor, franchisee, or business relation and the Company or any Subsidiary (including, without limitation, making any negative statements or communications about the Company or its Subsidiaries).

(c) The provisions of this paragraph 7 will be enforced to the fullest extent permitted by the law in the state in which Executive resides or is employed at the time of the enforcement of the provision. If, at the time of enforcement of this paragraph 7, a court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period, scope and area permitted by law. Executive agrees that the restrictions contained in this paragraph 7 are reasonable.

(d) In the event of the breach or a threatened breach by Executive of any of the provisions of this paragraph 7, the Company, in addition and supplementary to other rights and remedies existing in its favor, may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security). In addition, in the event of a breach or violation by Executive of this paragraph 7 (as determined by a court of competent jurisdiction or an arbitrator pursuant to paragraph 19 hereof), the Noncompete Period shall be tolled until such breach or violation has been duly cured.

8. Executive's Representations. Executive hereby represents and warrants to the Company that (i) the execution, delivery and performance of this Agreement by Executive do

not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, except as previously disclosed to the Company, (ii) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity, except as previously disclosed to the Company, and (iii) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms. Executive hereby acknowledges and represents that Executive has had an opportunity to consult with independent legal counsel regarding Executive's rights and obligations under this Agreement and that Executive fully understands the terms and conditions contained herein.

9. Survival. Paragraphs 5, 6 and 7 and paragraphs 9 through 16 shall survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Term.

10. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

Notices to Executive:

Carl Rubin
12001 Brewster Drive
Tampa, FL 33626

Or to such other residential address as may be reflected in the employment records of the Company

Notices to the Company:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Chairman and Chief Executive Officer

and

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Executive Vice President — Human Resources

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

11. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement. This Agreement and those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way (provided, however that during the "Employment Period," as defined in the Change of Control Employment Agreement, the terms and provision of the Change of Control Employment Agreement shall be effective and shall control to the extent there is any conflict between such agreement and this Agreement).

13. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

15. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's obligations hereunder without the prior written consent of the Company.

16. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

17. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

18. Confidentiality of this Agreement. The parties agree that the terms of this Agreement are confidential. Executive shall not divulge or publicize the terms hereof except as may be necessary to enforce the promises, covenants and/or understandings contained herein or as either party may be required to do so by law, court order, subpoena or other judicial action or government taxing authorities. Executive may disclose the contents of this Agreement to his immediate family, attorneys and accountants, provided however, that any further disclosure of the terms of this Agreement by any of these persons to anyone not included within the terms of this paragraph may be deemed a breach of the Agreement by Executive.

19. Arbitration Provisions. Except as to the right of the Company or the Executive to resort to any court of competent jurisdiction to obtain injunctive relief or specific enforcement of the parties' obligations under this Employment Agreement (or otherwise), any dispute or controversy between the Company and Executive arising out of or relating to Executive's employment or termination of employment, this Agreement or the breach of this Agreement, including but not limited to disputes involving discrimination arising under common law, and/or federal, state and local laws, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its National Rules for the Resolution of Employment Disputes then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration shall be held before a single arbitrator who shall be selected by the mutual agreement of the Company and Executive, unless the parties are unable to agree to an arbitrator, in which case the arbitrator will be selected under the procedures of the AAA. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. Executive agrees to abide by and accept the final decision of the arbitrator as to the ultimate resolution of any and all covered disputes and understands that arbitration replaces any right to trial by a judge or jury. However, either party may, without inconsistency with this arbitration provision, apply to any court otherwise having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, or as may otherwise be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the Company and Executive. The Company and Executive acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding any choice of law provision included in this Agreement, the United States Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitration proceeding shall be conducted in Palm Beach County, Florida unless the parties mutually agree to another location. The Company shall pay the costs of any arbitrator appointed hereunder.

* * * * *

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

OFFICE DEPOT, INC.

By: /s/ BRUCE NELSON
Name: Bruce Nelson
Its: Chairman and CEO

EXECUTIVE

/s/ CARL RUBIN
Name: Carl Rubin

3/1/04
Date:

EXHIBIT 10.12

EMPLOYMENT AGREEMENT
(Change of Control Agreement)

THIS EMPLOYMENT AGREEMENT is made as of March 1, 2004 by and between Office Depot, Inc., a Delaware corporation (the "Company"), and Carl Rubin (the "Executive").

The Board of Directors of the Company (the "Board") has determined that it is in the best interests of the Company and its shareholders to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change of Control (as defined below) of the Company. The Board believes it is imperative to diminish the inevitable distraction of the Executive by virtue of the personal uncertainties and risks created by a pending or threatened Change of Control and to encourage the Executive's full attention and dedication to the Company currently and in the event of any threatened or pending Change of Control, and to provide the Executive with compensation and benefits arrangements upon a Change of Control which ensure that the compensation and benefits expectations of the Executive will be satisfied and which are competitive with those of other corporations. Therefore, in order to accomplish these objectives, the Board has caused the Company to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Certain Definitions. (a) The "Effective Date" shall mean the first date during the Change of Control Period (as defined in Section 1(b)) on which a Change of Control (as defined in Section 2) occurs. Anything in this Agreement to the contrary notwithstanding, if a Change of Control occurs and if the Executive's employment with the Company is terminated prior to the date on which the Change of Control occurs, and if it is reasonably demonstrated by the Executive that such termination of employment (i) was at the request of a third party who has taken steps reasonably calculated to effect a Change of Control or (ii) otherwise arose in connection with or anticipation of a Change of Control, then for all purposes of this Agreement the "Effective Date" shall mean the date immediately prior to the date of such termination of employment.

(b) The "Change of Control Period" shall mean the period commencing on the date hereof and ending on the third anniversary of the date hereof; provided, however, that commencing on the date one year after the date hereof, and on each annual anniversary of such date (such date and each annual anniversary thereof shall be hereinafter referred to as the "Renewal Date"), unless previously terminated, the Change of Control Period shall be automatically extended so as to terminate three years from such Renewal Date, unless at least 60 days prior to the Renewal Date the Company shall give notice to the Executive that the Change of Control Period shall not be so extended.

2. Change of Control. For the purpose of this Agreement, a “Change of Control” shall mean:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of either (i) the then-outstanding shares of common stock of the Company (the “Outstanding Company Common Stock”) or (ii) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); provided, however, that for purposes of this subsection (a), the following acquisitions shall not constitute a Change of Control: (i) any acquisition directly from the Company, (ii) any acquisition by the Company, (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, or (iv) any acquisition by any corporation pursuant to a transaction which complies with clauses (i), (ii) and (iii) of subsection (c) of this Section 2; or

(b) Individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company (a “Business Combination”), in each case, unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 60% of, respectively, the then-outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Business Combination (including, without limitation, a corporation which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, (ii) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination, or the combined voting power of the then-outstanding voting securities of such corporation except to the extent that such ownership existed prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(d) Approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

3. Employment Period. The Company hereby agrees to continue the Executive in its employ, and the Executive hereby agrees to remain in the employ of the Company subject to the terms and conditions of this Agreement, for the period commencing on the Effective Date and ending on the first anniversary of such date (the "Employment Period"). Such period may be extended in writing by the mutual agreement of the Company and Executive at any time prior to such first anniversary.

4. Terms of Employment. (a) Position and Duties. (i) During the Employment Period, (A) the Executive's position (including status, offices, titles and reporting requirements), authority, duties and responsibilities shall be at least commensurate in all material respects with the most significant of those held, exercised and assigned at any time during the 120-day period immediately preceding the Effective Date and (B) the Executive's services shall be performed at the location where the Executive was employed immediately preceding the Effective Date or any office or location less than 35 miles from such location.

(ii) During the Employment Period, and excluding any periods of vacation and sick leave to which the Executive is entitled, the Executive agrees to devote reasonable attention and time during normal business hours to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to the Executive hereunder, to use the Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities. During the Employment Period it shall not be a violation of this Agreement for the Executive to (A) serve on corporate, civic or charitable boards or committees, (B) deliver lectures, fulfill speaking engagements or teach at educational institutions, and (C) manage personal investments, so long as such activities do not significantly interfere with the performance of the Executive's responsibilities as an employee of the Company in accordance with this Agreement. It is expressly understood and agreed that to the extent that any such activities have been conducted by the Executive prior to the Effective Date, the continued conduct of such activities (or the conduct of activities similar in nature and scope thereto) subsequent to the Effective Date shall not thereafter be deemed to interfere with the performance of the Executive's responsibilities to the Company.

(b) Compensation. (i) Base Salary. During the Employment Period, the Executive shall receive an annual base salary, including any applicable car allowance ("Annual Base Salary"), which shall be paid at a monthly rate, at least equal to twelve times the highest monthly base salary paid or payable, including any base salary which has been earned but deferred, to the Executive by the Company and its affiliated companies in respect of the twelve-month period immediately preceding the month in which the Effective Date occurs. During the Employment

Period, the Annual Base Salary shall be reviewed no more than 12 months after the last salary increase awarded to the Executive prior to the Effective Date and thereafter at least annually. Any increase in Annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement. Annual Base Salary shall not be reduced after any such increase and the term Annual Base Salary as utilized in this Agreement shall refer to Annual Base Salary as so increased. As used in this Agreement, the term “affiliated companies” shall include any company controlled by, controlling or under common control with the Company.

(ii) Annual Bonus. In addition to Annual Base Salary, the Executive shall be awarded, for each fiscal year ending during the Employment Period, an annual bonus (the “Annual Bonus”) in cash at least equal to the Executive’s highest bonus under the Company’s annual incentive bonus plans, including, without limitation, its Designated Executive Incentive Plan and Management Incentive Plan, or any comparable bonus under any predecessor or successor plan or plans, for the last three full fiscal years prior to the Effective Date (annualized in the event that the Executive was not employed by the Company for the whole of such fiscal year) (the “Recent Annual Bonus”). Each such Annual Bonus shall be paid no later than the end of the third month of the fiscal year next following the fiscal year for which the Annual Bonus is awarded, unless the Executive shall elect to defer the receipt of such Annual Bonus.

(iii) Incentive, Savings and Retirement Plans. During the Employment Period, the Executive shall be entitled to participate in all incentive, savings and retirement plans, practices, policies and programs applicable generally to other peer Executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with incentive opportunities (measured with respect to both regular and special incentive opportunities, to the extent, if any, that such distinction is applicable), savings opportunities and retirement benefit opportunities, in each case, less favorable, in the aggregate, than the most favorable of those provided by the Company and its affiliated companies for the Executive under such plans, practices, policies and programs as in effect at any time during the 120-day period immediately preceding the Effective Date or if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(iv) Welfare Benefit Plans. During the Employment Period, the Executive and/or the Executive’s family, as the case may be, shall be eligible for participation in and shall receive all benefits under welfare benefit plans, practices, policies and programs provided by the Company and its affiliated companies (including, without limitation, medical, prescription, dental, disability, employee life, group life, split-dollar life, accidental death and travel accident insurance plans and programs) to the extent applicable generally to other peer executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with benefits which are less favorable, in the aggregate, than the most favorable of such plans, practices, policies and programs in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(v) Expenses. During the Employment Period, the Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in accordance with the most favorable policies, practices and procedures of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(vi) Fringe Benefits. During the Employment Period, the Executive shall be entitled to fringe benefits, including, without limitation, tax and financial planning services, payment of club dues, and, if applicable, use of an automobile and payment of related expenses, in accordance with the most favorable plans, practices, programs and policies of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(vii) Office and Support Staff. During the Employment Period, the Executive shall be entitled to an office or offices of a size and with furnishings and other appointments, and to exclusive personal secretarial and other assistance, at least equal to the most favorable of the foregoing provided to the Executive by the Company and its affiliated companies at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as provided generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(viii) Vacation. During the Employment Period, the Executive shall be entitled to paid vacation in accordance with the most favorable plans, policies, programs and practices of the Company and its affiliated companies as in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

5. Termination of Employment. (a) Death or Disability. The Executive’s employment shall terminate automatically upon the Executive’s death during the Employment Period. If the Company determines in good faith that the Disability of the Executive has occurred during the Employment Period (pursuant to the definition of Disability set forth below), it may give to the Executive written notice in accordance with Section 12(b) of this Agreement of its intention to terminate the Executive’s employment. In such event, the Executive’s employment with the Company shall terminate effective on the 30th day after receipt of such notice by the Executive (the “Disability Effective Date”), provided that, within the 30 days after such receipt, the Executive shall not have returned to full-time performance of the Executive’s duties. For purposes of this Agreement, “Disability” shall mean the absence of the Executive from the Executive’s duties with the Company on a full-time basis for 180 consecutive days as a result of incapacity due to mental or physical illness which is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive’s legal representative.

(b) Cause. The Company may terminate the Executive's employment during the Employment Period for Cause. For purposes of this Agreement, "Cause" shall mean:

(i) the continued failure of the Executive to perform substantially the Executive's duties with the Company or one of its affiliates (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to the Executive by the Board or the Chief Executive Officer of the Company which specifically identifies the manner in which the Board or Chief Executive Officer believes that the Executive has not substantially performed the Executive's duties, or

(ii) the engaging by the Executive in illegal conduct or gross misconduct in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duty adopted by the Board or upon the instructions of the Chief Executive Officer or a senior officer of the Company or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, the Executive is guilty of the conduct described in subparagraph (i) or (ii) above, and specifying the particulars thereof in detail.

(c) Good Reason. The Executive's employment may be terminated by the Executive for Good Reason. For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to the Executive of any duties inconsistent in any respect with the Executive's position (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by Section 4(a) of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive and excluding any change in the reporting relationships of the Executive as directed by the CEO or the Board;

(ii) any failure by the Company to comply with any of the provisions of Section 4(b) of this Agreement, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) the Company's requiring the Executive to be based at any office or location other than as provided in Section 4(a)(i)(B) hereof or the Company's requiring the

Executive to travel on Company business to a substantially greater extent than required immediately prior to the Effective Date;

(iv) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(v) any failure by the Company to comply with and satisfy Section 11(c) of this Agreement.

For purposes of this Section 5(c), any good faith determination of "Good Reason" made by the Executive shall be conclusive. Anything in this Agreement to the contrary notwithstanding, a termination by the Executive for any reason during the 30-day period immediately preceding the first anniversary of the Effective Date shall be deemed to be a termination for Good Reason for all purposes of this Agreement.

(d) Notice of Termination. Any termination by the Company for Cause, or by the Executive for Good Reason, shall be communicated by Notice of Termination to the other party hereto given in accordance with Section 12(b) of this Agreement. For purposes of this Agreement, a "Notice of Termination" means a written notice which (i) indicates the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive's employment under the provision so indicated and (iii) if the Date of Termination (as defined below) is other than the date of receipt of such notice, specifies the termination date (which date shall be not more than thirty days after the giving of such notice). The failure by the Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting such fact or circumstance in enforcing the Executive's or the Company's rights hereunder.

(e) Date of Termination. "Date of Termination" means (i) if the Executive's employment is terminated by the Company for Cause, or by the Executive for Good Reason, the date of receipt of the Notice of Termination or any later date specified therein, as the case may be, (ii) if the Executive's employment is terminated by the Company other than for Cause or Disability, the Date of Termination shall be the date on which the Company notifies the Executive of such termination and (iii) if the Executive's employment is terminated by reason of death or Disability, the Date of Termination shall be the date of death of the Executive or the Disability Effective Date, as the case may be.

6. Obligations of the Company upon Termination. (a) Good Reason; Other Than for Cause, Death or Disability. If, during the Employment Period, the Company shall terminate the Executive's employment other than for Cause, death or Disability or the Executive shall terminate employment for Good Reason:

(i) the Company shall pay to the Executive in a lump sum in cash within 30 days after the Date of Termination the aggregate of the following amounts:

A. the sum of (1) the Executive's Annual Base Salary through the Date of Termination to the extent not theretofore paid, (2) the product of (x) the higher of (I) the Recent Annual Bonus and (II) the Annual Bonus paid or payable, including any bonus or portion thereof which has been earned but deferred (and annualized for any fiscal year consisting of less than twelve full months or during which the Executive was employed for less than twelve full months), for the most recently completed fiscal year during the Employment Period, if any (such higher amount being referred to as the "Highest Annual Bonus") and (y) a fraction, the numerator of which is the number of days in the current fiscal year through the Date of Termination, and the denominator of which is 365 and (3) any compensation previously deferred by the Executive (together with any accrued interest or earnings thereon) and any accrued vacation pay, in each case to the extent not theretofore paid (the sum of the amounts described in clauses (1), (2), and (3) shall be hereinafter referred to as the "Accrued Obligations"); and

B. the amount equal to the product of (1) **two** and (2) the sum of (x) the Executive's Annual Base Salary and (y) the Highest Annual Bonus; and

C. an amount equal to the excess of (1) the actuarial equivalent of the benefit under the Company's qualified defined benefit retirement plan (the "Retirement Plan") (utilizing actuarial assumptions no less favorable to the Executive than those in effect under the Company's Retirement Plan immediately prior to the Effective Date), and any excess or supplemental retirement plan in which the Executive participates (together, the "SERP") which the Executive would receive if the Executive's employment continued for **two** years after the Date of Termination assuming for this purpose that all accrued benefits are fully vested, and, assuming that the Executive's compensation in each of the **two** years is that required by Section 4(b)(i) and Section 4(b)(ii), over (2) the actuarial equivalent of the Executive's actual benefit (paid or payable), if any, under the Retirement Plan and the SERP as of the Date of Termination;

(ii) for **two** years after the Executive's Date of Termination, or such longer period as may be provided by the terms of the appropriate plan, program, practice or policy, the Company shall continue benefits to the Executive and/or the Executive's family at least equal to those which would have been provided to them in accordance with the plans, programs, practices and policies described in Section 4(b)(iv) of this Agreement if the Executive's employment had not been terminated or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies and their families, provided, however, that if the Executive becomes reemployed with another employer and is eligible to receive medical or other welfare benefits under another employer-provided plan, the medical and other welfare benefits described herein shall be secondary to those provided under such other plan during such applicable period of eligibility. Notwithstanding the foregoing, the Company shall continue to make all scheduled premium payments under any split-dollar life insurance policy in effect on the Date of Termination on behalf of the Executive for so long as such payments are scheduled (without giving effect to Executive's termination). For purposes of determining eligibility (but not the time of commencement of benefits) of the Executive for retiree benefits pursuant to such plans, practices, programs and policies, the Executive shall be considered to have remained employed until **two** years after the Date of Termination and to have retired on the last day of such period;

(iii) the Company shall, at its sole expense as incurred, provide the Executive with out placement services the scope and provider of which shall be selected by the Executive in his sole discretion; and

(iv) to the extent not theretofore paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive under any plan, program, policy or practice or contract or agreement of the Company and its affiliated companies (such other amounts and benefits shall be hereinafter referred to as the "Other Benefits") and

(v) a good faith determination by Executive that Executive is unable to establish a satisfactory working relationship with the new President, North America, provided that Executive has attempted to establish a good working relationship with the President, North America and has reasonably devoted Executive's time and effort to performing his job to the best of his abilities. This clause may only be exercised during the first six-months following the date on which the President, North America, joins the Company.

(b) Death. If the Executive's employment is terminated by reason of the Executive's death during the Employment Period, this Agreement shall terminate without further obligations to the Executive's legal representatives under this Agreement, other than for payment of the amounts set forth in Section 6(i) and the timely payment or provision of Other Benefits. The amounts set forth in Section 6(i) shall be paid to the Executive's estate or beneficiary, as applicable, in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of Other Benefits, the term Other Benefits as utilized in this Section 6(b) shall include, without limitation, and the Executive's estate and/or beneficiaries shall be entitled to receive, benefits at least equal to the most favorable benefits provided by the Company and affiliated companies to the estates and beneficiaries of peer executives of the Company and such affiliated companies under such plans, programs, practices and policies relating to death benefits, if any, as in effect with respect to other peer executives and their beneficiaries at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive's estate and/or the Executive's beneficiaries, as in effect on the date of the Executive's death with respect to other peer executives of the Company and its affiliated companies and their beneficiaries.

(c) Disability. If the Executive's employment is terminated by reason of the Executive's Disability during the Employment Period, this Agreement shall terminate without further obligations to the Executive, other than for payment of the amounts set forth in Section 6(i) and the timely payment or provision of Other Benefits. The amounts set forth in Section 6(i) shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of Other Benefits, the term "Other Benefits" as utilized in this Section 6(c) shall include, and the Executive shall be entitled after the Disability Effective Date to receive, disability and other benefits at least equal to the most favorable of those generally provided by the Company and its affiliated companies to disabled executives and/or their families in accordance with such plans, programs, practices and policies relating to disability, if any, as in effect generally with respect to other peer executives and their families at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive and/or the Executive's family, as in effect at any time thereafter generally with respect to other peer executives of the Company and its affiliated companies and their families.

(d) Cause; Other than for Good Reason. If the Executive's employment shall be terminated for Cause during the Employment Period, this Agreement shall terminate without further obligations to the Executive other than for Accrued Obligations and for the timely payment or provision of Other Benefits, in each case to the extent theretofore unpaid. If the Executive voluntarily terminates employment during the Employment Period, excluding a termination for Good Reason, this Agreement shall terminate without further obligations to the Executive, other than for Accrued Obligations and the timely payment or provision of Other Benefits. In each such case, all Accrued Obligations shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination.

7. Nonexclusivity of Rights. Nothing in this Agreement shall prevent or limit the Executive's continuing or future participation in any plan, program, policy or practice provided by the Company or any of its affiliated companies and for which the Executive may qualify, nor, subject to Section 12(f), shall anything herein limit or otherwise affect such rights as the Executive may have under any contract or agreement with the Company or any of its affiliated companies. Amounts which are vested benefits or which the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any contract or agreement with the Company or any of its affiliated companies at or subsequent to the Date of Termination shall be payable in accordance with such plan, policy, practice or program or contract or agreement except as explicitly modified by this Agreement.

8. Full Settlement. The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action which the Company may have against the Executive or others. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement and such amounts shall not be reduced whether or not the Executive obtains other employment. The Company agrees to pay as incurred, to the fullest extent permitted by law, all legal fees and expenses which the Executive may reasonably incur as a

result of any contest (regardless of the outcome thereof) by the Company, the Executive or others of the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive about the amount of any payment pursuant to this Agreement), plus in each case interest on any delayed payment at the applicable Federal rate provided for in Section 7872(f)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code").

9. Certain Additional Payments by the Company. (a) Anything in this Agreement to the contrary notwithstanding and except as set forth below, in the event it shall be determined that any payment or distribution by the Company to or for the benefit of the Executive (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section 9) (a "Payment") would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Executive shall be entitled to receive an additional payment (a "Gross-Up Payment") in an amount such that after payment by the Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, the Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 9(a), if it shall be determined that the Executive is entitled to a Gross-Up Payment, but that the Executive, after taking into account the Payments and the Gross-Up Payment, would not receive a net after-tax benefit of at least $50,000 (taking into account both income taxes and any Excise Tax) as compared to the net after-tax proceeds to the Executive resulting from an elimination of the Gross-Up Payment and a reduction of the Payments, in the aggregate, to an amount (the "Reduced Amount") such that the receipt of Payments would not give rise to any Excise Tax, then no Gross-Up Payment shall be made to the Executive and the Payments, in the aggregate, shall be reduced to the Reduced Amount.

(b) Subject to the provisions of Section 9(c), all determinations required to be made under this Section 9, including whether and when a Gross-Up Payment is required and the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by Deloitte & Touche or such other certified public accounting firm as may be designated by the Executive (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the receipt of notice from the Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change of Control, the Executive shall appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any Gross-Up Payment, as determined pursuant to this Section 9, shall be paid by the Company to the Executive within five days of the receipt of the Accounting Firm's determination. Any determination by the Accounting Firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts its remedies pursuant to Section 9(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive.

(c) The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable but no later than ten business days after the Executive is informed in writing of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the 30-day period following the date on which it gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that it desires to contest such claim, the Executive shall:

(i) give the Company any information reasonably requested by the Company relating to such claim,

(ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,

(iii) cooperate with the Company in good faith in order effectively to contest such claim, and

(iv) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax (including interest and penalties with respect thereto) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 9(c), the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Executive to pay the tax claimed and sue for a refund or to contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Executive to pay such claim and sue for a refund, the Company shall advance the amount of such payment to the Executive, on an interest-free basis and shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties with respect thereto) imposed with respect to such advance or with respect to any imputed income with respect to such advance; and further provided that any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(d) If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 9(c)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company does not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then such advance shall be forgiven and shall not be required to be repaid and the amount of such advance shall offset, to the extent thereof, the amount of Gross-Up Payment required to be paid.

10. Confidential Information. The Executive shall hold in a fiduciary capacity for the benefit of the Company all secret or confidential information, knowledge or data relating to the Company or any of its affiliated companies, and their respective businesses, which shall have been obtained by the Executive during the Executive's employment by the Company or any of its affiliated companies and which shall not be or become public knowledge (other than by acts by the Executive or representatives of the Executive in violation of this Agreement). After termination of the Executive's employment with the Company, the Executive shall not, without the prior written consent of the Company or as may otherwise be required by law or legal process, communicate or divulge any such information, knowledge or data to anyone other than the Company and those designated by it. In no event shall an asserted violation of the provisions of this Section 10 constitute a basis for deferring or withholding any amounts otherwise payable to the Executive under this Agreement.

11. Successors. (a) This Agreement is personal to the Executive and without the prior written consent of the Company shall not be assignable by the Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal representatives.

(b) This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.

(c) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, “Company” shall mean the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law, or otherwise.

12. Miscellaneous. (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(b) All notices and other communications hereunder shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Carl Rubin

6925 NW 62nd Terrace
Parkland, FL 33067

With a copy to

If to the Company:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Chief Executive Officer

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(d) The Company may withhold from any amounts payable under this Agreement such Federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(e) The Executive's or the Company's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right the Executive or the Company may have hereunder, including, without limitations the right of the Executive to terminate employment for Good Reason pursuant to Section 5(c)(i)-(v) of this Agreement, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

(f) The Executive and the Company acknowledge that, except as may otherwise be provided under any other written agreement between the Executive and the Company, the employment of the Executive by the Company is "at will" and, subject to Section 1(a) hereof, prior to the Effective Date, the Executive's employment and/or this Agreement may be terminated by either the Executive or the Company at any time prior to the Effective Date, in which case the Executive shall have no further rights under this Agreement. From and after the Effective Date this Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, the Executive has hereunto set the Executive's hand and, pursuant to the authorization from its Board of Directors, the Company has caused these presents to be executed in its name on its behalf, all as of the day and year first above written.

/s/ CARL RUBIN
Carl Rubin

Date: 3/1/04

OFFICE DEPOT, INC.

By: /s/ BRUCE NELSON
Its: Chief Executive Officer

EXHIBIT 10.13

March 1, 2004

Mr. Carl Rubin

Hand Delivered

Dear Chuck,

This will confirm our offer to you to join Office Depot as Executive Vice President, Chief Merchandising Officer located at our Delray Beach, Florida Corporate Headquarters. This letter is referred to in your employment agreement as the "Offer Letter."

The starting salary for this position is $450,000.00 per year with a weekly car allowance of $300.00. You will participate in our Corporate Bonus Program with payout levels of 40% of salary for minimum goal achievement, 60% for target and 120% maximum. For 2004 you will receive a guaranteed bonus of $270,000.00 or the bonus earned, whichever is greater.

You will also receive initial equity grants structured as follows:

a) 80,000 shares of traditional Non-Qualified stock options which vest 1/3 per year starting on your first anniversary, dated and priced as of the date of hire,

b) 37,500 shares of performance-accelerated stock options dated and priced as of the date of hire,

c) 12,000 shares of performance shares in participation of our plan cycle for performance years 2004-2006,

d) 80,000 shares of traditional Non-Qualified stock options which Cliff Vest on the third anniversary of your employment, dated and priced as of the date of hire,

e) 40,000 shares of restricted stock, 50% of which will vest on the eighteen-month anniversary of your hire date, and the remaining 50% of which will vest on the three-year anniversary of your hire date,

f) It is further agreed that in the event your employment is involuntarily terminated by Office Depot for any reason other than "Cause" as defined in your employment agreement, within the first twelve months following your Hire Date of March 1, 2004, one-third of the non-qualified stock options, except for the performance accelerated options, granted to you by this Offer Letter shall become fully vested.

Starting in 2005, you will participate in the various equity programs offered to all Executive Vice Presidents.

As an additional incentive to join our team, you will receive a signing bonus of $250,000.00 payable on your first day of employment.

In addition to salary, bonus, stock options and car allowance, you will be eligible to participate in our employee benefits plan as outlined in the enclosed brochure. As an operating officer, you will participate in a separate executive health care plan, which provides freedom of choice of medical providers and first dollar benefit coverage.

You will also be eligible for an annual physical exam and tax preparation services. Finally, you will be eligible for four weeks of vacation beginning in 2004. Relocation expenses will be reimbursed in accordance with our executive relocation policy, which is described in the enclosed brochure.

As agreed, in addition to your duties as Executive Vice President, Chief Merchandising Officer, you have also agreed to take on the duties of being Office Depot's Chief Marketing Officer, which you agree will receive your best efforts until the CEO or the new President, North America should determine that they do not wish to combine the positions of Chief Merchandising Officer and Chief Marketing Officer. If they mutually decide that they are comfortable with combining these positions, and if you are also comfortable in continuing with these dual responsibilities, then you will continue in both roles. If either you, the CEO or the President, North America is not comfortable with continuing this arrangement, then you will continue as Executive Vice President, Chief Merchandising Officer, under the terms of this letter and the enclosed employment agreement. The decision to not permanently combine the two positions will not trigger your right to terminate your employment agreement for "Good Reason".

As also agreed, if you make a good faith determination that you are unable to establish a satisfactory working relationship with the new President, North America, provided that you have attempted to establish a good working relationship with the President, North America and have reasonably devoted your time and effort to performing your job to the best of your abilities, then you will have the right to terminate your employment agreement for "Good Reason". Such termination is otherwise defined in the employment agreement. This clause may only be exercised during the first six-months following the date on which the President, North America, joins the Company.

In addition to the compensation and benefits to which you are entitled under the Employment Agreement should your employment terminate without "Cause" or for "Good Reason," as defined in that agreement, Office Depot also agrees to provide the same relocation benefits provided to you for your move to Delray Beach to relocate you to the domicile of your choice, within the Continental United States. However, this relocation benefit is available only during the first two years after the new President, North America joins our Company.

Office Depot further agrees to provide prompt reimbursement to you for all fees and costs you have incurred for legal, accounting, or financial advice in connection with this offer and all associated employment agreements.

In the event any legal action is brought against you by Accenture in connection with your employment by Office Depot, Office Depot will indemnify you to the fullest extent permitted by law, including without limitation payment of any defense costs, damages, interest, or other sums or liabilities that you incur or for which you are found liable.

This offer is contingent upon a background investigation and your successful completion of a drug screening test which can be arranged locally and our entering into employment agreements, copies of which are enclosed for you review.

We look forward to having you with us.

Kind regards,

/s/ Bruce Nelson

EXHIBIT 10.14

EXECUTIVE EMPLOYMENT AGREEMENT

(For Executive Officers Who Also Have a Change of Control Employment Agreement)

THIS AGREEMENT is made as of March 22, 2004 between Office Depot, Inc., a Delaware corporation (the "Company"), and Rick Lepley ("Executive"). This Agreement replaces and supersedes any and all prior employment agreements, letters of understanding, or other agreements of any sort whatsoever, existing between the Company and Executive, of whatsoever nature.

NOW THEREFORE,

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Employment.

(a) The Company shall employ Executive, and Executive hereby accepts employment with the Company, upon the terms and conditions set forth in this Agreement for the period beginning on the date hereof and ending as provided in paragraph 4 hereof (the "Employment Term").

(b) The parties hereto have entered into an Employment Agreement dated as of the same date as this Agreement by and between the Company and the Executive (the "Change of Control Employment Agreement") which, by its terms, takes effect during the "Employment Period" as defined in such agreement. During any such Employment Period under the Change of Control Employment Agreement, the terms and provisions of the Change of Control Employment Agreement shall control to the extent such terms and provisions are in conflict with the terms and provisions of this Agreement. In addition, during such Employment Period, the Employment Term hereunder shall be tolled and upon expiration of the Employment Period under the Change of Control Employment Agreement the Employment Term hereunder shall recommence.

2. Position and Duties.

(a) During the Employment Period, Executive shall serve as an Executive Vice President of the Company and shall have such duties, responsibilities and authority as are assigned to him from time to time by the Chairman and Chief Executive Officer ("CEO"), its President, North America ("President") or the Board of Directors (the "Board") to alter, expand or limit such duties, responsibilities and authority. Executive's scope of duties shall at all times be subject to the power of the Company's CEO or the Board to modify or alter such duties.

(b) Executive shall report to the President, North America or to such other person(s) as the CEO may direct from time to time, and Executive shall devote Executive's best efforts and Executive's full business time and attention (except for permitted vacation periods and reasonable periods of illness or other incapacity) to the business and affairs of the Company and its Subsidiaries; provided that Executive shall, with the prior written approval of the CEO, be allowed to serve as (i) a director or officer of any non-profit organization including trade, civic, educational or charitable organizations, or (ii) a director of any corporation which is not competing with the Company or any of its Subsidiaries in the office product and office supply industry so long as such duties do not materially interfere with the performance of Executive's duties or responsibilities under this Agreement. Executive shall perform Executive's duties and responsibilities under this Agreement to the best of Executive's abilities in a diligent, trustworthy, businesslike and efficient manner.

(c) Executive shall be based at or in the vicinity of the Company's headquarters but may be required to travel as necessary to perform Executive's duties and responsibilities under this Agreement.

(d) For purposes of this Agreement, "Subsidiaries" shall mean any corporation of which the securities having a majority of the voting power in electing directors are, at the time of determination, owned by the Company, directly or through one of more Subsidiaries.

3. Base Salary and Benefits.

(a) Initially, Executive's base salary as Executive Vice President shall be $500,000 per annum (the "Base Salary"), which salary shall be payable in regular installments in accordance with the Company's general payroll practices and shall be subject to customary withholding. This rate of pay shall be applicable for so long as Executive is serving in the capacity of Executive Vice President, North American Retail Stores. At such time as Executive is assigned other, or different job responsibilities, his Base Salary may be higher or lower, and such change shall not trigger a right to terminate this Agreement for "Good Reason" as set forth herein. In no event shall Executive's Base Salary be set at an annual rate of pay less than $375,000 if his position assignment changes during the first 12 months of this Agreement, or $400,000 if his position assignment changes during the second 12 months of this Agreement, or later, regardless of any other duties to which he may be assigned in the future, or if proposed to be set at less than $375,000 or $400,000 (whichever is then applicable in accordance with the first clause of this sentence), Executive shall have the option of accepting such lower Base Salary, or he shall have the right to terminate this Agreement for "Good Reason." Executive's Base Salary shall be reviewed at least annually by the Compensation Committee of the Board and shall be subject to adjustment, as they shall determine based on among other things, market practice and performance, subject to the preceding sentence of this subparagraph 3(a). In addition, during the Employment Term, Executive shall be entitled to participate in the Company's Long Term Incentive Plan.

(b) In addition to the Base Salary, Executive shall be entitled to participate in the Company's Management Incentive Plan (the "Bonus Plan") as administered by the Compensation Committee of the Board of Directors. If the Board or the Compensation Committee modifies such Bonus Plan during the Employment Term, Executive shall continue to participate at a level no lower than the highest level established for any officer of the Company then at Executive's level. At the discretion of the Board or the Compensation Committee, Executive may be offered from time to time the opportunity to participate in other bonus plans of the Company in lieu of the Bonus Plan and, if Executive chooses to participate in such plan or plans, the provisions of this paragraph 3(b) shall be tolled during the period of such participation.

(c) Executive shall be entitled to paid vacation in accordance with the Company's general payroll practices for officers of the Company then at Executive's level.

(d) The Company shall reimburse Executive for all reasonable expenses incurred by Executive in the course of performing Executive's duties under this Agreement which are consistent with the Company's policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to the Company's requirements with respect to reporting and documentation of such expenses.

(e) Executive will be entitled to all benefits as are, from time to time, maintained for officers of the Company then at Executive's level, including without limitation: medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans (collectively, "Insurance Benefits"), profit sharing and retirement benefits.

4. Term.

(a) The Employment Term shall end on the eighteen (18) month anniversary of the date of this Agreement; provided that (i) the Employment Term shall be extended for successive periods of one (1) year each (each of which is referred to as an "extension term" of the Employment Term) in the event that written notice of termination hereof is not given by one party hereof to the other at least six months prior to the end of the Employment Term or the then applicable extension term, as the case may be; provided further that (ii) the Employment Term shall terminate prior to such date (A) upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), (B) upon the mutual agreement of the Company and Executive, (C) by the Company's termination of this Agreement for Cause (as defined below) or without Cause or (D) by Executive's termination of this Agreement for Good Reason (as defined below) or without Good Reason.

(b) If the Employment Term is terminated by the Company without Cause or is terminated by the Executive for Good Reason, Executive (and Executive's family with respect to clause (iii) below) shall be entitled to receive (i) Executive's Base Salary through the eighteenth month anniversary of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below), if and only if Executive has not breached the provisions of paragraphs 5, 6 and 7 hereof, (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, deferred compensation plans, and other employer programs of the Company in which Executive is then participating (other than the Pro Rata Bonus), and (iii) Insurance Benefits through the eighteenth month anniversary of such termination pursuant to the Company's insurance programs, as in effect from time to time, to the extent Executive participated immediately prior to the date of such termination; provided that any such continuation of health insurance benefits will run concurrently with and satisfy the continuation coverage requirements of the Consolidated Omnibus Reconciliation Act of 1985 ("COBRA"), and provided further that any health insurance benefits which Executive becomes entitled to receive as a result of any subsequent employment shall serve as primary coverage for Executive and Executive's family. The amounts payable pursuant to paragraph 4(b)(i) and (ii) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other manner consistent with the Company's normal payment policies. No payment of any sum nor the receipt of any benefit shall be due to Executive under this subsection (b) unless and until Executive shall have executed and delivered to the Company a release of any and all claims against the Company and its Subsidiaries (and their respective present and former officers, directors, employees and agents – collectively the "Released Parties") and a covenant not to sue the Released Parties, all in form and substance as provided by counsel to the Company (the "Release") and any waiting period or revocation period provided by law for the effectiveness of such Release shall have expired without Executive's having revoked such Release. In the event Executive shall decline or fail for any reason to execute and deliver such Release, then Executive shall be entitled to receive only those amounts provided pursuant to subsection 4(c) below provided for an Executive whose employment is terminated by the Company for Cause or by Executive without Good Reason.

(c) If the Employment Term is terminated by the Company for Cause or by the Executive without Good Reason, Executive shall be entitled to receive (i) Executive's Base Salary through the date of such termination and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates; provided, however, that Executive shall not be entitled to payment of a Pro Rata Bonus.

(d) If the Employment Term is terminated upon Executive's death or permanent disability or incapacity (as determined by the Board in its good faith judgment), Executive, or Executive's estate if applicable, shall be entitled to receive the sum of (i) Executive's Base Salary through the date of such termination and Executive's Pro Rata Bonus (as defined in paragraph (h) below) and (ii) vested and earned (in accordance with the Company's applicable plan or program) but unpaid amounts under incentive plans, health and welfare plans, deferred compensation plans, and other employer programs of the Company which Executive participates. The amounts payable pursuant to this paragraph 4(d) shall be payable, at the Company's discretion, in one lump sum payment within 30 days following termination of the Employment Term or in any other manner consistent with the Company's normal payment policies.

(e) Except as otherwise provided herein, fringe benefits and bonuses (if any) which accrue or become payable after the termination of the Employment Term shall cease upon such termination.

(f) For purposes of this Agreement, "Cause" shall mean:

(i) the continued failure of the Executive to perform substantially the Executive's duties with the Company or one of its affiliates (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to the Executive by the CEO which specifically identifies the manner in which the CEO believes that the Executive has not substantially performed the Executive's duties, or

(ii) the engaging by the Executive in illegal conduct or gross misconduct in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the CEO or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, the Executive is guilty of the conduct described in subparagraph (i) or (ii) above, and specifying the particulars thereof in detail.

(g) For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to the Executive of any duties inconsistent with the Executive's position, authority, duties or responsibilities as contemplated by paragraph 2 of this Agreement, or any other action by the Company which results in a material diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive, and excluding further any change in the reporting relationships of the Executive as directed by the CEO or the Board and specifically excluding further any change in the reporting relationships of the Executive as directed by the CEO or the Board;

(ii) any failure by the Company to comply with any of the provisions of paragraph 3 of this Agreement, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) the Company's requiring the Executive to be based at any location other than as provided in paragraph 2(c) hereof; or

(iv) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(h) For purposes of this Agreement, "Pro Rata Bonus" shall mean the sum of (i) the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any current annual incentive plan from the beginning of the year of termination through the date of termination and (ii) if and to the extent Executive is vested, the pro rata portion (calculated as if the "target" amount under such plan has been reached) under any long-term incentive plan or performance plan from the beginning of the period of determination through the date of termination.

5. Confidential Information. Executive acknowledges that the information, observations and data obtained by Executive while employed by the Company and its Subsidiaries concerning the business or affairs of the Company or any other Subsidiary ("Confidential Information") are the property of the Company or such Subsidiary. Therefore, Executive agrees that Executive shall not disclose to any unauthorized person or use for Executive's own purposes any Confidential Information without the prior written consent of the CEO, unless and to the extent that the aforementioned matters become generally known to and available for use by the public other than as a result of Executive's acts or omissions. Executive shall deliver to the Company at the termination of the Employment Term, or at any other time the Company may request, all memoranda, notes, plans, records, reports, computer tapes, printouts and software and other documents and data (and copies thereof) in any form or medium relating to the Confidential Information, Work Product (as defined below) or the business of the Company or any Subsidiary that Executive may then possess or have under Executive's control.

6. Inventions and Patents. Executive acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable) that relate to the Company's or any of its Subsidiaries' actual or anticipated business, research and development or existing or future products or services and that are conceived, developed or made by Executive while employed by the Company and its Subsidiaries ("Work Product") belong to the Company or such Subsidiary. Executive shall promptly disclose such Work Product to the CEO and perform all actions reasonably requested by the CEO (whether during or after the Employment Term) to establish and confirm such ownership (including, without limitation, assignments, consents, powers of attorney and other instruments).

7. Non-Compete, Non-Solicitation.

(a) In further consideration of the compensation to be paid to Executive hereunder, Executive acknowledges that in the course of Executive's employment with the Company Executive shall become familiar with the Company's trade secrets and with other Confidential Information concerning the Company and its Subsidiaries and that Executive's services shall be of special, unique and extraordinary value to the Company and its Subsidiaries. Therefore, Executive agrees that, during the Employment Term and for a period of eighteen (18) months thereafter (the "Noncompete Period"), Executive shall not directly or indirectly own any interest in, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with the businesses of the Company or its Subsidiaries, as such businesses exist or are in process on the date of the termination of Executive's employment, within any geographical area in which the Company or its Subsidiaries engage or plan to engage in such businesses. Nothing herein shall prohibit Executive from being a passive owner of not more than 2% of the outstanding stock of any class of a corporation which is publicly traded, so long as Executive has no active participation in the business of such corporation. The Company presently does not enforce this paragraph 7(a) in California. However, Executive is still required to sign this Agreement since Executive may already work, or may work in the future, in a state where this paragraph 7(a) is fully enforceable. Moreover, the Company reserves its right to enforce this paragraph 7(a) in all other states in which it is enforceable, and in California in the future, to reflect any legislative or legal developments which will permit its enforcement to the fullest extent permitted by California law.

(b) During the Noncompete Period, Executive shall not directly or indirectly through another entity (i) induce or attempt to induce any employee of the Company or any Subsidiary to leave the employ of the Company or such Subsidiary, or in any way interfere with the relationship between the Company or any Subsidiary and any employee thereof, (ii) hire any person who was an employee of the Company or any Subsidiary at any time during the Employment Term or (iii) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee or other business relation of the Company or any Subsidiary to cease doing business with the Company or such Subsidiary, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor, franchisee, or business relation and the Company or any Subsidiary (including, without limitation, making any negative statements or communications about the Company or its Subsidiaries).

(c) The provisions of this paragraph 7 will be enforced to the fullest extent permitted by the law in the state in which Executive resides or is employed at the time of the enforcement of the provision. If, at the time of enforcement of this paragraph 7, a court shall hold that the duration, scope or area restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period, scope and area permitted by law. Executive agrees that the restrictions contained in this paragraph 7 are reasonable.

(d) In the event of the breach or a threatened breach by Executive of any of the provisions of this paragraph 7, the Company, in addition and supplementary to other rights and remedies existing in its favor, may apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security). In addition, in the event of an alleged breach or violation by Executive of this paragraph 7, the Noncompete Period shall be tolled until such breach or violation has been duly cured.

8. Executive's Representations. Executive hereby represents and warrants to the Company that (i) the execution, delivery and performance of this Agreement by Executive do not and shall not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which Executive is a party or by which Executive is bound, (ii) Executive is not a party to or bound by any employment agreement, noncompete agreement or confidentiality agreement with any other person or entity and (iii) upon the execution and delivery of this Agreement by the Company, this Agreement shall be the valid and binding obligation of Executive, enforceable in accordance with its terms. Executive hereby acknowledges and represents that Executive has had an opportunity to consult with independent legal counsel regarding Executive's rights and obligations under this Agreement and that Executive fully understands the terms and conditions contained herein.

9. Survival. Paragraphs 5, 6 and 7 and paragraphs 9 through 16 shall survive and continue in full force in accordance with their terms notwithstanding any termination of the Employment Term.

10. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed by first class mail, return receipt requested, to the recipient at the address below indicated:

Notices to Executive:

Rick Lepley

At his most recent address as reflected in the employment records of the Company.

Notices to the Company:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Chairman and Chief Executive Officer

and

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445
Attention: Executive Vice President — Human Resources

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

11. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Complete Agreement. This Agreement and those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way (provided, however that during the "Employment Period,"

as defined in the Change of Control Employment Agreement, the terms and provision of the Change of Control Employment Agreement shall be effective and shall control to the extent there is any conflict between such agreement and this Agreement).

13. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

15. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, the Company and their respective heirs, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's obligations hereunder without the prior written consent of the Company.

16. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida.

17. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Executive, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

18. Confidentiality of this Agreement. The parties agree that the terms of this Agreement are confidential. Executive shall not divulge or publicize the terms hereof except as may be necessary to enforce the promises, covenants and/or understandings contained herein or as either party may be required to do so by law, court order, subpoena or other judicial action or government taxing authorities. Executive may disclose the contents of this Agreement to his immediate family, attorneys and accountants, provided however, that any further disclosure of the terms of this Agreement by any of these persons to anyone not included within the terms of this paragraph may be deemed a breach of the Agreement by Executive.

19. Arbitration Provisions. Except as to the right of the Company to resort to any court of competent jurisdiction to obtain injunctive relief or specific enforcement of the Executive's obligations of confidentiality and non-competition under this Employment Agreement (or otherwise), any dispute or controversy between the Company and Executive arising out of or relating to Executive's employment or termination of employment, this

Agreement or the breach of this Agreement, including but not limited to disputes involving discrimination arising under common law, and/or federal, state and local laws, shall be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its National Rules for the Resolution of Employment Disputes then in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any arbitration shall be held before a single arbitrator who shall be selected by the mutual agreement of the Company and Executive, unless the parties are unable to agree to an arbitrator, in which case the arbitrator will be selected under the procedures of the AAA. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, the issuance of an injunction. Executive agrees to abide by and accept the final decision of the arbitrator as to the ultimate resolution of any and all covered disputes and understands that arbitration replaces any right to trial by a judge or jury. However, either party may, without inconsistency with this arbitration provision, apply to any court otherwise having jurisdiction over such dispute or controversy and seek interim provisional, injunctive or other equitable relief until the arbitration award is rendered or the controversy is otherwise resolved. Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, or as may otherwise be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the Company and Executive. The Company and Executive acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding any choice of law provision included in this Agreement, the United States Federal Arbitration Act shall govern the interpretation and enforcement of this arbitration provision. The arbitration proceeding shall be conducted in Palm Beach County, Florida unless the parties mutually agree to another location. The Company shall pay the costs of any arbitrator appointed hereunder.

* * * * *

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

OFFICE DEPOT, INC.

By: /s/ BRUCE NELSON
Name: Bruce Nelson
Its: Chairman and CEO

EXECUTIVE

/s/ RICK LEPLEY
Name: Rick Lepley
Date: March 22, 2004

EXHIBIT 10.15

EMPLOYMENT AGREEMENT
(Change of Control Agreement)

THIS EMPLOYMENT AGREEMENT is made as of March 22, 2004 by and between Office Depot, Inc., a Delaware corporation (the “Company”), and Rick Lepley (the “Executive”).

The Board of Directors of the Company (the “Board”) has determined that it is in the best interests of the Company and its shareholders to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change of Control (as defined below) of the Company. The Board believes it is imperative to diminish the inevitable distraction of the Executive by virtue of the personal uncertainties and risks created by a pending or threatened Change of Control and to encourage the Executive’s full attention and dedication to the Company currently and in the event of any threatened or pending Change of Control, and to provide the Executive with compensation and benefits arrangements upon a Change of Control which ensure that the compensation and benefits expectations of the Executive will be satisfied and which are competitive with those of other corporations. Therefore, in order to accomplish these objectives, the Board has caused the Company to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Certain Definitions. (a) The “Effective Date” shall mean the first date during the Change of Control Period (as defined in Section 1(b)) on which a Change of Control (as defined in Section 2) occurs. Anything in this Agreement to the contrary notwithstanding, if a Change of Control occurs and if the Executive’s employment with the Company is terminated prior to the date on which the Change of Control occurs, and if it is reasonably demonstrated by the Executive that such termination of employment (i) was at the request of a third party who has taken steps reasonably calculated to effect a Change of Control or (ii) otherwise arose in connection with or anticipation of a Change of Control, then for all purposes of this Agreement the “Effective Date” shall mean the date immediately prior to the date of such termination of employment.

(b) The “Change of Control Period” shall mean the period commencing on the date hereof and ending on the third anniversary of the date hereof; provided, however, that commencing on the date one year after the date hereof, and on each annual anniversary of such date (such date and each annual anniversary thereof shall be hereinafter referred to as the “Renewal Date”), unless previously terminated, the Change of Control Period shall be automatically extended so as to terminate three years from such Renewal Date, unless at least 60 days prior to the Renewal Date the Company shall give notice to the Executive that the Change of Control Period shall not be so extended.

2. <u>Change of Control</u>. For the purpose of this Agreement, a “Change of Control” shall mean:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 20% or more of either (i) the then-outstanding shares of common stock of the Company (the “Outstanding Company Common Stock”) or (ii) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); provided, however, that for purposes of this subsection (a), the following acquisitions shall not constitute a Change of Control: (i) any acquisition directly from the Company, (ii) any acquisition by the Company, (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, or (iv) any acquisition by any corporation pursuant to a transaction which complies with clauses (i), (ii) and (iii) of subsection (c) of this Section 2; or

(b) Individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Company’s shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company (a “Business Combination”), in each case, unless, following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 60% of, respectively, the then-outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Business Combination (including, without limitation, a corporation which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, (ii) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination, or the combined voting power of the then-outstanding voting securities of such corporation except to the extent that such ownership existed prior to the Business Combination and (iii) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(d) Approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

3. Employment Period. The Company hereby agrees to continue the Executive in its employ, and the Executive hereby agrees to remain in the employ of the Company subject to the terms and conditions of this Agreement, for the period commencing on the Effective Date and ending on the first anniversary of such date (the "Employment Period"). Such period may be extended in writing by the mutual agreement of the Company and Executive at any time prior to such first anniversary.

4. Terms of Employment. (a) Position and Duties. (i) During the Employment Period, (A) the Executive's position (including status, offices, titles and reporting requirements), authority, duties and responsibilities shall be at least commensurate in all material respects with the most significant of those held, exercised and assigned at any time during the 120-day period immediately preceding the Effective Date and (B) the Executive's services shall be performed at the location where the Executive was employed immediately preceding the Effective Date or any office or location less than 35 miles from such location.

(ii) During the Employment Period, and excluding any periods of vacation and sick leave to which the Executive is entitled, the Executive agrees to devote reasonable attention and time during normal business hours to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to the Executive hereunder, to use the Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities. During the Employment Period it shall not be a violation of this Agreement for the Executive to (A) serve on corporate, civic or charitable boards or committees, (B) deliver lectures, fulfill speaking engagements or teach at educational institutions, and (C) manage personal investments, so long as such activities do not significantly interfere with the performance of the Executive's responsibilities as an employee of the Company in accordance with this Agreement. It is expressly understood and agreed that to the extent that any such activities have been conducted by the Executive prior to the Effective Date, the continued conduct of such activities (or the conduct of activities similar in nature and scope thereto) subsequent to the Effective Date shall not thereafter be deemed to interfere with the performance of the Executive's responsibilities to the Company.

(b) Compensation. (i) Base Salary. During the Employment Period, the Executive shall receive an annual base salary, including any applicable car allowance ("Annual Base Salary"), which shall be paid at a monthly rate, at least equal to twelve times the highest monthly base salary paid or payable, including any base salary which has been earned but deferred, to the Executive by the Company and its affiliated companies in respect of the twelve-month period immediately preceding the month in which the Effective Date occurs. During the Employment

Period, the Annual Base Salary shall be reviewed no more than 12 months after the last salary increase awarded to the Executive prior to the Effective Date and thereafter at least annually. Any increase in Annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement. Annual Base Salary shall not be reduced after any such increase and the term Annual Base Salary as utilized in this Agreement shall refer to Annual Base Salary as so increased. As used in this Agreement, the term “affiliated companies” shall include any company controlled by, controlling or under common control with the Company.

(ii) Annual Bonus. In addition to Annual Base Salary, the Executive shall be awarded, for each fiscal year ending during the Employment Period, an annual bonus (the “Annual Bonus”) in cash at least equal to the Executive’s highest bonus under the Company’s annual incentive bonus plans, including, without limitation, its Designated Executive Incentive Plan and Management Incentive Plan, or any comparable bonus under any predecessor or successor plan or plans, for the last three full fiscal years prior to the Effective Date (annualized in the event that the Executive was not employed by the Company for the whole of such fiscal year) (the “Recent Annual Bonus”). Each such Annual Bonus shall be paid no later than the end of the third month of the fiscal year next following the fiscal year for which the Annual Bonus is awarded, unless the Executive shall elect to defer the receipt of such Annual Bonus.

(iii) Incentive, Savings and Retirement Plans. During the Employment Period, the Executive shall be entitled to participate in all incentive, savings and retirement plans, practices, policies and programs applicable generally to other peer Executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with incentive opportunities (measured with respect to both regular and special incentive opportunities, to the extent, if any, that such distinction is applicable), savings opportunities and retirement benefit opportunities, in each case, less favorable, in the aggregate, than the most favorable of those provided by the Company and its affiliated companies for the Executive under such plans, practices, policies and programs as in effect at any time during the 120-day period immediately preceding the Effective Date or if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(iv) Welfare Benefit Plans. During the Employment Period, the Executive and/or the Executive’s family, as the case may be, shall be eligible for participation in and shall receive all benefits under welfare benefit plans, practices, policies and programs provided by the Company and its affiliated companies (including, without limitation, medical, prescription, dental, disability, employee life, group life, split-dollar life, accidental death and travel accident insurance plans and programs) to the extent applicable generally to other peer executives of the Company and its affiliated companies, but in no event shall such plans, practices, policies and programs provide the Executive with benefits which are less favorable, in the aggregate, than the most favorable of such plans, practices, policies and programs in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, those provided generally at any time after the Effective Date to other peer executives of the Company and its affiliated companies.

(v) Expenses. During the Employment Period, the Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in accordance with the most favorable policies, practices and procedures of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(vi) Fringe Benefits. During the Employment Period, the Executive shall be entitled to fringe benefits, including, without limitation, tax and financial planning services, payment of club dues, and, if applicable, use of an automobile and payment of related expenses, in accordance with the most favorable plans, practices, programs and policies of the Company and its affiliated companies in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(vii) Office and Support Staff. During the Employment Period, the Executive shall be entitled to an office or offices of a size and with furnishings and other appointments, and to exclusive personal secretarial and other assistance, at least equal to the most favorable of the foregoing provided to the Executive by the Company and its affiliated companies at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as provided generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

(viii) Vacation. During the Employment Period, the Executive shall be entitled to paid vacation in accordance with the most favorable plans, policies, programs and practices of the Company and its affiliated companies as in effect for the Executive at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies.

5. Termination of Employment. (a) Death or Disability. The Executive’s employment shall terminate automatically upon the Executive’s death during the Employment Period. If the Company determines in good faith that the Disability of the Executive has occurred during the Employment Period (pursuant to the definition of Disability set forth below), it may give to the Executive written notice in accordance with Section 12(b) of this Agreement of its intention to terminate the Executive’s employment. In such event, the Executive’s employment with the Company shall terminate effective on the 30th day after receipt of such notice by the Executive (the “Disability Effective Date”), provided that, within the 30 days after such receipt, the Executive shall not have returned to full-time performance of the Executive’s duties. For purposes of this Agreement, “Disability” shall mean the absence of the Executive from the Executive’s duties with the Company on a full-time basis for 180 consecutive days as a result of incapacity due to mental or physical illness which is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive’s legal representative.

(b) Cause. The Company may terminate the Executive's employment during the Employment Period for Cause. For purposes of this Agreement, "Cause" shall mean:

(i) the continued failure of the Executive to perform substantially the Executive's duties with the Company or one of its affiliates (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to the Executive by the Board or the Chief Executive Officer of the Company which specifically identifies the manner in which the Board or Chief Executive Officer believes that the Executive has not substantially performed the Executive's duties, or

(ii) the engaging by the Executive in illegal conduct or gross misconduct in violation of the Company's Code of Ethical Behavior.

Any act, or failure to act, based upon authority given pursuant to a resolution duty adopted by the Board or upon the instructions of the Chief Executive Officer or a senior officer of the Company or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the Company's Board of Directors, finding that, in the good faith opinion of the Board, the Executive is guilty of the conduct described in subparagraph (i) or (ii) above, and specifying the particulars thereof in detail.

(c) Good Reason. The Executive's employment may be terminated by the Executive for Good Reason. For purposes of this Agreement, "Good Reason" shall mean:

(i) the assignment to the Executive of any duties inconsistent in any respect with the Executive's position (including status, offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by Section 4(a) of this Agreement, or any other action by the Company which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive and excluding any change in the reporting relationships of the Executive as directed by the CEO or the Board;

(ii) any failure by the Company to comply with any of the provisions of Section 4(b) of this Agreement, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) the Company's requiring the Executive to be based at any office or location other than as provided in Section 4(a)(i)(B) hereof or the Company's requiring the

Executive to travel on Company business to a substantially greater extent than required immediately prior to the Effective Date;

(iv) any purported termination by the Company of the Executive's employment otherwise than as expressly permitted by this Agreement; or

(v) any failure by the Company to comply with and satisfy Section 11(c) of this Agreement.

For purposes of this Section 5(c), any good faith determination of "Good Reason" made by the Executive shall be conclusive. Anything in this Agreement to the contrary notwithstanding, a termination by the Executive for any reason during the 30-day period immediately preceding the first anniversary of the Effective Date shall be deemed to be a termination for Good Reason for all purposes of this Agreement.

(d) Notice of Termination. Any termination by the Company for Cause, or by the Executive for Good Reason, shall be communicated by Notice of Termination to the other party hereto given in accordance with Section 12(b) of this Agreement. For purposes of this Agreement, a "Notice of Termination" means a written notice which (i) indicates the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive's employment under the provision so indicated and (iii) if the Date of Termination (as defined below) is other than the date of receipt of such notice, specifies the termination date (which date shall be not more than thirty days after the giving of such notice). The failure by the Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting such fact or circumstance in enforcing the Executive's or the Company's rights hereunder.

(e) Date of Termination. "Date of Termination" means (i) if the Executive's employment is terminated by the Company for Cause, or by the Executive for Good Reason, the date of receipt of the Notice of Termination or any later date specified therein, as the case may be, (ii) if the Executive's employment is terminated by the Company other than for Cause or Disability, the Date of Termination shall be the date on which the Company notifies the Executive of such termination and (iii) if the Executive's employment is terminated by reason of death or Disability, the Date of Termination shall be the date of death of the Executive or the Disability Effective Date, as the case may be.

6. Obligations of the Company upon Termination. (a) Good Reason; Other Than for Cause, Death or Disability. If, during the Employment Period, the Company shall terminate the Executive's employment other than for Cause, death or Disability or the Executive shall terminate employment for Good Reason:

(i) the Company shall pay to the Executive in a lump sum in cash within 30 days after the Date of Termination the aggregate of the following amounts:

A. the sum of (1) the Executive's Annual Base Salary through the Date of Termination to the extent not theretofore paid, (2) the product of (x) the higher of (I) the Recent Annual Bonus and (II) the Annual Bonus paid or payable, including any bonus or portion thereof which has been earned but deferred (and annualized for any fiscal year consisting of less than twelve full months or during which the Executive was employed for less than twelve full months), for the most recently completed fiscal year during the Employment Period, if any (such higher amount being referred to as the "Highest Annual Bonus") and (y) a fraction, the numerator of which is the number of days in the current fiscal year through the Date of Termination, and the denominator of which is 365 and (3) any compensation previously deferred by the Executive (together with any accrued interest or earnings thereon) and any accrued vacation pay, in each case to the extent not theretofore paid (the sum of the amounts described in clauses (1), (2), and (3) shall be hereinafter referred to as the "Accrued Obligations"); and

B. the amount equal to the product of (1) **two** and (2) the sum of (x) the Executive's Annual Base Salary and (y) the Highest Annual Bonus; and

C. an amount equal to the excess of (1) the actuarial equivalent of the benefit under the Company's qualified defined benefit retirement plan (the "Retirement Plan") (utilizing actuarial assumptions no less favorable to the Executive than those in effect under the Company's Retirement Plan immediately prior to the Effective Date), and any excess or supplemental retirement plan in which the Executive participates (together, the "SERP") which the Executive would receive if the Executive's employment continued for **two** years after the Date of Termination assuming for this purpose that all accrued benefits are fully vested, and, assuming that the Executive's compensation in each of the **two** years is that required by Section 4(b)(i) and Section 4(b)(ii), over (2) the actuarial equivalent of the Executive's actual benefit (paid or payable), if any, under the Retirement Plan and the SERP as of the Date of Termination;

(ii) for **two** years after the Executive's Date of Termination, or such longer period as may be provided by the terms of the appropriate plan, program, practice or policy, the Company shall continue benefits to the Executive and/or the Executive's family at least equal to those which would have been provided to them in accordance with the plans, programs, practices and policies described in Section 4(b)(iv) of this Agreement if the Executive's employment had not been terminated or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies and their families, provided, however, that if the Executive becomes reemployed with another employer and is eligible to receive medical or other welfare benefits under another employer-provided plan, the medical and other welfare benefits described herein shall be secondary to those provided under such other plan during such applicable period of eligibility. Notwithstanding the foregoing, the Company shall continue to make all scheduled premium payments under any split-dollar life insurance policy in effect on the Date of Termination on behalf of the Executive for so long as such payments are scheduled (without giving effect to Executive's termination). For purposes of determining eligibility (but not the time of commencement of benefits) of the Executive for retiree benefits pursuant to such plans, practices, programs and policies, the Executive shall be considered to have remained employed until **two** years after the Date of Termination and to have retired on the last day of such period;

(iii) the Company shall, at its sole expense as incurred, provide the Executive with out placement services the scope and provider of which shall be selected by the Executive in his sole discretion; and

(iv) to the extent not theretofore paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive under any plan, program, policy or practice or contract or agreement of the Company and its affiliated companies (such other amounts and benefits shall be hereinafter referred to as the "Other Benefits") and

(v) a good faith determination by Executive that Executive is unable to establish a satisfactory working relationship with the new President, North America, provided that Executive has attempted to establish a good working relationship with the President, North America and has reasonably devoted Executive's time and effort to performing his job to the best of his abilities. This clause may only be exercised during the first six-months following the date on which the President, North America, joins the Company.

(b) Death. If the Executive's employment is terminated by reason of the Executive's death during the Employment Period, this Agreement shall terminate without further obligations to the Executive's legal representatives under this Agreement, other than for payment of the amounts set forth in Section 6(i) and the timely payment or provision of Other Benefits. The amounts set forth in Section 6(i) shall be paid to the Executive's estate or beneficiary, as applicable, in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of Other Benefits, the term Other Benefits as utilized in this Section 6(b) shall include, without limitation, and the Executive's estate and/or beneficiaries shall be entitled to receive, benefits at least equal to the most favorable benefits provided by the Company and affiliated companies to the estates and beneficiaries of peer executives of the Company and such affiliated companies under such plans, programs, practices and policies relating to death benefits, if any, as in effect with respect to other peer executives and their beneficiaries at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive's estate and/or the Executive's beneficiaries, as in effect on the date of the Executive's death with respect to other peer executives of the Company and its affiliated companies and their beneficiaries.

(c) Disability. If the Executive's employment is terminated by reason of the Executive's Disability during the Employment Period, this Agreement shall terminate without further obligations to the Executive, other than for payment of the amounts set forth in Section 6(i) and the timely payment or provision of Other Benefits. The amounts set forth in Section 6(i) shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination. With respect to the provision of Other Benefits, the term "Other Benefits" as utilized in this Section 6(c) shall include, and the Executive shall be entitled after the Disability Effective Date to receive, disability and other benefits at least equal to the most favorable of those generally provided by the Company and its affiliated companies to disabled executives and/or their families in accordance with such plans, programs, practices and policies relating to disability, if any, as in effect generally with respect to other peer executives and their families at any time during the 120-day period immediately preceding the Effective Date or, if more favorable to the Executive and/or the Executive's family, as in effect at any time thereafter generally with respect to other peer executives of the Company and its affiliated companies and their families.

(d) Cause; Other than for Good Reason. If the Executive's employment shall be terminated for Cause during the Employment Period, this Agreement shall terminate without further obligations to the Executive other than for Accrued Obligations and for the timely payment or provision of Other Benefits, in each case to the extent theretofore unpaid. If the Executive voluntarily terminates employment during the Employment Period, excluding a termination for Good Reason, this Agreement shall terminate without further obligations to the Executive, other than for Accrued Obligations and the timely payment or provision of Other Benefits. In each such case, all Accrued Obligations shall be paid to the Executive in a lump sum in cash within 30 days of the Date of Termination.

7. Nonexclusivity of Rights. Nothing in this Agreement shall prevent or limit the Executive's continuing or future participation in any plan, program, policy or practice provided by the Company or any of its affiliated companies and for which the Executive may qualify, nor, subject to Section 12(f), shall anything herein limit or otherwise affect such rights as the Executive may have under any contract or agreement with the Company or any of its affiliated companies. Amounts which are vested benefits or which the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any contract or agreement with the Company or any of its affiliated companies at or subsequent to the Date of Termination shall be payable in accordance with such plan, policy, practice or program or contract or agreement except as explicitly modified by this Agreement.

8. Full Settlement. The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action which the Company may have against the Executive or others. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement and such amounts shall not be reduced whether or not the Executive obtains other employment. The Company agrees to pay as incurred, to the fullest extent permitted by law, all legal fees and expenses which the Executive may reasonably incur as a

result of any contest (regardless of the outcome thereof) by the Company, the Executive or others of the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive about the amount of any payment pursuant to this Agreement), plus in each case interest on any delayed payment at the applicable Federal rate provided for in Section 7872(f)(2)(A) of the Internal Revenue Code of 1986, as amended (the “Code”).

9. Certain Additional Payments by the Company. (a) Anything in this Agreement to the contrary notwithstanding and except as set forth below, in the event it shall be determined that any payment or distribution by the Company to or for the benefit of the Executive (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section 9) (a “Payment”) would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by the Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the “Excise Tax”), then the Executive shall be entitled to receive an additional payment (a “Gross-Up Payment”) in an amount such that after payment by the Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including, without limitation, any income taxes (and any interest and penalties imposed with respect thereto) and Excise Tax imposed upon the Gross-Up Payment, the Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 9(a), if it shall be determined that the Executive is entitled to a Gross-Up Payment, but that the Executive, after taking into account the Payments and the Gross-Up Payment, would not receive a net after-tax benefit of at least $50,000 (taking into account both income taxes and any Excise Tax) as compared to the net after-tax proceeds to the Executive resulting from an elimination of the Gross-Up Payment and a reduction of the Payments, in the aggregate, to an amount (the “Reduced Amount”) such that the receipt of Payments would not give rise to any Excise Tax, then no Gross-Up Payment shall be made to the Executive and the Payments, in the aggregate, shall be reduced to the Reduced Amount.

(b) Subject to the provisions of Section 9(c), all determinations required to be made under this Section 9, including whether and when a Gross-Up Payment is required and the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made by Deloitte & Touche or such other certified public accounting firm as may be designated by the Executive (the “Accounting Firm”) which shall provide detailed supporting calculations both to the Company and the Executive within 15 business days of the receipt of notice from the Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change of Control, the Executive shall appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any Gross-Up Payment, as determined pursuant to this Section 9, shall be paid by the Company to the Executive within five days of the receipt of the Accounting Firm’s determination. Any determination by the Accounting Firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the initial determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts its remedies pursuant to Section 9(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive.

(c) The Executive shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by the Company of the Gross-Up Payment. Such notification shall be given as soon as practicable but no later than ten business days after the Executive is informed in writing of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the 30-day period following the date on which it gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that it desires to contest such claim, the Executive shall:

(i) give the Company any information reasonably requested by the Company relating to such claim,

(ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,

(iii) cooperate with the Company in good faith in order effectively to contest such claim, and

(iv) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax (including interest and penalties with respect thereto) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 9(c), the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Executive to pay the tax claimed and sue for a refund or to contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Executive to pay such claim and sue for a refund, the Company shall advance the amount of such payment to the Executive, on an interest-free basis and shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties with respect thereto) imposed with respect to such advance or with respect to any imputed income with respect to such advance; and further provided that any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which a Gross-Up Payment would be payable hereunder and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(d) If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 9(c)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Executive of an amount advanced by the Company pursuant to Section 9(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company does not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of 30 days after such determination, then such advance shall be forgiven and shall not be required to be repaid and the amount of such advance shall offset, to the extent thereof, the amount of Gross-Up Payment required to be paid.

10. Confidential Information. The Executive shall hold in a fiduciary capacity for the benefit of the Company all secret or confidential information, knowledge or data relating to the Company or any of its affiliated companies, and their respective businesses, which shall have been obtained by the Executive during the Executive's employment by the Company or any of its affiliated companies and which shall not be or become public knowledge (other than by acts by the Executive or representatives of the Executive in violation of this Agreement). After termination of the Executive's employment with the Company, the Executive shall not, without the prior written consent of the Company or as may otherwise be required by law or legal process, communicate or divulge any such information, knowledge or data to anyone other than the Company and those designated by it. In no event shall an asserted violation of the provisions of this Section 10 constitute a basis for deferring or withholding any amounts otherwise payable to the Executive under this Agreement.

11. Successors. (a) This Agreement is personal to the Executive and without the prior written consent of the Company shall not be assignable by the Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal representatives.

(b) This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.

(c) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, “Company” shall mean the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law, or otherwise.

12. Miscellaneous. (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(b) All notices and other communications hereunder shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Rick Lepley

At his most recent address as reflected in the employment records of the Company

If to the Company:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, Florida 33445

Attention: Chief Executive Officer

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(d) The Company may withhold from any amounts payable under this Agreement such Federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation.

(e) The Executive’s or the Company’s failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right the Executive or the Company may have hereunder, including, without limitations the right of the Executive to terminate employment for Good Reason pursuant to Section 5(c)(i)-(v) of this Agreement, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

(f) The Executive and the Company acknowledge that, except as may otherwise be provided under any other written agreement between the Executive and the Company, the employment of the Executive by the Company is “at will” and, subject to Section 1(a) hereof, prior to the Effective Date, the Executive’s employment and/or this Agreement may be terminated by either the Executive or the Company at any time prior to the Effective Date, in which case the Executive shall have no further rights under this Agreement. From and after the Effective Date this Agreement shall supersede any other agreement between the parties with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, the Executive has hereunto set the Executive's hand and, pursuant to the authorization from its Board of Directors, the Company has caused these presents to be executed in its name on its behalf, all as of the day and year first above written.

/s/ RICK LEPLEY
Rick Lepley

Date: March 22, 2004

OFFICE DEPOT, INC.

By: /s/ BRUCE NELSON
Its: Chief Executive Officer

EXHIBIT 10.16

March 22, 2004

Mr. Rick Lepley

<u>Hand Delivery</u>

Dear Rick:

This letter will serve to set forth our mutual understandings with respect to your taking on the duties of Executive Vice President, North American Retail Stores, upon the terms set forth herein.

First, we have prepared and enclose our standard form of Executive Vice President Agreement, which will serve to get you on the appropriate form of agreement for your position in the Company (herein the "Employment Agreement"). This will replace the existing agreements you have with Office Depot, consisting of an employment agreement and letter of understanding with respect to the work you formerly did in Japan. You will still have some cleanup work to do in Japan, but this is now largely replaced by your primary duties as set forth below. Please review and advise if you have any questions; otherwise, we would like to sign that document as soon as we can.

The following are the terms of your temporary assignment as EVP, North American Retail Stores:

- Your tenure in this position will continue until I determine that a change should be made – or until you decide that you are no longer interested in continuing in this position.

- At such time as your tenure ends, as set forth in the preceding point, you will revert to the EVP status as set forth in the enclosed Employment Agreement, and your salary will be adjusted back to an appropriate EVP level salary, but not less than the salary levels referred to in the enclosed Employment Agreement.

- Neither your agreeing to the temporary assignment as EVP, North American Retail Stores, nor your return to your previous EVP duties, as determined by me shall constitute "Good Reason" for termination of your employment agreement.

- Your annual rate of pay while engaged in the duties of EVP, North American Retail Stores shall be at the rate of $500,000 per annum.

- You will have all of the benefits of an Executive Vice President of the Company, including the bonus targets for EVPs.

If you have any questions regarding the terms of this assignment, please feel free to contact me. We will select an appropriate time to make the announcement of your new position and duties.

Warm Regards,

Bruce Nelson
Chairman and CEO

The above terms are hereby agreed to:

/s/ RICK LEPLEY

Rick Lepley

Date: 3/22/04

EXHIBIT 10.24

MASTER AGREEMENT FOR BUSINESS PROCESS OUTSOURCING SERVICES

between

ACS COMMERCIAL SOLUTIONS, INC.

and

OFFICE DEPOT, INC.

MASTER AGREEMENT FOR BUSINESS PROCESS OUTSOURCING SERVICES

This Master Agreement for Business Process Outsourcing Services (this “Agreement” or “MSA”) is entered into between ACS Commercial Solutions, Inc. a Nevada corporation with an address for the purposes of this Agreement at 2828 N. Haskell, Dallas, Texas 75204 (“ACS”) and Office Depot, Inc., a Delaware corporation with an address at 2200 Old Germantown Road, Delray Beach, FL 33445 (“Customer”). (ACS and Customer are sometimes hereinafter referred to collectively as the “Parties” and individually as a “Party”.) The obligations set forth in this Agreement will be performed by ACS itself and through direct and indirect wholly-owned subsidiaries. This Agreement will become effective as of November 30, 2004 (the “Effective Date”). This Agreement is further entered into with reference to the following facts:

A. ACS is in the business of providing business process outsourcing and related services to its customers, including the services contemplated by this Agreement; and

B. Customer has chosen to engage ACS to provide certain business process outsourcing services to Customer, as such services may be agreed by Customer and ACS from time to time and documented in separate Statements of Work; and

C. Customer and ACS desire to establish a mechanism for the execution of such Statements of Work and agree upon standard provisions that will govern each such Statements of Work.

Accordingly, the Parties agree as follows:

1. DEFINITIONS

In this Agreement, the following terms will have the indicated meanings:

“Accountancy” will have the meaning set forth in Section 3.6.

“ACS Competitor” will mean those persons or entities set forth on the attached Schedule B.

“ACS Facilities” means any facility owned, operated or managed by ACS from where ACS provides Services.

“ACS Materials” means any materials, documentation, manuals, guidelines, business processes, methodologies, software, tools, patents, registered designs, trade marks and service marks (whether registered or not), copyright, database rights, inventions, designs, drawings, performances, computer programs, confidential information, business names, or other items licensed or owned by ACS and used by ACS to the Services, including ACS Software (excluding the Customer Materials).

“ACS Personnel” means employees of ACS and its subcontractors assigned to perform the Services.

“ACS Solution” means all systems, software, designs, documentation, literary works or works of authorship, computer programs, program tools, drawings, user manuals, technical manuals, charts, graphs, machine readable text and files, computer code (in object code and source code form), applications, utilities, operating systems, procedures, methodologies, databases, ways of doing business, know-how, screen layouts, tools and programs, including all IPR subsisting therein, that ACS uses to provide the Services, implements pursuant to this Agreement or otherwise, or otherwise offers to Customer or other ACS customers as part of ACS service offerings, and any improvements, modifications, corrections, compilations, derivative works, derivations, or other revisions of same. For clarification, the ACS Solution includes the ACS Software, ACS Materials, and unless otherwise expressly stated, the ACS Solution excludes the Existing Customer Solution.

“ACS Software” means software that is owned or licensed by ACS and used by ACS to provide the Services.

"Affiliate" of any specified person or entity, means any other person or entity that directly, or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the specified person or entity.

"Agreement" means this Master Agreement for Business Process Outsourcing Services and all Schedules and Attachments hereto.

"Authorized User" means a user authorized to access and use one or more portions of the ACS Solution as set forth in the applicable Statement of Work.

"Base Charges" means the fixed component of Customer's monthly Charges as set forth in Schedule A, Attachment A (Pricing).

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the locality in which the Services are provided.

"Change Control Document" will have the meaning set forth in Section 10.5(b).

"Change Control Procedures" will have the meaning set forth in Section 10.5(a).

"Charges" will have the meaning set forth in Article 13.

"Commissioned Work" means any work, design, output, document, system, software or component thereof (including IPR subsisting therein), that is (a) defined as a Deliverable or project in a task order or similar change order document executed by authorized representatives of both parties; (b) to be provided by ACS or a subcontractor of ACS; (c) provided by ACS at a separately identifiable, discrete charge as stated in the task or change order; and (d) has terms governing Customer's acceptance testing and acceptance criteria for the Deliverable or project.

"Confidential Information" will have the meaning set forth in Section 9.1.

"Contract Year" means each of the seven (7) annual periods beginning on the Effective Date and each anniversary thereof.

"Control" and its derivatives means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of more than fifty percent (50%) of voting securities, by contract, or otherwise.

"Critical Service Levels" means the Critical Service Levels designated as such in Schedule A, Attachment B.

"Customer Data" means all Confidential Information of Customer as well as all data and information (including data relating to the transactions reflected in this Agreement and databases) (i) submitted to ACS by Customer, (ii) obtained, maintained, developed or produced by ACS or ACS Agents in connection with the Services and/or this Agreement or (iii) to which ACS or ACS Agents have access in connection with the provision of the Services, including, but not limited to, in (i), (ii) and (iii) above, information relating to Customer's customers, employees, third party vendors, technology, operations, facilities, financials, consumer markets, products, capacities, systems, procedures, security practices, research development, business affairs and finances, and excluding in (i), (ii, and (iii) above any ACS Software, ACS Materials and ACS' Confidential Information.

"Customer Facilities" will have the meaning set forth in Section 4.2.

"Customer Materials" means any materials, documentation, manuals, guidelines, business processes, methodologies, software, tools, patents, registered designs, trade marks and service marks (whether registered or not), copyright, database rights, inventions, designs, drawings, performances, computer programs, confidential information, business names, or other items licensed or owned by Customer and required to be used by ACS to provide the Services (excluding the ACS Materials).

"Customer Third Party Resources" has the meaning set out in Section 8.1(c) above.

"Deliverable" means a specific item, writing, output or work that (i) is clearly defined and identified in the Statement of Work as a "Deliverable"; and (ii) is to be provided by ACS at a separate charge. Deliverables will not be construed to include any pre-existing works of authorship or other intellectual property rights owned or licensed ACS or a third party or any ACS Software.

"Disaster" will mean any Force Majeure event (defined herein) that causes an unplanned interruption of the Services and materially impairs the ability of ACS to deliver the Services in the manner specified in Schedule A.

"Disaster Recovery" will mean the restoration by ACS of the critical processing functions as identified in a Disaster Recovery Plan pursuant to the terms of such plan as set forth in Schedule A, Attachment D (Disaster Recovery Plan). "Effective Date" has the meaning set forth in the introductory paragraph.

"Equipment" means the computer and related equipment owned or leased by ACS and used by ACS to provide the Services.

"Excused Performance Problem" will have the meaning set forth in Section 5.3(c).

"Executive Committee" will have the meaning set forth in Section 10.2.

"Existing Customer Solution" means all systems, software, designs, documentation, literary works or works of authorship, computer programs, program tools, drawings, user manuals, technical manuals, charts, graphs, machine readable text and files, computer code (in object code and source code form), applications, utilities, operating systems, procedures, methodologies, databases, ways of doing business, know-how, screen layouts, tools and programs, including all IPR subsisting therein, that Customer or a Customer Affiliate used immediately prior to the Effective Date to perform functions equivalent or similar to the Services, including all IPR associated with such items.

"Force Majeure Events" will have the meaning set forth in Section 17.3(a).

"Intellectual Property Rights" or "IPR" means all intellectual property rights or analogous rights, including without limitation patents, trade secret, registered designs, trademarks and service marks (whether registered or not), rights in the nature of unfair competition rights, copyright, database right, design right and all similar proprietary rights including those subsisting (in any part of the world) in inventions, designs, drawings, business methods, performances, computer programs, semi-conductor topographies, confidential information, business names, goodwill and the style and presentation of goods or services and applications for protection of any of the above rights anywhere in the world.

"Interest" means interest at the monthly rate of one percent (1%) or twelve percent (12%) per annum.

"Key ACS Positions" will have the meaning set forth in Section 7.1(a).

"Losses" means all losses, liabilities, damages and claims, and all related costs and expenses (including any and all reasonable legal fees and reasonable costs of investigation, litigation, settlement, judgment, appeal, interest and penalties) incurred by an indemnified party in connection with an indemnified claim.

"Notice of Assumption of Defense" will have the meaning set forth in Section 16.3(a).

"Pass-Through Expenses" will mean the actual invoiced amounts (excluding any ACS profit, administrative fee or internal overhead charges) charged to ACS by third parties as more particularly described the applicable Statement of Work.

"Project Executive" will have the meaning set forth in Section 10.1.

"Reports" will have the meaning set forth in Section 10.4.

"Required Consent" will have the meaning set forth in Section 8.1(c).

"Schedules" means any schedule, exhibit, agreement or other document either (i) attached to this Agreement, (ii) executed by the Parties concurrently with this Agreement or on the Commencement Date, or (iii) executed by the Parties at any time after the Effective Date, if such document states that it is a Schedule to this Agreement.

"Service Commencement Date" means the date(s) ACS is obligated to commence provision of Services as more fully described in Schedule A (Statement of Work).

"Service Levels" will have the meaning set forth in Section 5.1.

"Service Level Termination Event" will have the meaning set forth in Section 1.6 of Schedule A, Attachment B (SLA).

"Services" collectively means those services, functions and responsibilities to be performed by ACS as more fully described in Schedule A (Statement of Work).

"Software" will mean the source code and object code versions of any applications programs, operating system software, computer software languages, utilities and other computer programs (i.e., any set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result), and documentation and supporting materials relating thereto, in whatever form or media, used or developed in connection with the provision of the Services, including the tangible media upon which such applications programs, operating system software, computer software languages, utilities and other computer programs, and documentation and supporting materials relating thereto are recorded or printed, together with all corrections, improvements, updates and releases thereof.

"Statement of Work" means the document entered into from time to time by Customer, which sets forth the description of Services and related obligations to be performed by ACS under this Agreement, and any support required from Customer.

"Term" will have the meaning set forth in Section 2.1.

"Termination/Expiration Assistance" will have the meaning set forth in Section 18.6(a).

"Transitioned Employees" means employees transitioned to ACS pursuant to the terms set forth in Schedule A, Attachment F (Transition Plan).

"Variable Charges" means the fluctuating component of the Charges, based on Customer's utilization of the Services or any Charges that are one-time in nature (i.e. not recurring, such as a Pass-Through Expense and are set forth in Schedule A, Attachment A (Pricing).

"Virus" will mean harmful surreptitious code or other contaminants, including commands, instructions, devices, techniques, bugs, web bugs or design flaws that may be used to access, alter, delete, threaten, infect, assault, vandalize, disrupt, damage, disable, or shut down Customer or ACS', as the case may be, systems, databases, Software, or hardware.

2. TERM

2.1 Term.

The term of this Agreement (the "Term") will begin on the Effective Date and will continue through the seventh (7th) Contract Year, unless earlier terminated or extended in accordance with the provisions of this Agreement.

2.2 Renewal Term.

Customer will have the option to request a renewal of the Term for up to one (1) additional one (1) year term by delivering written notice of such renewal to ACS at least ninety (90)days before expiration of the seventh (7th) Contract Year and before expiration of the first renewal term as applicable. ACS will have thirty (30) days after receipt of such notice to respond to Customer, which written response will specify whether or not ACS accepts such renewal request, or under what modified terms and conditions ACS would be willing to accept such renewal. All of the terms of this Agreement will continue to apply without change, unless otherwise agreed by the Parties in writing, during any renewal period(s), and the "Term" as used in this Agreement will refer to both the original 7-year term of this Agreement and any renewal(s) thereof.

3. SERVICES

3.1 Services.

During the Term of this Agreement, ACS will provide to Customer the Services in accordance with the terms of this Agreement and a Statement of Work Number 1, Schedule A that describes all services, resources and deliverables to be provided by ACS to Customer. Any additional services mutually agreed to by the Parties shall be set forth in a Statement of Work in the form of Schedule A for the compensation set forth therein. Each Statement of Work shall be governed by the terms and conditions of this Agreement by reference and will include the following if applicable: (i) a reference to this Agreement, which reference will be deemed to incorporate all of the provisions of this Agreement; (ii) the date as of which the provisions of the Statement of Work will be effective and, if applicable, the term or period of time during which the Services described therein will be provided; (iii) a description of the Services to be provided by ACS under the Statement of Work (including the location at which such Services are to be provided and, if applicable, the names, positions and rates for all ACS personnel to be used) and the performance criteria, standards and milestones applicable to such Services; (iv) the amounts payable for the Services to be provided under the Statement of Work and the schedule on which such amounts will be invoiced by ACS; and (v) any additional provisions applicable to the Services to be provided under the Statement of Work that are required by this Agreement to be addressed, are not otherwise set forth in this Agreement or are exceptions to the provisions set forth in this Agreement. No Statement of Work will become effective until it has been executed by an authorized representative of each Party. Such Services may be amended and supplemented from time to time pursuant to the Change Control Procedures. Statement of Work Number 1 attached under this Agreement as Schedule A describes the initial services to be provided by ACS to Customer. As described in each applicable Statement of Work, ACS will provide the Services from the locations specified in such Statement of Work; provided, however, with the consent of Customer, which consent will not be unreasonably withheld or delayed, ACS may provide the Services from other service locations.

3.2 Additional Services.

Customer may, from time to time, request that ACS perform a new or additional service beyond the scope of the Services being provided at the time of such request (the "Additional Services"). Any implementation of such new or additional services will be administered in accordance with Section 10.5. Customer will initiate all such requests only through an authorized representative in accordance with the process set forth in Section 10.5 and ACS will not begin performing any additional service(s) until an appropriate Change Control Document has been duly executed by Customer and ACS.

3.3 Resources.

The facilities, personnel, Equipment, Software, and other resources necessary to provide the Services will be described in each Statement of Work. To the extent that Customer is obligated to provide any facilities, personnel, Equipment, Software or other resources in connection with ACS' provision of the Services, such resources will be specified in the applicable Statement of Work.

3.4 Affiliates Receiving the Services as of the Effective Date.

ACS will provide the Services to Customer and to those Affiliates of Customer identified in each applicable Statement of Work provided however that such Affiliates will not be deemed third party beneficiaries of this Agreement and will have no right of action against ACS arising out of this Agreement. Customer may pursue any claims for damages alleged by any Customer Affiliates receiving the Services to the same extent as if such damages were incurred by Customer. If at any time during the Term of this Agreement, Customer sells or otherwise transfers ownership of an Affiliate to a third party, ACS will continue to provide the Services to such Affiliate if requested by Customer, provided, that (i) such divested entity or unit is not an ACS Competitor; (ii) Customer or such divested entity agree to pay any and all costs associated with making the Services available to them (e.g. one time software access fees, telecommunication provisioning charges); and (iii) Customer will remain liable for the payment of all Charges related to the Services provided by ACS to such Affiliate and for any breach of this Agreement arising from the action or inaction of such Affiliate.

3.5 New Affiliates.

If following the Effective Date, Customer desires ACS to provide Services to an Affiliate of Customer that is not identified in a Statement of Work, then ACS and Customer will follow the Change Control Procedures to add such new Affiliate. Any new Affiliates added pursuant to this Section 3.5 will be subject to Section 3.4 above. Customer will pay any mutually agreed to charges that may be imposed by ACS' third party suppliers and any other costs and expenses incurred by ACS in order to allow a Customer Affiliate to access the Services.

3.6 No Accountancy.

Notwithstanding anything set forth in this Agreement or any Exhibit or Schedule hereto, in no event will the Services include, or this Agreement be construed as requiring that ACS (i) perform any services reserved to a licensed or certified public accountant pursuant to the law of any applicable jurisdiction ("Accountancy"), or (ii) provide, or be deemed or construed to have provided, any attestation or opinion in connection with the Services or with respect to any financial statements or disclosures made by Customer or any Customer Affiliate. ACS represents that ACS is not licensed to practice Accountancy in any jurisdiction and Customer acknowledges that a) this Agreement does not require any ACS Personnel to practice Accountancy; (b) no ACS Personnel providing the Services are licensed accountants or certified public accountants; and (c) Customer will retain sole responsibility for verifying or otherwise providing any attestation or opinion as to the reliability of any information contained in or derived from any Customer or Customer Affiliates financial statements or disclosures.

3.7 Reliance on Instructions.

In performing its obligations under this Agreement, ACS will be entitled to rely upon any routine instructions, authorizations, approvals or other information provided to ACS by Customer. Unless ACS knew or in the course of its provision of the Services or should have known, of any error, incorrectness or inaccuracy in such instructions, authorizations, approvals or other information, ACS will incur no liability or responsibility of any kind in relying on or complying with any such instructions, authorizations, approvals or other information received from Customer.

3.8 Viruses; Disabling Code.

Customer will use commercially reasonable efforts, including the use of commercially available virus detection software, to ensure that any Software or hardware provided by Customer is delivered free of any Virus and shall not knowingly, intentionally or negligently introduce into such Software or hardware, any Virus. In the event any such Virus is introduced as a result of a breach by Customer or Customer Agents of this covenant, Customer will exercise commercially reasonable efforts to eradicate the Virus and reduce the effects of the Virus as existed prior to the introduction of such Virus at Customer's sole cost and expense.

ACS will use commercially reasonable efforts, including the use of commercially available virus detection software, to ensure that any Software, or hardware provided by ACS is delivered free of any Virus and ACS shall not knowingly, intentionally or negligently introduce into the Software or hardware, any Virus. In the event such a Virus is introduced without a breach by ACS or ACS Agents of this covenant, ACS shall, (i) at no additional charge to Customer, using the ACS resources fully-dedicated to Customer (to the extent feasible) or (ii) if additional skills or time are required, on a time and materials basis, and with reasonable assistance from Customer, exercise commercially reasonable efforts to eradicate the Virus, reduce the effects of the Virus, and restore the Software and/or hardware to the same level of service or operation as existed prior to the introduction of such Virus. Notwithstanding the foregoing, in the event any such Virus is introduced as a result of a breach by ACS of this covenant, ACS will exercise commercially reasonable efforts to eradicate the Virus, reduce the effects of the Virus, and restore the Software and/or hardware to the same level of service or operation as existed prior to the introduction of such Virus at no charge to Customer.

3.9 Compliance with Laws.

Each Party will comply, and will cause each of its employees, agents and subcontractors to comply, with the laws of all governmental authorities to the extent such laws are applicable: (i) in the case of ACS, to ACS' provision of the Services, and (ii) in the case of Customer, Customer's receipt and use of the Services.

ACS shall use commercially reasonable efforts to identify and notify Customer of any changes in applicable laws and regulations that may relate to its delivery of the Services. Customer shall use commercially reasonable efforts to identify and notify ACS of any changes in applicable laws and regulations that may relate to its receipt and/or use of the Services. In the event changes in laws or regulations prevent or impair ACS from delivering the Services under the Agreement, ACS shall use commercially reasonable efforts to develop and, upon Customer's written approval (such approval not to be unreasonably withheld), implement a suitable work-around until such time as ACS can perform the Services under the Agreement without such work-around.

If the changes are to laws or regulations primarily applicable to ACS and not to Customer, ACS shall develop and implement a work-around at its own expense. If the changes are due to laws or regulations primarily applicable to Customer, ACS shall develop and implement a work-around at Customer's expense as mutually agreed in writing; provided, however, if the costs associated with implementing such change(s) are also applicable to ACS' other customers, any proposed increase by ACS will include only Customer's proportionate share of the costs to implement such change. If the changes are due to laws or regulations applicable to both Customer and ACS, then ACS shall develop and implement a work-around, the expense of which shall be shared by Customer and ACS as mutually agreed in writing.

4. TRANSITION

4.1 Transition Services.

ACS will perform all functions and services necessary to accomplish the transition of Customer's operations, systems, and capabilities to ACS as such functions and services are more particularly described in Schedule A (Statement of Work). Schedule A, Attachment F (Transition Plan) sets forth the transition plan and milestone criterion comprised of objectively measured transition activities.

4.2 Customer Facilities; Use of Customer Assets.

Customer will make available to ACS furnished space in Customer's Wichita, Kansas facility (the "Wichita Site") for the purpose of allowing ACS to perform the Services. If the aggregate ACS occupancy-related costs and expenses of the furnished space at the Wichita Site ("Occupancy Expenses") exceed three hundred sixty thousand dollars ($360,000) for the period that ACS occupies the space at the Wichita Site, then with respect to all Occupancy Expenses the Parties mutually agree exceed $360,000 (the "Excess Lease Expense")Customer and ACS will bear the Excess Lease Expense on an equal basis.

With respect to the Customer assets set forth in Section [14] of Schedule A, Statement of Work, Customer hereby grants to ACS the right to use such assets for the sole purpose of providing the Services.

4.3 Bill of Sale

ACS and Customer anticipate that on or before the Service Commencement Date the assets set forth in Section 14 of Schedule A, Statement of Work will be transferred from Customer to ACS at the price ("Asset Transfer Consideration") and in accordance with the additional terms as the Parties may agree pursuant to the execution of a Bill of Sale and Assignment substantially in the form attached as Schedule F. At Customer's option, the Asset Transfer Consideration may be paid by Customer in cash or as a credit against ACS' first invoice to Customer.

5. SERVICE LEVELS

5.1 Service Levels.

ACS will meet the required quantitative levels of performance for the Services specified as Key Measurements and Critical Service Levels as more fully set forth in Schedule A, Attachment B (SLA) ("Service Levels").

5.2 Review of Service Levels.

Each quarter after the applicable Service Commencement Date, the Parties will jointly review the Service Levels and mutually agree upon adjustment of any Service Level to reflect any improved performance capabilities associated with advances in the technology and methods used to perform the Services. Throughout the Term, ACS will use commercially reasonable efforts to identify and notify Customer of commercially reasonable methods of improving the Service Levels or ACS' performance of Services. Any change in Service Levels is subject to the Change Control Procedures.

5.3 Failure to Meet Critical Service Levels.

(a) If ACS fails to meet a Critical Service Level for reasons other than those specified in Section 5.3(c) below, Customer will receive a credit against future Charges in the applicable amount specified in the Service Level Schedule attached hereto as Schedule A, Attachment B (SLA) ("Performance Credits"). The Performance Credits will not limit or preclude Customer's right to recover, in accordance with this Agreement, other damages incurred by Customer, or to seek other remedies to which it may be entitled, as a result of such failure; provided, however, that the amount of any related damages that Customer is awarded (or any monetary settlement agreed upon) for such failure will be offset by the amount of Performance Credits paid to Customer by ACS. Any Performance Credits owed to Customer under a Statement of Work will be credited pursuant to Section 13.3 of this Agreement.

(b) Each time ACS fails to meet a Critical Service Level, ACS will (i), promptly investigate the root cause(s) of the failure and deliver to Customer a written report identifying such root cause(s), (ii) use commercially reasonable efforts to correct such failure and to begin meeting the applicable Critical Service Level as soon as practicable; and (iii) at Customer's request, advise Customer of the status of such corrective efforts. All Critical Service Levels and applicable Performance Credits remain in effect notwithstanding ACS' use of commercially reasonable efforts to correct any performance problem.

(c) ACS will not be liable for failure to meet any Key Measurement or any Performance Credits resulting from ACS' failure to meet a Critical Service Level if such failure is attributable solely to (i) Customer's (or a Customer agent's) acts, errors, omissions, or breaches of this Agreement, including, without limitation, any failure due to incorrect data and/or information provided by Customer or Customer agents; (ii) infringements of third party proprietary rights by Customer or a Customer agent; (iii) willful misconduct or violations of Law by Customer or a Customer agent; (iii) Service or resource reductions requested or approved by Customer and agreed to by the Parties through the Change Control Procedures; provided that ACS has previously notified Customer in writing as part of such Change Control Procedures that the implementation of such request would result in such failure to meet the applicable Critical Service Level or Critical Milestone; (v) a Force Majeure Event; (vi) business process or other changes requested by Customer but which ACS demonstrates are not supportable within the Service Levels under this Agreement; (vii) any failures or defects in Customer controlled software or hardware not under the control of ACS (collectively and individually (i)-(vii) constitute an "Excused Performance Problem").

5.4 Earnback.

In the event ACS meets the Expected Service Level(s) as described in Schedule A, Attachment B (SLA), ACS will accrue an earnback credit (the "Earnback Credit") as described in Schedule A, Attachment B (SLA). Earnback Credits will be applied using the methodology described in Section 13.3 below.

5.5 Measurement and Monitoring Tools.

As part of the Services throughout the Term, and at no additional cost to Customer, ACS will implement the measurement and monitoring tools and procedures necessary to measure its performance of the Services and compare such performance to that required by the Service Levels. Such measurement and monitoring tools are more particularly described in each applicable Statement of Work. Upon Customer's request, ACS will provide Customer or its auditors with any information produced by the measurement and monitoring tools necessary to verify compliance by ACS with the Service Levels.

5.6 Benchmarking.

At any time after the second (2nd) anniversary of the applicable Service Commencement Date, or in the event of multiple Service Commencement Dates within a particular Statement of Work, the final Service Commencement Date, and thereafter, no more frequently than once during any twelve (12) month period thereafter Customer may request a benchmark of the performance of the Services. Within 15 days of such request, the Parties will agree on an acceptable third-party, that is not an ACS Competitor (the "Benchmarker"), and the Parties will jointly approach such third party to engage them to benchmark the Services. ACS will reasonably cooperate with the Benchmarker and provide all data relating to the provision of the Services requested by the Benchmarker, provided that ACS will not be required to provide any information relating to its margins, costs, cost elements or business processes, or to disclose any proprietary or trade secret information of ACS or its other customers. The fees and expenses charged by the Benchmarker will be shared equally by the Parties. In conducting the benchmarking, the Benchmarker will normalize the data used to perform the benchmarking to accommodate, as appropriate, differences in duration of the contract, volume of services, scope of services, service levels, financing and payment schemes (including up-front incentive payments), geographic configurations of the solution and other pertinent factors. Based upon the results of such benchmarking, ACS will cooperate with Customer to investigate any unfavorable variances, determine if such unfavorable variances are due to unique Customer requirements or ACS' resource allocation and related pricing. Following a benchmarking, and at Customer's request, Customer and ACS will meet to discuss in good faith the benchmarking and any appropriate adjustment to the Services, Charges, and Service Levels.

6. DISASTER RECOVERY; BUSINESS CONTINUITY; SECURITY

6.1 The disaster recovery obligations of each Party are set forth in Schedule A, Attachment D (Disaster Recovery Plan).

6.2 Beginning on each Service Commencement Date and continuing through the Term of this Agreement, ACS will maintain commercially reasonable security measures to preserve, protect, and restrict access to those ACS facilities, equipment, software, data storage, and documentation that contain Customer Data or are used to provide the Services, which measures will be no less than those used to protect ACS' own data and other proprietary business processes. In addition, ACS agrees to submit, once each Contract Year, to security compliance testing, provided, however, in the event a compliance audit (as described below) conducted by Customer results in a finding that ACS is not in compliance with Customer security requirements (which have been previously provided to ACS), Customer will have the right to conduct more frequent compliance audits until ACS resolves the deficiency identified in such compliance audit. This periodic compliance testing consists of a right by Customer to audit ACS' information systems, networks, applications, switches, routers, firewalls, or other information technologies as deemed appropriate by Customer in order to assure that ACS' security posture does not adversely effect or degrade Customers information security posture. These audits may be performed by Customer or a third party contracted by Customer to determine the security posture of ACS provided that any such third party is not an ACS Competitor.

7. PERSONNEL

7.1 Key ACS Positions.

(a) Customer and ACS may jointly designate certain positions (the "Key ACS Positions") as critical to providing the Services under an applicable Statement of Work throughout the Term. Such Key ACS Positions, if any, will be set forth in a schedule attached to the applicable Statement of Work (the "Key ACS Positions Schedule"). Customer may request a change to or update the Key ACS Positions from time to time during the Term. Unless otherwise agreed by the Parties, the number of Key ACS Positions will not exceed five percent (5%) of the ACS employees fully dedicated to provision of the Services.

(b) Unless consented to by Customer, ACS will not, from the date an individual first fills a Key ACS Position until completion of the period set forth next to such Key ACS Position in the applicable Key ACS Positions Schedule, either (i) terminate the employment of any individual originally or subsequently filling such Key ACS Position except for cause or (ii) at its initiative, transfer such individual from such Key ACS Position.

(c) Before assigning an individual to fill a Key ACS Position, ACS will notify Customer of the proposed assignment, will introduce the individual to appropriate Customer representatives as designated by Customer's Project Executive, and will provide Customer with a resume and such other information as Customer may reasonably request. If Customer objects in good faith to the proposed assignment within fifteen (15) days after being notified thereof, ACS will discuss such objections with Customer and attempt to resolve them on an agreeable basis. If Customer continues to object to the proposed assignment, ACS will not assign the individual to that position and will propose another individual to fill the Key ACS Position.

(d) ACS agrees (a) that the ACS personnel ("Long-Term Restricted Personnel") holding the positions expressly identified in Schedule E (Office Depot Key Personnel) who have performed Services for Office Depot for a period of at least one (1) month shall not perform any services for Staples, Inc. ("Staples"), Office Max, Boise, Corporate Express, Inc., or Buhrmann during the term of the Project and for a period of twelve (12) months after the Long-Term Restricted Personnel conclude their respective involvement in the Project; and (b) the Long-Term Restricted Personnel will not perform any Finance implementation services for Staples until 12 months after the termination of this contract.

The restrictions under this Section shall immediately and automatically terminate if: (a) the Project is terminated by ACS for a material breach by Office Depot, which breach remains uncured after the applicable notice period from ACS; or (b) if Office Depot terminates the Project without cause. For purposes of this Section, a material breach by Office Depot shall only include a non-payment by Office Depot of an outstanding invoice which breach remains uncured after a thirty (30) day notice period from ACS or a breach of Office Depot's confidentiality obligations as provided under this Agreement.

7.2 Removal of ACS Employees from Customer Account.

In the event Customer notifies ACS that an ACS Employees has engaged in willful misconduct or has committed a material breach of the Agreement which is detrimental to Customer, ACS will immediately remove such employee from Customer's account. In all other cases, Customer may notify ACS if Customer, in good faith, determines that the continued assignment to the Customer account of any ACS employee is not in the best interests of Customer. Upon receipt of such notice, ACS will have a reasonable time period not to exceed 30 days to investigate the matters stated therein, discuss its findings with Customer and attempt to resolve such matters in a manner acceptable to Customer. If Customer continues to request the replacement of such individual after such period, ACS will remove the individual from the Customer account. Nothing in this Section 7.2 will be deemed to require ACS to terminate the employment of such individual.

7.3 Employment.

During the Term and while ACS is providing any Termination/Expiration Assistance, and for up to one (1) year thereafter, Customer will not employ, as a result of direct solicitation, or directly or indirectly solicit the employment of, any ACS employee, involved in the provision of the Services. During the Term and while ACS is providing any Termination/Expiration Assistance, and for up to one (1) year thereafter, ACS will not employ, as a result of direct solicitation, or directly or indirectly solicit the employment of, any Customer employees involved in the Services except for the Transitioned Employees. If a Party is interested in hiring one or more employees of the other Party, such interest will be discussed first with the other Party prior to discussing such an offer with the employee.

7.4 Other Employee Issues.

In the event the Parties determine that Customer personnel will be transferred to ACS to support ACS' provision of Services to Customer, the transfer of such employees will be effected in accordance with the terms and conditions set forth in the applicable Statement of Work; provided, however, that Customer acknowledges and agrees to retain all obligations and liabilities stemming from or related to employment of such employees for the period of time prior to employment by ACS. ACS will have all obligations and liabilities stemming from or related to employment of employees that have been transferred to ACS pursuant to this Agreement.

8. INTELLECTUAL PROPERTY RIGHTS AND OBLIGATIONS

8.1 Existing Customer Solution.

(a) Customer retains all right, title and interest in the Existing Customer Solution and any other Customer property utilized in the provision of the Services, including but not limited to the Customer Data. ACS is hereby granted a limited license to use the Existing Customer Solution only as expressly described in this Section 8.1.

(b) Except as set forth below, Customer hereby grants ACS a limited, worldwide and non-exclusive license to use, access, practice, embody, implement, load, execute, store, transmit, display, copy, maintain, modify, enhance, create derivative works, make and have made the Existing Customer Solution and all components thereof, in accordance with the following:

1. ACS agrees to comply with such terms and conditions of the third party contracts for the Customer Third Party Resources (as defined below) as Customer provides to ACS.

2. The license granted ACS pursuant to this Section 8.1 will be limited to ACS and its subcontractors, employees and authorized agents of ACS. ACS may use the Existing Customer Solution for the purpose of providing Services to Customer and for no other purpose.

3. ACS' license to use the Existing Customer Solution will expire automatically on the later of the expiration of the Term, termination of this Agreement by either party or completion of the Termination/Expiration Assistance. Following such expiration or termination of the Agreement or completion of the Termination/Expiration Assistance, ACS agrees to comply with Section 18.6 below concerning the return of materials associated with the Existing Customer Solution.

(c) The Parties acknowledge that the Existing Customer Solution includes equipment, materials, software or other items licensed or procured by Customer from a third party ("Customer Third Party Resources"). Customer will obtain the relevant required consent from each third party provider of the Customer Third Party Resources (each, a "Required Consent"). For clarification, such Required Consents will be obtained so as to enable ACS to provide the Services (i) upon the Service Commencement Date, and (ii) following the Service Commencement Date to the extent the parties agree that ACS will continue to use a Customer Third Party Resource to provide the Services.

(d) The Parties' respective financial responsibilities for Required Consents associated with ACS' use of those Customer Third Party Resources that consist of third party software are set forth in Schedule A, Attachment A (Pricing). Unless expressly stated otherwise in this Agreement, financial responsibility for Required Consents associated with non-software related items will be that of Customer.

(e) Subject to any agreements governing the Customer Third Party Resources, all right, title and interest in improvements, modifications, corrections, compilations, derivative works, derivations, or other revisions of the Existing Customer Solution, or components thereof, will be retained by Customer. Customer hereby grants to ACS by way of present assignment a limited, non-exclusive, worldwide right to use such improvements, which license will be further governed by Section 8.1(b) above. To the extent an improvement constitutes a Commissioned Work, Customer retains all right, title and interest in such Commissioned Work as more fully described in Section 8.4 below.

8.2 ACS Solution.

Except as expressly set forth herein, ACS retains all right, title and interest in the ACS Solution. Customer is hereby granted a limited license to use portions of the ACS Solution as described in Sections 8.3 through 8.6 below.

8.3 ACS Software.

(a) ACS hereby grants to Customer a limited, non-exclusive, non-transferable royalty-free license to use the ACS Software and any end user documentation associated with such Software solely for Customer's internal business purposes to the extent necessary to receive the Services from ACS during the Term of the applicable Statement of Work. The foregoing license grant is hereby made subject to any access or other restrictions on use specified in any third-party license agreements governing ACS Software.

(b) The license granted to Customer pursuant to Section 8.3(a) will be an object-code license only. Customer may not in any way adapt, vary, modify, transfer, reverse assemble, reverse compile or otherwise reverse engineer or derive the source code of the ACS Software, in whole or in part. Upon the request of Customer, ACS will provide such information as is necessary to allow Customer to develop software that is interoperable with such ACS Software.

(c) Customer's access to the ACS Software will be limited to Authorized Users. In each case, Authorized Users of a given ACS Software product will consist of Customer employees or agents who have a need to access or support access of such ACS Software for the performance of Customer's internal business functions to receive the Services from ACS. In no event will Customer knowingly enable an employee, contractor or agent of an ACS Competitor to be an Authorized User.

(d) The license granted pursuant to this Section 8.3 will expire immediately upon termination or expiration of the applicable Statement of Work. At such time the provisions of Section 18.6 will apply.

8.4 Commissioned Work.

As between ACS and Customer, Customer will own all right, title and interest in and to Commissioned Work. Customer hereby grants to ACS, by way of present assignment , a perpetual, worldwide, royalty-free, non-exclusive license to use, access, practice, embody, implement, load, execute, store, transmit, display, copy, maintain, modify, enhance, create derivative works from, make and have made any and all Commissioned Works or any part thereof to the extent necessary for ACS to provide the Services to Customer.

8.5 Trademarks.

In fulfilling their respective obligations under this Agreement, neither Party will modify, alter or obscure the other Party's trademarks or use the other Party's trademarks in a manner that disparages the other Party or its products or services, or portrays the other Party or its products or services in a false, competitively adverse or poor light. Each Party will, and will cause each of its Affiliates to, comply with the other Party's instructions as to the form of use of the other Party's trademarks and will avoid any action that diminishes the value of such trademarks. Either Party's and/or any of its Affiliate's unauthorized use of the other's trademarks is strictly prohibited.

8.6 Work Product.

(a) Any ideas, concepts, work product, business methods, know-how or techniques (and Intellectual Property Rights therein) developed for Customer at Customer’s expense will, as between Customer and ACS, be owned by Customer, and ACS will have no license to use such Intellectual Property Rights except as expressly permitted pursuant to this Agreement.

(b) Any ideas, concepts, work product, business methods, know-how or techniques (and Intellectual Property Rights therein) developed by ACS at ACS’ expense, or any third party acting on ACS’ behalf, whether in connection with this Agreement or otherwise (“Work Product”), will, as between Customer and ACS, be owned by ACS, and Customer will have no license to use such Intellectual Property Rights except as expressly permitted pursuant to this Agreement.

(c) With respect to any modifications or enhancements made by ACS at the request of Customer to any Third Party Software licensed by Customer after the Effective Date (“Customer Requested Third Party Modifications”), prior to making any such modifications or enhancements, the Parties will mutually agree in writing on the allocation of Intellectual Property Rights, including ownership of such Customer Requested Third Party Modifications. In no event will the development of and/or allocation of Intellectual Property Rights in such Customer Requested Third Party Modifications be deemed to alter, modify, or amend, the rights and or obligations of each Party in or to the Existing Customer Solution, ACS Solution, Commissioned Works, Work Product, or Residual Information.

8.7 Customer Data.

Nothing in Sections 8.1 through 8.6 above will be construed to convey any right, title or interest in the Customer Data to ACS. To the extent necessary and contemplated in this Agreement, Customer hereby grants ACS a limited, non-exclusive, license to use such Customer Data to the extent required to deliver the Services, including specifically any Termination/Expiration Assistance set forth in Section 18.6. ACS’ license to use the Customer Data will expire automatically on the later of the expiration of the Term, termination of this Agreement by either party or completion of the Termination/Expiration Assistance. Following such expiration or termination of the Agreement or completion of the Termination/Expiration Assistance, ACS agrees to return or destroy, at Customer’s option, all Customer Data and any copies thereof in ACS’ possession or control. Customer will relieve ACS from its obligation to perform the Services to the extent that ACS is required to return, erase, or destroy the Customer Data in its possession and such return, erasure, or destruction prevents ACS from performing the Services.

8.8 Additional Acts.

Each Party agrees to execute, and cause its employees, agents or subcontractors to execute, any documents or take any other actions as may be reasonably necessary or as requested by the other Party, to perfect each Party’s respective ownership rights as set forth in Sections 8.1 through 8.6 above.

8.9 Privacy Laws.

The Parties acknowledge and agree that Customer will be and remain the controller of the Customer Data for purposes of all applicable laws relating to data privacy, transborder data flow and data protection (collectively, the “Privacy Laws”), and nothing in this Agreement or any Statement of Work will restrict or limit in any way Customer’s rights or obligations as owner and/or controller of the Customer Data for such purposes. The Parties also acknowledge and agree that ACS may have certain responsibilities prescribed by applicable Privacy Laws as a processor of the Customer Data and any other services provided hereunder, and ACS hereby acknowledges such responsibilities to the extent required thereby for processors of data and any other services provided hereunder, and agrees that such responsibilities will be considered as a part of the Services to be provided by ACS under this Agreement and each Statement of Work. Notwithstanding the above, in the event that Privacy Laws to which the activities contemplated by this Agreement and each Statement of Work are subject are materially modified, ACS will work with Customer to continue to comply with such Privacy Laws.

8.10 Residual Information.

Nothing in this Agreement shall be construed to limit or prohibit either Party from independently creating or developing (or having created or developed for it), or from acquiring from third parties, any information, products, concepts, processes, methodologies, systems, techniques, and/or any general information, ideas, concepts, know-how, techniques, programming routines and subroutines, methodologies, processes, skills, experience, and/or expertise (collectively, “Residual Information”) that are similar to or compete with the information products, concepts, processes, methodologies, systems, techniques, and/or Residual Information contemplated by or embodied in the other Party’s Confidential Information, provided that (in connection with such creation, development, or acquisition) the receiving Party does not (except as otherwise specified in this Agreement) use the Customer Materials or ACS Materials, as applicable, the disclosing Party’s Software or Confidential Information and/or otherwise violate any of its obligations under this Agreement.

Notwithstanding the foregoing (and except as otherwise specified in this Agreement), neither Party shall, nor assist others to, (i) disassemble, decompile, reverse engineer, or otherwise attempt to recreate, the Customer Material or ACS Material, as applicable, the other Party’s Confidential Information, and/or ACS Software or Customer Software, (ii) modify, enhance, or create derivative works based on the Customer Material or ACS Material, as applicable, the other Party’s Confidential Information, or ACS Software or Customer Software, or (iii) rent, lease, grant a security interest in, or otherwise transfer rights to the Customer Material or ACS Material, as applicable, the other Party’s Confidential Information, or ACS Software or Customer Software.

9. CONFIDENTIALITY

9.1 Defined.

Certain information which the Parties may exchange from time to time may be considered by the Party disclosing such information to be confidential and proprietary in nature, including but not limited to: (i) Customer Data, (ii) the Existing Customer Solution, (iii) any ACS proprietary software licensed or otherwise made available to Customer, including, but not limited to, the ACS Software, (iv) business plans or records of each Party made available to the other, (v) any and all such other information that the disclosing Party specifies as confidential and provides to the receiving Party (vi) the terms of this Agreement; (vii) and any other information that a reasonable business person would deem confidential (collectively, “Confidential Information”). The Parties agree to treat any and all Confidential Information that may be exchanged in accordance with the terms of the Mutual Nondisclosure Agreement attached hereto as Schedule C.

9.2 Exclusions.

The obligations of confidentiality will not apply to any Confidential Information that is (i) publicly available or becomes so in the future without restriction, (ii) rightfully received by either Party from a third party and not accompanied by confidentiality obligations, (iii) already in the receiving Party’s possession and lawfully received from sources other than the disclosing Party, (iv) independently developed by the receiving Party, or (5) approved in writing for release or disclosure without restriction by the disclosing Party.

9.3 Limited Waivers.

The terms of this Article 9 will not preclude the disclosure of Confidential Information by either Party if such disclosure is (i) in response to a valid order of a court or other governmental body of the United States or any political subdivision thereof, or (ii) otherwise required by law; provided, however, that the Party from whom disclosure is sought will provide written notice to the disclosing Party of such request and will limit the disclosure to the extent required for such purposes.

10. MANAGEMENT AND CONTROL

10.1 Project Executives.

On or before each applicable Service Commencement Date, and from time to time thereafter during the Term, Customer and (subject to Section 7.1 (Key ACS Positions)) ACS will each designate an individual as its project executive (the "Project Executive"). A Party's Project Executive will be authorized to act as the primary contact for such Party with respect to all matters relating to the applicable Statement of Work. Each Party will ensure that its respective Project Executive has the authority necessary to allow such Project Executive to make prompt decisions with respect to such Statement of Work and this Agreement.

10.2 Executive Committee.

On or before each applicable Service Commencement Date, the Parties will form a joint committee (the "Executive Committee") as described in Schedule A, Attachment E (Governance) and chaired by a senior level executive of Customer (who may delegate meeting protocol duties to another senior level executive of Customer).

10.3 Meetings.

Throughout the Term, the Parties at a minimum will hold those meetings and review the items described in Schedule A, Attachment E (Governance)

10.4 [intentionally omitted].

10.5 Contract Change Control.

(a) From time to time during the Term, Customer or ACS may propose changes in or additions to the Services or other aspects of this Agreement. All such changes will be implemented pursuant to the procedures set forth in this Section 10.5 (the "Change Control Procedures").

(b) If Customer desires to propose a change in or addition to the Services or other aspects of this Agreement, Customer's Project Executive (or a person authorized in writing by Customer's Project Executive) will deliver a written notice to the ACS Project Executive describing the proposal. ACS will respond to such proposal as promptly as reasonably possible by preparing, at ACS' expense, and delivering to the Customer Project Executive a written document , indicating: (i)the effect of the proposal, if any, on the Charges and the manner in which such effect was calculated; (ii) the effect of the proposal, if any, on Service Levels and any necessary revisions thereto; (iii) the anticipated time schedule for implementing the proposal; and (iv) any other information requested in the proposal or reasonably necessary for Customer to make an informed decision regarding the proposal ("Change Control Document").

(c) If ACS desires to propose a change in or addition to the Services, or the manner of their delivery as set forth in the Statement of Work, or other aspects of this Agreement, it may do so by preparing and delivering, at its expense, and a Change Control Document to the Customer Project Executive.

(d) No change in or addition to the Services or any other aspect of this Agreement will become effective without the written approval of each Party's authorized representative. If Customer elects to accept the offer set forth in the Change Control Document, as evidenced by the written approval of the Customer Project Executive, any changes in or additions to the Services described in the Change Control Document will thereafter be deemed "Services," any other changes described in the Change Control Document will be deemed to have amended this Agreement, and the Parties will agree on any further modifications to the Agreement required to reflect the Change Control Document.

10.6 Subcontracting.

ACS may, in the ordinary course of business subcontract any portion of the Services, provided, however, that prior to subcontracting any material component of the Services, ACS will notify Customer of the proposed subcontract and will obtain Customer's prior written approval of such subcontract. Customer will not unreasonably withhold its approval for such subcontractors. Notwithstanding the foregoing, ACS may not, without the written consent of Customer, subcontract to a third party any of the Services that will or may require such third party to have access to Customer facilities. No subcontracting will release ACS from its responsibility for its obligations under this Agreement. In no event will ACS will disclose Customer Confidential Information to a subcontractor unless and until such subcontractor has agreed in writing to protect such information in a manner substantially equivalent to that required of ACS under this Agreement, and then only as necessary for the subcontractor to perform its obligations under the Agreement.

11. CUSTOMER REVIEW RIGHTS

11.1 General.

Employees of Customer and its auditors who are from time to time designated by Customer, and in the case of third-party auditors, are not an ACS Competitor, and who agree in writing to the security and confidentiality obligations and procedures reasonably required by ACS will be provided with reasonable access to any facility at which the Services are being performed to enable them to conduct audits of ACS' performance of the Services and other matters relevant to this Agreement, including (i) verifying the accuracy of ACS' charges to Customer (ii) verifying that the Services are being provided in accordance with this Agreement, including any Service Levels, and (iii) ascertaining compliance with applicable law, rule, or regulation, including, without limitation, the Sarbanes-Oxley Act.

11.2 Procedures.

Such audits may be conducted once a year (or more frequently if requested by the governmental authorities who regulate Customer's business or if auditors require follow-up access to complete audit inquiries) during reasonable business hours upon commercially reasonable notice; provided, however, that the Parties may agree to more frequent audits as deemed reasonably necessary. Customer will provide ACS with prior written notice of an audit. ACS will cooperate in the audit, will make the information reasonably required to conduct the audit available on a timely basis and will assist the designated employees of Customer or its auditors as reasonably necessary. If Customer requests resources beyond those resources then assigned to the account team who are able to provide reasonable assistance of a routine nature in connection with such audit, such resources will be provided as Additional Services. Records that support ACS' performance of the Services and other matters relevant to this Agreement will be retained by ACS in accordance with the retention guidelines set forth in Section 11.5. Notwithstanding anything to the contrary in this Agreement, ACS will not be required to provide access to the proprietary data of ACS related to its underlying costs or profit margins or other ACS customers. All information learned or exchanged in connection with the conduct of an audit, as well as the results of any audit, is confidential.

11.3 Results.

Following an audit, Customer will conduct an exit conference with ACS to discuss issues identified in the audit that pertain to ACS. The Parties will review each ACS audit issue and will determine (i) what, if any, actions will be taken in response to such audit issues, when and by whom and (ii) which Party will be responsible for the cost of taking the actions necessary to resolve such issues in accordance with the Parties' obligations as set forth in Section 3.9.

11.4 Audit of the Charges.

Upon reasonable notice from Customer, ACS will provide Customer and Customer agents with access to such financial records and supporting documentation as may be reasonably requested by Customer in connection with or relating to the Charges for the purposes of performing audits and inspections of ACS' performance and to determine that such Charges are accurate and in accordance with this Agreement and that work charged was actually performed. If, as a result of such audit, Customer determines that ACS has overcharged Customer, Customer will notify ACS of the amount of such overcharge and ACS will promptly investigate the same and if findings show Customer is correct then ACS will promptly pay to Customer the amount of the overcharge. In the event any such audit reveals an overcharge to Customer during any 12-month period exceeding five percent (5%) of all Charges in the aggregate paid by Customer under this Agreement during such period and ACS fails to demonstrate within thirty (30) days of receipt of such audit, to Customer's reasonable satisfaction, that the overcharges did not exceed five percent (5%) of the Charges, then ACS will reimburse Customer for the cost of such audit. In no event will ACS be obligated to disclose its underlying costs or profit margins to Customer or its auditors.

In the event any such audit reveals an undercharge, Customer will promptly pay to ACS the amount of any such undercharge forty-five (45) days from receipt of an invoice for the same.

If, as a result of such audit, Customer determines that ACS has not performed, ACS will promptly remedy the non-performance and/or issue a credit for the Charges related to the Services that were not provided in accordance with this Agreement. If Customer determines that ACS has not performed, ACS may at its option within 30 days secure, at its sole expense, an independent, nationally-recognized, reputable auditing firm to review the result of such audit and issue an independent report to ACS and Customer regarding ACS' performance (or non-performance). In the event the auditing firm selected by ACS issues a report regarding ACS' performance that is substantially different than Customer's determination of non-performance, then Customer and ACS will agree upon an approach to remedy any non-performance. However, in the event the auditing firm selected by ACS issues a report regarding ACS' performance that is not substantially different than Customer's determination of non-performance, then ACS will promptly remedy the non-performance and/or issue a credit with accrued Interest for the Charges paid to ACS for the Services that were not provided in accordance with this Agreement.

11.5 Record Retention.

Unless otherwise specified in the applicable Statement of Work, ACS will retain all records and Confidential Information for a period of six (6) years. Upon expiration or termination of the Agreement, ACS will return to Customer all records and Confidential Information.

11.6 Survival.

Customer's audit rights will survive expiration or termination of this Agreement for a period of two (2) years.

11.7 Storage and Return of Records.

ACS will provide commercially reasonable storage space and media required for proper storage of the records and documentation. At the expiration or termination of this Agreement at Customer's discretion, Customer may request that the ACS deliver to Customer the records and supporting documentation specified in the applicable Statement of Work.

12. INSURANCE; RISK OF LOSS

12.1 Required Insurance Coverages.

During the Term, each Party will maintain at its own expense, in addition to all legally required insurance, policies of insurance in such amounts and on such other terms and conditions as it reasonably determines are necessary with regard to its business, provided that the amounts and other terms and conditions of such policies must be at least equivalent to policies appropriate for and typically maintained by other companies of comparable size engaged in similar business activities. Notwithstanding the foregoing, ACS agrees to maintain commercial general liability insurance with a minimum limit of $5,000,000 per claim and an aggregate limit of no less than $10,000,000. Each such ACS policy shall name Customer as an additional insured. ACS' insurance shall be primary and not be entitled to contribution from any insurance maintained by Customer. Each Party will provide, upon written request, proof of its insurance coverage (such as a certificate of insurance executed by an authorized representative of the Party). Such certificates shall require that the policies shall not be canceled or reduced in coverage until thirty (30) days written notice of such cancellation or reduction has been received by the other Party. All coverages for subcontractors shall be subject to all of the requirements stated herein. In addition, the insurance requirements set forth in this Section 12.1 will not limit or expand ACS' liability under or related to the Services or this Agreement.

13. CHARGES

13.1 Charges for Services.

In consideration for the performance of the Services, Customer will pay to ACS the Charges (defined as the Base Charges and any Variable Charges) set forth in Schedule A, Attachment A (Pricing), plus any taxes and duties further described in Section 13.10 below.

13.2 Invoicing.

Unless otherwise specified in an applicable Statement of Work, ACS will invoice Customer, on a monthly basis as follows: (i) Base Charges will be invoiced on or before the tenth (10^{th}) day of each month for which the Services are to be provided, such Base Charges will be payable to ACS within forty-five (45) days from the date of invoice and (ii) all Variable Charges will be invoiced to Customer within ten (10) days following the end of the month in which such Charges are incurred and the undisputed portion of all such Variable Charges will be payable to ACS within forty-five (45) days from date of invoice. By way of illustration: If Customer's Base Charges for the month of June in a given year were $150,000, such amount would be invoiced to Customer on or before June 10^{th} of that month. If Customer's Variable Charges for the month of June equaled $5,000 (based for example on ARC/RRC calculations and/or other variable components), ACS would invoice the amount on or before July 10^{th}, and the undisputed portion of that Variable Charge for June Services would be owed to ACS within forty-five (45) days of date of invoice.

13.3 Performance Credits.

In the event the accumulated Performance Credits for a calendar year exceeds the accumulated Earnback Credits for a calendar year described in Section 5.4 above (such excess, if any, will be referred to as the "Net Annual Performance Credit"), then Customer may assess against ACS' next invoice a credit in an amount not to exceed the Net Annual Performance Credit. If no further amounts are payable to ACS under the applicable SOW, ACS will pay the amount of the Performance Credit to Customer within thirty (30) days after the Performance Credit is earned.

13.4 Prorated Charges.

All periodic Charges under this Agreement (excluding Charges based upon actual usage or consumption of Services) will be computed on a calendar month basis, and will be prorated for any partial month.

13.5 Disputed Amounts.

If Customer in good faith disputes all or any portion of an invoice for Charges, then Customer will pay the undisputed portion of the invoice by the due date and Customer will notify ACS as soon as possible of the specific amount disputed and will provide reasonable detail as to the basis for the dispute. Except as provided in this Agreement, Customer will not withhold timely payment of any undisputed amount pending resolution of the disputed amount and ACS will continue to provide the Services pending resolution of the dispute. Promptly after Customer notifies ACS of the dispute, the Parties will then attempt to resolve the disputed portion of such invoice in accordance with the informal dispute resolution procedures set forth in Section 19. If Customer and ACS are unable to resolve the disputed amount in 10 days and the disputed amount exceeds five (5%) percent of the Base Charges, Customer will deposit the disputed amount in an escrow account established by agreement of Customer and ACS pending a resolution of the dispute. Only Customer's Variable Charges may be subject to the withholding mechanism described in this Section 13.5. In no event will ACS have the right to withhold Services for any reason; provided, however that ACS will have the right to terminate this Agreement for cause in accordance with Section 18.1(c) of the Agreement for Customer's failure to pay undisputed amounts.

13.6 Late Payment.

Any Charges due to ACS under this Agreement that are not paid on the date otherwise due will thereafter bear Interest until paid.

13.7 Pass-Through Expenses.

Subject to the provisions of this Section 13.6, Customer will pay all Pass-Through Expenses. ACS will review for accuracy the third party invoice for any Pass-Through Expenses and will pay when due to such third party all valid amounts set forth on such invoice. ACS will include the amount of such payment on its next invoice to Customer and will include with such invoice a copy of the third party invoice. Pass-through expenses will be amended as needed within each Statement of Work.

13.8 ACS Personnel.

ACS bears sole responsibility for payment of all compensation, fringe benefits, payroll taxes, contributions and other, similar costs for ACS' employees.

13.9 Record Keeping.

ACS will maintain complete and accurate records of, and supporting documentation for, the amounts billed to and payments made by Customer under this Agreement or the Statement of Work. ACS will retain such records throughout the Term and for six (6) years thereafter. ACS will provide Customer, at Customer's request, with paper and electronic copies of documents and information reasonably necessary to verify ACS' compliance with this Agreement. Customer and its authorized agents and representatives will have access to such records for audit purposes during normal business hours during the Term and thereafter for the period during which ACS is required to maintain such records.

13.10 Taxes.

Each Party will pay any real property taxes or personal property taxes on property it either owns ,leases or subleases.

(a) ACS will pay any sales, use, excise, value-added, services, consumption, and other taxes and duties imposed on any goods acquired, used or consumed by ACS in connection with the Services (excluding any taxes applicable to Pass-Through Expenses).

(b) In addition to invoicing Customer for the Charges associated with the Services, ACS will invoice amounts equal to the taxes, assessments, duties, permits, fees and other charges of any kind, however designated, assessed, charged or levied, based on, with respect to or measured by (i) such Charges, (ii) this Agreement or (iii) the Services, Software, Equipment, Materials or other property (intangible or intangible) or, the use thereof or the resources used therefore, provided under this Agreement. ACS will either remit these taxes on Customer's behalf, in which case Customer will reimburse ACS for such amounts, or Customer will pay such amounts directly to the applicable taxing authority.

(c) The Parties will cooperate with each other to enable the Parties to determine accurately their respective tax liabilities and to reduce such liabilities to the extent permitted by law. ACS invoices to Customer will separately state the amount of any taxes ACS is collecting from Customer.

13.11 Charges Pursuant to Change Control Procedures.

(a) If either Customer or ACS proposes a change in or addition to the Services pursuant to the Change Control Procedures, the charge for such change or addition will be determined in the manner set forth in this Section.

(b) To the extent the proposed change or addition can be accommodated within the existing level of resources then being used by ACS to provide the Services and without degradation to existing Service Levels (unless otherwise agreed by the Parties in writing), the Charges payable by Customer under this Agreement will not be increased. To the extent the proposed change or addition will increase or lower ACS' cost to provide the Services thereafter, the Charges payable by Customer under this Agreement will be equitably adjusted as appropriate.

(c) To the extent the proposed change or addition will require the addition or subtraction of resources for which a pricing metric exists under this Agreement, the resulting change to the Charges payable by Customer hereunder will be calculated in accordance with that pricing metric.

13.12 Gain Sharing.

ACS and Customer will bring forward proposals (each an "Improvement Proposal") which improve the efficiency of the delivery of the Services and that are commercially reasonable under prevailing industry practices and standards applicable to the services in question. To the extent Customer and ACS agree to implement any such Improvement Proposal, and such Improvement Proposal results in an increase in ACS' profit margin in an amount (the "Excess Amount") which is greater than twenty-five percent (25%) of the current average profit margin to date, then Customer and ACS agree to share equally in such Excess Amount.

14. POLICIES AND PROCEDURES; CUSTOMER DATA

14.1 Compliance with Procedures.

ACS will perform the Services in compliance with the policies and procedures set forth in the applicable Statement of Work.

14.2 Accuracy of Customer Data and Processing.

Customer will be responsible for the accuracy and completeness of any information, materials or data that Customer or its Affiliates provide to ACS, and for the accuracy and completeness of Customer's transmission to ACS of such information, materials or data. ACS will be responsible for the accuracy and completeness of ACS' systems electronic receipt of any such information, materials or data, and for the accuracy and completeness of information, materials or data that ACS provides or transmits. ACS will promptly correct any errors or inaccuracies attributable to ACS in Customer Data or reports discovered by Customer and identified to ACS, or discovered by ACS or any errors or inaccuracies that ACS should have reasonably discovered. Such corrections will be provided at no charge to Customer. Corrections and reruns will be reported in reports defined jointly by Customer and ACS and produced by ACS. Customer acknowledges and agrees that the foregoing is not intended to obligate ACS to correct any errors in Customer systems or software outside of ACS' reasonable control which cause such errors or inaccuracies. ACS will not be responsible for errors in or the delay or nonperformance of its responsibilities or obligations under this Agreement to the extent caused by the inaccuracy and/or incompleteness of information, materials, or data provided to ACS by Customer, its Affiliates or the third party providers or by the failure of Customer, its Affiliates or the third party providers to furnish information, materials or data. Notwithstanding the foregoing, ACS will promptly notify Customer in writing of all inaccuracies, insufficiencies or errors discovered by ACS in such Customer information, materials or data or if there is any information, materials or data that ACS requires Customer to furnish. ACS will promptly correct all such inaccuracies and errors in such Customer information, materials or data, and in any errors in the Services caused by the inaccuracies or errors in such Customer information, materials or data. Customer will indemnify, defend and hold harmless ACS, its Affiliates and ACS' directors, officers and employees and their respective successors and assigns from and against all Losses arising from third-party claims resulting from any inaccuracies in or incompleteness of any information or materials, including, but not limited to, the Customer Data, provided by Customer, its Affiliates or third parties to ACS under this Agreement. ACS will indemnify, defend and hold Customer, its Affiliates and Customer's directors, officers and employees and their respective successors and assigns from and against all Losses resulting from (i) any inaccuracies in or incompleteness of any information or materials, including, but not limited to, the Customer Data caused by the acts or omissions of ACS, or (ii) ACS' failure to correctly perform the Services and/or accurately process Customer transactions as required by the policies and procedures set forth in the applicable Statement of Work.

14.3 Review of ACS Materials.

Customer will endeavor to promptly notify ACS in writing of all inaccuracies, insufficiencies or errors found in the ACS Materials or any other information, materials and data provided to Customer by ACS.

15. REPRESENTATIONS AND WARRANTIES

15.1 Mutual Representations and Warranties.

Each Party represents and warrants that, as of the Effective Date:

(a) it is a corporation duly incorporated, validly existing and is in good standing under the laws of the state in which it is incorporated, and is good standing in each other jurisdiction where the failure to be in good standing would have a material adverse affect on its business or its ability to perform its obligations under this Agreement;

(b) it has all necessary corporate power and authority to own, lease and operate its assets and to carry on its business as presently conducted and as it will be conducted pursuant to this Agreement;

(c) it has all necessary corporate power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of this transactions contemplated by this Agreement have been duly authorized by all necessary corporate actions on its part;

(d) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against it in connection with its terms;

(e) to its knowledge, it is not a party to, and is not bound or affected by or subject to, any instrument, agreement, charter or by-law provision, law, rule, regulation, judgment or order which would be contravened or breached as a result of the execution of this Agreement or consummation of the transactions contemplated by this Agreement;

(f) it will exercise commercially reasonable efforts to screen any Software provided, or otherwise made available by it to the other Party under this Agreement for the purpose of avoiding the introduction of any computer virus; and

(g) ACS will comply with all applicable laws, rules and regulations related to its delivery of the Services and Customer will comply with all applicable laws, rules and regulations related to its receipt of the Services.

15.2 ACS Representations and Warranties.

ACS represents and warrants to Customer that:

(a) As of the Effective Date, it has not violated any applicable laws or regulation or any Customer policies regarding the offering of unlawful inducement in connection with this Agreement;

(b) It has as of the Effective Date, and will have throughout the Term, the right and authority to use the ACS Materials and the ACS Solution to provide Services during the Term and to grant to Customer the licenses described in this Agreement; and

(c) the Services will be performed in a professional and workmanlike manner by ACS using qualified individuals who are sufficiently trained to perform their responsibilities in conjunction with the rendering of the Services.

15.3 Regulatory and Corporate Proceedings.

Each Party will obtain all regulatory approvals, independently examine government regulations applicable to its business that may affect the Services, obtain any necessary permits and comply with any regulatory requirement associated with its business and this Agreement that may affect the Services. Each Party will from time to time inform the other in writing of regulatory or legal requirements specific to its business that may affect the Services.

16. INDEMNIFICATION

16.1 Mutual Indemnification.

Each Party will indemnify, defend and hold harmless the other Party, and their respective officers, directors, employees, successors and assigns, from and against all Losses arising from: (i) death of or injury to any agent, employee, customer, invitee, visitor or other person to the extent caused by the negligent or willful acts or omissions of the indemnitor, or its respective agents, employees or contractors, (ii) damage to, or loss or destruction of, any real or tangible personal property, to the extent caused by the errors, or acts or omissions of the indemnitor, or its respective agents, employees or contractors and (iii) any breach of its respective representations and warranties set forth in Sections 15.1 and 15.2.

16.2 Intellectual Property Indemnification.

Customer and ACS each agree to defend and hold harmless the other against any third party action to the extent that such action is based on a claim that the Customer Materials and/or the Existing Customer Solution, in the case of Customer, and the ACS Materials and/or the ACS Solution, in the case of ACS, or the Confidential Information provided by the indemnitor, or any party thereof or any other intellectual property right of a Party (i) infringes a copyright under United States law, (ii) infringes a patent granted or pending under United States law or (iii) constitutes an unlawful disclosure, use or misappropriation of another party's trade secret. The indemnitor will bear the expense of such defense and pay any damages and reasonable attorneys' fees that are attributable to such claim finally awarded by a court of competent jurisdiction or any costs associated with settlement of said claim.

If the Customer Materials, Existing Customer Solution, ACS Materials, ACS Solution, any Confidential Information or any other intellectual property right of a Party becomes the subject of a claim under this Section, or in the indemnitor's opinion is likely to become the subject of such a claim, then the indemnitor may, at its option, (a) modify the Customer Materials or Existing Customer Solution (if the indemnitor is Customer) or the ACS Materials or ACS Solution (if the indemnitor is ACS) or Confidential Information or other intellectual property right of a Party to make it noninfringing or cure any claimed misuse of another's trade secret, provided such modification does not adversely affect the functionality of the Customer Materials, Existing Customer Solution, ACS Materials, or ACS Solution, as applicable or (b) procure for the indemnitee the right to continue using the Customer Materials, Existing Customer Solution, ACS Materials, or ACS Solution, as applicable or Confidential Information or other intellectual property right of a Party pursuant to this Agreement, or (c) replace the Customer Materials, Existing Customer Solution, ACS Materials, or ACS Solution or other intellectual property right of a Party, as applicable with substantially equivalent Software that is noninfringing or that is free of claimed misuse of another's trade secret. Any costs associated with implementing any of the above alternatives will be borne by the indemnitor.

With respect to any Software provided or developed by a Party pursuant to this Agreement, such Party will have no liability to the other Party under this Agreement (a) to the extent that any claim of infringement is based upon the use of the Software in connection or in combination with equipment, devices or Software not supplied by that Party or used in a manner for which the Software was not designed, (b) for infringements that arise solely as a result of the implementation by that Party of functionality requirements presented by the other Party where there is no non-infringing alternative to such implementation, and the other Party has been so advised by that Party prior to implementation, and (c) for maintenance, modifications, updates, enhancements and improvements to the Software made by any Party other than that Party.

16.3 Indemnification Procedures.

(a) Promptly after receipt by an indemnitee of any written claim or notice of any third party action giving rise to a claim for indemnification by the indemnitee, the indemnitee will so notify the indemnitor and will provide, as soon as reasonably possible, copies of such claim or any documents relating to the action. Failure to so notify an indemnitor will not relieve the indemnitor of its obligations under this Agreement except to the extent that such failure or delay is prejudicial to indemnitor. Within thirty (30) days following receipt of such written notice, but in any event no later than ten (10) days before the deadline for any responsive pleading, the indemnitor will notify the indemnitee in writing (a “Notice of Assumption of Defense”) if the indemnitor elects to assume control of the defense and settlement of such claim or action.

(b) If the indemnitor delivers a Notice of Assumption of Defense with respect to a claim within the required period, the indemnitor will have sole control over the defense and settlement of such claim; provided, however, that (i) the indemnitee will be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and (ii) the indemnitor will obtain the prior written approval of the indemnitee before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnitor has delivered a timely Notice of Assumption of Defense relating to any claim, the indemnitor will not be liable to the indemnitee for any legal expenses incurred by such indemnitee in connection with the defense of such claim; provided, that the indemnitor will pay for separate counsel for the indemnitee to the extent that conflicts or potential conflicts of interest between the Parties so require. In addition, the indemnitor will not be required to indemnify the indemnitee for any amount paid by such indemnitee in the settlement of any claim for which the indemnitor has delivered a timely Notice of Assumption of Defense if such amount was agreed to without prior written consent of the indemnitor, which will not be unreasonably withheld or delayed in the case of monetary claims. An indemnitor may withhold consent to settlement of claims of infringement affecting its proprietary rights in its sole discretion.

(c) If the indemnitor does not deliver a Notice of Assumption of Defense relating to a claim within the required notice period, the indemnitee will have the right to defend the claim in such a manner as it may deem appropriate, at the cost and expense of the indemnitor. The indemnitor will promptly reimburse the indemnitee for all such costs and expenses upon written request therefor.

17. LIMITATIONS ON LIABILITY

17.1 Limit on Types of Damages Recoverable.

(a) EXCEPT AS SET FORTH IN CLAUSE (b) BELOW AND TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, EACH PARTY DISCLAIMS LIABILITY FOR AND IN NO EVENT WILL EITHER PARTY BE LIABLE FOR, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) The exclusion set forth in clause (a) above will not apply to Losses arising from a third-party claim otherwise recoverable by an indemnitee pursuant to Article 16 (Indemnification), statutory penalties arising as a result of a material breach of Section 8.9 (Privacy Laws), Article 9 (Confidentiality) and statutory penalties arising as a result of a material breach of Section 14.2 (Accuracy of Customer Data and Processing).

17.2 Limit on Amount of Direct Damages Recoverable.

(a) ACS’ cumulative liability for any and all damages arising out of or relating to its performance of the Services performed pursuant to a Statement of Work under this Agreement will not exceed the lesser of (i) Customer’s actual proven direct damages for the event(s) giving rise to the cause(s) of action or (ii) the total Charges payable to ACS for the Services provided under the applicable Statement of Work for the nine (9) calendar months immediately preceding the month in which the event giving rise to the liability occurred (or, if the event giving rise to the liability occurs during the first nine (9) months after the Service Commencement Date, the total Charges payable to ACS pursuant to the applicable Statement of Work under this Agreement for such nine (9) months). This limitation will not apply to losses or damages attributable to claims by an indemnitee pursuant to Article 16

(Indemnification) statutory penalties arising as a result of a material breach of Section 8.9 (Privacy Laws), Article 9 (Confidentiality), statutory penalties arising as a result of a material breach of Section 14.2 (Accuracy of Customer Data and Processing), claims relating to any amounts or credits due Customer from ACS under this Agreement as set forth in this Agreement, claims relating to ACS' willful or intentional misconduct or gross negligence or claims submitted for coverage under ACS' commercial general liability policies set forth in Section 12.1 as such policies are required to be maintained by ACS up to the amount of the proceeds received under such policies for the subject claim.

(b) Customer's cumulative liability for any and all damages arising out of or related to this Agreement will not exceed an amount equal to the total Charges payable to ACS under the applicable Statement of Work for the nine (9) calendar months immediately preceding the month in which the event giving rise to the liability occurred (or, if the event giving rise to the liability occurs during the first nine (9) months after the Commencement Date, the total Charges payable to ACS pursuant to the applicable Statement of Work under this Agreement for such first nine (9) months). **]** This limitation will not apply to losses or damages attributable to (i) claims by an indemnitee pursuant to Article 16 (Indemnification), statutory penalties arising as a result of a material breach of Section 8.9 (Privacy Laws), Article 9 (Confidentiality), statutory penalties arising as a result of a material breach of Section 14.2 (Accuracy of Customer Data and Processing), claims relating to Customer's willful or intentional misconduct or gross negligence, or claims relating to the failure by Customer to pay undisputed amounts under this Agreement or any Termination Fees as set forth in this Agreement.

(c) Each Party will have a duty to mitigate damages as provided by applicable law.

17.3 Force Majeure.

(a) Subject to clause (d) below, neither Party will be liable for any failure or delay in the performance of its obligations (excluding Customer's obligation to pay the Charges, but not delay in payment) under this Agreement, if any, to the extent such failure or delay both:

(i) is caused, directly or indirectly, without fault by such Party, by: fire, flood, earthquake, elements of nature or acts of God; acts of war, terrorism, riots, civil disorders, rebellions or revolutions; quarantines, embargoes and other governmental action; or any other cause beyond the reasonable control of such Party; and

(ii) could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work-around plans or other means (including, in the case of ACS, compliance with ACS' obligations with respect to the provision of disaster recovery services as set forth in Schedule A, Attachment D (Disaster Recovery Plan).

Events meeting both of the criteria set forth in clauses (i) and (ii) above are referred to collectively as "Force Majeure Events."

(b) Subject to clause (d) below, upon the occurrence of a Force Majeure Event, the non-performing Party will be excused from any further performance or observance of the affected obligation(s) for as long as such circumstances prevail and such Party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. Any Party so delayed in its performance will immediately notify the other by telephone or by the most timely means otherwise available (to be confirmed in writing within a reasonable time and describe in reasonable detail the circumstances causing such delay.

(c) If a Force Majeure Event causes a material failure or delay in the performance of any Services for more than 5 consecutive Business Days, Customer may, procure such Services from an alternate source until ACS is again able to provided such Services, and Customer will be liable for all payments made and costs incurred by Customer required to obtain the Services from such alternate source during such period; and provided, however, Customer will not be obligated to continue to pay ACS the Charges established during such period, but ACS will not be entitled to any additional payments as a result of the Force Majeure Event, and Customer expressly agrees to exercise commercially reasonable efforts to mitigate any charges payable to any third party under this Section 17.3(c); or

(d) If the circumstance described in Section 17.3(c) above continues for more than 60 consecutive days, Customer may terminate the applicable Statement of Work so affected and the charges payable hereunder will be equitably adjusted to reflect those terminated Services.

(e) Notwithstanding any other provision of this Section, a Force Majeure Event will not relieve ACS of its obligation to implement the applicable disaster recovery measures.

17.4 Actions of Other Party.

Neither Party will be liable for any failure or delay in the performance of its obligations under this Agreement if and to the extent such failure or delay is caused by the actions or omissions of the other Party or breaches of this Agreement by the other Party provided that the Party which is unable to perform has provided the other Party with reasonable notice of such non-performance and has used commercially reasonable efforts to perform notwithstanding the actions, omissions or breaches of the other Party.

18. TERMINATION

18.1 Termination for Cause.

(a) Either Party will have the option, but not the obligation, to terminate this Agreement or an applicable Statement of Work upon thirty (30) days prior written notice if the other Party materially breaches this Agreement, or the affected Statement of Work, as applicable, and fails to cure such breach within such thirty (30) day time period. For purposes of this Section 18.1(a), Customer acknowledges and agrees that its failure to pay undisputed amounts to ACS constitutes a material breach of this Agreement.

(b) Either Party will have the option, but not the obligation, to terminate this Agreement or any applicable Statement of Work upon thirty (30) days prior written notice in the event the other Party commits a series of non-material breaches (other than in the case of ACS Service Level Failures) which, in the aggregate constitute a material breach provided that the Party said to be in breach will have such thirty (30) day time period in which to cure the condition(s) of breach.

(c) Customer will have the option, but not the obligation, to terminate this Agreement or any applicable Statement of Work upon thirty (30) days prior written notice upon the occurrence of a Service Level Termination Event.

18.2 Exercise of Rights.

(a) In the event a Party has a right to terminate this Agreement or any Statement of Work under Section 18.1, above, that Party must exercise such right within ninety (90) days of the event(s) giving rise to the right of termination, or it will be deemed to have waived such right(s), but such waiver will not adversely affect any future rights of termination that may accrue to such Party.

(b) The non-breaching Party will exercise its termination option by delivering to the breaching Party written notice of such termination identifying the scope of the termination and the termination date.

18.3 Termination for Convenience.

After the expiration of the second (2nd) Contract Year, Customer will have the option to terminate the Services for convenience upon no less than ninety (90) days’ notice. Prior to the effective date of any such termination, Customer will pay to ACS: (i) Charges for Services provided up through the effective date of such termination and (ii) the early termination fees set forth in the applicable Statement of Work.

18.4 Termination for Insolvency.

Either Party will have the option, but not the obligation, to terminate this Agreement in its entirety (i) becomes insolvent or is unable to meet its debts as they mature, (ii) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors, (iii) files an answer or other pleading admitting, or fails to deny or contest, the material allegations of an involuntary petition filed against it pursuant to any act of Congress relating to bankruptcy, arrangement or reorganization, (iv) is adjudicated a bankrupt or makes an assignment for the benefit of its creditors generally, (v) applies for, consents to or acquiesces in the appointment of any receiver or trustee for all or a substantial part of its property, or (vi) any such receiver or trustee is appointed and not discharged within thirty (30) days after the date of such appointment. A Party will exercise its termination option by delivering to the other Party, within six (6) months after the any one or more of such events, written notice of such termination identifying the termination date (which will be at least thirty (30) days after the date of such notice).

18.5 Extension of Termination Effective Date.

The Parties may agree to extend the termination date specified pursuant to this Article 18 one or more times, provided that the total of all such extensions will not exceed one (1) year and each such extension may be no less than ninety (90) days in duration.

18.6 Effect of Termination.

Termination of this Agreement or any categories of Services for any reason under this Article 18 will not affect (i) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination or (ii) any damages or other remedies to which a Party may be entitled under this Agreement, at law or in equity arising from any breaches of such liabilities or obligations.

18.7 Termination/Expiration Assistance.

(a) Commencing six (6) months before the expiration of the Term or, if applicable, upon delivery of a termination notice by Customer or ACS pursuant to this Article 18, and continuing until the expiration of the Term or, if applicable, the termination date (as it may be extended pursuant to Section 18.5 (Extension of Termination Effective Date), ACS will provide to Customer or Customer's designee the assistance reasonably requested by Customer to enable any or all of the Services to continue without interruption and to facilitate the orderly transfer of the Services to Customer or its designee ("Termination/Expiration Assistance"). Notwithstanding the above, in the event that this Agreement is terminated by ACS for non-payment pursuant to Section 18.1(c), Customer must prepay, on a monthly basis, all Charges commencing with the first date of Termination/Expiration Assistance by ACS.

(b) At Customer's request, ACS will provide to Customer for up to six (6) months after the expiration date of the Term or, if applicable, the effective date of termination, any and all of the Services being performed by ACS prior to such date, including, without limitation, Termination/Expiration Assistance. This Agreement will continue to govern the performance of all such Services during such period, except that (i) the charge for such Services will be the rates in effect as of the expiration or termination date., and (ii) the charge for any Termination/Expiration Assistance services not included in the Services will be fair and reasonable and consistent with industry standards. The Termination/Expiration Assistance will be provided to Customer at no additional cost in connection with any expiration or non-renewal of the Term of this Agreement or if this Agreement is terminated by Customer for breach. Notwithstanding the above, in the event this Agreement is terminated by ACS pursuant to Section 18.1, Customer must prepay, on a monthly basis, all Charges commencing with the first date of Termination/Expiration Assistance by ACS.

(c) Customer will relieve ACS from its obligation to perform Termination/Expiration Assistance to the extent that ACS is required to return, erase, or destroy the Customer Data in its possession and such return, erasure, or destruction prevents ACS from performing the Termination/Expiration Assistance.

19. DISPUTE RESOLUTION

19.1 General.

Any dispute or controversy between the Parties with respect to the interpretation or application of any provision of this Agreement or the performance by ACS or Customer of their respective obligations hereunder will be resolved as provided in this Article.

19.2 Informal Dispute Resolution.

The Parties may, by mutual agreement, attempt to resolve their dispute informally in the following manner:

(a) Either Party may submit the dispute to the Executive Committee, which will meet as often as the Parties reasonably deem necessary to gather and analyze any information relevant to the resolution of the dispute. The Executive Committee will negotiate in good faith in an effort to resolve the dispute.

(b) During the course of negotiations, all reasonable requests made by one Party to the other for non-privileged information, reasonably related to the dispute, will be honored in order that each of the Parties may be fully advised of the other's position.

(c) The specific format for the discussions will be determined at the discretion of the Executive Committee, but may include the preparation of agreed upon statements of fact or written statements of position.

(d) Proposals and information exchanged during the informal proceedings described in this Article between the Parties will be privileged, confidential and without prejudice to a Party's legal position in any formal proceedings. All such proposals and information, as well as any conduct during such proceedings, will be considered settlement discussions and proposals, and will be inadmissible in any subsequent proceedings.

(e) In the event of a dispute that cannot be resolved by business negotiations set forth above, each Party hereby agrees that before initiating any litigation, the Parties shall first attempt to resolve their dispute through the means of mediation using a qualified and experienced third-party mediator in a location to be mutually determined by the Parties, or if the Parties cannot agree, then in West Palm Beach, Florida. The costs of such mediation shall be equally divided between the Parties. Such mediation shall be conducted by each Party designating a duly authorized officer or other representative to represent the Party, with authority to bind the Party, and that the Parties then meet with the mediator in good faith. In the course of mediation, the Parties agree to exchange informally such information as is reasonably necessary and relevant to the issues being mediated. If such mediation is unsuccessful, then either Party shall have the right to initiate litigation in the appropriate court as provided herein. In such event, no part of the mediation, including the statements made by the Parties or the mediator shall be admissible against either party in the litigation.

In the event a Party seeks injunctive relief, specific performance or in the event of an approaching deadline prescribed by any applicable statute of limitation, then there shall be no requirement that such Party utilize the mediation process referred to herein.

19.3 Applicable Law, Waiver of Jury Trial.

All questions concerning the validity, interpretation and performance of this Agreement will be governed by and decided in accordance with the laws of the State of Florida without giving effect to any choice-of-law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any other jurisdiction.

IN ANY ACTION BROUGHT BY EITHER PARTY AGAINST THE OTHER, EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES THE RIGHT TO REQUEST A JURY TRIAL, TO THE FULLEST EXTENT PERMITTED BY LAW, AND ANY SUCH LITIGATION SHALL BE TRIED TO THE JUDGE SITTING AS THE FINDER OF FACT AS WELL AS THE JUDGE OF THE APPLICABLE LAW.

19.4 Jurisdiction and Venue.

Any litigation initiated by either party involving this Agreement shall be pursued in the United States courts sitting in the Southern District of Florida, which is the exclusive jurisdiction and venue of any action brought hereunder, unless the amount in controversy does not exceed the jurisdictional limit for federal court, in which case the action may be brought in the courts of the State of Florida in West Palm Beach, Florida.

19.5 Charges and Costs.

In any legal action, the prevailing Party will be entitled to recover, in addition to its damages (subject to limitations stated elsewhere in this Agreement), its reasonable attorneys' fees, expert witness fees, and other ordinary and necessary costs of litigation, as determined by the court. Such costs include, without limitation, costs of any legal proceedings brought to enforce a judgment or decree.

19.6 Equitable Remedies.

The Parties agree that in the event of any breach or threatened breach of any provision of this Agreement concerning (i) Confidential Information, (ii) intellectual property rights or (iii) other matters for which equitable rights are expressly provided in this Agreement, money damages may be an inadequate remedy. Accordingly, either Party may seek a preliminary or permanent, mandatory or prohibitory, injunction or such other order of a court of competent jurisdiction.

20. MISCELLANEOUS

20.1 Interpretation.

(a) All Schedules are hereby incorporated in this Agreement by reference. In the event of any conflict or inconsistency between this Agreement and the Schedules, such conflict or inconsistency will be resolved by giving precedence first to this Agreement and second to the Schedules.

(b) The division of this Agreement into Articles, Sections, subsections, Attachments and Schedules, the division of Schedules or Attachments of this Agreement into Sections and subsections, and the insertion of headings in this Agreement are for convenience of reference only and will not affect its constructions or interpretation.

20.2 Binding Nature and Assignment.

This Agreement will be binding on the Parties and their respective successors and permitted assigns. Notwithstanding the above, neither Party may assign this Agreement, the Services, any rights or obligations hereunder, without the other Party's prior written consent; provided, however, that either Party may make such an assignment, to an Affiliate or another entity or business unit of such Party or pursuant to an internal reorganization of such Party (including an Affiliate, business unit or entity that was receiving or entitled to receive the Services under this Agreement) upon written notice to the other Party, provided, however, that with respect to any assignment by ACS, any proposed assignee must be financially secure and an entity with the necessary resources to provide the Services. Any assignment in contravention of this subsection will be void. Any consent by a Party to any assignment of this Agreement will not constitute its consent to further assignments.

20.3 Processor's Agreement.

20.4 On or before the Service Commencement Date, ACS and Customer agree to enter into a processor's agreement with Dun & Bradstreet, Inc. ("D&B") pursuant to which the parties will agree to maintain the confidentiality and other restrictions with respect to that certain copyrighted database of D&B more particularly described in that certain Master License Agreement between Customer and D&B dated September 30, 2004. Amendment and Waiver.

No supplement, modification, amendment or waiver of this Agreement will be binding unless executed in writing by the Party against whom enforcement of such supplement, modification, amendment or waiver is sought. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar) nor will such waiver constitute a continuing waiver unless otherwise expressly provided.

20.5 Further Assurances; Consents and Approvals.

Each Party will provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to give effect to this Agreement and to carry out its provisions. Whenever this Agreement requires or contemplates any action, consent or approval, such Party will act reasonably and in good faith and (unless the Agreement expressly allows exercise of a Party's sole discretion) will not unreasonably withhold or delay such action, consent or approval.

20.6 Publicity.

ACS may not include Customer's name on a list of ACS clients that ACS discloses to third parties without Customer's prior written consent. In addition, unless the other Party gives prior written consent, neither Party will issue any public statement or announcement relating to this Agreement, nor display or use, in advertising or otherwise, any of the other Party's trade names, logos, trademarks, service marks or other indicia of origin. For purposes of this Section 20.5, prior written consent must be given by an officer of the relevant Party.

20.7 Severability.

If any provision of this Agreement will be determined by any court of competent jurisdiction to be invalid or unenforceable, as to such jurisdiction, such invalidity or unenforceability will not affect the remainder of this Agreement, which will be construed as if such invalid or unenforceable provision had never been a part of this Agreement but in a manner so as to carry out as nearly as possible the Parties' original intent.

20.8 Entire Agreement.

This Agreement, including the Schedules, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties pertaining to the subject matter hereof. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth in this Agreement.

20.9 Notices.

Any notice, demand or other communication required or permitted to be given under this Agreement will be in writing and will be deemed delivered to a Party (i) when delivered by hand or courier, (ii) one business day after being sent by reputable overnight courier , or (iii) six (6) days after the date of mailing if mailed by United States certified mail, return receipt requested, postage prepaid, in each case to the address of such Party set forth below (or at such other address as the Party may from time to time to specify by notice delivered in the foregoing manner):

If to ACS, to:

ACS Commercial Solutions, Inc.
8911 South Sandy Parkway
Sandy, Utah 84070
Attention: President for Commercial Solutions Group

With a Copy to:

ACS Commercial Solutions, Inc.
2828 N. Haskell Avenue, Bldg 1, 9th Floor
Dallas, Texas 75204
Attn: Thomas Hall
Group Counsel for Commercial Solutions
Telephone: (214) 841-6175
Telex or facsimile: (214) 584-5525

If to Customer, to:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, FL 33445
Attn.: George Bryan, VP Financial Services

With a Copy to:

Office Depot, Inc.
2200 Old Germantown Road
Delray Beach, FL 33445
Attn.: Office of the General Counsel

20.10 Survival.

Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement, will survive termination of this Agreement.

20.11 Independent Contractors.

ACS will perform its obligations under this Agreement as an independent contractor of Customer. Nothing herein will be deemed to constitute ACS and Customer as partners, joint venturers, or principal and agent. Neither Party has the authority to represent the other Party as to any matters, except as expressly authorized in this Agreement.

20.12 Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer on rights, benefits, remedies, obligations or liabilities on any person (including, without limitation, any employees or Affiliates of the Parties) other than the Parties or their respective successors or permitted assigns.

20.13 Counterparts.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same instrument.

The Parties have executed this Agreement by the signatures of their respective authorized representatives on the date set forth below.

ACS COMMERCIAL SOLUTIONS, INC.	OFFICE DEPOT, INC.
By:	By: /s/ GEORGE BRYAN
Print Name:	Print Name: George Bryan
Title:	Title: V.P., Financial Services
Date:	Date: 11/30/04

LIST OF SCHEDULES

SCHEDULE A Statement of Work

- w Attachment A Pricing
- w Attachment B SLA
- w Attachment C HR Provision
- w Attachment D Disaster Recovery Plan
- w Attachment E Governance
- w Attachment F Transition Plan
- w Attachment G OD Policy & Procedures
  - o Office Depot
  - o Viking
  - o Tech Depot

SCHEDULE B ACS Competitors

SCHEDULE C Mutual Nondisclosure Agreement

SCHEDULE D Sarbanes Oxley and SAS70

SCHEDULE E Office Depot ACS Key Personnel

SCHEDULE F Bill of Sale and Assignment

SCHEDULE A

STATEMENT OF WORK

SCHEDULE B

ACS COMPETITORS

SCHEDULE C

MUTUAL NONDISCLOSURE AGREEMENT

SCHEDULE D

SARBANES OXLEY AND SAS70

<u>SCHEDULE E</u>

OFFICE DEPOT ACS KEY PERSONNEL

SCHEDULE F

BILL OF SALE AND ASSIGNMENT

This BILL OF SALE AND ASSIGNMENT ("Bill of Sale and Assignment") is made and entered into as of this 30th day of November 2004 by ACS Commercial Solutions, Inc. ("ACS") and Office Depot, Inc. ("Customer") with respect to the conveyance of certain assets by Customer to ACS pursuant to that certain Master Agreement for Business Process Outsourcing Services dated as of November 30, 2004 by and between ACS and Customer ("Agreement"). This Bill of Sale and Assignment is executed and delivered in connection with the Agreement and all terms not defined herein shall have the same meanings as in the Agreement.

1. Sale and Transfer of Assets and Contract Rights. For good and valuable consideration the receipt and adequacy and legal sufficiency of which are hereby acknowledged, Customer hereby sells, transfers, assigns, conveys, grants and delivers to ACS effective as of the Service Commencement Date all of Customer's right, title, and interest in and to those assets set forth on Exhibit A hereto (the "Customer Transferred Assets").

2. Further Actions. If subsequent to the date hereof any property that is part of the Customer Transferred Assets comes into the possession of Customer, Customer shall deliver the same to ACS at a location specified by ACS.

3. No Warranties. THE PARTIES AGREE AND ACKNOWLEDGE THAT CUSTOMER TRANSFERS TITLE AND INTERESTS TO THE CUSTOMER TRANSFERRED ASSETS ON AN "AS-IS, WHERE-IS" BASIS WITH NO WARRANTY OF ANY KIND EXPRESS OR IMPLIED INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT THAT CUSTOMER WARRANTS THAT IT HAS GOOD AND MARKETABLE TITLE TO THE CUSTOMER TRANSFERRED ASSETS AND SUCH TITLE IS FREE AND CLEAR OF ANY LIENS OR ENCUMBRANCES.

4. Further Assurances. Customer covenants and agrees at the request of ACS to execute and deliver (or cause to be executed and delivered) further instruments of transfer and assignment and take such other action as ACS may reasonably request to more effectively transfer and assign to and vest in ACS each of the Customer Transferred Assets

5. Terms of the Agreement; Conflict. The terms of the Agreement are incorporated herein by this reference. In the event of any conflict or inconsistency between the terms of the Agreement and the terms hereof, the terms of the Agreement shall govern.

6. Notices. All notices or other communications or deliveries provided for under this Bill of Sale and Assignment shall be given as provided in the Agreement.

7. Binding Effect; Assignment. This Agreement will be binding on the Parties and their respective successors and permitted assigns. Notwithstanding the above, neither Party may assign this Agreement or any rights or obligations hereunder, without the other Party's prior written consent; provided, however, that either Party may make such an assignment, to an Affiliate or another entity or business unit of such Party or pursuant to a reorganization of such Party (including an Affiliate, business unit or entity that was receiving or entitled to receive the Services under this Agreement) upon written notice to the other Party, provided, however, that with respect to any assignment by ACS, any proposed assignee must be financially secure and an entity with the necessary resources to provide the Services. Any assignment in contravention of this subsection will be void. Any consent by a Party to any assignment of this Agreement will not constitute its consent to further assignments.

8. Governing Law. This Bill of Sale and Assignment will be governed by and construed in accordance with the substantive laws of the State of Florida, without giving effect to any choice of law rules that

may require the application of the laws of another jurisdiction. The Parties consent to venue in the United States courts sitting in the Southern District of Florida, which is the exclusive jurisdiction and venue of any action brought hereunder, unless the amount in controversy does not exceed the jurisdictional limit for federal court, in which case the action may be brought in the courts of the State of Florida in West Palm Beach, Florida.

9. Counterparts. This Bill of Sale and Assignment may be executed in two or more counterparts (including by means of telecopied signature pages) each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Bill of Sale and Assignment as of the Effective Date.

ACS COMMERCIAL SOLUTIONS, INC.

By:	
Print Name	
Title:	
Date:	

OFFICE DEPOT, INC.

By:	GEORGE BRYAN
Print Name	George Bryan
Title:	V.P. Financial Services
Date:	11/30/04

EXHIBIT A (TO SCHEDULE F)

CUSTOMER TRANSFERRED ASSETS

CREDIT & COLLECTIONS

AND

SALES TAX SUPPORT

STATEMENT OF WORK

TABLE OF CONTENTS

1.0 INTRODUCTION/DEFINITIONS

1.1 This Statement of Work (SOW) will confirm the mutual understanding and agreement of ACS Commercial Solutions ("ACS") and Office Depot, Inc. ("OD") as to the terms and conditions pursuant to which ACS, itself and through its direct and indirect wholly-owned subsidiaries, will perform the Credit and Collections Services (the "C&C Services") and Sales Tax Support (the, "STS Services") described in this SOW for OD. All references to ACS in this SOW will be deemed to include all such subsidiaries, and ACS and OD may be referred to in this SOW as a "Party" and together as the "Parties".

1.2 The terms and conditions of this SOW are as follows: (i) this SOW is entered into by the Parties under the provisions of that certain Master Services Agreement for Business Process Outsourcing Services, dated as of November 30, 2004 , between ACS and OD (the "Agreement"), and, except as otherwise provided in this SOW, all applicable provisions of the Agreement are incorporated into this SOW by this reference; (ii) the term of this SOW will commence on **December 26, 2004** and, unless earlier terminated as provided in the Agreement or this SOW, will expire on **December 25, 2011** provided, however, that the term of this SOW may be extended as provided in the Agreement; (iii) during the term of this SOW, ACS will provide to OD the Services described in this SOW; (iv) in connection with the Services provided by ACS under this SOW, ACS will provide to OD the support and resources described in this SOW; (v) for the Services provided by ACS under this SOW, OD will pay to ACS the amounts specified in the attached Attachment A to this SOW; (vi) ACS will provide the Services in accordance with the Policies and Procedures and the Service Levels currently established at the Wichita, Kansas location for Services described in this SOW; and (vii) additional terms and conditions related to the Services are set forth in the following Attachments which address various details that relate to the scope of Services and are hereby incorporated by reference. Within (180) days after the Effective Date, ACS and OD will jointly develop detailed project plans that describe the Transition Plan and Migration Schedule to/from ACS facilities. The Attachment F Transition Plan reflects a view of the transition activities that must occur. Office Depot and ACS agree that in the event that the ACS technical infrastructure build cannot be completed by December 25, 2004, Office Depot agrees to maintain the current infrastructure for up to thirty one additional days (through January 25, 2005) to ensure uninterrupted service during the transition period.

On or before April 30th, 2005, ACS will deliver to Office Depot a written proposal (the "ACS Proposal") with respect to designing an AR Application Tool. Within thirty (30) days of receipt of the ACS Proposal, Office Depot may elect to implement the ACS Proposal. The implementation of any such AR Application Tool is subject to Office Depot and ACS reaching mutual written agreement with respect to the implementation and on-going costs and expenses of such AR Application Tool. The ACS Proposal, when mutually agreed to by ACS and OD, will be set forth in a Statement of Work governed by the terms and conditions of the Agreement, including without limitation the allocation of Intellectual Property Rights.

- Attachment A: Pricing
- Attachment B: Service Level Agreement
- Attachment C: Human Resource Provisions
- Attachment D: Disaster Recovery
- Attachment E: Governance
- Attachment F: Transition Plan
- Attachment G. Office Depot's Polices and Procedures Manual

1.3 Definitions. For purposes of this SOW, the following terms shall have the meanings indicated therein:

"Effective Date" means the date on which the Agreement is executed.

"In-Scope Site" means the OD site located in Wichita, Kansas.

"Migration Plan" means the activities associated with the migration of employees from the ACS site located in Wichita, Kansas to another ACS site, as described in the migration plan to be prepared by ACS and delivered to OD.

"Service Commencement Date(s)" means the date(s) that ACS commences providing Services at the In-Scope Site.

"Steady State" means that all C&C and STS Services have been fully transitioned to ACS to the extent contemplated by this SOW.

"Transition Period(s)" means the time beginning on the Effective Date and continuing until Steady State during which (i) preparation and transition activities and milestones occur for the full and complete transition of C&C and STS Services from OD to ACS in accordance with the Transition Plan.

"Transition Plan" means the activities that the Parties will engage in, and the milestones that will be delivered and/or occur as set forth in Schedule A, Attachment F (Transition Plan). "Transition Schedule" means the date(s) on which the activities and milestones set forth in the Transition Plan are scheduled to occur.

2.0 SYSTEMS AND TOOLS — DEFINED

JMIL
Office Depot GUI/Windows based order entry system of AOPS

MBS
Office Depot Mainframe billing system

BSD
Office Depot's Business Services Division

BSD Finance
Office Depot web based billing interface of customer information

BSG
Office Depot's Business Services Group

Credit Settlement System
Office Depot's credit card settlement system

VK Finance
Viking web based billing interface of customer information

AB
Account Billing for Office Depot's BSD Credit porfolio

Viking Credit Portfolio
Accounts receivables stemming from Viking contract sales

Tech Depot Credit Portfolio
Accounts receivables stemming from Tech Depot contract sales

TDM
Total Document Management Workflow system that ACS provides for Office Depot's Accounts Payable and Sales Tax Support processes

VERTEX Rate Locator
Third party software utilized to research sales/use tax rates

VERTAX Sales Tax Reference
Third party software utilized to perform sales tax research

RIA
Third party software (internet based) used to perform more thorough tax research

AOPS
Office Depot system for new customer account setup for the BSD Portfolio

VARS
Viking system for new account setup, customer account management, credit and collection, etc. for the Viking BSD portfolio

MARS
Master Accounts Receivable System utilized for the BSD portfolio

TechDepot
A subsidiary of Office Depot, which utilizes "Great Plains" for credit administration, billing, and collections

Hardware/software
To support the above mentioned portfolios

GetPaid
Collections workflow software used in the BSD Credit Portfolio

Avolent
Web based tool for customer and employees to view accounts receivable information. Also know as single "BSD Finance" and "VK Finance"

D&B Website
Utilized to research new customers and evaluate their credit worthiness

3.0 CREDIT & COLLECTIONS OVERVIEW

The Credit & Collections solution for Office Depot assumes that ACS shall perform the current Credit & Collections ("C&C") responsibilities of the Office Depot's C&C department located in Wichita, Kansas, as defined in this SOW. After stabilization of the C&C processes, ACS will begin to implement the Migration Plan as it relates to the specific processes. In doing so, ACS shall continue the current service levels. Within six (6) months of the Service Commencement Date, ACS will begin to migrate the work to an ACS facility and begin defining and implementing mutually agreeable process improvements. Office Depot will not unreasonably withhold approval of process changes and will provide its approval within five (5) business days of receiving ACS' proposed written changes. The main Credit & Collections functions consist of the following: the BSD, Viking and TechDepot portfolios currently being processed in the Wichita, Kansas facility are "in-scope". These functions include: New Account Set-up and Approval, Account Maintenance, Credit Approval, Risk Management, Hold/Release, Collections, Credit

Card Payments, Account Write-Offs, Agency Placement, Bankruptcy Administration. The Wichita, Kansas location operation hours will remain the same as of the date this document is signed. Within 90 days after the Service Commencement Date, Office Depot and ACS will mutually develop a responsibility matrix that identifies which risk management deliverables are the responsibility of Office Depot and ACS; provided, however that the Parties' responsibilities will be consistent with the responsibilities of the Parties as set forth in this SOW.

ACS RESPONSIBILITIES: CREDIT & COLLECTIONS

3.1 NEW ACCOUNT SET-UP AND APPROVAL

The Credit Approval process is based on the Office Depot Polices & Procedures Manual see Attachment G.

Office Depot will continue to exclusively negotiate service contracts for credit information from designated vendors (e.g., Dun & Bradstreet, Experian, and Equifax). While ACS will administer credit granting processes using proscribed rules set forth in Attachment G, and Office Depot will continue to pay or those services. Office Depot will retain final approval on all decisions to grant, or not grant, credit to customers. Office Depot will respond to credit granting inquiries from ACS within one (1) business day.

ACS' responsibilities are to:

(a) Assume responsibility for the Credit Approval process utilizing and following the Office Depot Policy & Procedure Manual (Attachment G.).

3.2 ACCOUNT MAINTENANCE

The Credit and Collections group administers account maintenance for the three (3) portfolios (BSD, Viking and TechDepot). The group oversees this "maintenance" to ensure procedures are followed for customer changes, thereby reducing the risk to Office Depot.

ACS' responsibilities are to:

(b) Assume responsibility for the Credit and Collections' group account maintenance for the three (3) portfolios (BSD, Viking and TechDepot) utilizing and following the Office Depot Policy & Procedure Manual (Attachment G.).

3.3 CREDIT APPROVAL

The Credit approval process is based upon the Office Depot Policy & Procedure Manual (Attachment G.). Office Depot will continue to exclusively negotiate service contracts for credit information from designated vendors (e.g., Dun & Bradstreet, Experian, and Equifax). Office Depot will continue to maintain the costs for those services. While ACS will administer credit granting processes using proscribed rules in Attachment G, Office Depot will retain final approval on all decisions to grant or not grant, credit to customers.
Office Depot will respond to credit granting inquires from ACS within one (1) business day.

ACS' responsibilities are to:

(c) administer credit granting processes using proscribed rules in the Office Depot Policy & Procedures Manual (Attachment G).

3.4 RISK MANAGEMENT

The Risk Management process currently performed in the Wichita, Kansas facility is addressed in the Office Depot's Policy & Procedures Manual (Attachment G) for all three portfolios. While ACS will administer risk management processes using proscribed rules in Attachment G, Office Depot will retain final approval on all decisions to grant, or not grant, credit to customers. Office Depot will respond to credit granting inquiries from ACS within one (1) business day.

ACS' responsibilities are to:

(a) administer risk management processes using proscribed rules in the Office Depot Policy & Procedure Manual (Attachment G.).

3.5 HOLD/RELEASE

The hold/release functions include reviewing the customers current order, credit limits, past dues (or delinquencies), frequency of orders, customers requiring purchase orders (PO's) and collectors reasons for placing an account on "hold". "Releases" are based on several automated and decision points defined in Attachment G. GetPaid, AOPS, and MARS are used concurrently for hold/release decisions for BSD. 80% of the Viking hold/release issues are processed automatically based on programming in VARS. The remaining 20% hold/release issues are performed at the point of sale. GreatPlains is used for Hold/release issues processed for Tech Depot.

While ACS will administer hold/release processing used proscribed rules in Attachment G, Office Depot will continue to retain final approval on decisions to release, or not release, orders to customers for credit related reasons. Office Depot will respond to credit granting inquiries from ACS within one (1) business day.

ACS' responsibilities are to:

(a) Continued use of GetPaid, AOPS, and MARS for the BSD portfolio and the steps referenced in the Office Depot's Policy & Procedures Manual found in Attachment G.

3.6 COLLECTIONS

Collections are varied based on portfolio and customer relations. Collections include: friendly fax near the due date, first calls, follow-up calls, friendly reminders, serious fax, obtain promises or commitments to pay both in amount and by date, letters to the account manager, final demand letter, third party participation including assignment of an account to a third party. GetPaid software is used to manage the collectors' duties and prompts them for collection activities for the BSD portfolio. Any daily payment activity is not updated in GetPaid until the nightly update routine between MARS and GetPaid, therefore the collectors must use both systems before collection activities begin for BSD. Collections for Viking are generally the same as for BSD with the exception of the software and hardware used to support the Viking portfolio as well as exceptions that prompt collections (ex., when to begin collections, days past due, etc.)

ACS' responsibilities are to:

a) Continue to use GetPaid, AOPS and MARS for the BSD portfolio and the steps referenced in the Office Depot Policy & Procedures Manual (Attachment G).

b) Continued use of VARS and JMIL utilizing the steps outlined referenced in the Office Depot Policy and Procedures Manual (Attachment G);

c) TechDepot Utilizing the steps outlined in the Office Depot Policy and Procedures Manual (Attachment G).

3.6.1 CREDIT CARD PAYMENTS

Credit card payments are processed by collectors for customer payments on delinquent accounts. The payment is processed in MARS or VARS, and the payment processing is verified by Office Depot's Financial Control and Office Depot's Customer Programs to ensure collections are processed for all authorized credit card transactions.

ACS' responsibilities are to:

a) Process the credit card payments referenced in and utilizing the policies in the Office Depot Policy & Procedure Manual (Attachment G).

3.7 ACCOUNT WRITE-OFFS

Individual collectors determine when to write accounts off and proposed write offs are sent to the collections lead for approval for each portfolio. Write offs are currently reviewed and authorized by the Office Depot Director of Credit. A detailed narrative is provided in the Office Depot Policy & Procedures Manual referenced in Attachment G. While ACS will administer write-off processing using proscribed rules in Attachment G, Office Deport will retain the authority to approve, or dis-approve, all write-offs. Fees will be paid by Office Depot.

ACS' responsibilities include:

a) Continued use of the above mentioned process and the steps referenced in the Office Depot Polices & Procedures Manual in Attachment G.

3.7.1 AGENCY PLACEMENT

Once the account has been "written-off" a Third Party Collection Agency is engaged to collect bad debt accounts for all three portfolios. A detailed narrative is provided in the Office Depot Polices & Procedures Manual (Attachment G). Office Depot will continue to negotiate all contracts with third-party agencies and continue to pay for those services.

ACS' responsibilities are to:

a) Continued use of the above mentioned process following the steps referenced in the Office Depot Policies & Procedures Manual (Attachment G).

3.7.2 BANKRUPTCY ADMINISTRATION

ACS' responsibilities are to:

a) Continue to use process and steps referenced in the Office Depot Policies & Procedures Manual (Attachment G).

4.0 SALES TAX SUPPORT OVERVIEW

The Sales Tax Support solution for Office Depot assumes that ACS will perform the current Sales Tax Support (“STS”) responsibilities of Office Depot’s Sales Tax Support department located in Wichita, Kansas, as defined in this SOW. In doing so, ACS shall continue the current service levels. In addition, ACS will migrate the work to an ACS facility and begin defining and implementing mutually agreeable process improvements. Office Depot will not unreasonably withhold approval of process changes and will provide their approval within five (5) business days of receiving ACS’ proposed written changes. In performing the STS functions, ACS shall process customer exemption document requests, validate exempt status of customers, and process sales tax refund/write-off requests for all Office Depot entities and sales channels.

Additionally, ACS shall support additional requests from the OD Sales and Use tax group located in Delray Beach, Florida. These functions include sales tax audit support, as well as processing of mass exemption certificate updates.

The Wichita, Kansas location operation hours will remain the same. Except as agreed otherwise in writing by the parties, ACS will provide the STS services in accordance with current Office Depot STS service levels. Within 90 days after the Service Commencement Date, Office Depot and ACS will mutually develop a responsibility matrix that identifies which deliverables are the responsibility of Office Depot and ACS.

ACS RESPONSIBILITIES: SALES TAX SUPPORT

4.1 EXEMPTION CERTIFICATE VALIDATION

ACS will assume the Sales Tax Support group’s responsibilities of validating the exempt status of customers based on exemption documentation forwarded via mail, fax, or through the TDM work flow process. If documentation is validated, ACS will set up the exempt customers in the AOPS Customer Information System as tax-exempt in the applicable state as either Statutory (S) or Resale ® and either full or partial exemption. ACS shall establish new customer accounts or update as necessary during exemption certificate processing. ACS shall then prepare exemption certificates for imaging. If the customer is a retail (as opposed to a Contract) customer, ACS will request a tax exempt card(s) to be sent to the customer. Currently AOPS sends an update to POS overnight to activate the customer’s exempt status at the register. There are slight differences between Office Depot, Viking and Tech Depot processing.

ACS’s responsibilities are to:

Use the same procedures currently used by STS to validate and link the customer’s exemption documentation to the AOPS Customer Information System, thus activating the customer’s tax-exempt status within the AOPS and POS systems.

4.2 EXEMPTION CERTIFICATE DENIAL

ACS STS personnel will deny tax-exempt status to customers whose exemption documentation is not complete, expired, or not valid. The Customer Information System in AOPS will be updated to indicate that the customer is not tax exempt and the file will be noted that either additional information has been requested, a new certificate has been requested, or that the customer does not qualify for exempt status. New customer accounts are established or updated as necessary during exemption certificate processing.

ACS’s responsibilities are to:

Follow the same exemption denial criteria as established by research materials made available to all STS staff.

4.3 ACCOUNTS RECEIVABLE TAX WRITE-OFFS — MARS

The Office Depot sales tax system will charge tax to BSG customers until and unless the Customer Information System in AOPS reflects that the customer is tax-exempt in the state of purchase, or that certain purchases made by the customer are tax-exempt. Trade Credit representatives will write-off the sales tax charged to the customer through the MARS — AR system using the applicable state code. Office Depot STS will review requested sales tax write-offs and either approve or deny them based on the reason for write-off and whether the customer is exempt or not. Notes are entered into MARS for the reason a write-off was denied. Tax write-off codes are 122-172. There is a hierarchy for write-off approvals.

ACS's responsibilities are to:

Continue to approve or deny sales tax write-offs in the MARS system.

4.4 CASH/CHECK REFUNDS

The Office Depot sales tax system will charge tax to commercial and retail customers until valid tax exemption documentation is received and entered in AOPS. Once exemption documentation has been received and validated, sales tax will be refunded via check to a customer who paid for merchandise by cash or check. Prior to issuing a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns, whether the merchandise qualifies for the exemption and Office Depot STS will determine whether the refund has previously been processed. Checks are requested through TDM and forwarded to customers by Office Depot Accounts Payable. Occasionally checks will be returned for various reasons and Office Depot STS will process these returned checks accordingly.

ACS's responsibilities are to:

Continue issuing sales tax refunds via check to cash customers who have provided valid tax exemption documentation and sales receipts/invoices indicating that tax was paid.

4.5 COMMERCIAL/ACS CREDIT CARD

The Office Depot sales tax system will charge tax to commercial and retail customers until valid tax exemption documentation is received and entered in AOPS. Once exemption documentation has been received and validated, sales tax will be refunded to a customer who paid for merchandise with a commercial or ACS credit card. Prior to issuing a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns, whether the merchandise qualifies for the exemption and Office Depot STS will determine whether the refund has previously been processed. Refunds are requested through Credit Settlement System. If for some reason tax was not charged or there was a tax rate error, Office Depot STS will actually charge the customer's credit card the applicable additional sales tax. Data entry errors are returned and researched as necessary. There are slight differences between Office Depot and Viking processing.

ACS's responsibilities are to:

Continue processing sales tax refunds using the Credit Settlement System to customers that have provided valid tax exemption documentation and sales receipts/invoices indicating that tax was paid.

4.6 AB CONTRACT CUSTOMER

The Office Depot sales tax system will charge tax to contract customers until valid tax exemption documentation is received and entered in AOPS. Once exemption documentation has been received and validated, sales tax will be refunded or written off, as applicable, for a contract customer who charged merchandise to their open account. Prior to processing a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns, whether the merchandise qualifies for the exemption and Office Depot STS will determine whether the refund has previously been processed. Refunds are requested through an Access spreadsheet and submitted to Accounts Receivable for processing as either a refund or a write-off if tax was short-paid. Data entry errors are returned and researched as necessary. If for some reason tax was not charged or there was a tax rate error, Office Depot STS will actually charge the customer the applicable additional sales tax using a different spreadsheet. There are slight differences between Office Depot and Viking processing.

ACS's responsibilities are to:

Continue processing sales tax refunds for AB customer using the current Access spreadsheet process for customers that have provided valid tax exemption documentation and sales receipts/invoices indicating that tax was paid in error.

4.7 AMAZON CREDIT CARD

Amazon charges sales tax on all purchases of Office Depot merchandise processed through their website. Amazon will contact Office Depot if their customer requests a sales tax refund. Office Depot STS will determine whether the customer is exempt from sales tax. Once exemption documentation has been received and validated, Office Depot STS enters applicable information on a spreadsheet that is returned to Amazon who will then issue the sales tax refunds. Prior to processing a tax refund, Office Depot STS will review the order in question to determine whether the merchandise qualifies for the exemption. Data entry errors are returned and researched as necessary.

ACS's responsibilities are to:

Continue processing sales tax refunds for Amazon customers using the current spreadsheet process for Amazon customers that have provided valid tax exemption documentation and invoices indicating that tax was paid in error.

4.8 MONEY CARDS

The Office Depot sales tax system will charge tax to customers until valid tax exemption documentation is received and entered in AOPS. Once exemption documentation has been received and validated, sales tax will be refunded for a customer who paid for merchandise using only an Office Depot money card. Prior to processing a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns, whether the merchandise qualifies for the exemption. Refunds requests are forwarded via mail to Accounts Receivable for processing.

ACS's responsibilities are to:

Continue processing sales tax refunds for Money Card customers using the current process for customers that have provided valid tax exemption documentation and sales receipts indicating that tax was paid in error.

4.9 TECH DEPOT

The Tech Depot sales tax system will charge tax to customers until valid tax exemption documentation is received and entered in the Tech Depot customer master. Once exemption documentation has been received and validated, sales tax will be refunded a customer who was incorrectly charged sales tax on merchandise purchased. Prior to requesting a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns and whether the merchandise qualifies for the exemption. If a refund is due the customer the refund information is entered into an Excel spreadsheet that is furnished to the Tech Depot accounting department for processing.

ACS's responsibilities are to:

Continue processing Tech Depot sales tax refunds as noted above.

4.10 ACS EXEMPTION APPLICATIONS

ACS (CITI Group) receives sales tax exemption applications along with credit card applications. Sales tax exemption applications are forwarded to Office Depot STS who processes them in the same manner as described above under 4.1 and 4.2. Upon completion Office Depot STS notifies ACS of the exempt status of each customer in question. Office Depot STS will also enter the applicable credit card number in AOPS.

ACS's responsibilities are to:

Continue processing Tech Depot sales tax refunds as noted above.

4.11 CASH APPLICATION DATABASE

Accounts Receivable has developed a database where they track customer exemptions in process. Exemption certificates they receive are forwarded to Office Depot STS for processing as noted in 4.1 and 4.2 above. Office Depot STS updates the database with applicable tax information as exemption certificates are received and again upon completion of processing.

ACS's responsibilities are to:

Continue updating the Accounts Receivable database as noted above.

4.12 DEBIT CARD

The Office Depot sales tax system will charge tax to commercial and retail customers until valid tax exemption documentation is received and entered in AOPS. Once exemption documentation has been received and validated, sales tax will be refunded to a customer who paid for merchandise with a debit card. Prior to issuing a tax refund, Office Depot STS will review purchase history to determine whether there have been any returns, whether the merchandise qualifies for the exemption and Office Depot STS will determine whether the refund has previously been processed. Refunds are requested through Credit Settlement System. If for some reason tax was not charged or there was a tax rate error, Office Depot STS will actually charge the customer's debit card the applicable additional sales tax. Data entry errors are returned and researched as necessary.

ACS's responsibilities are to:

Continue processing sales tax refunds using the Credit Settlement System to customers that have provided valid tax exemption documentation and sales receipts/invoices indicating that tax was paid.

4.13 SYSTEMS AND TOOLS

See Section 2.0

4.14 AUDIT SUPPORT

The Sales Tax Support group currently assists the Office Depot Sales Tax Audit group by providing copies of exemption certificates that have been requested by state and local sales tax auditors.

ACS's responsibilities are to:

Continue to provide support to supply copies of exemption certificates for Viking and Tech Depot customers that are on site in Wichita, Kansas. Also, ACS will prepare and image all such documents currently on site, at Office Depot's expense, and make these imaged documents available to the Sales Tax Audit Group in Delray Beach through the TDM system.

5.0 COMMUNICATION

ACS will provide training to any employees providing Services to Office Depot from a call center located at ACS locations outside of the United States in order to ensure that such employees effectively communicate to Office Depot and its designees, including minimizing the use of colloquialisms. To the extent that Office Depot determines in its reasonable discretion, and for reasons that are not unlawful, that such ACS employees are not effectively communicating to Office Depot or its designees, Office Depot will specify its concerns in writing and ACS will supplement the training for such ACS employees to address the concerns specified by Office Depot.

EXHIBIT 10.25

CONFIDENTIAL TREATMENT REQUESTED

CONTRACT FOR PURCHASE AND SALE

THIS CONTRACT OF SALE (this "**Contract**") is made and entered into as of the 29th day of December, 2004 (the "**Effective Date**") between **BRHP, LLC**, a Florida limited liability company ("**Seller**") and **STILES CORPORATION,** a Florida corporation ("**Purchaser**").

1. **Purchase and Sale.** Seller agrees to sell and convey to Purchaser agrees to Purchase:

a. that certain parcel of land containing approximately 23 acres of land situated in the City of Boca Raton, Palm Beach County, Florida, as more particularly described on **Exhibit "A"** attached hereto together with all benefits, privileges, tenements, hereditaments, rights and appurtenances thereon or pertaining thereto (the **"Land"**); and

b. all of Seller's legal and beneficial right, title and interest in and to all of the tangible personal property, if any, owned by Seller and located on or at the Land, including but not limited to, and to the extent owned by Seller, those certain ball fields, including baseball fields, tennis courts, basketball courts, handball courts, playground areas, and volleyball courts shown on those certain surveys of the Land (dated January 9, 2004, under Job No. 02-0046) prepared by Michael G. Purmort & Associates, Inc. (collectively, the "**Tangible Personal Property**"); and

c. to the extent assignable without cost to Seller, all of Seller's legal and beneficial right, title and interest in and to all of the intangible property, rights and interests described on **Schedule 1-1** attached hereto (collectively, the "**Intangible Personal Property**").

The Land, the Tangible Personal Property and the Intangible Personal Property are collectively referred to herein as the "**Property**".

2. **Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be [*]. The Purchase Price shall be paid, subject to prorations and adjustments as set forth herein, at Closing

(defined below) by wire transfer of immediately available funds to an account designated by Seller at least 72 hours prior to Closing (as defined below).

3. **Deposit.** Upon the full execution and delivery of this Contract, Purchaser shall deposit with Proskauer Rose LLP ("**Escrow Agent**") the sum of ONE HUNDRED THOUSAND AND NO/100 Dollars ($100,000) (the "**Initial Deposit**"). Within three (3) business days following the expiration of the Inspection Period (hereinafter defined), if Purchaser has not terminated this Contract, Purchaser shall deposit with the Escrow Agent an additional deposit in the amount of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS $150,000 (the "**Additional Deposit**"). The Initial Deposit, the Additional Deposit (when it is deposited by Purchaser with Escrow Agent) and all interest thereon are collectively and individually referred to herein as the "**Deposit**." The Deposit shall be applied to the Purchase Price at the Closing.

4. **Inspection Period.**

a. During the term of this Contract, Purchaser shall be entitled to (i) enter onto the Land for any purpose, including conducting such audits, inspections, or investigations thereon as Purchaser may deem appropriate provided that no inspection shall be undertaken without reasonable prior notice to Seller (and no Phase II environmental site assessment shall be permitted without the prior written consent of Seller), and (ii) contact and make inquires to any and all applicable local, municipal, county, state and federal governmental and quasi-governmental agencies with respect to the Property as Purchaser deems appropriate (collectively, the "**Due Diligence**"). The cost of the Due Diligence undertaken by Purchaser pursuant to this Contract shall be borne solely by Purchaser. Purchaser shall be entitled, for any reason, or no reason, in Purchaser's sole discretion, to terminate this Contract by written notice delivered to Seller on or prior to the date which is thirty (30) days following the Effective Date (the period commencing on the Effective Date and ending on such date being referred to herein as the "**Inspection Period**"). If Purchaser notifies Seller prior to the end of the Inspection Period that Purchaser has elected to terminate this Contract, this Contract shall terminate, the Deposit shall be returned to Purchaser and Purchaser and Seller shall have no further obligations hereunder except those that expressly survive termination. If Purchaser does not close on the purchase of the Property under this Contract, it shall return the Property to substantially the same condition in which it existed prior to any investigations undertaken by Purchaser, its agents, employees and assigns pursuant to this Contract, excluding any damages caused by acts of God or third parties not investigating the Property by, through or under Purchaser. Additionally, if this Contract terminates for any reason other than Seller's default, then Purchaser must deliver to Seller copies of all third party reports, investigations and studies (collectively, the "Reports" and, individually, a "Report") prepared for Purchaser in connection with its due diligence review of the Property. The Reports shall be delivered to Seller without any representation or warranty as to the completeness or accuracy of the Reports or any other matter relating thereto, and Seller shall have no right to rely on any Report without the written consent of the party preparing same. Purchaser's obligations to restore the Property and to deliver the Reports to Seller shall survive the termination of this Contract.

b. Purchaser agrees to indemnify and hold harmless Seller from and against any and all losses, costs, damages, claims or liabilities (whether arising out of injury or death to persons or damage to the Land, or otherwise and including reasonable legal fees) arising out of or in connection with: (i) the Due Diligence, and (ii) the entry by Purchaser upon the Land pursuant to this Contract. Purchaser's indemnity and hold harmless obligations pursuant to this **Section 4(b)** shall survive the Closing of this transaction or earlier termination or expiration of this Contract. Prior to conducting any Due Diligence, Purchaser shall provide Seller a certificate of comprehensive general liability insurance, in the minimum amount of $2,000,000.00, naming Seller as an additional insured for any claim, loss, cost damage or expense which may arise out of Seller's Due Diligence at the Land or for any other matter indemnified by Purchaser hereunder. Such insurance shall in no way limit Purchaser's indemnity obligations hereunder.

c. CONVEYANCE "AS IS". EXCEPT AS TO ANY REPRESENTATIONS EXPRESSLY SET FORTH IN THIS CONTRACT, THE PROPERTY SHALL BE CONVEYED SUBJECT TO ALL PERMITTED EXCEPTIONS, AND ANY MATTERS AFFECTING THE PROPERTY AS OF THE CLOSING DATE, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL MATTERS. FURTHER, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS CONTRACT, THE PROPERTY WILL BE CONVEYED IN ITS "AS IS" CONDITION ON A "WHERE IS" BASIS AND "WITH ALL FAULTS," WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, AND WITHOUT ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR, OR PURCHASER'S INTENDED, USE OR PURPOSES, INCLUDING, BUT NOT LIMITED TO, WITH RESPECT TO ENVIRONMENTAL MATTERS. WITHOUT LIMITING THE FOREGOING, PURCHASER, UPON CLOSING, SHALL, EXCEPT FOR THOSE MATTERS EXPRESSLY STATED TO SURVIVE THE CLOSING (AND SUBJECT TO THE LIMITATION ON SURVIVAL PROVIDED HEREIN) BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER FROM AND AGAINST ANY AND ALL MATTERS ARISING OUT OF LATENT OR PATENT DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS AFFECTING THE PROPERTY. FOR THE FOREGOING PURPOSES, PURCHASER HEREBY

SPECIFICALLY WAIVES THE PROVISIONS OF ANY LAW OF ANY STATE, TERRITORY OR JURISDICTION THE IMPORT OF WHICH IS AS FOLLOWS: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER HAS NO OBLIGATION TO CURE ANY ENVIRONMENTAL MATTERS CONCERNING THE PROPERTY OR TO PROVIDE PURCHASER WITH A CREDIT AGAINST THE PURCHASE PRICE AS A RESULT THEREOF, AND PURCHASER HEREBY EXPRESSLY WAIVES ANY AND ALL CLAIMS AND ANY AND ALL RIGHTS OF CONTRIBUTION PURCHASER MAY HAVE RESULTING FROM ANY ENVIRONMENTAL MATTERS AT THE PROPERTY. PURCHASER FURTHER ACKNOWLEDGES THAT SELLER HAS OWNED THE PROPERTY FOR A LIMITED TIME AND SELLER'S KNOWLEDGE AS TO THE CONDITION THEREOF IS ACCORDINGLY LIMITED. THIS **SECTION 4(C)** SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED HEREBY AND/OR THE EARLIER TERMINATION OF THIS CONTRACT.

5. **Title Commitment and Survey.**

a. Title and Survey. During the Inspection Period, Purchaser shall obtain, at Purchaser's cost, a title update and survey update. Purchaser shall have the right to examine such documents and title to the Property during the Inspection Period. If title is found to be defective or not acceptable to Purchaser for any reason or if there are any matters on the survey which render title defective or unacceptable to Purchaser, Purchaser shall, prior to the expiration of the Inspection Period, notify the Seller in writing specifying any defect(s) or unacceptable items. Seller shall have the right (but not the obligation) within thirty (30) days from receipt of such notice to cure the defect(s) if Seller elects to do so, and if after the thirty (30) day period Seller shall not have cured the defect(s), Purchaser shall have the option of (i) accepting title as it then is, or (ii) demanding a refund of all monies paid hereunder which shall forthwith be returned to the Purchaser with the interest earned, and thereupon, the Purchaser and Seller shall be released of all further obligations to each other under this contract except those which expressly survive termination. Any title matters set forth in **Schedule 5** attached hereto or other matter disclosed by Purchaser's title update which are not objected to by Purchaser prior to the expiration of the Inspection Period are sometimes referred to herein as the "**Permitted Exceptions**." Purchaser shall have the right to object to any title matters first appearing of record subsequent to the effective date of Purchaser's title update at any time prior to the Closing Date (as defined below), but in any event within five (5) days following the date Purchaser obtains knowledge of such matter.

6. **Representations and Warranties.** Seller represents and warrants to Purchaser as follows as of the date hereof and as of the Closing:

a. Seller is the owner of marketable, fee simple title to the Property subject to the matters set forth on Schedule 5 attached hereto and any other Permitted Exceptions. There are not any outstanding contracts or options to purchase the Property or any portion thereof.

b. There is no pending or, to Seller's current actual knowledge, threatened condemnation, environmental, zoning, land use or similar proceeding affecting the use, operation or value of the Property and there is no pending or, to Seller's current actual knowledge, threatened litigation or administrative proceeding affecting Seller or the Property.

c. There are no leases or occupancy agreements in existence with respect to the Land and, upon Closing, Purchaser has exclusive possession of the Land, subject to be Permitted Exceptions.

d. Seller is not a "foreign person" as that term is referred to in Section 1445 of the Internal Revenue Code of 1954, as amended, and Seller shall confirm such in accordance with the provisions of said Section 1445 and the Income Tax Regulations promulgated hereunder.

e. Seller has the full power and authority to make, deliver, enter into and perform this Contract pursuant to the terms and conditions hereof.

7. **Seller Responsibilities.** Seller covenants and agrees with Purchaser that prior to Closing or the earlier termination of this Contract: (a) Seller shall not execute or create any contract or option to purchase, lease, contract easement, covenant, condition, restriction, lien or encumbrance with respect to the Property or any portion thereof, without first obtaining the prior written consent of Purchaser; provided, however, the parties agree to cooperate with respect to creating easements, licenses and similar agreements required by a governmental authority in connection with development matters related to the Property; and (b) Seller shall promptly notify Purchaser of any notice received from any governmental authority pertaining to the Property.

8. **Closing.**

a. Date. The closing of the sale of the Property from Seller to Purchaser (the "**Closing**") shall take place at the offices of Purchaser's attorney on, or at Purchaser's option, before, the date which is sixty (60) days following the last day of the Inspection Period (the date of the Closing is sometimes referred to herein as the "**Closing Date**"). Time shall be of the essence as to the Closing Date.

b. Seller to Deliver. At the Closing, Seller shall furnish and deliver to Purchaser, at Seller's expense, the documents set forth on Exhibit "D" attached hereto, each of which shall be in substantially the same form as the corresponding instruments pursuant to which Seller acquired the Property from Purchaser's affiliate, Stiles/BLP, LLC.

c. Purchaser to Deliver. At the Closing, Purchaser shall deliver to Seller, at Purchaser's expense, the documents set forth on Exhibit "E" attached hereto.

d. Assignment and Assumption of Pre-Development Obligations.

Purchaser and Seller acknowledge and agree that, pursuant to the General Assignment (as such term is defined on Exhibit D attached hereto), Seller shall assign and Purchaser shall assume, among other things, all of Seller's obligations to perform various on-site and off-site development work (collectively, the "**Site Development Work**") arising pursuant to the Sewer and Water Sharing Agreement and the Intersection Cost Sharing Agreement (as both such terms are defined on Schedule 5-1 attached hereto) and Boca Tech Contract, along with Seller's interest in, and obligations under, the contracts with the vendors and contractors performing the Site Development Work (collectively, the "**Site Work Contracts**"), including but not limited to the Site Work Contracts listed on Schedule 5-2 attached hereto, all to the extent performed on or after November 18, 2004 (being the date of the letter of intent ("**LOI**") between Seller and Purchaser). Prior to Closing, Purchaser shall obtain certificates from the contractor and/or vendor under each of the Site Work

Contracts which shall: (i) set forth the total amount due for work performed by such contractor or vendor on/or prior to the Closing Date and any pre-paid amounts; and (ii) contain an acknowledgment that such contractor will look solely to the Purchaser for the payment of any amounts due under such Site Work Contract for work performed or services provided on or after November 18, 2004.

e. Adjustments and Prorations. Real estate and personal property taxes, association fees and assessments, and all other pro-ratable items shall be prorated as of the close of business on the day prior to the date of Closing; provided, however, any pro-ratable amounts due under the Site Work Contracts shall be prorated as of the close of business on November 17, 2004 (the day before the date of the LOI). If the taxes for the current year cannot be ascertained, those of the previous year shall be used, giving due allowance for the maximum discount allowable by law. All certified, statutory liens or assessments against the Property, special or otherwise, and all mortgages against the Property shall be paid at the Closing by Seller. Once the taxes for the current year are established, upon written demand by either party, the parties shall promptly readjust said proration in accordance with the current tax figures. In addition, at Closing Purchaser shall reimburse Seller for: (i) an amount equal to Seller's respective share of the Surety Amount (as such term is defined in Paragraph 6.2 of the Sixth Amendment to the Boca Tech Contract), *to wit:* $590,548.02 cash (the "**Seller's Surety Amount**") currently posted with the City of Boca Raton, Florida (the "**City**") to secure certain work conducted regarding the relocation of Broken Sound Boulevard, and (ii) an amount equal to any other surety amounts required to be posted with the City by Seller in excess of the $590,548.02 or in addition to the $590,548.02 in order to secure any work conducted regarding the relocation of Broken Sound Boulevard or otherwise comply with the Boca Tech Contract ("**Additional Surety Amounts**"); if and to the extent the Seller's Surety Amount and any Additional Surety Amounts remain posted in cash with the City of Boca Raton as of the Closing Date and are refundable upon completion of the work for which the surety amounts secure. The Additional Surety Amount includes, without limitation, $384,660 surety, in the form of a letter of credit, currently posted by Seller with the City as security for certain lift station work at the Property. After Closing and to the extent Purchaser has reimbursed Seller, if, as and when the Seller's Surety Amount or any Additional Surety Amounts are released by the City, such sums shall be paid directly to Purchaser free and clear of any claim by Seller. Purchaser shall not be required to reimburse Seller for any portion of the Seller's Surety Amount and/or any Additional Surety Amount that is not posted in the form of cash (e.g., a letter of credit)(collectively, "**Non-Cash Surety Amounts**") and Seller shall retain the right to receive a return of such Non-Cash Surety Amounts upon their release by the City. However, as soon as is reasonably practicable after Closing, Purchaser agrees to replace any Non-Cash Surety Amounts posted by Seller with Non-Cash Surety Amounts or other surety acceptable to the City from Purchaser, in order to achieve the return to Seller of any

Non-Cash Surety Amounts posted by Seller. Each of Seller and Purchaser shall cooperate with the other to ensure that the Seller's Surety Amount and any Additional Surety Amounts are released in compliance with the foregoing provisions. In addition, at Closing Purchaser shall reimburse Seller the sum of $60,045.00, representing the contribution paid by Seller pursuant to Paragraph 4.5 of the Sixth Amendment to the Boca Tech Contract for the cost of certain signalization work (the "**Signalization Contribution**"). At Closing, Purchaser shall also reimburse Seller for an amount equal to any amounts paid by Seller for work performed or services provided under the Site Work Contracts on or after November 18, 2004 but prior to Closing. After Closing, Purchaser shall reimburse Seller for any such costs not reimbursed at Closing within fifteen (15) days of Seller's written request therefore. This provision shall survive the closing.

f. Expenses of Closing.

Seller shall pay: (i) its proportionate share of the prorations set forth in Section 8(e); (ii) its own attorneys' fees; (iii) other charges required to be paid by Seller pursuant to this Contract; (iv) any local, county or state transfer, recording or documentary tax assessed in connection with the transfer to Purchaser; and (v) other charges typically paid by sellers in transactions of this nature in Palm Beach County, Florida.

Purchaser shall pay: (i) all title examination fees and cost of updating title; (ii) its proportionate share of the prorations set forth in Section 8(e); (iii) its own attorneys' fees; (iv) other charges required to be paid by Purchaser pursuant to this Contract; (v) premiums for the owner's title insurance policy; (vi) the cost of the survey, and (v) other charges typically paid by purchasers in transactions of this nature in Palm Beach County, Florida.

9. **Casualty or Condemnation Prior to Closing.** If at any time prior to the Closing any portion of the Property is destroyed or damaged by fire or any other casualty, or in the event a taking by condemnation, eminent domain or similar proceedings is commenced or threatened with respect to any portion of the Property, Seller shall give notice thereof to Purchaser and this Contract shall remain in full force and effect and Seller shall assign or pay to Purchaser at Closing Seller's interest in and to any and all insurance proceeds and condemnation awards.

10. **Default and Remedies.**

a. Purchaser's Default. In the event that Purchaser breaches its obligations under this Contract, Seller shall have the right, as its sole remedy, to terminate this Contract and to receive and retain the

Deposits, together with any accrued interest thereon, as liquidated and agreed upon damages, for Purchaser's breach hereof, whereupon the parties shall be relieved of any further liability or obligations hereunder.

b. Seller's Default. In the event that Seller breaches its obligations under this Contract, Purchaser may, as its sole remedy, either terminate this Contract and receive a refund of the Deposit and all interest earned thereon or file suit for specific performance, provided that any action for specific performance shall be commenced within thirty (30) days after such default (it being understood that if Purchaser fails to commence an action for specific performance within thirty (30) days after such default, Purchaser's sole remedy shall be to receive a return of the Deposit and terminate this Contract).

11. **Real Estate Brokerage.**

Broker. Seller and Purchaser each represent and warrant to the other that they have not dealt with any real estate broker, dealer or salesperson in connection with this transaction and that no brokerage commission is due or payable by either party to any broker claiming by, through or under the other party. Seller and Purchaser each hereby agree to indemnify, defend and hold the other harmless from and against any loss, damage or claim resulting from a breach of the foregoing representation. The provisions of this paragraph shall survive the closing hereunder.

12. **Miscellaneous.**

a. Notices. All notices, requests and other communications under this Contract shall be in writing and shall be delivered in person by hand delivery or overnight delivery service, by facsimile or sent by certified mail, return receipt requested, addressed as set forth on Exhibit "C" attached hereto or at such other address, and to the attention of such other person, as the parties shall give notice as herein provided. All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes hereof upon receipt at such address if delivered in person, by overnight delivery or by facsimile, or if mailed, upon deposit of both the original and any required copies in a post office or official depository of the United States Postal Service.

b. Survival. Except as otherwise provided herein, the provisions of this Contract shall not survive the Closing.

c. Entire Agreement; Modifications; No Waiver. This Contract embodies and constitutes the entire understanding between the parties with respect to this transaction, and all prior or contemporaneous agreements, understandings, representations and statements (oral or written) are merged into this Contract. Neither this Contract nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the Party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. No waiver of any provision of this Contract shall be effective unless it is in writing and signed by both parties against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

d. Applicable Law; Attorney's Fees; Waiver of Trial by Jury. This Contract and the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the State of Florida. In the event of any litigation arising out of this Contract, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees through and including appellate litigation and any post judgment proceedings. In any lawsuit or other proceeding initiated by Purchaser or Seller under or with respect to this Contract, each of Purchaser and Seller mutually waives any right it may have to demand a trial by jury.

e. Captions. The captions in this Contract are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Contract or any of the provisions hereof.

f. Binding Effect. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns. Subject to Section 12(k) hereof, any purported assignment of this Contract by either party shall be null and void unless such assignment is consented to by the other party, in writing duly signed and delivered by an officer of said party.

g. Time is of the Essence. With respect to all provisions of this Contract, time is of the essence. However, if the Closing or the final date of any period which is set out in any provision of this Contract falls on a Saturday, Sunday or legal holiday under the laws of the United States or the States of Florida or during any period that there is a hurricane watch or more impending notice of hurricane, then, and in such event, the Closing or such period shall be extended so that the Closing or the last day of such period falls on the next day thereafter which is not a Saturday, Sunday or legal holiday.

h. Counterpart Execution. This Contract may be executed in multiple counterparts. A facsimile copy of this Contract bearing the signature of a Party hereto shall be sufficient to bind such Party to the terms of this Contract.

i. <u>Escrow Agent</u>. Escrow Agent shall not be liable for any actions taken in good faith, but only for its gross negligence or willful misconduct. The parties hereby indemnify and hold Escrow Agent harmless from and against any loss, liability, claim or damage Escrow Agent may incur or be exposed to in its capacity as Escrow Agent hereunder except for its gross negligence or willful misconduct. If there is any dispute as to disposition of any proceeds held by Escrow Agent pursuant to the terms of this Contract, Escrow Agent is hereby authorized to interplead said amount with any court of competent jurisdiction and thereby be released from all obligations hereunder. The parties recognize that Escrow Agent is the law firm representing Purchaser, and hereby agree that such law firm may continue to represent Purchaser in any litigation pursuant to this Contract. Escrow Agent may resign upon five (5) days' written notice to Seller and Purchaser. If a successor escrow agent is not appointed jointly by Seller and Purchaser within the five (5) day period, Escrow Agent may petition a court of competent jurisdiction to name a successor.

j. <u>Radon Gas.</u> Pursuant to Florida Statutes, Section 404.056[8], the following disclosure is required by law: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and radon testing may be obtained from your county public health unit.

k. <u>Assignment</u>. Purchaser may not assign this Contract, but shall have the right to designate one or more affiliates ("**Purchaser's Nominee**") to accept title to the Property at Closing.

l. <u>No Memorandum Of Agreement</u>. Neither this Contract nor any notice or memorandum of this Contract shall be recorded in any public record.

m. <u>Confidentiality</u>. Prior to Closing, Purchaser shall not make any public disclosure of, or otherwise disclose to any person (other than to its representatives, professionals, attorneys, consultants, prospective lenders and partners), and each party shall direct its representatives, professionals, attorneys, consultants, prospective lenders and partners not to disclose to any person, the existence or terms of this Contract without the prior written consent of the other parties hereto, unless (in each instance) such disclosure is required by law or to enforce this Contract. During such period, the parties will consult with one another prior to making any public announcement or other disclosure regarding this Contract or the transactions contemplated hereby. Seller hereby consents to the disclosure by Purchaser of the existence (but not the terms) of this Contract to governmental agencies.

n. Entity Purchase. Notwithstanding any provision in this Agreement to the contrary, in lieu of selling the fee interest in the Property to Purchaser ("**Fee Purchase Alternative**"), Seller shall have the right, at Seller's sole and absolute discretion, to elect to sell to Purchaser all of the ownership interest of the members of Seller (the "**Ownership Interest**"), whereupon, at Closing, Purchaser shall acquire all of the Ownership Interest instead of the fee interest in the Property (the "**Entity Purchase Alternative**"). In the event that Seller desires to select the Entity Purchase Alternative, Seller shall, at least five (5) days prior to the expiration of the Inspection Period, deliver written notice of Seller's exercise of the Entity Purchase Alternative. The Entity Purchase Alternative shall be consummated under substantially the same terms and conditions set forth in this Contract, including but not limited to the same Purchase Price, Inspection Period, Closing Date, representations, warranties and covenants as specified herein. At or before Closing, Seller and Purchaser agree to negotiate in good faith the terms of (and enter into) a mutually agreeable acquisition agreement pursuant to which Purchaser or Purchaser's Nominee shall acquire all of the Ownership Interest (the "**Acquisition Agreement**"), failing which, the parties shall consummate the Closing as a Fee Purchase Alternative in accordance with the terms and conditions of this Contract. The Acquisition Agreement shall include the following: (i) the seller's representations and warranties shall be as set forth in Schedule 8(n) attached hereto (the "**Entity Purchase Representations**"), which shall survive for a period of one (1) year from the Closing Date, (ii) Office Depot, Inc. shall provide appropriate indemnities to Purchaser and Purchaser's Nominee for breach of the Entity Purchase Representations and to protect Purchaser and Purchaser's Nominee from any liabilities existing prior to the Closing that Purchaser and/or Purchaser's Nominee would not otherwise have assumed upon closing the Fee Purchase Alternative in accordance with the terms of this Contract, (iii) Purchaser and Purchaser's Nominee shall provide appropriate indemnities to Office Depot, Inc. for any liabilities arising from and after Closing that are otherwise not the responsibility of Office Depot, Inc., and (iv) in the event that Purchaser is obtaining a new owner's title insurance policy or otherwise updating or endorsing any existing owner's title insurance policy, at Closing, Seller will execute and cause Office Depot, Inc. to execute, at no expense to Seller or Office Depot, Inc., such affidavits that the title insurance company issuing such owner's title insurance policy or endorsement may reasonably require for the issuance of such policy or endorsement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Seller or Office Depot, Inc. or result in any new or additional obligation, covenant, representation or warranty of Seller or Office Depot, Inc. under this Contract beyond those expressly set forth in this Contract).

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IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

WITNESSES:

Print Name:

Print Name:

SELLER:

BRHP, LLC, a Florida limited liability company

By: OFFICE DEPOT, INC., a Delaware corporation

By: /s/ DAVID C. FANNIN
Name: David C. Fannin
Title: E.V.P. and General Counsel

WITNESSES:

Print Name:

Print Name:

PURCHASER:

STILES CORPORATION, a Florida corporation

By: /s/ DENNIS F. O'SHEA
Name: Dennis F. O'Shea
Title: Vice President

SOLELY TO CONFIRM ITS AGREEMENT TO SERVE AS ESCROW AGENT IN
ACCORDANCE WITH THE TERMS OF THIS CONTRACT

PROSKAUER ROSE, LLP

By: /s/ CHRISTOPHER C. WHEELER
Name: Christopher C. Wheeler
Title: Partner

EXHIBIT "A"

PROPERTY DESCRIPTION

[INSERTED LEGAL FROM TITLE POLICY]

A parcel of land being a portion of Parcel 2 of the Plat of Boca Technology Center Plat 1 recorded in Plat Book 96,Page 178 of the Public Records of Palm Beach County, Florida, and also being a portion of Section 12, Township 47 South, Range 42 East, Palm Beach County, Florida being more particularly described as follows:

Commencing at the Northwest corner of said Section 12; thence South 01 degree 18' 47" East, along the West line of said Section 12, for 277.25 feet; thence North 88 degrees 41' 13" East, for 70.00 feet to the East right of way line of Military Trail (S.R. 809), as shown on Florida Department of Transportation (F.D.O.T.) right of way map Section 93590-2608 same being a point of the South line of lands described in Official Records Book 6061, page 1814 of the Palm Beach County Public Records; thence along the South line of said lands described in Official Record Book 6061 Page 1814 the following Three (3) courses:

(1) Thence North 46 degrees 09' 54" East, for 90.24 feet;

(2) Thence South 89 degrees 54' 01" East, for 490.00 feet;

(3) Thence North 86 degrees 51' 53" East, for 230.37 feet to the South right of way line of Yamato Road (S.R. 794) as shown on F.D.O.T. Right of Way Map Section 93005-2502;

Thence along the said South right of way line of Yamato Road, as shown on F.D.O.T. Right of Way Map Section 93005-2502 and F.D.O.T. Right of Way Map 93220-2411, South 89 degrees 54' 01" East, for 1070.78 feet;

Thence departing said South right of way line of Yamato Road, South 04 degrees 48' 11" East, for 43.25 feet to the point of beginning of this description.

Thence South 89 degrees 54' 10" East, for 190.14 feet;
Thence South 88 degrees 54' 04" East, for 329.85 feet;
Thence North 83 degrees 11' 36" East, for 81.27 feet;
Thence South 89 degrees 54' 04" East, for 50.54 feet;
Thence South 34 degrees 41' 47" West, for 69.63 feet;
Thence South 10 degrees 18' 13" East, for 336.01 feet;
Thence North 77 degrees 02' 48" East, for 905.21 feet;
Thence South 12 degrees 57' 12" East, for 65.38 feet;
Thence South 77 degrees 02' 48" West, for 393.28 feet;
Thence South 77 degrees 09' 13" West, for 563.24 feet;
Thence South 12 degrees 57' 12" East, for 480.88 feet
Thence South 41 degrees 16' 50" West, for 251.25 feet;

Thence Northwesterly and Southwesterly along the arc of a non-tangent curve concave to the Southwest having a radius of 614.36 feet, a chord bearing of North 89 degrees 35' 25" West and a Delta angle of 81

degrees 44’ 30”, for 876.49 feet;
Thence North 40 degrees 27’ 48” West, along a non-tangent line, for 177.91 feet;
Thence North 21 degrees 03’ 51” West, for 244.50 feet;
Thence Northwesterly and Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 145.00 feet and a Delta angle of 74 degrees 35’ 16” for 188.76 feet;
Thence North 53 degrees 31’ 26” East along a tangent line, for 163.52 feet;
Thence North 21 degrees 01’ 06” West, for 145.31 feet;
Thence North 72 degrees 32’ 25” East, for 163.92 feet;
Thence North 40 degrees 46’ 15” East, for 22.35 feet;
Thence North 71 degrees 49’ 41” East, for 61.55 feet;
Thence North 33 degrees 58’ 58” East, for 64.42 feet;
Thence Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 40.00 feet and a Delta Angle of 55 degrees 11’ 17”, for 38.53 feet;
Thence North 89 degrees 10’ 15” East along a tangent line, for 18.63 feet;
Thence North 04 degrees 48’ 11” West, for 189.79 feet to the point of beginning.

SCHEDULE "1-1"

(Intangible Property)

(a) all plans and specifications and other architectural and engineering drawings pertaining to the Land and the improvements located or to be located thereon;

(b) all warranties or guaranties given or made with respect to the Land and improvements located or to be located thereon;

(c) all consents, authorizations, variances or waivers, licenses, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality with regard to the Land and the improvements located or to be located thereon;

(d) all rights pertaining to the Land under any impact fee credit agreements between Assignor and any governmental authority and/or under the Boca Tech Contract (as defined below);

(e) all rights pertaining to the Land under any restrictive covenants, use restrictions, deed restrictions, or declarations (including any related property owners' associations) pertaining to the Land and the improvements located or to be located thereon;

(f) all development rights, allocations of development density, or other similar rights allocated to or attributable to the Land and the improvements located or to be located thereon;

(g) all rights to obtain utilities, utility connections and utility capacity pertaining to the Land and the improvements located or to be located thereon;

(h) any and all other intangible or development rights associated with appurtenant to the Land and the improvements located or to be located thereon;

(i) all right title, and interest of Seller in and to the documents listed on **Schedule 1-2** attached hereto (the "**Boca Tech Contract**"); and

(j) Subject to Section 8.e. of this Contract, Seller's right title and interest in and to the "Surety Amount" as such term is defined and used in **Paragraph 6.2** of the Sixth Amendment to the Boca Tech Contract, the Additional Surety Amounts and the Signalization Contribution.

SCHEDULE 1-2

(The Boca Tech Contract)

Purchase Agreement ("Purchase Agreement") dated as of May 29, 2002 by and between Boca Technology Center, LLC, a Florida limited liability company, and Stiles Corporation, a Florida corporation; and amended by that certain First Amendment to Purchase Agreement dated as of July 3, 2002; and amended by that certain Second Amendment to Purchase Agreement dated as of August 2, 2002; and amended by that certain Third Amendment to Purchase Agreement dated as of August 22, 2002; and amended by that certain Fourth Amendment to Purchase Agreement dated as of August 27, 2002; and amended by that certain Fifth Amendment to Purchase Agreement dated as of December 22, 2002; and amended by that certain Sixth Amendment to Purchase Agreement dated as of February 21, 2003; as affected by that certain Omnibus Assignment and Assumption of Agreements dated as of February 28, 2003, by and between Stiles Corporation, a Florida corporation, and Stiles/BLP, LLC, a Florida limited liability company.

SCHEDULE "5-1"

(Permitted Exceptions)

1. Terms, conditions, covenants, easement rights and other rights set forth in Easement Agreement by and between Boca Technology Center, LLC and the City of Boca Raton, recorded in Official Records Book 12009, Page 817, together with unrecorded extension of the utility line(s) described in Exhibit "F" therein across subject property.

2. Terms conditions and obligations set forth in that certain Adequate Public Facilities Agreement by and between Blue Lake, Ltd., and Palm Beach County, recorded August 19, 1999 in Official Records Book 11302, Page 1807 re-recorded together with exhibits attached thereto July 7, 2003 in Official Records Book 15484, Page 1228, as amended.

3. Terms, conditions, restrictions, covenants, limitations and obligations set forth in Development Order in Resolution No. 37-99 of the City of Boca Raton, recorded September 29, 2000 in Official Records Book 12048, Page 32, as amended in Official Records Book 12048, Page 80; Official Records Book 13110, Page 1506 and in Official Records Book 13444, Page 1.

4. Easement granted to Florida Power & Light Company, et al, recorded in Official Records Book 13680, Page 704.

5. The following matters shown by survey prepared by Michael G. Purmort of Michael G. Purmort and Associates, Inc. under Job No. 02-0046, dated June 20, 2002, revised August 22, 2002, revised October 28, 2002, and last revised February 24, 2003, and any easement rights or obligations associated therewith, to wit:

   a. Encroachments of dog pen and chain link fence, pump, tennis court and racquet ball court into 100' lake easement as well as encroachment of racquet ball court into adjoining property.

   b. Various wood power poles and power lines, control valves, asphalt drives and walkway, concrete walk connecting to property lying east of subject property, ALP's, red light, telephone box, signs, antenna, water meter, gate valve, fire hydrant, electric box, valves and manhole lying outside of or without recorded easement.

6. Easements, dedications and restrictions set forth on Boca Technology Center Plat 1, recorded in Plat Book 96, Page 178.

7. Terms, covenants, conditions, restrictions, easements, assessments and possible liens created by and set forth in the Declaration of Covenants and Restrictions for T-Rex Corporate Center recorded December 5, 2002, in Official Records Book 14478, Page 499, as amended by that certain First Amendment recorded March 4, 2003 in Official Records Book 14869, Page 1796, of the Public Records of Palm Beach County, Florida, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant(s): (a) is exempt under Chapter 42, Section 3607 of the United States Code; or (b) relates to handicap, but does not discriminate against handicapped persons.

8. Terms, covenants, conditions, restrictions and easement rights created by and set forth in the Declaration of Covenants (Re: Allocation of Development Rights and Location of Expanded Right of Way) by Boca Technology Center, LLC, recorded March 4, 2003 in Official Records Book 14869, Page 1808 and First Amendment recorded August 19, 2003 in Official Records Book 15711, Page 797.

9. Terms, conditions, covenants, restrictions, easement rights, obligations and charges set forth in Memorandum of Understanding and all exhibits thereto between the City of Boca Raton and Boca Technology Center, LLC, a Florida limited liability company, dated January 28, 2003, attached to City of Boca Raton Ordinance No. 4685 recorded February 18, 2003, in Official Records Book 14811, Page 670 and First Amendment recorded August 4, 2003 in Official Records Book 15629, Page 84 and as affected by Assignments recorded August 19, 2003 in Official Records Book 15711, pages 924 and 1078.

10. Terms, conditions, covenants, obligations and easement rights set forth in Easement Agreement between Boca Technology Center, LLC, a Florida limited liability company, and the City of Boca Raton, dated February 28, 2003, recorded March 4, 2003 in Official Records Book 14869, Page 1781.

11. Terms, conditions, covenants, obligations and easement rights set forth in Parking Easement given by STILES/BLP, LLC, a Florida limited liability company, to Boca Technology Center, LLC, a Florida limited liability company, dated February 28, 2003, recorded March 4, 2003 in Official Records Book 14869, Page 1844, as affected by Assignment and Assumption Agreement by and between Boca Technology Center, LLC and Shoppes of Blue Lake I, a Florida Corporation and Shoppes of Blue Lake II, LLC, a Florida limited liability company, recorded October 6, 2003 in Official Records Book 15973, Page 882.

12. Terms, covenants, conditions and obligations set forth in Sewer and Water Sharing Agreement (the "**Sewer and Water Sharing Agreement**") by and between Boca Technology Center, LLC, a Florida limited liability company and STILES/BLP, LLC, a Florida limited liability company, dated February 28, 2003, recorded March 4, 2003 in Official Records Book 14869, Page 1889, as affected by Assignment and Assumption Agreement by and between Boca Technology Center, LLC and Shoppes of Blue Lake I, a Florida Corporation and Shoppes of Blue Lake II, LLC, a Florida limited liability company, recorded October 6, 2003 in Official Records Book 15973, Page 882.

13. Terms, conditions, covenants, obligations, charges and possible lien rights set forth in Intersection Improvements Cost Sharing Agreement (the "**Intersection Cost Sharing Agreement**") by and between Boca Technology Center, LLC, a Florida limited liability company and STILES/BLP, LLC, a Florida limited liability company, dated February 28, 2003, recorded March 4, 2003 in Official Records Book 14869, Page 1913, as affected by Assignment and Assumption Agreement by and between Boca Technology Center, LLC and Shoppes of Blue Lake I, a Florida Corporation and Shoppes of Blue Lake II, LLC, a Florida limited liability company, recorded October 6, 2003 in Official Records Book 15973, Page 882.

14. Terms, conditions, covenants, obligations, and easement rights set forth in Temporary Construction Easement by and between Boca Technology Center, LLC, a Florida limited liability company and STILES/BLP, LLC, a Florida limited liability company, dated February 28, 2003, recorded March 4, 2003 in Official Records Book 14869, Page 1859.

15. Any lien or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law, and not shown by public records, which may take priority over the estate or interest insured by reason of the Notices of Commencement filed May 9, 2003, in Official Records Book 15199, Page 1384; and filed August 19, 2003, in Official Records Book 15711, Page 377.

16. Taxes and assessments for the year 2005 and subsequent years, which are not yet due and payable.

NOTE: ALL OF THE RECORDING INFORMATION CONTAINED HEREIN REFERS TO THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE INDICATED.

SCHEDULE "5-2"

(SITE WORK CONTRACTS)

SCHEDULE “8(n)”

(ENTITY PURCHASE REPRESENTATIONS)

Seller represents to Purchaser that:

a. The execution, delivery and performance of this Agreement by Office Depot, Inc. (“**Seller**”) has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this document a valid and binding instrument.

b. The entering into this Agreement (and the sale of the Ownership Interest to Purchaser) shall not constitute a violation or breach by Seller or BRHP, LLC (the “**Company**”) of: (i) any contract, agreement, understanding or instrument to which Seller is a party or by which Seller is subject or bound; (ii) any judgment, order, writ, injunction or decree issued against or imposed upon Seller; or (iii) any applicable law, order, rule or regulation of any governmental or quasi-governmental authority.

c. Seller is the exclusive owner and holder of the Ownership Interest free and clear of all liens and encumbrances and the Ownership Interest has not been pledged, assigned or hypothecated. There are no outstanding agreements or commitments of any nature obligating Seller to transfer the Ownership Interest or any interest therein to any other party.

d. The Company is the owner of marketable, fee simple title to the Property subject to the matters set forth on Schedule 5 attached hereto and any other Permitted Exceptions. There are not any outstanding contracts or options to purchase the Property or any portion thereof.

e. There is no pending or, to Seller’s current actual knowledge, threatened condemnation, environmental, zoning, land use or similar proceeding affecting the use, operation or value of the Property and there is no pending or, to Seller’s current actual knowledge, threatened litigation or administrative proceeding affecting Seller or the Property.

f. There are no leases or occupancy agreements in existence with respect to the Land and, upon Closing, Purchaser has exclusive possession of the Land, subject to be Permitted Exceptions.

g. Seller is not a “foreign person” as that term is referred to in Section 1445 of the Internal Revenue Code of 1954, as amended, and Seller shall confirm such in accordance with the provisions of said Section 1445 and the Income Tax Regulations promulgated hereunder.

The provisions of this Paragraph ___shall survive the Closing or the earlier termination of this Agreement for a period of one (1) year.

EXHIBIT “C”

NOTICE ADDRESSES

If intended for Purchaser:	Stiles Corporation 300 S.E. 2nd Street Ft. Lauderdale, FL 33301 Attn: Mr. Dennis F. O’Shea Telephone No: (954) 627-9345 Facsimile No: (954) 627-9288
with a copy to:	Greenberg Traurig, LLP 200 Park Avenue New York, New York 10166 Attn: David E. Bolen, Esq. Telephone No: (212) 801-9315 Facsimile No: (212) 805-9315
If intended for Seller:	BRHP, LLC c/o Office Depot, Inc. 2200 Old Germantown Road Delray Beach, FL 33445 Attn: Mr. David Fannin, Executive Vice President & General Counsel Telephone No: (561) 438-8171 Facsimile No: (561) 438-8165
with a copy to:	Proskauer Rose, LLP 2255 Glades Road Boca Raton, Florida 33431 Attn: Christopher Wheeler, Esq. Telephone No: (561) 995-4702 Facsimile No: (561) 241-7145
If intended for Escrow Agent:	Proskauer Rose, LLP 2255 Glades Road Boca Raton, Florida 33431 Attn: Christopher Wheeler, Esq. Telephone No: (561) 995-4702 Facsimile No: (561) 241-7145

EXHIBIT “D”

SELLER DOCUMENTS

(i) A Special Warranty Deed.

(ii) Quit Claim Bill of Sale.

(iii) General Assignment and Assumption of Seller’s Interest in Intangible Property, Development Rights and Boca Tech Contract (the “General Assignment”).

(iv) A Non-Foreign Certification signed by the Seller.

(v) No Lien, Possession and Gap Affidavit.

(vi) Florida Department of Revenue Return for Transfer of Interest in Florida Real Property.

(vii) Combined Purchaser-Seller Closing Statement.

(viii) Such other documents as may reasonable be required by the title company.

EXHIBIT "E"

PURCHASER DOCUMENTS

(i) The General Assignment

(ii) The Purchase Price, in immediately available funds.

(iii) Combined Purchaser-Seller closing statement.

(iv) Such other documents as may reasonably be required by the title company.

EXHIBIT 10.26

FIRST AMENDMENT TO CONTRACT FOR PURCHASE AND SALE

THIS FIRST AMENDMENT TO CONTRACT FOR PURCHASE AND SALE (this “Amendment”) is entered into by and between BRHP, LLC, a Florida limited liability company (“Seller”) and STILES CORPORATION, a Florida corporation (“Purchaser”).

RECITALS:

A. Purchaser and Seller entered into that certain Contract for Purchase and Sale, dated as of December 29, 2004 (the “Contract”) for the sale of a certain parcel of land containing approximately 23 acres of land situated in the City of Boca Raton, Palm Beach County, Florida, as more particularly described in the Contract.

B. Purchaser and Seller intend to modify and amend the Contract as set forth in this Amendment.

NOW, THEREFORE, in consideration of the sum of TEN & NO/100 DOLLARS, the mutual promises contained herein, and other good and valuable considerations, the receipt, sufficiency and adequacy of which are hereby acknowledged, Purchaser and Seller agree as follows:

1. **Incorporation of Recitals; Capitalized Terms.** The foregoing Recitals are true and correct and are incorporated herein by this reference, as if set forth in their entirety. Any capitalized term not defined in this Amendment shall have the meaning ascribed to it in the Contract.

2. **Conflict.** In the event of any conflict between the terms and conditions set forth in the Contract and those set forth in this Amendment, the terms and conditions of this Amendment shall control.

3. **Extension of Inspection Period.** The Inspection Period, as defined in Section 4 of the Contract, is hereby extended to 5:00 p.m. (Boca Raton, Florida time) on Friday, February 4, 2005.

4. **Counterparts; Facsimile.** For the convenience of the parties, this Amendment may be executed in one or more counterparts and each executed counterpart shall, for all purposes, be deemed an original and shall have the same force and effect as an original, all of which counterparts together shall constitute in the aggregate but one of the same instrument. The parties may rely on signatures transmitted via facsimile. This Amendment shall become effective upon execution by all parties hereto.

5. **Ratification.** Except as expressly set forth in this Amendment, the Contract is ratified and confirmed as written.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth below.

SELLER:

BRHP, LLC, a Florida limited liability company

By: OFFICE DEPOT, INC., a Delaware corporation

By: /s/ DAVID C. FANNIN
Name: David C. Fannin
Title E.V.P. and General Counsel
Date: 1/27/05

PURCHASER:

STILES CORPORATION, a Florida corporation

By: /s/ DENNIS F. O'SHEA
Name: Dennis F. O'Shea
Title Vice President
Date: 1/28/05

EXHIBIT 10.27

CONFIDENTIAL TREATMENT REQUESTED

<u>SECOND AMENDMENT TO CONTRACT FOR PURCHASE AND SALE</u>

THIS SECOND AMENDMENT TO CONTRACT FOR PURCHASE AND SALE (this "**Amendment**") is entered into as of the 11th day of February, 2005 by and between BRHP, LLC, a Florida limited liability company ("**Seller**") and STILES CORPORATION, a Florida corporation ("**Purchaser**").

<u>RECITALS:</u>

A. Purchaser and Seller have entered into that certain Contract for Purchase and Sale, dated as of December 29, 2004 (the "**Original Contract**"), for the sale and purchase of a certain parcel of land containing approximately 23 acres of land situated in the City of Boca Raton, Palm Beach County, Florida, as more particularly described in the Contract.

B. Pursuant to that certain First Amendment to Contract for Purchase and Sale dated as of January 28, 2005 and certain email correspondence dated February 4, 2005 (collectively, the "**First Amendment**"), Purchaser and Seller have amended the Original Contract to extend the Inspection Period (as defined in the First Amendment) to February 11, 2005 (the Original Contract and the First Amendment are herein collectively referred to as the "**Contract**").

C. Purchaser and Seller intend to further modify and amend the Contract as set forth in this Amendment.

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00), the mutual promises contained herein, and other good and valuable considerations, the receipt, sufficiency and adequacy of which are hereby acknowledged, Purchaser and Seller agree as follows:

1. **<u>Incorporation of Recitals; Capitalized Terms</u>.** The foregoing Recitals are true and correct and are incorporated herein by this reference, as if the same were set forth in this paragraph in their entirety. Any capitalized term not defined in this Amendment shall have the meaning ascribed to it in the Contract.

2. **<u>Purchase Money Financing</u>.** Section 2 of the Contract is hereby deleted in its entirety and replaced with the following:

*"2. **<u>Purchase Price; Purchase Money Loan</u>.** The purchase price (the "**Purchase Price**") for the Property shall be [*].*

(a) The Purchase Price shall be paid, subject to the prorations and adjustments as set forth herein, at the Closing (defined below) as follows:

*(i) [*] of the Purchase Price shall be paid by a loan (the "**Purchase Money Loan**") from Seller to Purchaser in accordance with the terms set forth on **Schedule "1"** annexed hereto (the "**Terms of the PM Loan**"); and*

(ii) The balance of the Purchase Price shall be paid in cash by wire transfer of immediately available funds to an account to be designated by Seller at least 72 hours prior to the Closing Date (defined below).

(b) Promptly after the execution and delivery of this Amendment, Purchaser shall cause a purchase money note, purchase money mortgage and other appropriate loan documents (collectively, the "PM Loan Documents") to be prepared in accordance with the Terms of the PM Loan and submitted to Seller and its counsel for their review and approval. Purchaser and Seller shall, in good faith, negotiate the Purchase Money Loan and the Purchase Money Loan Documents with one another and shall not require as a condition to their respective approval thereof any terms that are commercially unreasonable or inconsistent with the Terms of the PM Loan. In the event that Purchaser and Seller are unable to agree, despite good faith negotiations, upon the form and/or any or all provisions of the PM Loan Documents by 5:00 P.M. (EST) on Friday, February 18, 2005, Purchaser shall have the option of either: (i) terminating the Contract by written notice to Seller whereupon the Deposit together with interest thereon shall be returned to Purchaser, and Purchaser and Seller shall have no further obligations hereunder except for those obligations that by the express terms herein survive the termination hereof; or (ii) waiving its right to obtain the Purchase Money Loan. In the event that Purchaser has not elected either of the options contemplated by the preceding sentence by 5:00 P.M. (EST) on Tuesday, February 22, 2005, Purchaser shall be deemed to have elected the option set forth in clause (ii). At Closing, Purchaser shall pay for Purchaser's title insurer to issue to Seller an ALTA loan title insurance policy insuring the purchase money mortgage as a first priority lien as well as the costs of recording a UCC financing statement in the public records of Palm Beach County, Florida and filing a UCC financing statement with the Florida Secured Transaction Registry, which UCC financing statements shall show Purchaser as the Debtor and Seller as the Secured Party."

3. **Deposit.** Purchaser shall deposit the Additional Deposit contemplated by the penultimate sentence of Section 3 of the Contract within three (3) business days after the execution and delivery of this Amendment.

4. **Inspection Period.** Purchaser hereby acknowledges and agrees that the Inspection Period has expired and that, notwithstanding the Purchaser's right to continue its Due Diligence investigation of the Property pursuant to the Contract, Purchaser shall not have the right to terminate the Contract based upon the results of its continued Due Diligence

investigation of the Property unless such discovery constitutes a material default by Seller of Seller's representations, warranties and covenants contained in the Contract.

5. **Title and Survey.** Section 5(a) and Schedule 5-1 of the Contract are hereby deleted in their entirety. Section 5(a) is hereby replaced with the following:

*"As used herein, the term "**Permitted Exceptions**" shall mean the matters set forth as exception no. 2b, 2c and 5 through 29, inclusive of Schedule B-II, and the Notice of Commencement listed as item 7 of Schedule B-I, to Chicago Title Insurance Company's Commitment No. 300501165 having an effective date of January 18, 2005 ("**Purchaser's Title Commitment**"). Purchaser shall, by written notice to Seller, have the right to object to any title matters first appearing of record subsequent to the effective date of Purchaser's Title Commitment at any time prior to the Closing Date (as defined below), but in any event within five (5) days following the date Purchaser obtains knowledge of such matter. Seller shall have the right (but not the obligation) within thirty (30) days from receipt of such notice to cure the defect(s) if Seller elects to do so, and if after the thirty (30) day period Seller shall not have cured the defect(s), Purchaser shall have the option of (i) accepting title as it then is, or (ii) demanding a refund of all monies paid hereunder which shall forthwith be returned to the Purchaser with the interest earned, and thereupon, the Purchaser and Seller shall be released of all further obligations to each other under this Contract except those which expressly survive termination."*

6. **Closing Date.** Section 8(a) of the Contract is hereby deleted in its entirety and replaced with the following:

*"Date. The closing of the sale of the Property from Seller to Purchaser (the "**Closing**") shall take place on April 12, 2005 (the "**Closing Date**"). Time shall be of the essence as to the Closing Date."*

7. **Entity Purchase**. Purchaser acknowledges that, pursuant to Section 12(n) of the Contract, Seller has selected the Entity Purchase Alternative. Accordingly, Purchaser and Seller hereby confirm and ratify their respective obligations to negotiate in good faith the terms of (and enter into) a mutually agreeable Acquisition Agreement in accordance with and subject to the terms of said Section 12(n), provided, however, that the Acquisition Agreement shall include an obligation of Office Depot, Inc. to provide Purchaser with a purchase money loan upon substantially the same terms and conditions as the Purchase Money Loan described herein to be evidenced by the PM Loan Documents (once approved by the parties) with only such changes as may be necessary or advisable to conform such instruments to the changed circumstances.

8. **Miscellaneous.**

(a) Conflict. In the event of any conflict between the terms and conditions set forth in the Contract and those set forth in this Amendment, the terms and conditions of this Amendment shall control.

(b) Counterparts; Facsimile. For the convenience of the parties, this Amendment may be executed in one or more counterparts and each executed counterpart shall, for all purposes, be deemed an original and shall have the same force and effect as an original, all of which counterparts together shall constitute in the aggregate but one of the same instrument. The parties may rely on signatures transmitted via facsimile or e-mail . This Amendment shall become effective upon execution by all parties hereto.

(c) Ratification. Except as expressly set forth in this Amendment, the Contract is ratified and confirmed as written.

[BALANCE OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:
BRHP, LLC, a Florida limited liability company
By: OFFICE DEPOT, INC., a Delaware corporation

By:	/s/ DAVID C. FANNIN
Name:	David C. Fannin
Title	E.V.P. and General Counsel
Date:	2/11/05

PURCHASER:

STILES CORPORATION, a Florida corporation

By:	/s/ DENNIS F. O'SHEA
Name:	Dennise F. O'Shea
Title	Vice President
Date:	2/11/05

SCHEDULE 1

(Terms of Purchase Money Loan)

1. **Loan Amount**: [*].

2. **Interest Rate**: 30-Day LIBOR plus 125 bps.

3. **Maturity Date**: December 30, 2005

4. **Security**: First priority mortgage encumbering the Property.

5. **Payments**: No payments of principal and/or interest shall be required prior to maturity. The Purchase Money Loan may be prepaid in whole or in part without premium or penalty.

6. **Development Cooperation**: Seller covenants to reasonably cooperate with Purchaser, at no cost, expense or liability to Seller, in pursuing development approvals for Purchaser’s contemplated development of the Property.

7. **Costs of Seller**. All documentary stamps, intangible taxes, title premiums, recording charges, UCC recording and filing charges, and other reasonable out of pocket cost of Seller related to the Purchase Money Loan shall be borne by Purchaser, provided, however, Seller shall be responsible for the payment of the attorneys’ fees and costs incurred by it in connection with its review, negotiation and execution of this Amendment and the PM Loan Documents.

EXHIBIT 10.28
CONFIDENTIAL TREATMENT REQUESTED

PURCHASE MONEY NOTE

[*]

Dated of: April __, 2005

FOR VALUE RECEIVED, BRHP, LLC, a Florida limited liability company and TERRY W. STILES, a natural person (collectively, the "Borrower"), jointly and severally, promise to pay to OFFICE DEPOT, INC., a Delaware corporation (the "Lender") the principal sum of [*] (the "Principal Amount") together with interest thereon as provided herein (collectively, the "Indebtedness").

1. Defined Terms. As used herein:

(a) "Base Rate" shall mean a per annum rate of interest equal to the greater of: (i) four percent (4%), and (ii) the LIBO Rate plus 125 basis points.

(b) "Default Rate" shall mean the maximum rate of interest permitted by applicable law.

(c) "LIBO Rate" shall mean shall mean the rate for deposits in U.S. dollars for thirty (30) day periods, which appears on the Telerate Access Service Page 3750 (or any successor thereto) as the London Interbank Offering Rate as of 11:00 a.m., London time, on the day that is two (2) Business Days prior to the date of this Note, rounded to the nearest 1/1000 of 1%.

(d) "Maturity Date" shall mean December 30, 2005.

(e) "Mortgage" shall mean that certain first priority Purchase Money Mortgage granted by BRHP, LLC to the Lender as of the date hereof, as the same may be amended, modified, replaced and/or extended from time to time, encumbering certain real property located in Palm Beach County, Florida.

(f) "Note" shall mean this Purchase Money Note, as the same may be amended, modified, replaced and/or extended from time to time.

(g) "Purchase Agreement" that certain Agreement for Purchase and Sale, dated as of February ___, 2005 by and between Lender and Stiles Corporation ("Stiles").

(h) "Pledge Agreement" shall mean that certain Pledge and Security Agreement, dated as of the date hereof, by and between Stiles and Lender, as the same may be amended, modified, replaced and/or extended from time to time, pursuant to which Stiles' pledged to Lender all of its right, title and interest in and to its membership interest in BRHP, LLC.

2. Interest Rate. Prior to maturity, whether by passage of time or by Lender's sooner declaration that the entire Indebtedness is due in accordance with the terms hereof, the Principal Amount of this Note, or so much thereof as may be outstanding from time to time, shall bear interest at a per annum rate equal to the Base Rate. Following maturity, whether by acceleration or otherwise, the Principal Amount of this Note, or so much thereof as may be outstanding from time to time, shall bear interest at the Default Rate.

3. Payments.

(a) Payments under this Note shall be due and payable, without notice or demand, as follows:

(i) No payments of either principal or interest shall be due prior to maturity; and

(ii) On the Maturity Date or sooner maturity of this Note, the entire Principal Amount, together with all accrued interest thereon and all other amounts due and payable hereunder shall be paid to Lender.

(b) Borrower may, from time to time, prepay all or any portion of the Principal Amount, provided that any such prepayment shall be accompanied by an amount representing all accrued interest on the portion of the Principal Amount being prepaid, together with all other amounts then due and payable under the Loan Documents (herein defined).

4. Nature of Note; Note Secured by Mortgage and Pledge Agreement. This Note is the PM Note referred to in the Purchase Agreement. This Note and the Indebtedness evidenced hereby are secured by, among other things, the Mortgage and the Pledge Agreement. In enforcing its rights under this Note, the Mortgage and/or the Pledge Agreement (together with any other documents evidencing and/or securing the Indebtedness, collectively, the "Loan Documents") the Lender shall have the right to enforce its remedies with respect to any of the Loan Documents, or any combination thereof, and either simultaneously or in such order as the Lender shall deem to be in its best interest.

5. Interest Rate Limitations. At no time shall the Borrower be obligated or be required to pay interest at a rate which is in excess of the maximum interest rate permitted by applicable law, or which could subject the Lender to liability as a result of being in excess of the maximum rate which the Borrower is permitted by law to contract or agree to pay. If by the terms of this Note the Borrower is at any time required or obligated to pay interest at a rate in excess of such maximum rate, then (1) the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate; (2) interest payable under this Note shall be computed at such maximum rate; and (3) any prior interest payments made, pursuant to this Note, in excess of such maximum

rate shall be applied, and shall be deemed to have been payments made, in reduction of the Principal Amount.

6. Default Rate

If the entire Indebtedness is declared to be due and payable by the Lender pursuant to the provisions of any Loan Document, or if the Indebtedness is not paid in full on the Maturity Date, then the Borrower shall pay interest on the unpaid balance of this Note, from the date of such acceleration of the Maturity Date (or the Maturity Date, if the Principal Amount has not been previously accelerated), until the date on which the Indebtedness has been paid in full (whether before or after judgment), at a rate per annum equal to the Default Rate provided, however, that such interest rate shall in no event exceed the maximum interest rate which the Borrower may by law pay.

7. Borrower's Power And Authority. The Borrower, and the undersigned representative of the Borrower, represent and warrant and covenant that the Borrower has full power, authority and legal right to execute and deliver this Note and that the obligations of the Borrower under this Note constitute valid and binding obligations of the Borrower.

8. Borrower's Obligations Absolute And Unconditional. The Borrower represents, warrants, and covenants that this Note and the Borrower's obligations under this Note are and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to: (a) this Note and the obligations of the Borrower under this Note, or (b) the obligations of any other person or party relating to this Note, or (c) otherwise with respect to the Indebtedness.

9. No Oral Changes. This Note may not be modified, amended, changed or terminated orally, except by an agreement in writing signed by the Borrower and the Lender. No waiver of any term, covenant or provision of this Note shall be effective unless such waiver is given in writing by the Lender and, in such case, shall only be effective in the specific instance in which given.

10. Applicable Law. This Note is and shall be deemed entered into in the State of Florida and shall be governed by and construed in accordance with the laws of such state, without regard to principles of conflicts of laws. No defense given or allowed by the laws of any state or country shall be interposed in any action or proceeding on or with respect to this Note unless such defense is either given or allowed by the laws of the State of Florida.

11. Borrower's Consent To Jurisdiction And Venue. The Borrower agrees to submit to personal jurisdiction in the State of Florida in any action or proceeding arising out of this Note. In furtherance of such agreement, the Borrower hereby agrees and consents that, without limiting other methods of obtaining jurisdiction, personal jurisdiction over the Borrower in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of Florida. Any process or notice of motion

or other application to any such court, in connection with any such action or proceeding, may be served upon the Borrower by registered or certified mail to, or by personal service at, the last known address of the Borrower, whether such address be within or without the jurisdiction of any such court. The Borrower hereby agrees that the venue of any litigation arising in connection with the indebtedness, or in respect of any of the obligations of the Borrower under this Note, may, to the extent permitted by law, be in Palm Beach County, Florida.

12. Covenant To Cooperate. The Lender covenants and agrees that it shall reasonably cooperate with the Borrower, at no cost, expense or liability to the Lender, in pursuing development approvals for the Borrower's contemplated development of the Property.

13. Default and Acceleration. If any payment under this Note is not paid when due, or upon any default in the performance of any of the covenants or agreements of any mortgage and/or security agreement securing this Note or the obligation represented hereby, including, without limitation, the Mortgage, the Pledge Agreement and all other Loan Documents, the entire principal amount outstanding and all accrued interest thereon shall, at the option of Lender, at once become due and payable. Lender may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance by Lender. If suit is brought to collect this Note, Lender shall be entitled to collect all reasonable costs and expenses of the suit, including, but not limited to, reasonable attorney's fees, costs and expenses incurred in such collections, including attorneys' fees, costs and expenses incurred in one or more appeals. If this Note is accelerated, and whether or not a judgment has been entered, interest shall accrue on all sums outstanding hereunder at the highest rate permitted by law until all sums due hereunder, including, without limitation, any collection costs, principal and accrued interest and/or amounts under any judgment rendered pursuant to this Note, are paid.

14. Waiver. Borrower and any and all endorsers and guarantors hereof, and all others who may become liable for all or any part of this obligation, agree to be jointly and severally bound, and jointly and severally waive and renounce any and all exemption rights and the benefits of all valuation and appraisement privileges available to them pursuant to the Constitution or laws of the United States or any state, territory, or jurisdiction as against this debt or any renewal or extension thereof and jointly and severally waive presentment, demand, protest, notice of non-payment and any and all lack of diligence or delays in collection of the amount agreed to be paid under and by virtue of the obligation to pay provided for in this Note, any extension thereof of time, release of any party liable for this obligation, release of any security for this Note, exchange or substitution of any other security thereof, or any other indulgence or forbearance whatsoever. Any such change, extension, release, indulgence or forbearance may be made without the joinder of or notice to any such parties and without in any way affecting the personal liability of any such party.

15. Notices. All notices, requests and other communications under this Note shall be in writing and shall be delivered in person by hand delivery or overnight delivery service, by facsimile or sent by certified mail, return receipt requested, addressed as set forth on Exhibit "A" attached hereto or at such other address, and to the attention of such other

person, as the parties shall give notice as herein provided. All such notices, requests and other communications shall be deemed to have been sufficiently given for all purposes hereof upon receipt at such address if delivered in person, by overnight delivery or by facsimile, or if mailed, upon deposit of both the original and any required copies in a post office or official depository of the United States Postal Service.

16. Usury. All agreements between Borrower and Lender, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of the maturity hereof, or otherwise, shall the amount paid, or agreed to be paid by Borrower to Lender for the use, forbearance, or detention of the money to be loaned hereunder or otherwise or for the payment or performance of any covenant or obligation contained herein or in any mortgage or security agreement, or in any other document evidencing, securing or pertaining to the indebtedness evidenced by this Note, exceeds the maximum amount permissible under applicable law.

17. Severability. If any term or provision of this Note or application thereof to any person or circumstances shall, to any extent, be found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Note or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term or provision of this Note shall be valid and be enforced to the fullest extent permitted by law.

18. Cumulative Remedies. The remedies of Lender provided for herein or in any mortgage, security agreement or in any other document evidencing, securing or pertaining to the indebtedness evidenced by this Note shall be cumulative and concurrent, and may be pursued singularly, successively or together, at the sole discretion of the party for whose benefit such remedy is provided, and may be exercised as often as occasion therefor shall arise.

19. **Waiver of Jury Trial. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT BORROWER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, AND/OR ANY DOCUMENT EXECUTED IN CONJUNCTION THEREWITH, OR ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF OR BY MAKE OR HOLDER.**

IN WITNESS WHEREOF, the Borrower has duly executed this Note the day and year first above written.

BRHP, LLC, a Florida limited liability company

By: **STILES CORPORATION**, its sole member

____

Name:
Title:

____

Mr. Terry W. Stiles, individually

EXHIBIT “A”

NOTICE ADDRESSES

If intended for Borrower:	c/o Stiles Corporation 300 S.E. 2nd Street Ft. Lauderdale, FL 33301 Attn: Mr. Dennis F. O’Shea Telephone No: (954) 627-9345 Facsimile No: (954) 627-9288
with a copy to:	Greenberg Traurig, LLP 200 Park Avenue New York, New York 10166 Attn: David E. Bolen, Esq. Telephone No: (212) 801-9315 Facsimile No: (212) 805-9315
If intended for Lender:	Office Depot, Inc. 2200 Old Germantown Road Delray Beach, FL 33445 Attn: Mr. David Fannin, Executive Vice President & General Counsel Telephone No: (561) 438-8171 Facsimile No: (561) 438-8165
with a copy to:	Proskauer Rose, LLP 2255 Glades Road Boca Raton, Florida 33431 Attn: Christopher Wheeler, Esq. Telephone No: (561) 995-4702 Facsimile No: (561) 241-7145

Prepared By and Return to:

John M. Fox-Snider, Esq.
Proskauer Rose LLP
2255 Glades Road
Suite 340 West
Boca Raton, FL 33431-7383

PURCHASE MONEY MORTGAGE

THIS PURCHASE MONEY MORTGAGE (this "Mortgage") executed this ___day of April, 2005, by **BRHP, LLC**, a Florida limited liability company, hereinafter called the "Mortgagor", whose address is _________________________, to **OFFICE DEPOT, INC.**, a Delaware corporation, whose address is 2200 Old Germantown Road, Delray Beach, Florida 33445, Attention: _____________________, hereinafter called the "Mortgagee".

(Wherever used herein the terms "Mortgagor" and "Mortgagee" include all the parties to this instrument and the heirs, legal representative and assigns of individuals, and the successors and assigns of corporations; and the term "Note" includes all the notes herein described if more than one together with all modifications, extensions, renewal, and replacements thereof, if any.)

W I T N E S S E T H:

THAT for good and valuable considerations, and also in consideration of the aggregate sum named in the note hereinafter described, the Mortgagor hereby mortgages, grants, bargains, sells, aliens, remises, conveys and confirms unto the Mortgagee all the certain land and all buildings, structures and improvements of every nature whatsoever now or hereafter located thereon (collectively, the "Property") of which the Mortgagor is now seized and in possession situate in Palm Beach County, Florida, viz:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TO HAVE AND TO HOLD the same, together with the tenements, hereditaments and appurtenances thereto belonging, and the reversion or reversions, remainder and remainders, and the rents, issues and profits thereof, unto the Mortgagee, in fee simple.

TOGETHER WITH all right, title and interest of Mortgagor, if any, in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the above described Property to the center line thereof.

TOGETHER WITH all machinery, apparatus, equipment, fittings, fixtures, appliances, and articles of personal property of every kind and nature whatsoever, now or hereafter located in or upon the Property or any part thereof, and used or useable in connection with any present or future operation of said Property and the improvements located thereon and now owned or hereafter acquired by Mortgagor. It is expressly understood that this Mortgage shall also constitute a security agreement under the Florida Uniform Commercial Code, and that Mortgagee shall, at Mortgagee's option, and without limiting all other rights of Mortgagee as contained herein, be entitled to exercise all rights and remedies as a secured creditor under the Florida Uniform Commercial Code in the event of a default hereunder by Mortgagor. This Mortgage shall also serve as a financing statement under the Florida Uniform Commercial Code, and is intended to be recorded in the real estate records of Palm Beach County, Florida.

TOGETHER WITH any and all awards or payments (to be disbursed and applied as hereinafter provided), including interest thereon, and the right to receive the same, which may be made with respect to the Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to or decrease in the value of the Property, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment, and of the reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment.

AND the Mortgagor covenants with the Mortgagee that the Mortgagor is indefeasibly seized of said Property in fee simple subject to the matters set forth on Exhibit B attached hereto (collectively, the "**Permitted Exceptions**"); that the Mortgagor has good right and lawful authority to convey said Property as aforesaid; that the Mortgagor will make such further assurances to perfect the fee simple title to said Property in the Mortgagee as may reasonably be required; that the Mortgagor hereby fully warrants the title to said Property, and subject to the Permitted Exceptions and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if said Mortgagor shall pay unto said Mortgagee the certain Purchase Money Note of even date herewith given by Mortgagor and Terry W. Stiles in the principal amount of [*] (the "**Note**") and shall perform, comply with and abide by each and every the agreements, stipulations, conditions and covenants thereof, and of this mortgage, then this Mortgage and the estate hereby created, shall cease, determine and be null and void.

AND the Mortgagor hereby further covenants and agrees to pay promptly when due the principal and interest and other sums of money provided for in the Note and this Mortgage, or either; to pay all and singular the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on said Property; to permit, commit or suffer no waste, impairment or deterioration of said Property or the improvements thereon at any time; to comply with, or cause to be complied with, all statutes, ordinances and requirements of any governmental authority relating to the Property and the improvements thereon; to pay all costs, charges, and expenses, including reasonable lawyer's fees and title searches, reasonably incurred or paid by the Mortgagee because of the failure of the Mortgagor to promptly and fully comply with the agreements, stipulations, conditions and covenants of the Note and this Mortgage, or either; to perform, comply with and abide by each and every of the agreements, stipulations, conditions and covenants set forth in the Note and this Mortgage, or either. In the event the Mortgagor fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of the Note and this Mortgage, or either, the Mortgagee may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from date thereof at the highest lawful rate then allowed by the laws of the State of Florida.

IF any sum of money herein referred to be not promptly paid on the date the same becomes due, or if each and every of the agreements, stipulations, conditions and covenants of the Note and this Mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in the Note, and this Mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the Mortgagee, become and be due and payable, anything in the Note or herein to the contrary notwithstanding. Failure by the Mortgagee to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under the Note or this Mortgage accrued or thereafter accruing.

The additional terms and conditions set forth in Exhibit "C" attached hereto are hereby incorporated herein as if fully set forth herein.

IN WITNESS WHEREOF, the said Mortgagor has hereunto signed and sealed these presents the day and year first above written.

Signed, sealed and delivered
in the presence of:

BRHP, LLC, a Florida limited liability company

By: STILES CORPORATION, a Florida corporation, its sole member

By:
Name:
Title:

STATE OF FLORIDA)
) SS:
COUNTY OF____________)

The foregoing instrument was acknowledged before me this ____ day of ____, 2005 by _____________________ as _____________________ of STILES CORPORATION, a Florida corporation, sole member of BRHP, LLC, a Florida limited liability company, on behalf of the corporation and the limited liability company. He/she/they personally appeared before me, is/are personally known to me or produced _____________________as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]

Notary:
Print Name:
Notary Public, State of
My commission expires:

<u>EXHIBIT "A"</u>

(Legal Description)

<u>EXHIBIT “B”</u>

(Permitted Exceptions)

<u>EXHIBIT “B”</u>

(Additional Terms)

1. <u>Inspection</u>. Mortgagee and any other person authorized by Mortgagee shall have the right to enter and inspect the Property at all reasonable times.

2. <u>Mortgagee’s Right to Perform</u>. In the event of any default in the performance of any of Mortgagor’s covenants or agreements herein, Mortgagee may, at the option of Mortgagee, perform the same and the cost expended by Mortgagee shall be added to the outstanding principal amount secured by the Note.

3. <u>Due on Sale or Encumbrance</u>. Should the title to the Property, or any part thereof or any interest therein, be transferred to any person, firm or entity other than Mortgagor, or should the ownership of the Property, or any part thereof, become vested in any owner other than Mortgagor, or should any lien, mortgage or any other encumbrance, voluntary or involuntary, be placed against the Property, or in any of the foregoing events, the entire principal balance due under the Note, together with all accrued interest thereunder, shall at the election of Mortgagee, be and become immediately due and payable in full, subject to applicable law, and Mortgagee shall be entitled to pursue all remedies provided for in this Mortgage or at law, including without limitation, foreclosure of this Mortgage.

4. <u>Other Security</u>. Mortgagee may resort for the payment of the indebtedness secured hereby to any other security therefore held by Mortgagee in such order and manner as Mortgagee may elect in its sole discretion. To the fullest extent permitted by applicable law, Mortgagor waives any and all rights it may have to require marshalling of assets.

5. <u>Costs of Collection</u>. In the event that Mortgagee shall incur or expend any sums, including attorneys’ fees, whether in connection with any action or proceeding or not, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of its rights hereunder, or to recover any indebtedness hereby secured, or for any title examination or title insurance policy relating to the title to the Property, all such sums shall on notice and demand be paid by Mortgagor, together with the interest thereon at the rate applicable to the Note from and after Maturity, and shall be a lien on the Property, prior to any right or title to, interest in, or claim upon the Property subordinate to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage and evidenced by the Note; and that in any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured thereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

6. <u>Eminent Domain</u>. In connection with any taking by eminent domain, alteration of the grade of any street, or any other condemnation by any public or quasi-public authority or corporation, any award or payment may, at the option of Mortgagee, be retained and applied by Mortgagee toward payment of the moneys secured by this

Mortgage, or be paid over wholly or in part to Mortgagor for the purpose of altering, restoring or rebuilding any part of the Property which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade, or other injury to the Property, or for any other purpose or object satisfactory to Mortgagee.

7. No Waiver. Any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by Mortgagor.

8. Subsequent Modifications. This Mortgage cannot be changed except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

9. Compliance with Usury Laws. Nothing herein contained, nor in the Note secured hereby or any instrument or transaction related thereto, shall be construed or so operate as to require Mortgagor, maker, or any person liable for the payment of the loan evidenced by the Note, to pay interest in an amount or at a rate greater than the maximum allowed by law. Should any interest or other charges in the nature of the interest paid by Mortgagor, maker, or any person liable for the payment of the loan made pursuant to said Note, result in the computation or earning of interest in excess of the maximum rate or amount of interest allowed by law, then any and all such excess shall be and the same is hereby waived by Mortgagee and all such excess shall be automatically credited against and in reduction of the principal balance, and any portion of said excess which exceeds the principal balance shall be paid by the holder hereof to Mortgagor or other payor of such excess, it being the intent of the parties hereto that under no circumstances shall Mortgagor, maker or any person liable for the payment of the loan hereunder, be required to pay interest in excess of the maximum rate or amount allowed by law.

10. Attorneys' Fees. Wherever provision is made herein for payment of attorneys' fees or expenses incurred by Mortgagee, said provision shall include, but not be limited to, attorneys' fees or expenses incurred in any and all judicial, bankruptcy, reorganization, administrative, or other proceedings, including appellate proceedings, whether such proceedings arise before or after entry of a final judgment.

11. Waiver of Jury Trial. Mortgagor hereby waives any and all rights it may have to a jury trial with respect to any litigation which may arise out of the Note and/or this Mortgage and any counterclaim which Mortgagor may have in connection herewith.

12. Default. Any of the following shall each be an Event of Default under this Mortgage: (1) failure to pay any sum, whether principal, interest or otherwise, which is due under the Note, this Mortgage and all other documents or instruments which evidences or secures Mortgagor's obligations under the Note and this Mortgage; or (2) failure to pay any tax, assessment, utility charge, or other charge against the Property or any part thereof as and when required by this Mortgage; (3) failure to keep in force the

policies of insurance required by this Mortgage; (4) any unpermitted sale, transfer (whether voluntary or by operation of law), conveyance or further encumbrancing of all or any part of the Property or any interest therein, (5) Mortgagor's failure to comply with a requirement, order or notice of violation of a law, ordinance or regulation issued or promulgated by any political subdivision or governmental department claiming jurisdiction over the Property or any operation conducted on the Property or (6) if Mortgagor shall make an assignment for the benefit of creditors, file a petition in bankruptcy, apply to or petition any tribunal for the appointment of a custodian, receiver, intervenor or trustee for such Mortgagor or a substantial part of such Mortgagor's assets, or if Mortgagor shall commence any proceeding under any bankruptcy, arrangement, readjustment of debt, dissolution or liquidation law or statutes of any jurisdiction, whether now or hereafter in effect, or if any Mortgagor shall by act or omission approve, consent to or acquiesce in the filing of any such petition or application against such Mortgagor or the appointment of any such custodian, receiver, intervenor or trustee or t he commencement of any such proceeding against such Mortgagor or the entry of an order for relief with respect to such Mortgagor, or if any such petition or application shall have been filed or proceeding commenced against Mortgagor or in which an order for relief is entered, or if Mortgagor shall suffer any such appointment of a custodian, receiver, intervenor or trustee; or (7) Mortgagor's failure to comply with any other covenant or condition set forth in this Mortgage, the Note, or any other document or instrument which evidences or secures Mortgagor's obligations under the Note and this Mortgage.

13. <u>Mortgagee's Remedies Upon Occurrence of an Event of Default</u>. Upon the occurrence of any Event of Default under this Mortgage, Mortgagee shall have the right to (i) declare the entire principal balance under the Note immediately due and payable without notice or demand and (ii) thereafter immediately enforce the lien of this Mortgage against all of the Property by foreclosure as provided for under applicable Florida law and to cause all of the Property to be sold for payment and satisfaction of any decree of foreclosure without any right of the Mortgagor or of those claiming under Mortgagor to any marshalling of liens, exonerations of security or other similar rights or remedies.

14. <u>Leases</u>. Mortgagor will not enter into any leases or other occupancy agreements without the prior written consent of Mortgagee.

Exhibit 10.30

AMENDMENT TO
OFFICE DEPOT, INC.
AMENDED LONG-TERM EQUITY INCENTIVE PLAN

THIS AMENDMENT is hereby made and entered into as of the 17th day of February, 2005, by **OFFICE DEPOT, INC.** (the “Company”).

W I T N E S S E T H:

WHEREAS, the Company adopted the Office Depot, Inc. Amended Long-Term Equity Incentive Plan (the “Plan”) effective October 1, 1997, as last amended effective April 25, 2002; and

WHEREAS, the shareholders previously approved the Plan; and

WHEREAS, the Company now desires to amend the Plan pursuant to Section 21 of the Plan, in the manner hereinafter provided; and

WHEREAS, the Board of Directors of the Company, upon recommendation of the Compensation Committee of the Board, has acted to amend the Plan, effective on the date hereof;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the Plan is hereby amended as follows:

1.

Section 14 of the Plan is hereby amended as follows:

(a) by deleting the first paragraph of Section 14 in its entirety and substituting the following in lieu thereof, effective February 17, 2005:

> “The Committee may at any time and from time to time grant Shares of restricted stock under the Plan to such participants and in such amounts as it determines. Each grant of restricted stock shall specify the applicable restrictions on such Shares, the duration of such restrictions (which shall be at least 3 years subject to partial vesting at the end of year 1 and any time thereafter, except as otherwise provided in the second paragraph and the fourth paragraph of this Section 14), and the time or times at which such restrictions shall lapse with respect to all or a specified number of Shares that are part of the grant.”

(b) by adding a new second paragraph to said Section 14, as follows:

"Notwithstanding the provisions of the first paragraph of this Section 14, in order to implement a program (the 2005 Officer Retention Program, herein referred to as the "Program") which the Committee and the Board have determined as necessary to incentivize the Company's officers to remain with the Company during a period of transition to a new Chief Executive Officer during the Company's fiscal year 2005, the Committee is hereby authorized to issue restricted stock to officers of the Company in connection with the Program, with such restricted stock having a duration of restriction of at least 31 months, subject to partial vesting on the earlier of six months following the first day of employment of a new Chief Executive Officer for the Company, or October 3, 2005 and at any time thereafter. The grant hereby authorized in order to implement the Program is deemed to be a special grant of authority, required in order to meet a specific need of the Company, and is intended to be a specific amendment of the Plan for this specifically identified purpose."

2.

Except as hereby modified, the Plan shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Company has executed this Amendment as of the day and year first written above.

OFFICE DEPOT, INC.

By: /s/ DAVID C. FANNIN
David C. Fannin
Executive Vice President & General Counsel Secretary
of the Company

Exhibit 21

LIST OF THE COMPANY’S SIGNIFICANT SUBSIDIARIES

Name	Jurisdiction of Incorporation
Eastman Office Supplies, Inc.	Delaware
OD International, Inc.	Delaware
The Office Club, Inc.	California
Office Depot of Texas, L.P.	Delaware
Viking Office Products, Inc. (1)	California
Office Depot International BV (2)	Netherlands

(1) Includes 6 subsidiaries in the same line of business

(2) Includes 76 subsidiaries in the same line of business

Exhibit 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-62478 of Office Depot, Inc. on Form S-3 and Registration Statements No. 333-45591, No. 333-59603, No. 333-63507, No. 333-68081, No. 333-69831, No. 333-41060, No. 333-80123 and No. 333-90305 of Office Depot, Inc. on Forms S-8 of our reports dated March 7, 2005 relating to the consolidated financial statements and the financial statement schedules of Office Depot, Inc. (which report on the financial statements expresses an unqualified opinion and includes an explanatory paragraph relating to the Company's change in method of accounting for cooperative advertising arrangements) and management's report on the effectiveness of internal control over financial reporting, appearing in this Annual Report on Form 10-K of Office Depot, Inc. for the year ended December 25, 2004.

DELOITTE & TOUCHE LLP

Fort Lauderdale, Florida
March 10, 2005

Exhibit 31.1

Rule 13a-14(a)/15d-14(a) Certification

I, Neil R. Austrian, certify that:

1. I have reviewed this annual report on Form 10-K of Office Depot, Inc.;

2. Based on my knowledge, this 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 period covered by this annual report;

3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the company's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ NEIL R. AUSTRIAN
Neil R. Austrian
Chief Executive Officer, and Chairman
Board of Directors

Date: March 10, 2005

Exhibit 31.2

Rule 13a-14(a)/15d-14(a) Certification

I, Charles E. Brown, certify that:

1. I have reviewed this annual report on Form 10-K of Office Depot, Inc.;

2. Based on my knowledge, this 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 period covered by this annual report;

3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the company's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ CHARLES E. BROWN
Charles E. Brown
Executive Vice President, Finance and Chief Financial Officer

Date: March 10, 2005

Exhibit 32

Office Depot, Inc.

**Certification of CEO and CFO 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 on Form 10-K of Office Depot, Inc. (the “Company”) for the fiscal year ended December 25, 2004 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), Neil R. Austrian, as Chief Executive Officer of the Company, and Charles E. Brown, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge:

(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/ NEIL R. AUSTRIAN
Name: Neil R. Austrian
Title: Chief Executive Officer

Date: March 10, 2005

/s/ CHARLES E. BROWN
Name: Charles E. Brown
Title: Chief Financial Officer
Date: March 10, 2005

A signed original of this written statement required by Section 1350 of Title 18 of the United States Code has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished as an exhibit to the Report pursuant to Item 601(b)(32) of Regulation S-K and Section 1350 of Title 18 of the United States Code and, accordingly, is not being filed with the Securities and Exchange Commission as part of the Report and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report, irrespective of any general incorporation language contained in such filing).