

- (6) Represents income from continuing operations before interest income, interest expense, income taxes, other nonoperating expenses as described above, net, depreciation and amortization charges, and certain other property, goodwill and equipment impairment charges as follows:

("Adjusted EBITDA")	Fiscal Years Ended March 31,				
	2004	2003	2002	2001	2000
	(In millions)				
Income from continuing operations	\$125.3	\$ 83.5	\$27.3	\$29.5	\$23.7
Income tax expense (benefit)	40.4	26.1	3.1	(0.6)	13.0
Interest expense	11.2	23.8	18.4	21.4	25.9
Interest income	(1.2)	(3.9)	(2.4)	(8.2)	(5.4)
Other (income) expense, net	(3.5)	(0.7)	0.4	(1.6)	1.6
Depreciation and amortization	36.4	27.4	23.5	20.6	20.8
Impairment of property, plant and equipment	—	—	—	7.5	—
Adjusted EBITDA	\$208.6	\$156.2	\$70.3	\$68.6	\$79.6

Adjusted EBITDA is not a measure of financial performance under U.S. GAAP and should not be considered an alternative to, or more meaningful than, income from operations, net income or cash flows as defined by U.S. GAAP or as a measure of our profitability or liquidity. Not all companies calculate Adjusted EBITDA in the same manner and, accordingly, Adjusted EBITDA may not be comparable with other companies. We have included information concerning Adjusted EBITDA because we believe that this data is commonly used by investors to evaluate the ability of a company's earnings from its core business operations to satisfy its debt, capital expenditure and working capital requirements. To permit evaluation of this data on a consistent basis from period to period, Adjusted EBITDA has been adjusted for noncash charges such as goodwill and asset impairment charges, as well as nonoperating income and expense items. See our consolidated financial statements and "Operating and Financial Review and Prospects" for further information to assist in identifying and evaluating trends in Adjusted EBITDA.

- (7) Information for capital expenditures includes both cash and credit purchases, and is for continuing businesses only.
- (8) Fiber cement volume is measured in 5/16" thick square feet, which are referred to as standard feet.

#### Risk Factors

***We may be subject to potential liability because ABN 60 and certain former subsidiaries formerly manufactured products containing asbestos.***

A New Zealand subsidiary of JHI NV manufactured products containing asbestos in New Zealand prior to 1987. Statutory provisions in New Zealand currently bar claims for compensatory damages arising from work-related asbestos exposure. In addition, prior to 1987, two former subsidiaries of ABN 60, Amaca Pty Limited and Amaba Pty Limited, which are now owned and controlled by the Medical Research and Compensation Foundation (the "Foundation"), manufactured products containing asbestos in Australia. In addition, prior to 1937, ABN 60, now owned by the ABN 60 Foundation Pty Ltd ("ABN 60 Foundation"), manufactured products containing asbestos in Australia. We cannot predict with any certainty any future claims or allegations that may be made, how the laws of various jurisdictions may be applied to the facts or how the laws may change in the future. If, however, a court of competent jurisdiction relying on applicable law were to find JHI NV, our New Zealand subsidiary or another James Hardie subsidiary liable for damages connected with existing or former subsidiaries or their manufacture of asbestos-containing products, we may incur significant liabilities in connection with any damages that may be awarded in the legal proceedings, in addition to the costs associated with defending against such claims. See Item 4 "Information on the Company – Legal Proceedings."

***Following a Special Commission of Inquiry that was established in Australia to consider matters related to the Foundation, we may be subject to claims and allegations involving asbestos-related liability, or our corporate restructurings, including the corporate restructuring related to the creation of the Foundation and the ABN 60 Foundation and associated intercompany transactions.***

In February 2004, the Government of the State of New South Wales ("NSW"), Australia established a Special Commission of Inquiry ("SCI") to investigate, among other matters described in Item 4 "Information on the Company – Legal Proceedings," the circumstances in which the Foundation was established. The SCI heard evidence and received submissions from April 5, 2004 to August 13, 2004.

The Company provided submissions to the SCI and, on July 14, 2004, issued a statement announcing that it would recommend that shareholders approve the provision of an unspecified amount of additional funding to enable an effective statutory scheme to compensate all future claimants for asbestos-related injuries caused by former James Hardie subsidiary companies. The submission also stated that an effective scheme would reduce legal, superimposed (judicial) inflation and administrative costs and that the proposal was made without any admission of liability or prejudice to the Company's rights or defenses. Superimposed inflation is inflation in claim awards above the underlying rate of inflation and is sometimes called judicial inflation. In addition, the Company provided additional oral and written submissions to the SCI in response to questions from the Commissioner of the SCI concerning James Hardie's proposed statutory scheme.

The SCI issued its report on September 21, 2004. The SCI indicated that the establishment of the Foundation and the establishment of the ABN 60 Foundation were legally effective and that, accordingly, it was not likely that any significant liabilities for present or future asbestos claims for claimants against Amaca, Amaba or ABN 60 could be successfully made directly against JHI NV or any other James Hardie subsidiary. The SCI found that there was a significant funding shortfall in the establishment of the Foundation inasmuch as the net assets of the Foundation and the ABN 60 Foundation were not sufficient to meet the central estimate of approximately A\$1.570 billion discounted value of asbestos liabilities of Amaca and Amaba. The SCI also concluded that the assets of the Foundation were likely to be exhausted in the first half of 2007.

The SCI's findings are not binding and a later court consideration of the issues could lead to one or more different conclusions. The claims to which we may be subject could include claims by the Foundation or its current subsidiaries or their directors. The SCI further found, however, that there were hurdles that might prove to be insuperable against any substantial recovery or remedy by such potential claimants against the Company. In addition, the NSW Government has announced its preparedness to pass legislation, as described in Item 4 "Information on the Company – Legal Proceedings," which would alter the Company's liability position.

The NSW Government has stated that it would not consider assisting the implementation of any proposal advanced by the Company unless it was the result of an agreement reached with the union movement acting through the Australian Council of Trade Unions ("ACTU") and the Labor Council of NSW as well as the representatives of the asbestos claimants (together, the "Representatives"). The statutory scheme that the Company recommended on July 14, 2004 was rejected by the Representatives. The Company is currently in discussions with the Representatives regarding potential arrangements that could be acceptable to both the Representatives and the Company and subsequently to the Company's shareholders and the NSW Government. Both the outcome of those discussions and the timing of any potential resolution are highly uncertain, and accordingly, the Company cannot yet determine whether it will achieve a satisfactory resolution or what any potential arrangement may involve.

The terms of any resolution, or the uncertainty arising from the lack of any resolution, could have a material adverse effect on the Company's financial position, results of operations and cash flows. The Company has announced its intention to put any such resolution to shareholders for approval at a General Meeting. If no resolution is reached and implemented, it is not possible to predict what action the Foundation, the NSW Government or other state and territory governments and/or the Australian federal government, Representatives or others may take or what the outcome may be. The impact of any such actions however, could be materially adverse to the Company.

The Company has incurred substantial costs associated with the SCI and may incur material costs in the future related to the SCI or subsequent legal proceedings. See Item 4 "Information on the Company – Legal Proceedings."

***We may have difficulty obtaining financing (debt or equity), or obtaining financing on usual terms, or retaining existing financial support because of concerns or uncertainty relating to the SCI, legal or legislative action following the SCI, or the Company's offer to provide additional funding to the Foundation.***

Debt as well as equity finance providers may view the uncertainty relating to the SCI, legal or legislative action following the SCI, or the Company's offer to provide an additional funding mechanism for payment to asbestos claimants as negatively impacting the Company's ability to service or repay debt or generate acceptable after tax profit. As a consequence, we may have difficulty obtaining financing, obtaining financing on usual terms or retaining existing financial support.

In addition, if a resolution is reached with the Representatives and approved by them, the NSW Government and the Company's Board, shareholders and lenders, the Company may be required to make a substantial provision in its accounts at a later date. It is also possible that any future resolution of this issue may result in the Company having negative shareholders' equity, which would be likely to restrict its ability to pay dividends to its shareholders. These events may also cause the Company to be in breach of certain debt covenants, which could lead to acceleration of the repayment of the indebtedness. It is not certain that alternative financing would become available, whether on usual terms or otherwise.

See also Liquidity and Capital Resources under Item 5 "Operating and Financial Review and Prospects – Liquidity and Capital Resources."

***We may encounter product boycotts, negative publicity or other measures taken by the Representatives or others to influence the resolution of matters relating to the SCI investigation or encourage governmental action if there is no resolution.***

The Representatives and/or others may encourage or continue to encourage consumers and union members in Australia and elsewhere to boycott the Company's products, to demonstrate or otherwise create negative publicity toward the Company in order to influence the Company's approach to discussions with the Representatives or to encourage governmental action if the discussions are unsuccessful. The Representatives and/or others might also take such actions in an effort to influence the Company's shareholders, a significant number of which are located in Australia, to approve any proposed arrangement. Any such measures, and the influences resulting from them, could have a material adverse impact on the Company's financial position, results of operations and cash flows.

***The Government of the State of New South Wales has announced its preparedness to pass legislation if current negotiations between James Hardie, the ACTU and asbestos claimants do not reach an acceptable conclusion.***

The Ministerial Council for Corporations (the relevant body of the Federal, State and Territory Ministers) agreed to support a negotiated settlement that would ensure that claimants of asbestos-related diseases receive full and timely compensation from the Company. If current negotiations between James Hardie, the ACTU and asbestos claimants do not reach an acceptable conclusion, the NSW Government announced its preparedness to pass legislation which would "wind back James Hardie's corporate restructure and rescind the cancellation of the A\$1.9 billion in partly-paid shares." Negotiations with the Representatives continue and no draft legislation has currently been published. See Item 4 "Information on the Company – Legal Proceedings."

***Our current senior management team was recently appointed on an interim basis after the resignations of our chief executive officer and chief financial officer.***

Our senior executives were appointed in October 2004 on an interim basis after the resignations of Peter Macdonald, formerly our Chief Executive Officer, and Peter Shafron, formerly our Chief Financial Officer.

Because of the unscheduled departure of our former senior management, and the essentially concurrent appointment of current management, there was little time available to smoothly transition over to the new management team. Accordingly, it may take time for our new management team to effectively transition into their new roles and to develop effective working relationships with our board of directors, employees, shareholders and others. We cannot assure you that this major restructuring of our senior management team will not adversely affect our results of operations or otherwise adversely affect us.

***Our board of directors and senior management continue to devote significant attention to matters arising from and related to the Special Commission of Inquiry.***

Since the establishment of the SCI, our board of directors, our senior management and others within our organization have devoted a significant amount of time and resources to investigating the allegations raised in the report of the SCI, to producing documents to and complying with requests from governmental and regulatory authorities and others, and to seeking a resolution of the issues arising out of the SCI. The board of directors' and management's focus on issues related to the SCI may distract them from conducting the business of the Company, and this could adversely effect our results of operations.

***Continuing negative publicity may adversely affect our business.***

As a result of the events that are the focus of the SCI, we have been the subject of continuing negative publicity, both in Australia and elsewhere in the world. We believe that this negative publicity has contributed to declines in the price of our publicly traded securities in 2004, and that this publicity has brought increased regulatory scrutiny upon us. We also believe that many of our employees are operating under stressful conditions, which may reduce morale and could lead to increased employee turnover. Continuing negative publicity could have a material adverse effect on our results of operations and liquidity and the market price of our publicly traded securities and create difficulties in attracting or retaining high caliber staff.

***Continued scrutiny resulting from ongoing investigations may have an adverse effect on our business.***

We are subject to an ongoing investigation by the Australian Securities and Investments Commission. We cannot predict when this investigation will be completed, nor can we predict what the results of this investigation will be. It is possible that we will be required to pay material fines, provide indemnification payments, or suffer other penalties, each of which could have a material adverse effect on our business. We cannot assure you that the effects and results of these or other investigations will not be material and adverse to our business, financial condition, results of operations or liquidity.

***We may incur costs of current or former officers and employees of the James Hardie Group to the extent that those costs are covered by indemnity arrangements granted by the James Hardie Group to those persons.***

We may incur costs of current or former officers and employees of James Hardie Group to the extent that those costs are covered by indemnity arrangements granted by the James Group to those persons. The Company may be reimbursed under directors' and officers' insurance policies taken out by the Company. However, there is no guarantee that such insurance will completely cover any claims that would be made.

***Substantial and increasing competition in the building products industry could adversely affect our business.***

Competition in the building products industry is based largely on price and, to a lesser extent, quality, performance and service. Our fiber cement products compete with products manufactured from natural and engineered wood, vinyl, stucco, masonry, gypsum and other materials as well as fiber cement products from other manufacturers. Some of our competitors may have greater financial and other resources than we do and, among other factors, may be less affected by reductions in margins resulting from price competition.

Some of our competitors have lowered prices of their products to compete for sales. In addition, we expect our competitors to continue to expand their manufacturing capacities, to improve the design and

performance of their products and to introduce new products with competitive price and performance characteristics. Increased competition by existing or future competitors could adversely impact fiber cement prices, as well as require us to increase our investment in product development, productivity improvements and customer service and support to compete in our markets.

Fiber cement product prices in the United States, Australia and New Zealand have fluctuated for a number of years due to the entry into the market of new producers and competition from alternative products, among other reasons, and these prices could continue to fluctuate in the future. Because of the maturity of the Australian and New Zealand markets, we believe that prices in those markets may decline and that sales volumes may not increase significantly or may decline in the future. Historically, increased sales volumes of our U.S. fiber cement products, the addition of proprietary products to our product mix and improved operating efficiencies have more than offset the decrease in pricing for such products in the United States. However, there may be future price decreases and we may not be able to offset such decreases with increased volume, new products or improved operating efficiencies. For instance, unanticipated technical problems could impair our efforts to commission new equipment aimed at improving operating efficiencies. Any of these factors could have a material adverse effect on our business, results of operations and financial condition.

***Our business is dependent on the residential and commercial construction markets.***

Demand for our products depends in large part on residential construction markets and, to a lesser extent, on commercial construction markets. The level of activity in residential construction markets depends on new housing starts and residential remodeling projects, which are a function of many factors not within our control, including general economic conditions, mortgage and other interest rates, inflation, unemployment, demographic trends, gross domestic product growth and consumer confidence in each of the countries and regions in which we operate. Historically, in periods of economic decline, both new housing starts and residential remodeling also decline. The level of activity in the commercial construction market depends largely on vacancy rates and general economic conditions. Because residential and commercial construction markets are sensitive to cyclical changes in the economy, downturns in the economy or a lack of substantial improvement in the economy of any of our geographic markets could negatively affect operating results. Because of these and other factors, our operating results may be subject to substantial fluctuations and the results for any prior period may not be indicative of results for any future period.

***We may acquire or divest businesses from time to time, and this may adversely affect our operating results and financial condition as well as significantly change the nature of the company in which you have invested.***

In the past, we have divested business segments and, from time to time in the future, we may acquire other businesses or sell some or all of our assets or business segments. Any significant acquisition or sale may adversely affect our operating results and financial condition and could change the overall profile of our business. As a result, the value of our shares may decrease in response to any such acquisition or sale and, upon any such acquisition or sale, our shares may represent an investment in a company with significantly different assets and prospects from the Company when you made your initial investment in us.

***If our research and development efforts fail to generate new, innovative products or processes, our overall profit margins may decrease and demand for our products may fall, which would have an adverse effect on our results of operations and financial condition.***

We have invested significantly in research and development because we believe that such efforts are key to sustaining and growing our existing market leadership position in fiber cement. Because profit margins for fiber cement products and building products generally erode the longer a product has been on the market, innovation is particularly important. We rely on our research and development efforts to generate new products and processes to increase demand and to protect profit margins. If our research and development efforts fail to generate new, innovative products or processes, our overall profit margins may decrease and demand for our products may fall, which would have an adverse effect on our results of operations and financial condition.

***Because demand for our products in our major markets is seasonal, our quarterly results of operations may vary throughout the year.***

In the United States, a large proportion of our fiber cement products is sold in three regions: the Southeast, the Southcentral and the Pacific Northwest. Demand for building products in these regions is seasonal because construction activity diminishes during the winter season. In Australia, New Zealand and the Philippines, demand for building products is also seasonal because, in Australia and New Zealand, construction activity diminishes during the summer period of December to February, and in the Philippines, construction activity diminishes during the wet season from June to September and the last half of December due to the slowdown in business activity over the Christmas period. We commenced production of fiber cement products in Chile in early 2001, where markets also experience decreased seasonal construction activity from May through September.

***We may experience adverse fluctuations in the supply and cost of raw materials necessary to our business and a significant reduction or cessation of shipments from an important supplier could adversely affect our business if we are unable to secure alternative supplies within a short time or on reasonable terms.***

Our fiber cement business periodically experiences fluctuations in supply and costs of raw materials, and some of our supply markets are concentrated. Cellulose fiber, silica, cement and water are the principal raw materials utilized in the production of fiber cement. Cellulose fiber has been subject to significant price fluctuations. Although we have not recently experienced any shortages of raw materials that have materially affected our operations, price fluctuations or material delays may occur in the future due to lack of raw materials or suppliers. The loss or deterioration of our relationship with a major supplier, an increase in demand by third parties for a particular supplier's products or materials or delays in obtaining materials could have a material adverse effect on our business, results of operations and financial condition.

***Demand for our products is subject to changes in consumer preference.***

The continued development of builder and consumer preference for our fiber cement products over competitive products is critical to sustaining and expanding demand for our products. Therefore, the failure to maintain and increase builder and consumer acceptance of our fiber cement products could have a material adverse effect on our growth strategy as well as our business, results of operations and financial condition.

***We rely on only a few distributors to distribute our fiber cement products and the loss of any distributor could adversely affect our business.***

Our top two distributors in the United States represented approximately 50% of our total U.S. fiber cement sales in fiscal year 2004. In addition, a large home center retailer also accounted for approximately 15% of our total U.S. fiber cement sales in fiscal year 2004. Our top two distributors in Australia and our top four distributors in New Zealand accounted for approximately 30% and 95% of our total sales of fiber cement in Australia and New Zealand, respectively, in fiscal year 2004. We generally do not have long-term contracts with our large distributors. Accordingly, if we were to lose one or more of these distributors because our competitors were able to offer distributors more favorable pricing terms or for any other reasons, we may not be able to replace such distributors in a timely manner and on reasonable terms. The loss of one or more distributors could have a material adverse effect on our business, results of operations and financial condition.

***If one or more of our fiber cement products fail to perform as expected or contain a design defect, such failure or defect, and/or any resulting negative publicity, could result in lower sales and may subject us to claims from purchasers or users of our fiber cement products.***

Because our fiber cement products have been used only since the early 1980s, we cannot assure you that these products will perform in accordance with our expectations over an extended period of time or that there are no serious design defects in such products. If our fiber cement technology fails to perform as expected or a product is discovered to have design defects, such failure or defects, and/or any resulting negative publicity, could result in lower sales of our products and may subject us to claims from purchasers or users of defective

products, either of which could have a material adverse effect on our business, results of operations and financial condition.

***Warranty claims resulting from unforeseen defects in our products and exceeding our warranty reserves could have a material adverse effect on our business, results of operations and financial condition.***

We have offered, and continue to offer, various warranties on our products, including a 50-year limited warranty on certain of our fiber cement siding products in the United States. Although we maintain reserves for warranty-related claims and legal proceedings that we believe are adequate, we cannot assure you that warranty expense levels or the results of any warranty-related legal proceedings will not exceed our reserves.

***If damages resulting from product defects exceed our insurance coverage, paying these damages could result in a material adverse effect on our business, results of operations and financial condition.***

The actual or alleged existence of defects in any of our products could subject us to significant product liability claims. Although we do not have replacement insurance coverage for damages to, or defects in, our products, we do have product liability insurance coverage for consequential damages that may arise from our products. Although we believe this coverage is adequate and currently intend to maintain this coverage in the future, we cannot assure you that this coverage will be sufficient to cover all future product liability claims or that this coverage will be available at reasonable rates in the future. The successful assertion of one or more claims against us that exceed our insurance coverage could require us to incur significant expenses to pay these damages. These additional expenses could have a material adverse effect on our business, results of operations and financial condition.

***We rely on a continuous power supply and availability of utilities to conduct our operations, and any shortages or interruptions could disrupt our operations and increase our expenses.***

In the manufacture of our products, we rely on a continuous and uninterrupted supply of electric power, water and natural gas as well as the availability of water, waste and emissions discharge facilities. Any future shortages or discharge curtailments could significantly disrupt our operations and increase our expenses. We currently do not have backup generators to maintain power and do not have alternate sources of power in the event of a blackout. In addition, our current insurance does not provide coverage for any damages that we or our customers may suffer as a result of any interruption in our power supply. If blackouts interrupt our power supply, we would be temporarily unable to continue operations at the affected facilities. Any future interruption in our ability to continue operations at our facilities could damage our reputation, harm our ability to retain existing customers or obtain new customers and could result in lost revenue, any of which could have a material adverse effect on our business, results of operations and financial condition.

***We may incur significant costs in the future in complying with applicable environmental and health and safety laws and regulation, and if we fail to comply with these laws and regulations, or these laws or regulations change, we may be subject to significant liabilities, including but not limited to damages and penalties.***

We are subject to U.S. federal, state and local and foreign environmental and health and safety laws and regulations governing, among other matters, our operations and the use, handling, disposal and remediation of hazardous substances currently or formerly used by us or any affiliates. Under these laws and regulations, we may be held jointly and severally responsible for the remediation of any hazardous substance contamination at our or our predecessors' past or present facilities and at third-party waste disposal sites and may also be held liable for any claims arising out of human exposure to such substances or other environmental damage. We will continue to be liable for any environmental problems that occurred while we owned or operated any of the three gypsum facilities that we sold in April 2002. See "Information on the Company – Capital Expenditures and Divestitures – Divestitures" in Item 4.

In addition, many James Hardie products contain crystalline silica, which can be released in a respirable form in connection with manufacturing practices and handling or use by consumers. The inhalation of



respirable crystalline silica is known or suspected to be associated with silicosis, lung cancer and other adverse human health effects. We may face future costs of engineering and compliance to meet new standards relating to crystalline silica if standards are made more stringent. In addition, there is a risk that claims for silica-related disease could be made against us. At this time, we are not subject to any silica-related claims, prosecutions or litigation. However, we cannot assure you that we will have adequate resources, including adequate insurance coverage, to satisfy any future silica-related disease claims or that there will not be adverse business consequences in the distribution, end user or other markets. Any such claims may have a material adverse effect on our financial condition. See Risk Factor above captioned “– If damages resulting from product defects exceed our insurance coverage, paying these damages could result in a material adverse effect on our business, results of operations and financial condition.”

The costs of complying with environmental and health and safety laws relating to our operations, or the liabilities arising from past or future releases of, or exposure to, hazardous substances or from product liability matters may result in us making future expenditures that could have a material adverse effect on our business, results of operations or financial condition. In addition, we cannot make any assurances that the laws currently in place will not change. Also, if applicable laws or judicial interpretations related to successor liability or “piercing the corporate veil” were to change, it could have a material adverse effect on our business, results of operations and financial condition. See “Information on the Company – Legal Proceedings” in Item 4.

***Changes in, or failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which we conduct our business could result in, among other consequences, the loss of our assets in such jurisdiction, the elimination of certain rights that are critical to the operation of our business in such jurisdiction, a decrease in revenues or the imposition of additional taxes or other costs.***

Because we manufacture and sell our products internationally, our activities are subject to political, economic, legal and other uncertainties, including:

- changing political and economic conditions;
- changing laws and policies;
- the general hazards associated with the assertion of sovereign rights over certain areas in which we conduct our business; and
- laws limiting or conditioning the right and ability of subsidiaries and joint ventures to pay dividends or remit earnings to affiliated companies.

Although we seek to take applicable laws, regulations and conditions into account in structuring our business on a global basis, changes in, or our failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which we conduct our business could result in, among other consequences, the loss of our assets in such jurisdiction, the elimination of certain rights that are critical to the operation of our business in such jurisdiction, a decrease in revenues or the imposition of additional taxes. Therefore, any change in laws, regulations, policies or conditions of a jurisdiction could have a material adverse effect on our business, results of operations and financial condition.

***Our reliance on intellectual property and other proprietary information subjects us to the risk that competitors could copy our products or processes.***

Our success depends, in part, on the proprietary nature of our technology, including non-patentable intellectual property such as our process technology. Despite safeguards, to the extent that a competitor is able to reproduce or otherwise capitalize on our technology, it may be difficult, expensive or impossible for us to obtain necessary legal protection. Also, the laws of some foreign countries may not protect our intellectual property to the same extent as do the laws of the United States. In addition to patent protection of intellectual property rights, we consider elements of our product designs and processes to be proprietary and confidential. We rely on employee, consultant and vendor non-disclosure agreements and contractual provisions and a system of internal safeguards to protect our proprietary information. However, any of our registered or



unregistered intellectual property rights may be challenged or exploited by others in the industry, which could harm our operating results and competitive position.

***Because we have significant operations outside of the United States and report our earnings in U.S. dollars, unfavorable fluctuations in currency values and exchange rates could have a significant negative impact on our earnings.***

Because our reporting currency is the U.S. dollar, our non-U.S. operations face the additional risk of fluctuating currency values and exchange rates. Such operations may also face hard currency shortages and controls on currency exchange. Approximately 24% and 23% of our net sales in fiscal years 2004 and 2003, respectively, were derived from sales outside the United States. Consequently, changes in the value of foreign currencies (principally Australian dollars, New Zealand dollars, Philippine pesos, Chilean pesos, Euros, U.K. pounds and Canadian dollars) could significantly affect our business, results of operations and financial condition. We generally attempt to mitigate foreign exchange risk by (1) entering, where possible, into contracts providing for payment in U.S. dollars instead of the local currency and (2) having non-U.S. operations borrow in local currencies, particularly the Philippines and Chile. Although we did not have any material interest rate swaps or forward exchange contracts outstanding as of March 31, 2004, we may enter into such financial instruments from time to time to manage our market risks. There can be no assurance that we will be successful in these mitigation strategies, or that fluctuations in foreign currencies and other foreign exchange risks will not have a material adverse effect on our business, results of operations and financial condition.

***Our Articles of Association and Dutch law contain provisions that could delay or prevent a change of control that may otherwise be beneficial to you.***

Our Articles of Association contain several provisions that could have the effect of delaying or preventing a change of control of our ownership. Broadly, our Articles of Association prohibit the holding of shares of our common stock if, because of an acquisition of a relevant interest (including interests held in the form of shares of our common stock, CUFS or ADRs) in such shares, a party's relevant interest in our common stock or voting rights in us increases from 20% or below to over 20% or from a starting point that is above 20% and below 90%. However, this prohibition is subject to exceptions, including acquisitions that result from acceptance under a takeover bid as described in our Articles of Association. Although these provisions in our Articles of Association may help to ensure that no person acquires voting control of us without making an offer to all shareholders, these provisions may also have the effect of delaying or preventing a change of control that may otherwise be beneficial to you. See "Additional Information – Key Provisions of our Articles of Association – Limitations on Right to Hold Common Stock" under Item 10.

***Because we are incorporated under Dutch laws, you may not be able to effectively seek legal recourse against us or our management in the United States and you may have further difficulty enforcing any U.S. judgments or rulings in a foreign jurisdiction.***

We are incorporated under the laws of The Netherlands. In addition, many of our directors and executive officers are residents of jurisdictions outside the United States and a substantial portion of our assets are located outside the United States. As a result, it may be difficult to effect service of process within the United States upon such persons, or to enforce outside the United States judgments obtained against such persons in U.S. courts, or to enforce in U.S. courts any judgments obtained against such persons in courts located in jurisdictions outside the United States, including actions predicated upon the civil liability provisions of the U.S. securities laws. In addition, it may be difficult for you to enforce, in original actions brought in courts located in jurisdictions outside the United States, rights predicated upon the U.S. securities laws.

The rights of shareholders and the responsibilities of directors under the laws of The Netherlands may not be as clearly established as under statutes or judicial precedent in existence in certain U.S. jurisdictions. Therefore, our shareholders may have more difficulty in challenging the actions by our directors than they would otherwise as shareholders of a corporation incorporated in the United States.

***The issuance of additional shares or the grant of additional options could dilute the value of your shares and adversely affect the price of our common stock.***

Because the authority to issue shares (and to grant rights to subscribe for shares, such as options) up to the amount of our authorized share capital has been delegated to our Supervisory Board, the issuance of such shares or rights could dilute the value of your shares and adversely affect the price of our common stock.

In addition, if we issue a large number of our equity securities, the trading price of our equity securities could decrease. We may pursue acquisitions of businesses and may issue equity securities in connection with these acquisitions, although we do not currently have specific acquisitions planned. We may also issue equity securities to satisfy other liabilities of the Company. We cannot predict the effect, if any, the future sales or issuances of our equity securities or the availability of such securities for future sale will have on our securities market price from time to time.

***If we experience labor disputes or interruptions, as we have from time to time in the past, our operations may be disrupted and our business, financial condition and results of operations may be adversely affected.***

Approximately 53% of our employees in Australia and 58% of our employees in New Zealand are currently represented by labor unions. Our unionized employees are covered by a range of federal and state-based agreements in Australia and New Zealand. Our Australian and New Zealand agreements expire at various times beginning September 2005. We cannot assure you that the agreements will be renewed on reasonable terms, or at all. During the past three years we experienced occasional strikes and work interruptions lasting up to two days in Australia. In the event we experience a prolonged labor dispute at any of our facilities, any strikes or work interruptions associated with such dispute could have a material adverse effect on our business, financial condition and results of operations.

***Under the U.S.-Netherlands income tax treaty and Netherlands law, we derive substantial tax benefits from the group finance operations of our Netherlands-based finance subsidiary, and changes in either the treaty or laws applicable to the finance subsidiary, including the recently approved Protocol, could increase our effective tax rate and, as a result, reduce our future profits and cash flows.***

We believe the current U.S.-Netherlands Income Tax Treaty (the "U.S.-NL Treaty") applies to us and our Dutch and U.S. subsidiaries and that, accordingly, we are eligible for its benefits. Under the current U.S.-NL Treaty, a reduced 5% withholding tax applies to dividends, and no withholding tax applies to interest and royalties, that our U.S. subsidiaries pay to JHI NV or our Dutch finance subsidiary. The current U.S.-NL Treaty has various conditions of eligibility for reduced tax withholding rates (and other treaty benefits), all of which we expect to satisfy. If, however, the current U.S.-NL Treaty were not to apply, such dividend and interest payments would be subject to a 30% U.S. withholding tax.

The United States and The Netherlands approved a new protocol that, when ratified, would amend the current U.S.-NL Treaty. We expect ratification to occur soon. Companies eligible for benefits under the amended treaty qualify for a zero percent withholding rate on dividends. However, the Protocol has various new, more restrictive eligibility requirements for reduced tax withholding rates and other treaty benefits. We can elect to apply and continue to benefit from the current treaty until the first day of the 14<sup>th</sup> month after ratification of the Protocol, when we will become subject to the amended treaty. Unless we change our organizational and operational structure, we are unlikely to satisfy the requirements of the amended treaty. Accordingly, we are evaluating various reorganization options to satisfy those requirements and thus remain eligible for benefits under the amended treaty. However, we cannot guarantee whether we can remain eligible for benefits under the amended treaty, or to obtain an equally favorable result. The loss of treaty benefits could significantly increase our effective tax rate in the future, which could have a material adverse impact on our financial condition, cash flows and results of operations.

We have concentrated our finance and treasury activities in our Dutch finance subsidiary located in The Netherlands. In addition to providing financing to our various subsidiaries, the finance subsidiary owns and develops intellectual property that it licenses to our operating subsidiaries. Under the Netherlands Interna-

tional Group Finance Company rules, we have obtained a ruling from the Dutch revenue authority that allows the finance subsidiary to set aside, in a Financial Risk Reserve ("FRR"), a portion of its taxable profits from financing and from licensing its intellectual property. The amounts set aside in the FRR are free of current Dutch income tax. Consequently, the finance subsidiary will generally incur a tax rate of approximately 15% to 18% on its qualifying financing and licensing income and a 34.5% statutory rate on all other income, including any amounts involuntarily released from the FRR to cover any risks (including currency, bad debt and foreign branch losses) for which the FRR was established. The tax rate on qualifying income may be reduced to as low as approximately 7% to 10%, depending on the extent to which amounts from the FRR pay for capital expenditures of our operating companies. Issued in December 2000, the ruling became effective July 1, 2001, and applies for ten years (although it will end earlier, on December 31, 2010, because of developments described below), so long as we satisfy the requirements of the International Group Finance Company provisions under Dutch law.

Under the European Union Code of Conduct on Direct Business Taxation, member states of the European Union have agreed to eliminate harmful tax competition within the European Union. Accordingly, the EU Council of Economic and Finance Ministers, a working group of EU member countries, reviewed the tax regimes of all its member countries and identified certain tax concessions the Council considered as harmfully competitive and therefore in violation of the Code of Conduct. Among the identified tax concessions is the Netherlands International Group Finance Company regime. In December 2002, The Netherlands agreed to end its International Group Finance Company regime for new entrants.

In a separate but related development, the European Commission, the executive arm of the European Union, similarly has reviewed the tax regimes of its member countries to identify tax concessions that the Commission considers a form of "prohibited state aid" and therefore contrary to the provisions of the European Community Treaty. In February 2003, the Commission concluded that the existence of special tax concessions in certain countries, including the Netherlands International Group Finance Company regime, cannot be reconciled with EU rules regarding state aid. Accordingly, the Commission banned certain concessionary tax regimes, including the Netherlands International Group Finance Company regime, but allowed companies then operating under that regime, including our Dutch finance subsidiary, to continue to operate under the regime until December 31, 2010. Some uncertainty exists whether, during this extended period of the International Group Finance Company regime, qualifying companies can: (1) continue to set aside profits in their FRR and (2) defer any taxable recovery of profits from their FRR until the expiration date. Until December 31, 2010 and absent further legal developments, we intend to maintain and continue to add to the FRR of our Dutch finance subsidiary all allowable profits the subsidiary earns, and to fund capital expenditures of our operating companies with amounts from the FRR.

Although our Dutch finance company can continue to derive benefits under the Netherlands International Group Finance Company rules until December 31, 2010, we cannot guarantee that either the EU again, or another relevant authority or legislative body, would not attempt to repeal that law earlier, or that a court of competent jurisdiction would not invalidate it, possibly with retrospective effect.

***Our effective income tax rate could increase and adversely affect our operating results.***

We operate in multiple jurisdictions and pay tax on our income according to the tax laws of these jurisdictions. Various factors, some of which are beyond our control, determine our effective tax rate, including changes in or interpretations of tax laws in any given jurisdiction; our ability to use net operating losses and tax credit carry forwards and other tax attributes; changes in geographical allocation of income and expense; and our judgment about the realizability of deferred tax assets.

In addition, because we derive a majority of our revenues in the United States, certain proposed changes in U.S. tax laws, if enacted, could increase our effective tax rate. Recent legislative and regulatory proposals would reduce or eliminate certain of our tax advantages as a foreign-based company with U.S. operations. If any of these proposals were enacted, our U.S. income tax liability could increase and thus reduce our cash flow and earnings. We cannot predict whether any such proposals will be enacted and the extent to which any enacted proposal would apply to us.