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# **FORM 10-Q**

**MEDTRONIC INC - mdt**

**Filed: March 06, 2007 (period: January 26, 2007)**

Quarterly report which provides a continuing view of a company's financial position

# Table of Contents

[10-Q - FORM 10-Q FOR PERIOD ENDED JANUARY 26, 2007](#)

## [PART I](#)

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## [PART I](#)

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- |                                |  |
|--------------------------------|--|
| <a href="#"><u>Item 1.</u></a> | <a href="#"><u>Financial Statements</u></a>  |
| <a href="#"><u>Item 2.</u></a> | <a href="#"><u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u></a> |
| <a href="#"><u>Item 3.</u></a> | <a href="#"><u>Quantitative and Qualitative Disclosures About Market Risk</u></a>                            |
| <a href="#"><u>Item 4.</u></a> | <a href="#"><u>Controls and Procedures</u></a>   |

## [PART II](#)

---

- |                                |  |
|--------------------------------|--|
| <a href="#"><u>Item 1.</u></a> | <a href="#"><u>Legal Proceedings</u></a>   |
| <a href="#"><u>Item 2.</u></a> | <a href="#"><u>Unregistered Sales of Equity Securities and Use of Proceeds</u></a> |
| <a href="#"><u>Item 6.</u></a> | <a href="#"><u>Exhibits</u></a>  |

### [SIGNATURES](#)

[EX-4.1 \(CREDIT AGREEMENT DATED DECEMBER 20\)](#)

[EX-12.1 \(COMPUTATION OF RATIO EARNINGS TO FIXED CHARGES\)](#)

[EX-31.1 \(CERTIFICATION OF CEO PURSUANT TO SECTION 302\)](#)

[EX-31.2 \(CERTIFICATION OF CFO PURSUANT TO SECTION 302\)](#)

[EX-32.1 \(CERTIFICATION OF CEO PURSUANT TO SECTION 906\)](#)

[EX-32.2 \(CERTIFICATION OF CFO PURSUANT TO SECTION 906\)](#)

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

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**FORM 10-Q**

☒ **QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
**For the quarterly period ended January 26, 2007**

**Commission File Number 1-7707**

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**Medtronic**

**MEDTRONIC, INC.**  
(Exact name of registrant as specified in its charter)

**Minnesota**  
(State of incorporation)

**41-0793183**  
(I.R.S. Employer  
Identification No.)

**710 Medtronic Parkway**  
**Minneapolis, Minnesota 55432**  
(Address of principal executive offices) (Zip code)  
**(763) 514-4000**  
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

Shares of common stock, \$.10 par value, outstanding on March 1, 2007: 1,151,564,028

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## TABLE OF CONTENTS

Item	Description	Page
<b>PART I</b>		
1.	<a href="#">Financial Statements</a>	3
2.	<a href="#">Management's Discussion and Analysis of Financial Condition and Results of Operations</a>	21
3.	<a href="#">Quantitative and Qualitative Disclosures About Market Risk</a>	40
4.	<a href="#">Controls and Procedures</a>	40
<b>PART II</b>		
1.	<a href="#">Legal Proceedings</a>	41
2.	<a href="#">Unregistered Sales of Equity Securities and Use of Proceeds</a>	41
6.	<a href="#">Exhibits</a>	41

[Table of Contents](#)

### PART I — FINANCIAL INFORMATION

#### Item 1. Financial Statements

#### MEDTRONIC, INC. CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS (Unaudited)

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
	(in millions, except per share data)			
Net sales	\$ 3,048	\$ 2,770	\$ 9,019	\$ 8,225
Costs and expenses:				
Cost of products sold	775	699	2,302	2,047
Research and development expense	293	280	912	819
Selling, general and administrative expense	1,038	900	3,058	2,685
Special charges	-	-	-	100
Certain litigation charges	-	-	40	-
Purchased in-process research and development (IPR&D)	-	-	-	364
Other expense, net	44	10	160	101
Interest income, net	(36)	(24)	(113)	(52)
Total costs and expenses	2,114	1,865	6,359	6,064
Earnings before income taxes	934	905	2,660	2,161

Source: MEDTRONIC INC, 10-Q, March 06, 2007

Provision for income taxes	224	235	670	354
Net earnings	\$ 710	\$ 670	\$ 1,990	\$ 1,807
Earnings per share:				
Basic	\$ 0.62	\$ 0.55	\$ 1.73	\$ 1.49
Diluted	\$ 0.61	\$ 0.55	\$ 1.71	\$ 1.48
Weighted average shares outstanding:				
Basic	1,149.0	1,208.5	1,150.8	1,209.4
Diluted	1,163.7	1,222.8	1,162.8	1,222.6
Cash dividends declared per common share	\$ 0.11	\$ 0.10	\$ 0.33	\$ 0.30

See accompanying notes to the condensed consolidated financial statements.

[Table of Contents](#)

MEDTRONIC, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(Unaudited)

	January 26, 2007	April 28, 2006
	(in millions)	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 2,087	\$ 2,994
Short-term investments	1,234	3,107
Accounts receivable, less allowances of \$192 and \$184, respectively	2,626	2,429
Inventories	1,319	1,177
Deferred tax assets, net	445	197
Prepaid expenses and other current assets	499	473
Total current assets	8,210	10,377
Property, plant and equipment	4,135	3,794
Accumulated depreciation	(2,146)	(1,913)
Net property, plant and equipment	1,989	1,881
Goodwill	4,363	4,346
Other intangible assets, net	1,555	1,592
Long-term investments	2,970	957
Long-term deferred tax assets, net	8	—
Other long-term assets	477	512
Total assets	\$ 19,572	\$ 19,665
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Short-term borrowings	\$ 551	\$ 2,437

Accounts payable	345	319
Accrued compensation	629	723
Accrued income taxes	515	461
Other accrued expenses	663	466
Total current liabilities	2,703	4,406
Long-term debt	5,577	5,486
Long-term deferred tax liabilities, net	—	22
Long-term accrued compensation	197	189
Other long-term liabilities	111	179
Total liabilities	8,588	10,282
Commitments and contingencies (Note 15)	—	—
Shareholders' equity:		
Preferred stock— par value \$1.00	—	—
Common stock— par value \$0.10	115	116
Retained earnings	10,683	9,112
Accumulated other non-owner changes in equity	186	155
Total shareholders' equity	10,984	9,383
Total liabilities and shareholders' equity	\$ 19,572	\$ 19,665

See accompanying notes to the condensed consolidated financial statements.

[Table of Contents](#)

MEDTRONIC, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited)

	Nine months ended	
	January 26, 2007	January 27, 2006
	(dollars in millions)	
OPERATING ACTIVITIES:		
Net earnings	\$ 1,990	\$ 1,807
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	415	406
Purchased in-process research and development	-	364
Provision for doubtful accounts	32	8
Deferred income taxes	(276)	183
Stock-based compensation	139	17
Excess tax benefit from exercise of stock-based awards	(24)	-
Change in operating assets and liabilities:		
Accounts receivable	(224)	(123)
Inventories	(141)	(274)
Accounts payable and accrued liabilities	150	(979)
Other operating assets and liabilities	(7)	103
Net cash provided by operating activities	2,054	1,512
INVESTING ACTIVITIES:		
Acquisitions, net of cash acquired	(8)	(285)
Purchase of intellectual property	(96)	(831)
Additions to property, plant and equipment	(383)	(305)
Purchases of marketable securities	(9,888)	(4,863)
Sales and maturities of marketable securities	9,786	2,849
Other investing activities, net	(40)	1
Net cash used in investing activities	(629)	(3,434)

**FINANCING ACTIVITIES:**

Change in short-term borrowings, net	86	574
Change in long-term debt, net	(4)	994
Payments on long-term debt	(1,877)	-
Dividends to shareholders	(380)	(350)
Issuance of common stock	235	437
Excess tax benefit from exercise of stock-based awards	24	-
Repurchase of common stock	(438)	(709)
Net cash (used in) provided by financing activities	(2,354)	946
Effect of exchange rate changes on cash and cash equivalents	22	112
Net change in cash and cash equivalents	(907)	(864)
Cash and cash equivalents at beginning of period	2,994	2,232
Cash and cash equivalents at end of period	\$ 2,087	\$ 1,368

**Supplemental Cash Flow Information**
**Cash Paid For:**

Income taxes	\$ 873	\$ 580
Interest	135	60

**Supplemental Noncash Investing and Financing Activities:**

Deferred payments for purchases of intellectual property	\$ -	\$ 30
Reclassification of debentures from long-term to short-term debt	-	1,971
Reclassification of debentures from short-term to long-term debt	94	-

See accompanying notes to the condensed consolidated financial statements.

[Table of Contents](#)

MEDTRONIC, INC.  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(Unaudited)

**Note 1 — Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S.) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information necessary for a fair presentation of results of operations, financial condition, and cash flows in conformity with accounting principles generally accepted in the U.S. In the opinion of management, the condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of the results of Medtronic, Inc. and its subsidiaries (Medtronic or the Company) for the periods presented. Operating results for interim periods are not necessarily indicative of results that may be expected for the fiscal year as a whole. The preparation of the financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, expenses, and the related disclosures at the date of the financial statements and during the reporting period. Actual results could materially differ from these estimates. For further information, refer to the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended April 28, 2006.

**Note 2 — Stock-Based Compensation**

Effective April 29, 2006, the Company adopted Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (SFAS) No. 123 (revised 2004), "Share-Based Payment" (SFAS No. 123(R)) which replaced SFAS No. 123, "Accounting for Stock-Based Compensation" (SFAS No. 123) and supersedes Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees" (APB Opinion No. 25). Under the fair value recognition provisions of SFAS No. 123(R), the Company measures stock-based compensation cost at the grant date based on the fair value of the award and recognizes the compensation expense over the requisite service period, which is generally the vesting period. The Company elected the modified-prospective method of adopting SFAS No. 123(R), under which prior periods are not retroactively restated. The provisions of SFAS No. 123(R) apply to awards granted after the April 29, 2006 effective date. Stock-based compensation expense for the non-vested portion of awards granted prior to the effective date is being recognized over the remaining service period using the fair-value based compensation cost estimated for SFAS No. 123 pro forma disclosures. Total stock-based compensation expense included in our statement of earnings for the three and nine months ended January 26, 2007 was \$45 million (\$30 million net of tax) and \$139 million (\$95 million net of tax), respectively.

**Stock Options**

Stock option awards are granted at exercise prices equal to the closing price of the Company's common stock on the grant date. The majority of the Company's stock option awards are non-qualified stock options with a ten-year life and a four-year ratable vesting term. The Company currently grants stock options under the Medtronic, Inc. 2003 Long-Term Incentive Plan (2003 Plan) and the Medtronic, Inc. 1998 Outside Directors Stock Compensation Plan (Directors Plan). As of January 26, 2007, there were approximately 24 million and 2 million shares available for future grants under each of these plans, respectively.

## Restricted Stock Awards

Restricted stock and restricted stock units (collectively referred to as restricted stock awards) are granted to officers and key employees. Restricted stock awards are subject to forfeiture if employment terminates prior to the lapse of the restrictions. The Company grants restricted stock awards that typically cliff vest between three- and five-year periods. Shares of restricted stock are considered issued and outstanding shares of the Company at the grant date and have the same dividend and voting rights as other common stock. Restricted stock units are not considered issued or outstanding common stock of the Company. Dividend equivalent units are accumulated on restricted stock units during the vesting period. The Company grants restricted stock awards under the 2003 Plan and the Directors Plan.

## Employee Stock Purchase Plan

The Medtronic, Inc. 2005 Employee Stock Purchase Plan (ESPP) allows participating employees to purchase shares of the Company's common stock at a discount through payroll deductions. Employees can contribute up to the lesser of 10% of their wages or the statutory limit under the U.S. Internal Revenue Code toward the purchase of the Company's common stock at 85% of its market value at the end of the calendar quarter purchase period. Employees purchased 2 million shares at an average price of \$41.21 per share in the nine months ended January 26, 2007. As of January 26, 2007, plan participants have had approximately \$7 million withheld to purchase Company common stock at 85% of its market value on March 30, 2007, the last trading day before the end of the calendar quarter purchase period. At January 26, 2007, approximately 8 million shares of common stock were available for future purchase under the ESPP.

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## [Table of Contents](#)

## Valuation Assumptions

The Company uses the Black-Scholes option pricing model (Black-Scholes model) to determine the fair value of stock options as of the grant date. The fair value of stock options under the Black-Scholes model requires management to make assumptions regarding projected employee stock option exercise behaviors, risk-free interest rates, volatility of the Company's stock price and expected dividends.

The expense recognized for shares purchased under our ESPP is equal to the 15% discount the employee receives at the end of the calendar quarter purchase period. The fair value of restricted stock awards equals the Company's closing stock price on the date of grant.

The following table provides the weighted average fair value of options granted to employees and the related assumptions used in the Black-Scholes model:

	Three Months Ended		Nine Months Ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
Weighted Average Fair Value of options granted	\$ 11.78	\$ 15.83	\$ 11.69	\$ 15.55
Assumptions used:				
Expected life (years) <sup>(a)</sup>	4.91	4.88	4.84	4.85
Risk-free interest rate <sup>(b)</sup>	4.63%	4.32%	4.65%	4.27%
Volatility <sup>(c)</sup>	19.7%	25.0%	20.0%	25.0%
Dividend yield <sup>(d)</sup>	0.90%	0.68%	0.91%	0.69%

<sup>(a)</sup> *Expected life:* The Company analyzes historical employee exercise and termination data to estimate the expected life assumption. The Company believes that historical data currently represents the best estimate of the expected life of a new employee option. The Company examined its historical pattern of option exercises and determined that relative to the employee population as a whole, management employees held their stock options longer prior to exercising compared to the rest of the employee population. Therefore, the Company stratifies its employee population based upon these distinctive exercise behavior patterns. Prior to adopting SFAS No. 123(R), the Company used the entire employee population for estimating the expected life assumptions.

<sup>(b)</sup> *Risk-free interest rate:* The rate is based on the yield on the grant date of a zero-coupon U.S. Treasury bond whose maturity period equals the option's expected term.

<sup>(c)</sup> *Volatility:* Beginning in the fiscal third quarter 2007, the expected volatility is based on a blend of historical volatility and an implied volatility of the Company's common stock. Implied volatility is based on market traded options of the Company's common stock. Prior to fiscal third quarter 2007, the Company calculated the expected volatility based exclusively on historical volatility.

<sup>(d)</sup> *Dividend yield:* The dividend yield rate is calculated by dividing the Company's annual dividend, based on the most recent quarterly dividend rate, by the closing stock price on the grant date.

## Stock-Based Compensation Expense

Prior to adopting SFAS No. 123(R), the Company accounted for stock-based compensation under APB Opinion No. 25 using the intrinsic value method and the impact of the fair value method on the Company's net earnings was disclosed on a pro forma basis in the notes to the consolidated financial statements. In these pro forma disclosures, the Company recognized stock-based compensation expense based on the stated vesting period, rather than the time to achieve retirement eligibility. Upon adopting SFAS No. 123(R), the Company changed its method of recognition and now recognizes stock-based compensation expense based on



the substantive vesting period for all new awards. As a result, compensation expense related to stock options granted prior to fiscal year 2007 that are subject to accelerated vesting upon retirement eligibility is being recognized over the stated vesting term of the grant. If the Company had historically accounted for stock-based awards made to retirement eligible individuals under the requirements of SFAS No. 123(R), the pro forma expense disclosed below would have been increased by \$13 million and \$6 million for the three and nine months ended January 27, 2006, respectively. There was no stock-based compensation expense capitalized as it was deemed immaterial.

## [Table of Contents](#)

The amount of stock-based compensation expense recognized during a period is based on the portion of the awards that are ultimately expected to vest. The Company estimates pre-vesting forfeitures at the time of grant by analyzing historical data and revises those estimates in subsequent periods if actual forfeitures differ significantly from those estimates. Ultimately, the total expense recognized over the vesting period will equal the awards that actually vest.

The following table presents the statement of earnings classification of pre-tax stock-based compensation expense, for options and restricted stock awards, recognized for the three and nine months ended January 26, 2007:

(dollars in millions)	Three months ended		Nine months ended	
	January 26, 2007		January 26, 2007	
Cost of sales	\$	5	\$	15
Research and development expense		7		29
Selling, general and administrative expense		33		95
	\$	45	\$	139

The following table illustrates the effect on net earnings and net earnings per share for the three and nine months ended January 27, 2006 if the Company had applied the fair value recognition provisions of SFAS No. 123 to its stock-based employee compensation:

(dollars in millions, except per share amounts)	Three months ended		Nine months ended	
	January 27, 2006		January 27, 2006	
Net earnings, as reported	\$	670	\$	1,807
Add: Stock-based compensation expense included in net earnings <sup>(1)</sup>		3		11
Less: Stock-based compensation expense determined under fair value based method <sup>(1)</sup> for all awards		(40)		(105)
Pro forma net earnings	\$	633	\$	1,713
Basic earnings per share:				
As reported	\$	0.55	\$	1.49
Pro forma	\$	0.52	\$	1.42
Diluted earnings per share:				
As reported	\$	0.55	\$	1.48
Pro forma	\$	0.52	\$	1.40

<sup>(1)</sup> Compensation expense is net of related tax effects.

## Tax Impacts of Stock-Based Compensation

Prior to the adoption of SFAS No. 123(R), benefits of tax deductions in excess of recognized share-based compensation expense were reported on the consolidated statement of cash flows as operating cash flows. Under SFAS No. 123(R), such excess tax benefits are reported as financing cash flows. Although total cash flows under SFAS No. 123(R) remain unchanged from what would have been reported under prior accounting standards, net operating cash flows are reduced and net financing cash flows are increased due to the adoption of SFAS No. 123(R). For the nine months ended January 26, 2007, there were excess tax benefits of \$24 million, which are classified as financing cash flows. For the nine months ended January 27, 2006, there were excess tax benefits of \$77 million which were classified as operating cash flows as part of the change in *accounts payable and accrued liabilities*.

[Table of Contents](#)
**Stock Options**

The following table summarizes stock option activity during the nine months ended January 26, 2007:

	Options (in thousands)	Weighted Average Exercise Price
Outstanding at April 28, 2006	88,838	\$ 46.23
Granted	10,090	48.47
Exercised	(4,067)	37.51
Canceled/Forfeited	(1,835)	49.94
Outstanding at January 26, 2007	93,026	\$ 46.77

A summary of stock options as of January 26, 2007, including options issued as a result of acquisitions from fiscal year 2002 and prior, is as follows:

Options Outstanding				Options Exercisable	
Ranges of Exercise Prices	Options (in thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (years)	Options (in thousands)	Weighted Average Exercise Price
\$ 0.01 – 10.00	34	\$ 5.42	0.5	34	\$ 5.42
10.01 – 20.00	724	16.48	0.7	724	16.48
20.01 – 30.00	2,829	24.64	1.1	2,829	24.64
30.01 – 40.00	7,605	34.60	2.7	7,591	34.59
40.01 – 50.00	57,167	46.65	6.6	43,536	46.25
50.01 – 69.82	24,667	54.31	6.8	14,186	53.34
\$ 0.01 – 69.82	93,026	\$ 46.77	6.1	68,900	\$ 45.21

The total intrinsic value of options exercised during the nine months ended January 26, 2007 was \$57 million. The total intrinsic value, calculated as the closing stock price at the end of the third quarter less the option exercise price of in the money options, for options outstanding and exercisable at January 26, 2007 was \$639 million and \$564 million, respectively. The Company issues new shares when stock option awards are exercised. Cash received from the exercise of stock options for the nine months ended January 26, 2007 was \$150 million and the related tax benefits realized were \$24 million. Unrecognized compensation expense related to outstanding stock options as of January 26, 2007 was \$254 million, pre-tax, and is expected to be recognized over a weighted average period of 2.8 years and will be adjusted for any future changes in estimated forfeitures.

**Restricted Stock Awards**

The following table summarizes restricted stock award activity during the nine months ended January 26, 2007:

	Awards (in thousands)	Weighted Average Grant Price
Nonvested, April 28, 2006	2,008	\$ 51.64
Granted	2,017	47.80
Reinvested dividend equivalent units	4	50.27
Vested	(26)	47.69
Forfeited	(72)	51.75
Nonvested, January 26, 2007	3,931	\$ 50.32

Unrecognized compensation expense related to restricted stock awards as of January 26, 2007 was \$147 million, pre-tax, and is expected to be recognized over a weighted average period of 3.2 years and will be adjusted for any future changes in estimated forfeitures.

**Note 3 — New Accounting Pronouncements**

In July 2006, the FASB issued FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes," which is an interpretation of FASB Statement No. 109, "Accounting for Income Taxes" (FIN No. 48). FIN No. 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with SFAS No. 109. FIN No. 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. FIN No. 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. FIN No. 48 is effective for the Company beginning with fiscal year 2008, with earlier adoption permitted. The Company is currently evaluating the impact that the adoption of FIN No. 48 will have on its consolidated financial statements. However, the Company does expect to reclassify a portion of its unrecognized tax benefits from current to non-current liabilities because payment of cash is not anticipated within one year of the balance sheet date. On February 28, 2007 the FASB issued an exposure draft of a FASB Staff Position (FSP) related to the FIN No. 48. The proposed FSP will affect not only the cumulative effect of adopting FIN No. 48 but also the ongoing compliance and disclosure. The proposed FSP is subject

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[Table of Contents](#)

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" (SFAS No. 157). SFAS No. 157 establishes a framework for measuring fair value in accordance with generally accepted accounting principles, clarifies the definition of fair value within that framework and expands disclosures about fair value measurements. SFAS No. 157 applies whenever other standards require (or permit) assets or liabilities to be measured at fair value, except for the measurement of share-based payments. The Statement does not expand the use of fair value in any new circumstances and is effective, for the Company, beginning fiscal first quarter 2009. For certain types of financial instruments, SFAS No. 157 requires a limited form of retrospective transition, whereby the cumulative impact of the change in principle is recognized in the opening balance in retained earnings in the fiscal year of adoption. All other provisions of SFAS No. 157 will be applied prospectively beginning in fiscal first quarter 2009. The Company is currently evaluating the impact that the adoption of SFAS No. 157 will have on its consolidated financial statements.

In September 2006, the FASB issued SFAS No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans" (SFAS No. 158). SFAS No. 158 requires the recognition of the funded status of a benefit plan in the balance sheet; the recognition in other comprehensive income of gains or losses and prior service costs or credits arising during the period but which are not included as components of periodic benefit cost; the measurement of defined benefit plan assets and obligations as of the balance sheet date; and disclosure of additional information about the effects on periodic benefit cost for the following fiscal year arising from delayed recognition in the current period. In addition, SFAS No. 158 amends SFAS No. 87, "Employers' Accounting for Pensions," and SFAS No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions," to include guidance regarding selection of assumed discount rates for use in measuring the benefit obligation. SFAS No. 158 is effective for the Company's fiscal year ending April 27, 2007. Had the provisions of this standard been adopted at the end of fiscal year 2006 Medtronic would have been required to adjust its balance sheet to reflect a net \$38 million underfunded position (projected benefit obligation) of its global pension and post retirement plans as compared to a net \$301 million prepaid position (fiscal year 2006 accumulated benefit obligation) reflected in the balance sheet as of April 28, 2006. There will be no impact to the consolidated statement of earnings. Adoption of the Statement will not require a restatement of prior periods. In fiscal year 2008, the measurement date for all benefit plans will change to equal the Company's balance sheet date.

On February 15, 2007, FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115" (SFAS No. 159). SFAS No. 159 creates a "fair value option" under which an entity may elect to record certain financial assets or liabilities at fair value upon their initial recognition. Subsequent changes in fair value would be recognized in earnings as those changes occur. The election of the fair value option would be made on a contract-by-contract basis and would need to be supported by concurrent documentation or a preexisting documented policy. SFAS No. 159 requires an entity to separately disclose the fair value of these items on the balance sheet or in the footnotes to the financial statements and to provide information that would allow the financial statement user to understand the impact on earnings from changes in the fair value. SFAS No. 159 is effective for the Company beginning with fiscal year 2009. The Company is currently evaluating the impact that the adoption of SFAS No. 159 will have on its consolidated financial statements.

#### Note 4 — Acquisitions and IPR&D Charges, Certain Litigation Charges and Special Charges

The values assigned to purchased in-process research and development (IPR&D) are based on valuations that have been prepared using methodologies and valuation techniques consistent with those used by independent appraisers. All values were determined by identifying research projects in areas for which technological feasibility had not been established. Additionally, the values were determined by estimating the revenue and expenses associated with a project's sales cycle and the amount of after-tax cash flows attributable to these projects. The future cash flows were discounted to present value utilizing an appropriate risk-adjusted rate of return. The rate of return included a factor that takes into account the uncertainty surrounding the successful development of the IPR&D.

At the time of acquisition, the Company expects all acquired IPR&D will reach technological feasibility, but there can be no assurance that the commercial viability of these products will actually be achieved. The nature of the efforts to develop the acquired technologies into commercially viable products consists principally of planning, designing and conducting clinical trials necessary to obtain regulatory approvals. The risks associated with achieving commercialization include, but are not limited to, delay or failure to obtain regulatory approvals to conduct clinical trials, delay or failure to obtain required market clearances, and patent issuance, validity and litigation, if any. If commercial viability were not achieved, the Company would likely look to other alternatives to provide these therapies.

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[Table of Contents](#)

#### *Acquisitions and IPR&D charges:*

On September 15, 2006, the Company acquired and/or licensed selected patents and patent applications owned by Dr. Eckhard Alt (Dr. Alt), or certain of his controlled companies in a series of transactions. In connection therewith, the Company also resolved all outstanding litigation and disputes between Dr. Alt and itself and its affiliates. The agreements required the payment of total consideration of \$75 million, \$74 million of which was capitalized as technology based intangible assets that had an estimated useful life of 11 years at the time of acquisition. The acquired patents or licenses pertain to the cardiac rhythm disease management field and have both current application and potential for future patentable commercial products.

On July 25, 2006, the Company acquired substantially all of the assets of Odin Medical Technologies, LTD (Odin), a privately held company. Prior to the acquisition, the Company had an equity investment in Odin, which was accounted for under the cost method of accounting. Odin focused on the manufacture of the PoleStar™ intraoperative Magnetic Resonance Image (iMRI) Guidance System which was already exclusively distributed by the Company. This acquisition

is expected to help the Company further expand the acceptance of iMRI guidance in neurosurgery.

The consideration for Odin was approximately \$21 million, which included \$6 million in upfront cash and a \$2 million milestone payment made during fiscal second quarter 2007. The \$8 million in net cash paid resulted from the \$21 million in consideration less the value of the Company's prior investment in Odin and Odin's then existing cash balance.

In connection with the acquisition of Odin, the Company acquired \$9 million of technology-based intangible assets that had an estimated useful life of 12 years at the time of acquisition. Goodwill of \$12 million related to the acquisition was assigned entirely to the Spinal and Navigation operating segment. This goodwill is deductible for tax purposes.

The pro forma impact of Odin was not significant to the results of the Company for the nine months ended January 26, 2007 or January 27, 2006. The results of operations related to Odin have been included in the Company's condensed consolidated statements of earnings since the date of the acquisition.

On July 1, 2005, the Company acquired all of the outstanding stock of Transneuronix, Inc. (TNI), a privately held company. Prior to the acquisition, the Company had an equity investment in TNI, which was accounted for under the cost method of accounting. TNI focused on the treatment of obesity by stimulation of the stomach with an implantable gastric stimulator, known as the Transcend device. This acquisition is expected to complement the Company's strategy to deliver therapeutic solutions for the worldwide challenges of obesity.

The consideration for TNI was approximately \$269 million, which included \$227 million in net cash paid. The \$227 million in net cash paid resulted from the \$269 million in consideration less the value of the Company's prior investment in TNI and TNI's then existing cash balance. The purchase price is subject to increases which would be triggered by the achievement of certain milestones.

As a result of the acquisition of TNI, the Company acquired \$55 million of intangible assets of which \$54 million are technology-based intangible assets that had an estimated useful life of 15 years at the time of acquisition and \$169 million of IPR&D that was expensed on the date of acquisition related to a product being developed for the treatment of obesity by stimulation of the stomach that had not yet reached technological feasibility and for which no future alternative use had been identified. Goodwill of \$51 million related to the acquisition was assigned entirely to the Neurological operating segment. This goodwill is not deductible for tax purposes.

The following table summarizes the allocation of the TNI purchase price to the estimated fair values of the assets acquired and liabilities assumed (dollars in millions):

Current assets	\$	13
Other intangible assets		55
IPR&D		169
Goodwill		51
Total assets acquired		288
Current liabilities		14
Deferred tax liability—long term		5
Total liabilities assumed		19
Net assets acquired	\$	269

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## [Table of Contents](#)

The pro forma impact of TNI was not significant to the results of the Company for the nine months ended January 27, 2006. The results of operations related to TNI have been included in the Company's condensed consolidated statements of earnings since the date of the acquisition.

On May 18, 2005, the Company acquired substantially all of the spine-related intellectual property and related contracts, rights, and tangible materials owned by Gary Michelson, M.D. and Karlin Technology, Inc. (Michelson) and settled all outstanding litigation and disputes between Michelson and the Company. The acquired patents pertain to novel spinal technology and techniques that have both current application and the potential for future patentable commercial products. The agreement requires the payment of total consideration of \$1.350 billion for (i) the purchase of a portfolio of more than 100 issued U.S. patents, (ii) over 110 pending U.S. patent applications and numerous foreign counterparts to these patents and patent applications, and (iii) the settlement of all litigation. A value of \$550 million was assigned to the settlement of past damages between the parties and was recorded as an expense in fiscal fourth quarter 2005. The remaining consideration, including \$3 million of direct acquisition costs, was allocated between \$628 million of acquired technology based intangible assets that had an estimated useful life of 17 years at the time of acquisition and \$175 million of IPR&D that was expensed on the date of acquisition related to spinal technology based devices that had not yet reached technological feasibility and had no future alternative use. The patents pertain to novel spinal technology and techniques that have the potential for future patentable commercial products in the area of spinal surgery. During fiscal first quarter 2006, the Company paid \$1.320 billion and committed to three future installments of \$10 million to be paid in May 2006, 2007, and 2008. The first installment of \$10 million was paid in May 2006.

During fiscal first quarter 2006, the Company also entered into a royalty bearing, non-exclusive patent cross-licensing agreement with NeuroPace, Inc. Under the terms of the agreement, the two companies cross-licensed patents and patent applications of neurological technology related to direct electrical stimulation or monitoring of the brain. On the date of the agreement, \$20 million was expensed as IPR&D related to the licensed technology since technological feasibility of the project had not yet been reached and such technology had no future alternative use. This licensed technology is expected to enhance the Company's ability to further develop and expand its therapies for neurological disorders.

### *Certain litigation charges:*

During the nine months ended January 26, 2007, the Company reached a settlement agreement with the United States Department of Justice which requires the government to obtain dismissal of the two qui tam civil suits and is conditioned upon such dismissal being obtained. To resolve the matter, Medtronic has entered

into a five-year corporate integrity agreement effective upon dismissal of the two suits that further strengthens its employee training and compliance systems surrounding sales and marketing practices. The settlement agreement also reflects Medtronic's assertion that the Company and its current employees have not engaged in any wrongdoing or illegal activity. Medtronic also agreed to pay \$40 million pending dismissal of the related lawsuits, and recorded an expense in that amount in fiscal first quarter 2007.

There were no certain litigation charges during the three and nine months ended January 27, 2006.

*Special charges:*

There were no special charges during the three and nine months ended January 26, 2007.

During the nine months ended January 27, 2006, the Company recorded a \$100 million pre-tax charitable donation to The Medtronic Foundation, which is a related party non-profit organization. The donation to The Medtronic Foundation was paid in fiscal second quarter 2006.

*Contingent Consideration*

Certain of the Company's business combinations involve the potential for the payment of future contingent consideration upon the achievement of certain product development milestones and/or various other favorable operating conditions. While it is not certain if and/or when these payments will be made, the Company has developed an estimate of the potential contingent consideration for each of its acquisitions with an outstanding potential obligation. At January 26, 2007, the estimated potential amount of future contingent consideration that the Company is expected to make associated with all business combinations is approximately \$57 million. The milestones associated with the contingent consideration must be reached in future periods ranging from fiscal years 2007 to 2012 in order for the consideration to be paid.

[Table of Contents](#)

Note 5 — Inventories

Inventories are stated at the lower of cost or market, with cost determined on a first-in, first-out basis. Inventory balances are as follows (dollars in millions):

	January 26, 2007	April 28, 2006
Finished goods	\$ 823	\$ 736
Work in process	215	197
Raw materials	281	244
Total	\$ 1,319	\$ 1,177

Note 6 — Goodwill and Other Intangible Assets

The changes in the carrying amount of goodwill for the nine months ended January 26, 2007 are as follows (dollars in millions):

	January 26, 2007
Balance at April 28, 2006	\$ 4,346
Goodwill as a result of acquisitions	16
Currency adjustment, net	1
Balance at January 26, 2007	\$ 4,363

Intangible assets, excluding goodwill, as of January 26, 2007 and April 28, 2006 are as follows (dollars in millions):

	Purchased Technology and Patents	Trademarks and Tradenames	Other	Total
As of January 26, 2007:				
Amortizable intangible assets				
Original cost	\$ 1,848	\$ 265	\$ 219	\$ 2,332
Accumulated amortization	(506)	(144)	(127)	(777)
Carrying value	\$ 1,342	\$ 121	\$ 92	\$ 1,555
As of April 28, 2006:				
Amortizable intangible assets				
Original cost	\$ 1,761	\$ 265	\$ 230	\$ 2,256
Accumulated amortization	(423)	(124)	(117)	(664)
Carrying value	\$ 1,338	\$ 141	\$ 113	\$ 1,592

Amortization expense for the three and nine months ended January 26, 2007 was approximately \$46 million and \$136 million, respectively, and for the three and nine months ended January 27, 2006 was approximately \$44 million and \$129 million, respectively.

Estimated aggregate amortization expense based on the current carrying value of amortizable intangible assets is as follows (dollars in millions):

<b>Fiscal Year</b>	<b>Amortization Expense</b>
Remaining 2007	\$ 46
2008	174
2009	166
2010	159
2011	142
Thereafter	868
	<u>\$ 1,555</u>

#### Note 7 — Warranty Obligation

The Company offers a warranty on various products. The Company estimates the costs that may be incurred under its warranties and records a liability in the amount of such costs at the time the product is sold. Factors that affect the Company's warranty liability include the number of units sold, historical and anticipated rates of warranty claims and cost per claim. The Company periodically assesses the adequacy of its recorded warranty liabilities and adjusts the amounts as necessary. The amount of the reserve recorded is equal to the costs to repair or otherwise satisfy the claim.

#### [Table of Contents](#)

Changes in the Company's product warranties during the nine months ended January 26, 2007 and January 27, 2006 consisted of the following (dollars in millions):

	<b>Nine Months Ended</b>	
	<b>January 26, 2007</b>	<b>January 27, 2006</b>
<b>Balance at the beginning of the period</b>	\$ 41	\$ 43
Warranty claims provision	18	43
Settlements made	(28)	(36)
<b>Balance at the end of the period</b>	<u>\$ 31</u>	<u>\$ 50</u>

#### Note 8 — Financing Arrangements

##### Senior Convertible Notes

In April 2006, the Company issued \$2.200 billion of 1.500% Senior Convertible Notes due 2011 and \$2.200 billion of 1.625% Senior Convertible Notes due 2013 (collectively, the Senior Convertible Notes). The Senior Convertible Notes were issued at par and pay interest in cash semi-annually in arrears on April 15 and October 15 of each year. The Senior Convertible Notes are unsecured unsubordinated obligations and rank equally with all other unsecured and unsubordinated indebtedness. The Senior Convertible Notes have an initial conversion price of \$56.14 per share. The Senior Convertible Notes may only be converted: (i) during any calendar quarter if the closing price of the Company's common stock reaches 140% of the conversion price for 20 trading days during a specified period, or (ii) if specified distributions to holders of the Company's common stock are made or specified corporate transactions occur, or (iii) during the last month prior to maturity of the applicable notes. Upon conversion, a holder would receive: (i) cash equal to the lesser of the principal amount of the note or the conversion value and (ii) to the extent the conversion value exceeds the principal amount of the note, shares of the Company's common stock, cash, or a combination of common stock and cash, at the Company's option. In addition, upon a change in control, as defined, the holders may require the Company to purchase for cash all or a portion of their notes for 100% of the principal amount of the notes plus accrued and unpaid interest, if any, plus a number of additional make-whole shares of the Company's common stock, as set forth in the applicable indenture. The indentures under which the Senior Convertible Notes were issued contain customary covenants. A total of \$2.500 billion of the net proceeds from these note issuances were used to repurchase common stock.

Concurrent with the issuance of the Senior Convertible Notes, the Company purchased call options on its common stock in private transactions. The call options allow the Company to receive shares of the Company's common stock and/or cash from counterparties equal to the amounts of common stock and/or cash related to the excess conversion value that it would pay to the holders of the Senior Convertible Notes upon conversion. These call options will terminate upon the earlier of the maturity dates of the related Senior Convertible Notes or the first day all of the related Senior Convertible Notes are no longer outstanding due to conversion or otherwise. The call options, which cost an aggregate \$1.075 billion (\$699 million net of tax benefit), were recorded as a reduction of shareholders' equity.

In separate transactions, the Company sold warrants to issue shares of the Company's common stock at an exercise price of \$76.56 per share in private transactions. Pursuant to these transactions, warrants for 41 million shares of the Company's common stock may be settled over a specified period beginning in July 2011 and warrants for 41 million shares of the Company's common stock may be settled over a specified period beginning in July 2013 (the "settlement dates"). If the average price of the Company's common stock during a defined period ending on or about the respective settlement dates exceeds the exercise price of the warrants, the warrants will be settled in shares of the Company's common stock. Proceeds received from the issuance of the warrants totaled approximately \$517 million and were recorded as an addition to shareholders' equity.



## Senior Notes

In September 2005, the Company issued two tranches of Senior Notes with the aggregate face value of \$1.000 billion. The first tranche consisted of \$400 million of 4.375% Senior Notes due 2010 and the second tranche consisted of \$600 million of 4.750% Senior Notes due 2015. Each tranche was issued at a discount which resulted in an effective interest rate of 4.433% and 4.760% for the five and ten year Senior Notes, respectively. Interest on each series of Senior Notes is payable semi-annually, on March 15 and September 15 of each year. The Senior Notes are unsecured unsubordinated obligations of the Company and rank equally with all other unsecured and unsubordinated indebtedness of the Company. The indentures under which Senior Notes were issued contain customary covenants. The Company used the net proceeds from the sale of the Senior Notes for repayment of a portion of its commercial paper.

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## [Table of Contents](#)

In November 2005, the Company entered into a five year interest rate swap agreement with a notional amount of \$200 million. This interest rate swap agreement was designated as a fair value hedge of the changes in fair value of a portion of the Company's fixed-rate \$400 million Senior Notes due 2010. The Company pays variable interest equal to the three-month London Interbank Offered Rate (LIBOR) minus 55 basis points and it receives a fixed interest rate of 4.375%.

## Contingent Convertible Debentures

In September 2001, the Company completed a \$2.013 billion private placement of 1.25% Contingent Convertible Debentures due September 2021 (Old Debentures). Interest is payable semi-annually. Each Old Debenture is convertible into shares of common stock at an initial conversion price of \$61.81 per share; however, the Old Debentures are not convertible before their final maturity unless the closing price of our common stock reaches 110% of the conversion price for 20 trading days during a consecutive 30 trading day period.

In September 2002 and 2004, as a result of certain holders of the Old Debentures exercising their put options, the Company repurchased \$39 million and \$1 million respectively, of the Old Debentures for cash.

On January 24, 2005, the Company completed an exchange offer whereby holders of approximately \$1.930 billion of the total principal amount of the Old Debentures exchanged their existing securities for an equal principal amount of 1.25% Contingent Convertible Debentures, Series B due 2021 (New Debentures), as described below. Following the completion of the exchange offer, the Company repurchased approximately \$2 million of the Old Debentures for cash.

The terms of the New Debentures are consistent with the terms of the Old Debentures noted above, except that: (i) the New Debentures require the Company to settle all conversions for a combination of cash and shares of our common stock, if any, in lieu of only shares. Upon conversion of the New Debentures the Company will pay holders cash equal to the lesser of the principal amount of the New Debentures or their conversion value, and shares of the Company's common stock to the extent the conversion value exceeds the principal amount of the New Debentures; and (ii) the New Debentures require the Company to pay only cash (in lieu of shares of the Company's common stock or a combination of cash and shares of our common stock) when the Company repurchases the New Debentures at the option of the holder or when the Company repurchases the New Debentures in connection with a change of control.

In September 2006, as a result of certain holders of the New Debentures and Old Debentures exercising their put options, the Company repurchased \$1.835 billion of the New Debentures for cash and \$42 million of the Old Debentures for cash. Twelve months prior to the put options becoming exercisable, the remaining balance of the New Debentures and the Old Debentures will be classified as *short-term borrowings*. At each balance sheet date without a put option within the subsequent four quarters, the remaining balance will be classified as *long-term debt*. Accordingly, during the second quarter of fiscal year 2007, \$93 million of New Debentures and \$1 million of the Old Debentures were reclassified from *short-term borrowings* to *long-term debt* as a result of the September 2006 put option expiring. For put options exercised by the holders of the New Debentures and the Old Debentures, the purchase price is equal to the principal amount of the applicable debenture plus any accrued and unpaid interest thereon to the repurchase date. If the put option is exercised, the Company will pay holders the repurchase price solely in cash (or, for the Old Debentures, in cash or stock at our option). The Company may be required to repurchase the remaining debentures at the option of the holders in September 2008, 2011 or 2016. As of January 26, 2007, approximately \$93 million aggregate principal amount of New Debentures remain outstanding and approximately \$1 million aggregate principal amount of Old Debentures remain outstanding. The Company can redeem the debentures for cash at any time.

## Commercial Paper

The Company maintains a commercial paper program that allows the Company to have a maximum of \$2.250 billion in commercial paper outstanding, with maturities up to 364 days from the date of issuance. At January 26, 2007 and April 28, 2006, outstanding commercial paper totaled \$249 million and \$190 million, respectively. During the three and nine months ended January 26, 2007, the weighted average original maturity of the commercial paper outstanding was approximately 73 and 57 days, respectively, and the weighted average interest rate was 5.31% and 5.25%, respectively.

## Lines of Credit

The Company has existing lines of credit of approximately \$2.422 billion with various banks at January 26, 2007. The existing lines of credit include a five-year \$1.750 billion syndicated credit facility dated December 20, 2006 that will expire on December 20, 2011 (New Facility). This New Facility replaced two credit facilities; one for \$1.000 billion which was scheduled to expire in January 2010, and a \$750 million facility which was scheduled to expire in January 2007.

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## [Table of Contents](#)

The New Facility provides the Company with the ability to increase the capacity of the facility by an additional \$500 million at any time during the life of the five-year term of the agreement. The Company can also request the extension of the New Facility maturity date for one additional year, at the first and second anniversary of the date of this facility. The credit facilities provide backup funding for the commercial paper program and may also be used for general corporate purposes.

#### Note 9 — Comprehensive Income and Accumulated Other Non-Owner Changes in Equity

In addition to net earnings, comprehensive income includes changes in foreign currency translation adjustments (including the change in current exchange rates, or spot rates, of net investment hedges), unrealized gains/(losses) on foreign exchange derivative contracts qualifying and designated as cash flow hedges, minimum pension liabilities, and unrealized gains/(losses) on available-for-sale marketable securities. Comprehensive income for the three months ended January 26, 2007 and January 27, 2006 was \$694 million and \$668 million, respectively. Comprehensive income for the nine months ended January 26, 2007 and January 27, 2006 was \$2.021 billion and \$1.825 billion, respectively.

Presented below is a summary of activity for each component of *accumulated other non-owner changes in equity* (dollars in millions):

	Cumulative Translation Adjustment	Net Unrealized Gain/(Loss) on Foreign Exchange Derivatives	Minimum Pension Liability	Net Unrealized Gain/(Loss) on Investments	Accumulated Other Non-Owner Changes in Equity
<b>Balance April 28, 2006</b>	\$ 177	\$ 16	\$ (24)	\$ (14)	\$ 155
Period Change	12	5	—	9	26
<b>Balance July 28, 2006</b>	189	21	(24)	(5)	181
Period Change	7	2	—	12	21
<b>Balance October 27, 2006</b>	196	23	(24)	7	202
Period Change	2	(10)	—	(8)	(16)
<b>Balance January 26, 2007</b>	\$ 198	\$ 13	\$ (24)	\$ (1)	\$ 186

Translation adjustments are not adjusted for income taxes as substantially all translation adjustments relate to our non-U.S. subsidiaries, which are considered permanent in nature. The tax benefit on the unrealized loss on foreign exchange derivatives for the three and nine months ended January 26, 2007 was \$6 million and \$2 million, respectively. The tax benefit (expense) on the unrealized gain/(loss) on investments for the three and nine months ended January 26, 2007 was \$4 million and \$(7) million, respectively.

#### Note 10 — Retirement Benefit Plans

The Company sponsors various retirement benefit plans, including defined benefit pension plans (pension benefits), defined contribution savings plans, post-retirement medical plans (post-retirement benefits), and termination indemnity plans, covering substantially all U.S. employees and many employees outside the U.S. The net periodic benefit cost of the pension and post-retirement medical plans include the following components for the three and nine months ended January 26, 2007 and January 27, 2006 (dollars in millions):

	U.S. Pension Benefits Three months ended		Non-U.S. Pension Benefits Three months ended		Post-Retirement Benefits Three months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
Service cost	\$ 16	\$ 13	\$ 7	\$ 6	\$ 3	\$ 3
Interest cost	11	10	3	3	3	2
Expected return on plan assets	(18)	(16)	(3)	(3)	(2)	(2)
Recognized actuarial loss	4	3	-	1	-	1
Net periodic benefit cost	13	10	7	7	4	4
Curtailment charges	-	-	-	-	-	-
<b>Total Cost for Period</b>	<b>\$ 13</b>	<b>\$ 10</b>	<b>\$ 7</b>	<b>\$ 7</b>	<b>\$ 4</b>	<b>\$ 4</b>

#### [Table of Contents](#)

	U.S. Pension Benefits Nine months ended		Non-U.S. Pension Benefits Nine months ended		Post-Retirement Benefits Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
Service cost	\$ 48	\$ 39	\$ 20	\$ 18	\$ 9	\$ 8
Interest cost	34	29	8	9	8	7
Expected return on plan assets	(55)	(48)	(9)	(8)	(7)	(6)



Recognized actuarial loss	10	10	2	2	2	3
Net periodic benefit cost	37	30	21	21	12	12
Curtailment charges	-	2	-	-	-	1
Total Cost for Period	\$ 37	\$ 32	\$ 21	\$ 21	\$ 12	\$ 13

#### Note 11 — Interest (Income)/Expense

Interest income and interest expense for the three and nine month periods ended January 26, 2007 and January 27, 2006 are as follows (dollars in millions):

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
Interest income	\$ (86)	\$ (56)	\$ (274)	\$ (134)
Interest expense	50	32	161	82
Interest income, net	\$ (36)	\$ (24)	\$ (113)	\$ (52)

#### Note 12 — Income Taxes

During the three and nine months ended January 26, 2007, the Company recorded a \$12 million tax benefit as a result of the retroactive renewal and extension of the research and development credit enacted by the Tax Relief and Health Act of 2006. The \$12 million tax benefit relates to the first ten months of calendar year 2006 and is recorded in *provision for income taxes* on the condensed consolidated statements of earnings.

During the three and nine months ended January 27, 2006, the Company recorded a \$225 million tax benefit associated with favorable agreements reached with the U.S. Internal Revenue Service (IRS) involving the review of fiscal years 1997 through 2002 domestic income tax returns. The \$225 million tax benefit is recorded in *provision for income taxes* on the condensed consolidated statements of earnings for the three and nine months ended January 27, 2006. As a result of the agreements reached with the IRS, the Company made approximately \$326 million in incremental tax payments during fiscal third quarter 2006.

#### Note 13 — Earnings Per Share

Basic earnings per share is computed based on the weighted average number of common shares outstanding. Diluted earnings per share is computed based on the weighted average number of common shares outstanding increased by the number of additional shares that would have been outstanding had the potentially dilutive common shares been issued and reduced by the number of shares the Company could have repurchased from the proceeds of the potentially dilutive shares. Potentially dilutive shares of common stock include stock options and other stock-based awards granted under stock-based compensation plans and shares committed to be purchased under the ESPP.

Presented below is a reconciliation between basic and diluted earnings per share (in millions, except per share data):

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
<b>Numerator:</b>				
Net earnings	\$ 710	\$ 670	\$ 1,990	\$ 1,807
<b>Denominator:</b>				
Basic – weighted average shares outstanding	1,149.0	1,208.5	1,150.8	1,209.4
Effect of dilutive securities:				
Employee stock options	12.7	12.1	9.7	11.3
Shares issuable upon conversion of Old Debentures	-	0.7	0.3	0.7
Other	2.0	1.5	2.0	1.2
Diluted – weighted average shares outstanding	1,163.7	1,222.8	1,162.8	1,222.6
Basic earnings per share	\$ 0.62	\$ 0.55	\$ 1.73	\$ 1.49
Diluted earnings per share	\$ 0.61	\$ 0.55	\$ 1.71	\$ 1.48

#### [Table of Contents](#)

The calculation of weighted average diluted shares outstanding excludes options for approximately 15 million and 36 million common shares for the three and nine months ended January 26, 2007, respectively, and 1 million and 12 million common shares for the three and nine months ended January 27, 2006, respectively, as the exercise price of those options was greater than the average market price for the period, resulting in an anti-dilutive effect on diluted earnings per share.

#### Note 14 — Segment and Geographic Information

##### Segment information:

During fiscal fourth quarter 2006, the Company revised its operating segment reporting related to the Neurological and Diabetes operating segment and the Spinal, Ear, Nose and Throat (ENT) and Navigation operating segment. As a result, the Company now maintains seven operating segments, which are aggregated into one reportable segment—the manufacture and sale of device-based medical therapies. The information for the three and nine months ended January 27, 2006 has been reclassified to conform to the current presentation of seven operating segments. Each of the Company’s operating segments has similar economic characteristics, technology, manufacturing processes, customers, distribution and marketing strategies, regulatory environments, and shared infrastructures. Net sales by operating segment were as follows (dollars in millions):

	Three months ended		Nine months ended	
	January 26,	January 27,	January 26,	January 27,
	2007	2006	2007	2006
Cardiac Rhythm Disease Management	\$ 1,291	\$ 1,263	\$ 3,904	\$ 3,819
Spinal and Navigation	629	563	1,854	1,626
Neurological	290	247	857	733
Vascular	304	236	871	665
Diabetes	226	182	633	534
Cardiac Surgery	174	154	509	481
ENT	134	125	391	367
	\$ 3,048	\$ 2,770	\$ 9,019	\$ 8,225

#### Geographic information:

Net sales to external customers by geography are as follows (dollars in millions):

	Three months ended		Nine months ended	
	January 26,	January 27,	January 26,	January 27,
	2007	2006	2007	2006
United States	\$ 1,957	\$ 1,896	\$ 5,873	\$ 5,617
Europe	693	545	1,993	1,630
Asia Pacific	301	246	868	749
Other Foreign	97	83	285	229
	\$ 3,048	\$ 2,770	\$ 9,019	\$ 8,225

#### Note 15 — Contingencies

The Company is involved in a number of legal actions. The outcomes of these legal actions are not within the Company’s complete control and may not be known for prolonged periods of time. In some actions, the claimants seek damages, as well as other relief, including injunctions barring the sale of products that are the subject of the lawsuit, which, if granted, could require significant expenditures or result in lost revenues. In accordance with SFAS No. 5, “Accounting for Contingencies” (SFAS No. 5), the Company records a liability in the consolidated financial statements for these actions when a loss is known or considered probable and the amount can be reasonably estimated. If the reasonable estimate of a known or probable loss is a range, and no amount within the range is a better estimate, the minimum amount of the range is accrued. If a loss is reasonably likely but not known or probable, and can be reasonably estimated, the estimated loss or range of loss is disclosed. If a loss is not probable or cannot be reasonably estimated, a liability is not recorded in the consolidated financial statements. In most cases, significant judgment is required to estimate the amount and timing of a loss to be recorded. While it is not possible to predict the outcome for most of the actions discussed below and the Company believes that it has meritorious defenses against these matters, it is possible that costs associated with them could have a material adverse impact on the Company’s consolidated earnings, financial condition or cash flows.

On October 6, 1997, Cordis Corporation (Cordis), a subsidiary of Johnson & Johnson (J&J), filed suit in U.S. District Court for the District of Delaware against Arterial Vascular Engineering, Inc., which Medtronic acquired in January 1999 and which is now known as Medtronic Vascular, Inc. (Medtronic Vascular).

#### [Table of Contents](#)

The suit alleged that Medtronic Vascular’s modular stents infringe certain patents owned by Cordis. Boston Scientific Corporation is also a defendant in this suit. On December 22, 2000, a jury rendered a verdict that Medtronic Vascular’s previously marketed MicroStent and GFX stents infringed valid claims of two Cordis patents and awarded damages to Cordis totaling approximately \$270 million. On March 28, 2002, the District Court entered an order in favor of Medtronic Vascular, deciding as a matter of law that Medtronic Vascular’s MicroStent and GFX stents did not infringe the patents. Cordis appealed, and on August 12, 2003, the U.S. Court of Appeals for the Federal Circuit reversed the District Court’s decision and remanded the case to the District Court for further proceedings. The District Court thereafter issued a new patent claim construction and a new trial was held in March 2005. On March 14, 2005, the jury found that the previously marketed MicroStent and GFX stent products infringed valid claims of Cordis’ patents. On March 27, 2006, the District Court denied post-trial motions filed by the parties, including Cordis’ motion to reinstate the previous damages award. On April 26, 2006, Medtronic filed its Notice of Appeal of the judgment of infringement. Briefing of the appeal is expected to be completed in March 2007, and the Federal Circuit will set a hearing on the appeal thereafter. The District Court has deferred any hearing on damages issues until after the U.S. Court of Appeals for the Federal Circuit resolves the appeal on the finding of liability. Medtronic has not recorded an expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5.

On December 24, 1997, Advanced Cardiovascular Systems, Inc. (ACS), a subsidiary of Abbott Laboratories, sued Medtronic Vascular in U.S. District Court for the Northern District of California alleging that certain models of Medtronic Vascular’s stents infringe the Lau stent patents held by ACS, and seeking injunctive

relief and monetary damages. Medtronic Vascular denies infringement. In February 2005, following trial, a jury determined that the ACS Lau stent patents were valid and that Medtronic's Driver, GFX, MicroStent, S540, S660, S670, Bestent2 and S7 stents infringe those patents. Medtronic Vascular has made numerous post-trial motions challenging the jury's verdict of infringement and validity and the District Court has not yet ruled on those motions. On June 7 and 8, 2005, the District Court held an evidentiary hearing on Medtronic Vascular's claim that the ACS Lau stent patents are unenforceable due to inequitable conduct of ACS in obtaining the Lau patents. The District Court has not yet issued a decision on Medtronic Vascular's claim of inequitable conduct. Issues of damages have been bifurcated from the liability phase of the proceedings. On August 9, 2005, the Court issued an order continuing a stay of any further proceedings on the questions of damages or willfulness. These issues likely will not be addressed by a jury or the Court until the U.S. Court of Appeals for the Federal Circuit has reviewed the underlying liability issues concerning alleged infringement. In response to Medtronic's Request for Reexamination for each of the four Lau patents, in December 2006, the United States Patent and Trademark Office (USPTO) issued an "office action" finding that the claims which Medtronic products were previously found to have infringed were not patentable. The patent holder will now have an opportunity to challenge the USPTO's office action in further proceedings in the reexamination. Until this reexamination is concluded, its potential impact upon the claims relating to the Lau patents in the above proceeding remains unknown. The Company has not recorded an expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5.

On February 20, 2006, an arbitration panel issued a final, non-appealable award concluding that Medtronic Vascular's S670, S660, S540, S7 and Driver stents, which were formerly the subject of a patent infringement dispute between J&J and Cordis and Medtronic Vascular, are licensed under a 1997 agreement between the two companies and subject to a covenant not to sue contained within a 1998 amendment to the 1997 agreement. Cordis since initiated arbitration proceedings against Medtronic Vascular alleging that certain of the products infringe certain patents of J&J and Cordis, and is seeking royalties for such infringement, if any. Medtronic Vascular believes it has meritorious defenses to these allegations and intends to assert these defenses vigorously. The arbitrators have not yet been selected. The Company has not recorded an expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5.

On January 26, 2001, DePuy/AcroMed, a subsidiary of J&J, filed suit in U.S. District Court for the District of Massachusetts alleging that Medtronic's subsidiary, Medtronic Sofamor Danek USA, Inc. (MSD), was infringing a patent relating to a design for a thoracolumbar multiaxial screw (MAS). In March 2002, DePuy/AcroMed supplemented its allegations to claim that MSD's M10, M8 and Vertex screws infringe the patent. On April 17, 2003 and February 26, 2004, the District Court ruled that those screws do not infringe. On October 1, 2004, a jury found that the MAS screw, which MSD no longer sells in the U.S., infringes under the doctrine of equivalents. The jury awarded damages of \$21 million and on February 9, 2005, the Court entered judgment against MSD, including prejudgment interest, in the aggregate amount of \$24 million. In fiscal third quarter 2005, the Company recorded an expense equal to the \$24 million judgment in the matter. DePuy/AcroMed appealed the Court's decisions that the M10, M8 and Vertex screws do not infringe, and MSD appealed the jury's verdict that the MAS screw infringes valid claims of the patent. On November 20, 2006, the U.S. Court of Appeals for the Federal Circuit affirmed the decision of the District Court that the M10 and M8 screws do not infringe, affirmed the jury's verdict and damage award on the MAS screws, affirmed the decision that the Vertex screws do not literally infringe, but ruled that there is a triable issue of fact as to whether the Vertex screws infringe under the doctrine of equivalents. A trial has been scheduled for September 2007. The Company has not recorded any additional expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5.

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## [Table of Contents](#)

On May 2, 2003, Cross Medical Products, Inc. (Cross) sued MSD in the U.S. District Court for the Central District of California. The suit alleges that MSD's CD HORIZON, Vertex and Crosslink products infringe certain patents owned by Cross. MSD has countered that Cross' cervical plate products infringe certain patents of MSD, and Cross has filed a reply alleging that certain MSD cervical plate products infringe certain patents of Cross. On May 19, 2004, the Court found that the MAS, Vertex, M8, M10, CD HORIZON SEXTANT and CD HORIZON LEGACY screw products infringe one Cross patent. A hearing on the validity of that patent was held on July 12, 2004, after which the District Court ruled that the patents were valid. Cross made a motion for permanent injunction on the multiaxial screw products, which the District Court granted on September 20, 2004, but stayed the effect of the injunction until January 3, 2005. MSD requested an expedited appeal of the ruling and the U.S. Court of Appeals for the Federal Circuit granted the request. On September 30, 2005, the Federal Circuit vacated the injunction, modified the trial court's claim construction rulings, and remanded the matter for trial in the District Court. The Federal Circuit awarded costs to Medtronic on the appeal. In April 2005, the District Court ruled invalid certain claims in the patents Cross asserted against MSD's Crosslink and cervical plate products. The Court also ruled that Cross cervical plate products infringe MSD's valid patents and that MSD's redesigned pedicle screw products infringe one claim of one of the patents owned by Cross. Cross thereafter moved for an injunction against the redesigned screw products, which the District Court granted on May 24, 2005. The District Court then stayed the effectiveness of the injunction until August 22, 2005. On July 27, 2005, the U.S. Court of Appeals for the Federal Circuit granted MSD's motion to stay the District Court's injunction pending a full hearing on the appeal. In granting the further stay, the Federal Circuit stated MSD had shown a "...likelihood of success..." on the merits of its appeal. The Federal Circuit heard oral argument on this appeal on March 10, 2006, but has not issued its ruling as of the date of filing this report. The trial court has held periodic status hearings to determine further proceedings in light of the appellate rulings. No trial date has been set. The Company has not recorded an expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5. Separately, on February 1, 2006, MSD filed a lawsuit against Biomet Inc., the corporate parent of Cross (Biomet) and its subsidiary EBI Spine, L.P., for patent infringement. The suit, which involves seven Medtronic patents and seeks injunctive relief and monetary damages, was filed in the U.S. District Court for the District of New Jersey. Three of the patents were purchased by Medtronic from Michelson and involve single-lock anterior cervical plating systems used in cervical spinal fusions. Medtronic claims that a cervical plate marketed by Biomet under the trade name VueLock Anterior Cervical Plate System, and openly promoted as a plate that has a "Secure One Step Locking" mechanism feature, infringes these patents. The other patents involve rod reducer instruments and surgical implantation methods commonly used in spinal surgeries to implant pedicle screws. The lawsuit alleges that Biomet's pedicle screw systems utilize a rod reducer instrument in a variety of lumbar and thoracic spinal fusion surgeries.

On October 2, 2003, Cordis sued Medtronic Vascular in the U.S. District Court for the Northern District of California, alleging that Medtronic Vascular's S7 stent delivery system infringes certain catheter patents owned by Cordis. Pursuant to stipulation of the parties, the Court has stayed the suit and referred the matter to arbitration. The arbitrators have not yet been selected. The Company has not recorded an expense related to damages in this matter because any potential loss is not currently probable or reasonably estimable under SFAS No. 5.

On February 10, 2005, Medtronic voluntarily began to advise physicians about the possibility that a specific battery shorting mechanism might manifest itself in a subset of implantable cardioverter defibrillators (ICDs) and cardiac resynchronization therapy defibrillators (CRT-Ds). These included certain Marquis VR/DR and Maximo VR/DR ICDs and certain InSync I/II/III Marquis and InSync III CRT-D devices. The Company provided physicians a list of potentially affected patients, and recommended that physicians communicate with those patients to manage the potential issue as physicians deemed medically appropriate. The voluntary field action was classified by the FDA as a Class II recall, defined as one where there may be temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote. Subsequent to this voluntary field action, a number of lawsuits have been filed against the Company in both federal and state courts, alleging a variety of claims, including individuals asserting claims of personal injury and third

party payors (TPP) alleging entitlement to reimbursement (including a claim by an individual purporting to act as a surrogate for the Center for Medicare and Medicaid Services, whose claim has been dismissed by the Court for failure to state a proper cause of action). While the number of cases filed changes continually, as of this writing there were approximately 910 federal court cases and approximately 65 state court cases, reflecting a total of approximately 975 individual product liability cases. In addition, five purported class action personal injury suits have been filed in Canada. The federal court cases have been consolidated for pretrial proceedings before a single federal judge in the District of Minnesota pursuant to the MultiDistrict Litigation rules (MDL). Separate master complaints have been filed in the MDL for the personal injury and TPP groups of cases. On November 28, 2006, the MDL court denied the Company's threshold legal motion, which was filed on March 26, 2006 seeking federal preemption of the lawsuits, finding that fact issues remained for discovery and trial before the legal question could be resolved. On January 5, 2007, the MDL court denied the Company's March 26, 2006 motion to dismiss the TPP litigation, thus permitting it to go forward into the remainder of the litigation process. The TPP master complaint contains class action allegations, which the Company plans to rigorously challenge. The personal injury master complaint does not contain such allegations, although the Plaintiffs' Steering Committee has indicated that they may pursue class certification of those claims. On February 8, 2007, the Court issued a scheduling order for the MDL cases, setting the remainder of the calendar year 2007 for discovery and pretrial motions, and a ready for trial date for bellwether cases of January 2008. During the pretrial and discovery phase the Company plans to assert its defenses to the merits of the various claims. The Company remains unaware of any confirmed death or serious injury resulting from any device failure due to the shorting mechanism described in the February 10, 2005 voluntary field action, although certain of plaintiffs' claims make such allegations. The Company has not recorded an expense related to damages in connection with the various Marquis related lawsuits because potential losses are not currently probable or reasonably estimable under SFAS No. 5.

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[Table of Contents](#)

On October 24, 2005, Medtronic received a subpoena from the Office of the United States Attorney for the District of Massachusetts issued under the Health Insurance Portability & Accountability Act of 1996 requesting documents the Company may have, if any, relating to pacemakers and defibrillators and related components; monitoring equipment and services; a provision of benefits, if any, to persons in a position to recommend purchases of such devices; and the Company's training and compliance materials relating to the fraud and abuse and federal Anti-Kickback statutes. The Company is cooperating fully with the investigation, and has begun to produce documents on a schedule requested by the United States Attorney.

In the normal course of business, the Company periodically enters into agreements that require it to indemnify customers or suppliers for specific risks, such as claims for injury or property damage arising out of the Company's products or the negligence of its personnel or claims alleging that its products infringe third-party patents or other intellectual property. The Company's maximum exposure under these indemnification provisions cannot be estimated, and the Company has not accrued any liabilities within the consolidated financial statements. Historically, the Company has not experienced significant losses on these types of indemnifications.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

### **Understanding Our Financial Information**

The following discussion and analysis provides information management believes to be relevant to understanding the financial condition and results of operations of Medtronic, Inc. For a full understanding of financial condition and results of operations, you should read this discussion along with Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the fiscal year ended April 28, 2006. In addition, you should read this discussion along with our condensed consolidated financial statements and related Notes thereto as of January 26, 2007.

### **Financial Trends**

Throughout this financial information, you will read about transactions or events that materially contribute to or reduce earnings and materially affect financial trends. We refer to these transactions and events as either special (such as certain tax adjustments and restructuring charges), certain litigation or purchased in-process research and development (IPR&D) charges. These charges result from facts and circumstances that vary in frequency and/or impact to operations. While understanding these charges is important in understanding and evaluating financial trends, other transactions or events may also have a material impact on financial trends. A complete understanding of the special, certain litigation and IPR&D charges is necessary in order to estimate the likelihood that financial trends will continue.

During fiscal fourth quarter 2006, we revised our operating segment reporting related to our Neurological and Diabetes operating segment and our Spinal, Ear, Nose and Throat (ENT) and Navigation operating segment. As a result, we now function in seven operating segments, consisting of Cardiac Rhythm Disease Management (CRDM); Spinal and Navigation; Neurological; Vascular; Diabetes; Cardiac Surgery; and ENT. The applicable information for fiscal year 2006 has been reclassified to conform to the current presentation.

### **Executive Level Overview**

We are the global leader in medical technology, alleviating pain, restoring health and extending life for millions of people around the world. Through our seven operating segments, we develop, manufacture, and market our medical devices in more than 120 countries worldwide while expanding patient access to our products. Our primary products include those for heart and vascular disease, neurological disorders, chronic pain, spinal disorders, diabetes, urologic and digestive system disorders, and ear, nose and throat disorders.

Net earnings for fiscal third quarter 2007 were \$710 million, or \$0.61 per diluted share, as compared to net earnings of \$670 million, or \$0.55 per diluted share for the same period last fiscal year, representing an increase of 6% and 11%, respectively. In addition, the Company adopted Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (SFAS) No. 123 (revised 2004), "Share-Based Payment" (SFAS No. 123(R)), related to stock-based compensation, using the modified-prospective method beginning in fiscal 2007. In accordance with this method, the Company is not adjusting its reported historical financial statements to reflect the impact of stock-based compensation. Total stock-based compensation expense recognized during the three months ended January 26, 2007 was \$30 million after-tax.

[Table of Contents](#)

Net earnings for the nine months ended January 26, 2007 were \$1.990 billion, or \$1.71 per diluted share, as compared to net earnings of \$1.807 billion, or \$1.48 per diluted share for the same period last fiscal year, representing an increase of 10% and 16%, respectively. Net earnings for the nine months ended January 26, 2007 included a \$40 million pretax certain litigation charge. Net earnings for the nine months ended January 27, 2006 included a \$225 million tax benefit associated with the reversal of reserves resulting from favorable agreements reached with the IRS, a \$66 million after-tax special charge related to a charitable donation to The Medtronic Foundation and after-tax IPR&D charges of \$295 million. In addition, the Company adopted SFAS No. 123(R), related to stock-based compensation, using the modified-prospective method beginning in fiscal 2007. Total stock-based compensation expense recognized during the nine months ended January 26, 2007 was \$95 million after-tax.

Net sales for the three and nine months ended January 26, 2007 were \$3.048 billion and \$9.019 billion, representing an increase of 10% for both periods in comparison to the same periods last year. Foreign currency translation had a favorable impact on net sales for the three and nine month periods ending January 26, 2007 of \$55 million and \$94 million, respectively, when compared to the same periods of the prior year. The primary exchange rate movements that impact our consolidated net sales growth are the United States (U.S.) dollar as compared to the Euro and Japanese Yen. The impact of foreign currency fluctuations on net sales is not indicative of the impact on net earnings due to the offsetting foreign currency impact on operating costs and expenses and our hedging activities (see “Quantitative and Qualitative Disclosures About Market Risk” following this management’s discussion and analysis under “Item 3” as it relates to our hedging activities). The table below illustrates net sales by operating segment for the three and nine months ended January 26, 2007 and January 27, 2006 (dollars in millions):

	Three months ended			Nine months ended		
	January 26, 2007	January 27, 2006	% Change	January 26, 2007	January 27, 2006	% Change
Cardiac Rhythm Disease Management	\$ 1,291	\$ 1,263	2%	\$ 3,904	\$ 3,819	2%
Spinal and Navigation	629	563	12	1,854	1,626	14
Neurological	290	247	17	857	733	17
Vascular	304	236	29	871	665	31
Diabetes	226	182	24	633	534	19
Cardiac Surgery	174	154	13	509	481	6
ENT	134	125	7	391	367	7
<b>Total Net Sales</b>	<b>\$ 3,048</b>	<b>\$ 2,770</b>	<b>10%</b>	<b>\$ 9,019</b>	<b>\$ 8,225</b>	<b>10%</b>

The increase in net sales for the three and nine month periods was driven by strong performances in our Spinal and Navigation, Vascular, Neurological and Diabetes operating segments. Net sales in our largest operating segment, CRDM, increased 2% for both the three and nine months ended January 26, 2007 as compared to the same periods of the prior year.

Net sales of implantable cardioverter defibrillators (ICDs), our largest product line, decreased 2% and 1% for the three and nine month periods ended January 26, 2007, respectively, when compared to the same period in the prior year. U.S. sales of ICDs during the three and nine months ended January 26, 2007 were \$507 million and \$1.556 billion representing a decline of 10% and 9%, respectively, as compared to the same periods in fiscal 2006. Outside the U.S. net sales of ICDs for the three and nine months ended January 26, 2007 were \$204 million and \$591 million representing growth of 29% over both periods last year.

For a portion of the three and nine month periods ended January 27, 2006, one key competitor had several product recalls, which bolstered revenues for us during this period. While the absence of a competitor favorably influenced net sales in the prior year, there are a number of factors influencing the declining results of the first nine months of this year. The previously highlighted quality concerns are diminishing in significance, but our success of treating symptomatic patients has left us increasingly dependent on asymptomatic primary prevention patients who are in a broader referral base and are more difficult to reach.

We continue to believe that the U.S. and worldwide ICD markets are greatly under-penetrated and represent a solid and sustainable growth opportunity. The need for sudden cardiac arrest protection and heart failure treatment is significant in the U.S. and even larger internationally. We estimate the U.S. ICD market to have a total prevalence pool of 1.3 million patients, and we estimate the penetration level to be between 30 to 35%, leaving approximately 880,000 patients in the prevalence pool. We also estimate that there are 250,000 new patients entering the prevalence pool each year.

While ICDs are our largest product line, they represent less than 25% of our total revenue. The remainder of our diversified business portfolio delivered solid worldwide net sales growth of 14% for both the three and nine month periods ended January 26, 2007 as compared to the same periods of the prior year. Also, net sales outside the U.S. grew across all business segments to \$1.091 billion and \$3.146 billion for the three and nine month periods ended January 26, 2007, an increase of 25% and 21%, respectively, over the same periods last year. Outside the U.S. net sales growth for the three and nine month periods ended January 26, 2007 were led by a 33% and 35% increase in Vascular net sales, respectively, due to continued acceptance of the Endeavor drug eluting stent (Endeavor), released in August 2005, and a 29% increase in outside the U.S. ICD sales for both periods.

[Table of Contents](#)

On December 4, 2006, we announced our intention to pursue a spin-off of Physio-Control, our wholly-owned subsidiary that offers external defibrillation and emergency response systems, data management solutions and support services used by hospitals and emergency response personnel into an independent, publicly traded company. On January 15, 2007, we voluntarily suspended U.S. shipments of Physio-Control products manufactured at our facility in Redmond, Washington in order to address quality system issues. We are currently in discussions with the U.S. Food and Drug Administration regarding the corrective



actions that need to be taken before shipping in the U.S. can resume. We have a dedicated team from across the company working on these actions and improving the quality systems. The suspension of U.S. shipments in the last two weeks of the three and nine month period ended January 26, 2007 did not have a material impact on the company's overall results. We expect the suspension of U.S. shipments to continue into fiscal year 2008. Following the resolution of these matters, we intend to continue to pursue the spin-off.

For more detail regarding net sales, see our discussion of net sales by operating segment within this management's discussion and analysis.

We remain committed to our mission of developing lifesaving and life enhancing therapies to alleviate pain, restore health and extend life. We continue to make substantial investments in the expansion of our existing product lines and for the identification of new innovative products. Research and development spending during the three and nine month periods ended January 26, 2007 of \$293 million and \$912 million increased 5% and 11%, respectively, compared to the same period in the prior year. Research and development expenses for the three and nine months ended January 26, 2007 include an allocation of \$7 million and \$29 million, respectively, related to stock compensation expense. Our research and development efforts are focused on maintaining or achieving leadership in each of the markets we serve by providing patients the most advanced and effective treatments possible. We work to improve patient access through well planned studies, which show the cost-effectiveness of our therapies, and our alliance with patients, clinicians, regulators and reimbursement agencies. We also focus on clinical trials, which lead to market expansion and may enable further market penetration for our life changing devices.

Increased investment in our future is fortified by our continued strong cash flow generated from operations of \$2.054 billion during the nine months ended January 26, 2007, and our \$6.100 billion in cash, short- and long-term debt securities as of January 26, 2007. We intend to use our cash flow from operations to invest in research and development, pursue potential strategic acquisitions and participate in expanded clinical trials, which support regulatory approval of our products.

### **Critical Accounting Estimates**

We have adopted various accounting policies to prepare the condensed consolidated financial statements in accordance with accounting principles generally accepted (GAAP) in the United States of America. Our most significant accounting policies are disclosed in Note 1 to the consolidated financial statements included in our annual report on Form 10-K for the year ended April 28, 2006.

The preparation of the condensed consolidated financial statements, in conformity with U.S. GAAP, requires us to make estimates and assumptions that affect the amounts reported in the condensed consolidated financial statements and accompanying notes. Our estimates and assumptions, including those related to bad debts, inventories, intangible assets, property, plant and equipment, investment impairment, legal proceedings, IPR&D, warranty obligations, product liability, self-insurance, pension and post-retirement obligations, sales returns and discounts, stock-based compensation and income taxes are updated as appropriate, which in most cases is at least quarterly. We base our estimates on historical experience, actuarial valuations or various assumptions that are believed to be reasonable under the circumstances, and the results form the basis for making judgments about the reported values of assets, liabilities, revenues and expenses. Actual results may materially differ from these estimates.

Estimates are considered to be critical if they meet both of the following criteria: (1) the estimate requires assumptions about material matters that are uncertain at the time the accounting estimates are made, and (2) material changes in the estimates are reasonably likely to occur from period to period. Our critical accounting estimates include the following:

#### Legal Proceedings

We are involved in a number of legal actions, the outcomes of which are not within our complete control and may not be known for prolonged periods of time. In some actions, the claimants seek damages, as well as other relief, including injunctions barring the sale of products that are the subject of the lawsuit, which, if granted, could require significant expenditures or result in lost revenues. In accordance with SFAS No. 5, "Accounting for Contingencies," we record a liability in our consolidated financial statements for these actions when a loss is known or considered probable and the amount can be reasonably estimated. If the reasonable estimate of a known or probable loss is a range, and no amount within the range is a better estimate, the minimum amount of the range is accrued. If a loss is reasonably likely but not known or probable, and can be reasonably estimated, the estimated loss or range of loss is disclosed in the notes accompanying our condensed consolidated financial statements.

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#### [Table of Contents](#)

If a loss is not probable or cannot be reasonably estimated, a liability is not recorded in the consolidated financial statements. In most cases, significant judgment is required to estimate the amount and timing of a loss to be recorded. Our significant legal proceedings are discussed in Note 15 to the condensed consolidated financial statements and are incorporated by reference into Part II, Item 1 — Legal Proceedings. It is not possible to predict the outcome for most actions discussed, and while we believe that we have meritorious defenses against the matters detailed in Note 15, it is possible that costs associated with them could have a material adverse impact on our consolidated earnings, financial position or cash flows.

#### Tax Strategies

Our effective tax rate is based on expected income, statutory tax rates and tax planning opportunities available to us in the various jurisdictions in which we operate. Significant judgment is required in determining our effective tax rate and evaluating our tax positions. We establish reserves when, despite our belief that our tax return positions are fully supportable, we believe that certain positions are likely to be challenged and that we may or may not prevail. We adjust these reserves in light of changing facts and circumstances, such as the progress of a tax audit. Our effective tax rate includes the impact of reserve provisions and changes to reserves that we consider appropriate. This rate is then applied to our quarterly operating results. In the event there is a special, certain litigation and/or IPR&D charge recognized in our operating results, the tax attributable to that item would be separately calculated and recorded in the same period.

Tax regulations require certain items be included in the tax return at different times than when those items are required to be recorded in the consolidated financial statements. As a result, our effective tax rate reflected in our consolidated financial statements is different than that reported in our tax return. Some of these differences are permanent, such as expenses that are not deductible on our tax return, and some are timing differences, such as depreciation expense. Timing differences create deferred tax assets and liabilities. Deferred tax assets generally represent items that can be used as a tax deduction or credit in our tax return in future years for which we have already recorded the tax benefit in our consolidated statements of earnings. We establish valuation allowances for our deferred tax assets when the amount of expected future taxable income is not likely to support the use of the deduction or credit. Deferred tax liabilities generally

represent tax expense recognized in our consolidated financial statements for which payment has been deferred or expense has already been taken as a deduction on our tax return, but has not yet been recognized as an expense in our consolidated statements of earnings.

Our operational and tax strategies have resulted in an effective tax rate of 23.98% and a non-GAAP nominal tax rate of 25.25%, versus the U.S. Federal statutory rate of 35% for the three months ended January 26, 2007. See discussion of the tax rate in the "Income Taxes" section of this management's discussion and analysis.

#### Valuation of IPR&D, Goodwill, and Other Intangible Assets

When we acquire another company or a group of assets, the purchase price is allocated, as applicable, between IPR&D, other identifiable intangible assets, tangible assets, and goodwill as required by U.S. GAAP. IPR&D is defined as the value assigned to those projects for which the related products have not received regulatory approval and have no alternative future use. Determining the portion of the purchase price allocated to IPR&D and other intangible assets requires us to make significant estimates. The amount of the purchase price allocated to IPR&D and other intangible assets is determined by estimating the future cash flows of each project or technology and discounting the net cash flows back to their present values. The discount rate used is determined at the time of the acquisition in accordance with accepted valuation methods. For IPR&D, these methodologies include consideration of the risk of the project not achieving commercial feasibility.

Goodwill represents the excess of the aggregate purchase price over the fair value of net assets, including IPR&D, of acquired businesses. Goodwill is tested for impairment annually, or more frequently if changes in circumstance or the occurrence of events suggest impairment exists. The test for impairment requires us to make several estimates about fair value, most of which are based on projected future cash flows. Our estimates associated with the goodwill impairment tests are considered critical due to the amount of goodwill recorded on our condensed consolidated balance sheets and the judgment required in determining fair value amounts, including projected future cash flows. Goodwill was \$4.363 billion and \$4.346 billion as of January 26, 2007 and April 28, 2006, respectively.

Other intangible assets consist primarily of purchased technology, patents, and trademarks which are amortized using the straight-line method over their estimated useful lives, ranging from 3 to 20 years. We review these intangible assets for impairment annually or as changes in circumstance or the occurrence of events suggest the remaining value may not be recoverable. Other intangible assets, net of accumulated amortization, were \$1.555 billion and \$1.592 billion as of January 26, 2007 and April 28, 2006, respectively.

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#### [Table of Contents](#)

#### Stock-Based Compensation

Effective April 29, 2006, we adopted the provisions of, and account for stock-based compensation in accordance with SFAS No. 123(R). Under the fair value recognition provisions of SFAS No. 123(R), we measure stock-based compensation cost at the grant date based on the fair value of the award and recognize the compensation expense over the requisite service period, which is generally the vesting period. We elected the modified-prospective method of adopting SFAS No. 123(R), under which prior periods are not retroactively revised. Estimated stock-based compensation expense for the non-vested portion of awards granted prior to the effective date is being recognized over the remaining service period using the compensation cost estimated for the SFAS No. 123 pro forma disclosures. Total stock-based compensation expense recognized during the three and nine months ended January 26, 2007 was \$45 million and \$139 million pre-tax, respectively. See Note 2 to the condensed consolidated financial statements in this Quarterly Report on Form 10-Q for further information regarding our stock-based compensation programs.

We use the Black-Scholes option pricing model (Black-Scholes model) to determine the fair value of stock options as of the grant date. The fair value of stock options under the Black-Scholes model requires management to make assumptions regarding projected employee stock option exercise behaviors, risk-free interest rate, volatility of our stock price and expected dividends.

We analyze historical employee exercise and termination data to estimate the expected life assumption. We believe that historical data currently represents the best estimate of the expected life of a new employee option. We also stratify our employee population based upon distinctive exercise behavior patterns. The risk-free interest rate we use is based on the yield on the grant date of a zero-coupon U.S. Treasury bond whose maturity period equals the option's expected term. Beginning in the fiscal third quarter 2007 we began to calculate a blended volatility for our common stock by using the historical volatility and implied volatility. Prior to fiscal third quarter 2007, we calculated the expected volatility based solely on historical volatility. The dividend yield rate used is calculated by dividing our annual dividend, based on the most recent quarterly dividend rate, by the closing stock price on the grant date. The amount of stock-based compensation expense we recognize during a period is based on the portion of the awards that are ultimately expected to vest. We estimate pre-vesting option forfeitures at the time of grant by analyzing historical data and revise those estimates in subsequent periods if actual forfeitures differ from those estimates.

If factors change and we employ different assumptions for estimating stock-based compensation expense in future periods or if we decide to use a different valuation model, the expense in future periods may differ significantly from what we have recorded in the current period and could materially affect our net earnings and net earnings per share of a future period.

There is a risk that our estimates of the fair values of our stock-based awards on the grant dates as determined using the Black-Scholes model may bear little resemblance to the actual values realized upon the exercise or forfeiture of those stock-based awards in the future. Some employee stock options may expire without value, or only realize minimal intrinsic value, as compared to the fair values originally estimated on the grant date and recognized in our financial statements. Alternatively, some employee stock options may realize significantly more value than the fair values originally estimated on the grant date and recognized in our financial statements.

The expense recognized for shares purchased under our Employee Stock Purchase Plan is equal to the 15% discount the employee receives at the end of the calendar quarter purchase period. The fair value of restricted stock awards is based on the Company's closing stock price on the date of grant.

#### **Acquisitions**

##### Three and nine months ended January 26, 2007

On September 15, 2006, we acquired and/or licensed selected patents and patent applications owned by Dr. Eckhard Alt (Dr. Alt), or certain of his controlled companies in a series of transactions. In connection therewith, we also resolved all outstanding litigation and disputes between Dr. Alt and us and our affiliates. The agreements required the payment of total consideration of \$75 million, \$74 million of which was capitalized as technology based intangible assets that had an estimated useful life of 11 years at the time of acquisition. The acquired patents or licenses pertain to the cardiac rhythm disease management field and have both current application and potential for future patentable commercial products.

On July 25, 2006, we acquired substantially all of the assets of Odin Medical Technologies, LTD (Odin), a privately held company. Prior to the acquisition, we had an equity investment in Odin, which was accounted for under the cost method of accounting. Odin focused on the manufacture of the PoleStar™ intraoperative Magnetic Resonance Image (iMRI) Guidance System which is already exclusively distributed by us. This acquisition is expected to help us further expand the acceptance of iMRI guidance in neurosurgery.

The consideration for Odin was approximately \$21 million, which included \$6 million in upfront cash and a \$2 million milestone payment made during fiscal second quarter 2007. The \$8 million in net cash paid resulted from the \$21 million in consideration less the value of our prior investment in Odin and Odin's then existing cash balance.

## [Table of Contents](#)

### Three and nine months ended January 27, 2006

On July 1, 2005, we acquired all of the outstanding stock of Transneuronix, Inc. (TNI), a privately held company. Prior to the acquisition, we had an equity investment in TNI, which was accounted for under the cost method of accounting. TNI focused on the treatment of obesity by stimulation of the stomach with an implantable gastric stimulator, known as the Transcend device. This acquisition is expected to complement our strategy to deliver therapeutic solutions for the worldwide challenges of obesity. The consideration for TNI was approximately \$269 million. The \$269 million in consideration includes \$227 million in cash paid plus our prior investment in TNI and TNI's then existing cash balance. The purchase price is subject to increases which would be triggered by the achievement of certain milestones. Our results of operations for the three months ended July 29, 2005 include the results of TNI since the date of acquisition.

On May 18, 2005, we acquired substantially all of the spine-related intellectual property and related contracts, rights, and tangible materials owned by Gary Michelson, M.D. and Karlin Technology, Inc. (Michelson) and settled all outstanding litigation and disputes between Michelson and us. The acquired patents pertain to novel spinal technology and techniques that have both current application and the potential for future patentable commercial products. The agreement requires total consideration of \$1.350 billion for the purchase of a portfolio of more than 100 issued U.S. patents, over 110 pending U.S. patent applications and numerous foreign counterparts to these patents and patent applications, and the settlement of all ongoing litigation. A value of \$550 million was assigned to the settlement of past damages between the parties and was recorded as an expense in fiscal fourth quarter 2005. The remaining consideration, including \$3 million of direct acquisition costs, was allocated between \$628 million of acquired technology based intangible assets that had a useful life of 17 years at the time of acquisition and \$175 million of IPR&D that was expensed on the date of acquisition related to spinal technology based devices that had not yet reached technological feasibility and had no future alternative use. The patents pertain to novel spinal technology and techniques that have the potential for future patentable commercial products in the area of spinal surgery. During fiscal first quarter 2006, we paid \$1.320 billion and committed to three future installments of \$10 million to be paid in May 2006, 2007, and 2008. The first installment of \$10 million was paid in May 2006.

## Net Sales

The table below illustrates net sales by operating segment for the three and nine months ended January 26, 2007 and January 27, 2006 (dollars in millions):

	Three months ended			Nine months ended		
	January 26, 2007	January 27, 2006	% Change	January 26, 2007	January 27, 2006	% Change
Low Power Pacing	\$ 458	\$ 426	8%	\$ 1,391	\$ 1,331	5%
High Power Defibrillation	711	723	(2)	2,147	2,173	(1)
Physio-Control	105	99	6	317	268	18
Other	17	15	13	49	47	4
<b>CARDIAC RHYTHM DISEASE MANAGEMENT</b>	<b>1,291</b>	<b>1,263</b>	<b>2</b>	<b>3,904</b>	<b>3,819</b>	<b>2</b>
Spinal Instrumentation	429	387	11	1,265	1,146	10
Spinal Biologics	169	147	15	509	408	25
Navigation	31	29	7	80	72	11
<b>SPINAL &amp; NAVIGATION</b>	<b>629</b>	<b>563</b>	<b>12</b>	<b>1,854</b>	<b>1,626</b>	<b>14</b>
Neuro Implantables	233	202	15	697	592	18
Gastroenterology & Urology	57	45	27	160	141	13
<b>NEUROLOGICAL</b>	<b>290</b>	<b>247</b>	<b>17</b>	<b>857</b>	<b>733</b>	<b>17</b>
Stents	148	96	54	399	251	59
Other Coronary	87	83	5	265	242	10
Endovascular/Peripheral	69	57	21	207	172	20
<b>VASCULAR</b>	<b>304</b>	<b>236</b>	<b>29</b>	<b>871</b>	<b>665</b>	<b>31</b>
<b>DIABETES</b>	<b>226</b>	<b>182</b>	<b>24</b>	<b>633</b>	<b>534</b>	<b>19</b>
Valves	62	52	19	180	166	8
Perfusion	82	75	9	242	233	4
Cardiac Surgery Technologies	30	27	11	87	82	6
<b>CARDIAC SURGERY</b>	<b>174</b>	<b>154</b>	<b>13</b>	<b>509</b>	<b>481</b>	<b>6</b>
Core ENT	69	65	6	200	195	3
Neurologic Technologies	65	60	8	191	172	11



ENT		134	125	7	391	367	7			
TOTAL	\$	3,048	\$	2,770	10%	\$	9,019	\$	8,225	10%

Forward-looking statements are subject to risk factors (see “Cautionary Factors That May Affect Future Results” set forth in our Form 10-K for the year ended April 28, 2006).

## [Table of Contents](#)

### Cardiac Rhythm Disease Management

CRDM products consist primarily of pacemakers, implantable and external defibrillators, leads, ablation products, electrophysiology catheters, navigation systems and information systems for the management of patients with our devices. CRDM net sales for the three and nine months ended January 26, 2007 were \$1.291 billion and \$3.904 billion, an increase in both periods of 2% when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$27 million and \$47 million, respectively, when compared to the same periods of the prior year. Worldwide net sales of ICDs, our largest product line, decreased 2% and 1% for the three and nine month periods ended January 26, 2007, respectively, when compared to the same period of the prior year. U.S. sales of ICDs during the three and nine months ended January 26, 2007 were \$507 million and \$1.556 billion representing a decline of 10% and 9%, respectively, as compared to the same periods in fiscal 2006. Outside the U.S. net sales of ICDs for the three and nine months ended January 26, 2007 were \$204 million and \$591 million representing growth of 29% over both periods last year.

For a portion of the three and nine month periods ended January 27, 2006, one key competitor had several product recalls, which bolstered revenues for us during the period. While the absence of a competitor favorably influenced net sales in the prior year, there are a number of factors influencing the declining results of the first nine months of this year. The previously highlighted quality concerns are diminishing in significance, but our success of treating symptomatic patients has left us increasingly dependent on asymptomatic primary prevention patients who are in a broader referral base and are more difficult to reach.

We continue to believe that the U.S. and worldwide ICD markets are significantly attractive and represent a solid and sustainable growth opportunity as the need for sudden cardiac arrest protection and heart failure treatment is significant. We continue to make worldwide investments in marketing and distribution, such as strategic additions to our field force, including therapy sales representatives, clinical specialists and general sales representatives.

Pacing system net sales for the three and nine months ended January 26, 2007 were \$458 million and \$1.391 billion, respectively, an increase of 8% and 5%, respectively, when compared to the same periods of the prior year. The increase in pacing system net sales is primarily due to the continued acceptance of the EnRhythm pacemaker and the Adapta, Versa and Sensia families of pacemakers, which incorporate managed ventricular pacing, or MVP, automaticity and the connection to our remote monitoring system, CareLink.

Physio-Control net sales for the three and nine months ended January 26, 2007 were \$105 million and \$317 million, an increase of 6% and 18%, respectively, when compared to the same periods of the prior year.

On December 4, 2006, we announced our intention to pursue a spin-off of Physio-Control, our wholly-owned subsidiary that offers external defibrillation and emergency response systems, data management solutions and support services used by hospitals and emergency response personnel into an independent, publicly traded company. On January 15, 2007, we voluntarily suspended U.S. shipments of Physio-Control products manufactured at our facility in Redmond, Washington in order to address quality system issues. We are currently in discussions with the U.S. Food and Drug Administration regarding the corrective actions that need to be taken before shipping in the U.S. can resume. We have a dedicated team from across the company working on these actions and improving the quality systems. We expect the suspension of U.S. shipments to continue into fiscal year 2008. Following the resolution of these matters, we intend to continue to pursue the spin-off.

Looking ahead, we expect our CRDM operating segment should benefit from the following:

- Continued acceptance and increased account penetration of the Concerto and Virtuoso line of ICDs, commercially launched in Europe and in the U.S. in fiscal first quarter 2007. These are our first devices with wireless telemetry, enabling remote communication between the implanted device and programmer in a clinician’s office and at implant, or between the device and a patient home monitor.
- Continued returns on our investments in marketing. During fiscal third quarter 2007, we launched our Sudden Cardiac Arrest and ICD awareness campaign and we continue to make progress on other initiatives to help educate patients and doctors so we can reach the hundreds of thousands of people who could benefit from these products and therapies.
- Continued expansion of the Medtronic Carelink Network, available on both pacing and ICD platforms. As of the end of fiscal third quarter 2007, more than 1,100 clinics were monitoring nearly 110,000 patients in the U.S. on the Carelink network.

## [Table of Contents](#)

### Spinal and Navigation

Spinal and Navigation products include thoracolumbar, cervical and interbody spinal devices, bone graft substitutes and surgical navigation tools and equipment. Spinal and Navigation net sales for the three and nine months ended January 26, 2007 were \$629 million and \$1.854 billion, an increase of 12% and 14%, respectively, over the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$3 million and \$6 million, respectively, when compared to the same periods of the prior year. The net sales increase for the three and nine months ended January 26, 2007 in this operating segment were driven primarily by our Spinal business, which grew 12% and 14%, respectively, over the same periods of the prior fiscal year. Spinal instrumentation net sales for the three and nine months ended January 26, 2007 were \$429 million and \$1.265 billion, an increase of 11% and 10%, respectively, as compared to the same periods of the prior year. Spinal Biologics net sales for the three and nine months ended January 26, 2007 were \$169 million and \$509 million, an increase of 15% and 25%, respectively, over the same periods of the prior year. The Spinal sales increase reflects solid growth across our portfolio of product offerings including expanded surgeon adoption of INFUSE Bone Graft and growth of the CD HORIZON LEGACY family of products, which includes our new PEEK ROD. In addition, the CRESCENT Vertebral Body Spacer and our Venture Cervical System also contributed to the growth in the quarter. Also, our MAST family of products, which includes the industry's most comprehensive offering of minimal-access procedural solutions, continues to drive growth led by the SEXTANT I and II.

One trend in the Spinal market is that small companies continue to increase their presence in the U.S. The revenue of over sixty of these smaller companies has more than doubled over the last calendar year, putting pressure on the market in several ways.

Navigation net sales for the three and nine months ended January 26, 2007 were \$31 million and \$80 million, an increase of 7% and 11%, respectively, over the same periods of the prior year as a result of continued strength of the StealthStation TRIA Treon and Polestar N20 surgical navigation equipment.

Looking ahead, we expect our Spinal and Navigation operating segment should benefit from the following:

- Continued returns from our investments outside the U.S. Specifically continued acceptance of the CD HORIZON, LEGACY 5.5, VERTEX Reconstruction System and the CD HORIZON SEXTANT I System in Japan and Western Europe.
- Continued acceptance of the INFUSE Bone Graft for spinal fusion and certain types of acute, open tibia fractures and the expansion of indications for INFUSE Bone Graft. On November 9, 2006, the FDA advisory panel recommended approval of INFUSE Bone Graft for use in oral maxillofacial procedures.
- An FDA advisory panel unanimously voted to recommend approval of the PRESTIGE Cervical Disc System. The PRESTIGE Disc is the first in a portfolio of artificial discs designed to serve patients suffering from severe degenerative disc disease, while maintaining motion in a patient's cervical spine. Approval is anticipated in the U.S. before the end of fiscal year 2007.
- Continued acceptance outside the U.S. of our dynamic stabilization products, including the DIAM System, MAVERICK Lumbar Artificial Disc, and PRESTIGE LP Cervical Disc Systems.
- Acceptance of Arcuate and Arcuate XP, launched in fiscal second quarter 2007, which provides new treatments for patients who suffer from painful and often disabling symptoms associated with a vertebral compression fracture.

## Neurological

Neurological products consist of therapeutic and diagnostic devices, including implantable neurostimulation systems, implantable drug administration devices, urology products, gastroenterology products and functional diagnostic and sensing equipment. Neurological net sales for the three and nine months ended January 26, 2007 were \$290 million and \$857 million, an increase in both periods of 17%, when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$5 million and \$9 million, respectively, when compared to the same periods of the prior year. Net sales from neurological implantables for the three and nine months ended January 26, 2007 were \$233 million and \$697 million, an increase of 15% and 18%, respectively, when compared to the same periods of the prior year. Growth in neurological implantables was driven by key products including the RestoreADVANCED and PrimeADVANCED Neurostimulation Systems for pain management and Activa deep brain stimulation for the treatment of movement disorders associated with advanced Parkinson's disease, dystonia, and essential tremor. Gastroenterology and urology net sales were \$57 million and \$160 million for the three and nine months ended January 26, 2007, an increase of 27% and 13%, respectively, when compared to the same periods in the prior fiscal year. Gastroenterology and urology net sales growth was driven by our InterStim product line for incontinence and our Prostiva line for the treatment of enlarged prostate.

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## [Table of Contents](#)

Looking ahead, we expect our Neurological operating segment should benefit from the following:

- Continued acceptance of Activa deep brain stimulation. The New England Journal of Medicine recently published a study that confirmed the advantages of Activa deep brain stimulation for the treatment of dystonia, and the journal Neurology published a study that supports earlier treatment of Parkinson's disease with Activa deep brain stimulation.
- Continued acceptance of Prostiva RF (radio-frequency) therapy for the treatment of symptomatic benign prostatic hyperplasia (BPH), or enlarged prostate. Prostiva RF therapy delivers low-level radio frequency energy to a precisely targeted area on an enlarged prostate.
- Continued acceptance of InterStim II neurostimulation system for the treatment of overactive bladder and urinary retention. The InterStim therapy uses sacral nerve stimulation to improve bladder function. InterStim II's enhancements include greater flexibility to accommodate more patients, a streamlined implant procedure and simplified programming. The improved patient programmer also provides patients more control of their therapy.

## Vascular

Vascular products consist of coronary and peripheral stents and related delivery systems, endovascular stent graft systems, distal embolic protection systems and a broad line of balloon angioplasty catheters, guide catheters, guidewires, diagnostic catheters and accessories. Vascular net sales for the three and nine months

ended January 26, 2007 were \$304 million and \$871 million, an increase of 29% and 31%, respectively, when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$10 million and \$18 million, respectively, when compared to the same periods of the prior year. Coronary Vascular net sales for the three and nine months ended January 26, 2007 were \$235 million and \$664 million, an increase of 31% and 35%, respectively, driven by stent growth of 54% and 59%, respectively, when compared to the same periods of the prior year. Endeavor, introduced in fiscal year 2006 in markets outside the U.S., contributed \$77 million and \$216 million during the three and nine month periods ended January 26, 2007, respectively. Endeavor is now commercially released in more than 100 countries outside the U.S., and Endeavor sales have benefited from favorable safety and efficacy data and its ease of delivery. Net sales of other coronary products, including balloons, guides and wires, also grew 5% and 10%, respectively, for the three and nine months ended January 26, 2007 when compared to the same periods of the prior fiscal year. Endovascular/Peripheral revenue grew 21% and 20%, respectively, for the three and nine months ended January 26, 2007, when compared to the same period in the prior fiscal year as a result of strong growth in sales of the AneuRx AAAAdvantage, which is used to treat abdominal aortic aneurysms (AAA) in the U.S., and increased sales of the Valiant Thoracic Stent Graft System outside the U.S. The Valiant stent graft is a next-generation product used for the minimally invasive repair of the thoracic aorta, the body's largest artery, for several disease states including aneurysms, penetrating ulcers, acute or chronic dissections, and contained or traumatic ruptures.

Looking ahead, we expect our Vascular operating segment should benefit from the following:

- Increasing market share of Endeavor in currently available commercial markets.
- Our anticipated entry into the U.S. drug eluting stent market. The final module of the Endeavor PMA was submitted in November 2006 and FDA approval and U.S. launch is anticipated in the second half of calendar 2007. Positive clinical results from the ENDEAVOR II pivotal trial provided further evidence of the sustained safety and effectiveness of Endeavor, with a clinically and statistically significant treatment effect in comparison to the bare Driver stent.
- Market share gains achieved from the continued acceptance of the AneuRx AAAAdvantage Stent Graft in the U.S. and Valiant Thoracic Stent Graft outside the U.S.

## Diabetes

Diabetes net sales for the three and nine months ended January 26, 2007 were \$226 million and \$633 million, an increase of 24% and 19%, respectively, when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$4 million and \$7 million, respectively, when compared to the same periods of the prior year. External pump sales for the three and nine month periods ended January 26, 2007 were \$104 million and \$286 million, respectively, representing growth of 36% and 34%, respectively. This increase reflects strong market acceptance of the Paradigm REAL-time Sensor Augmented pump system that integrates continuous glucose monitoring and insulin pump functionality. Sales of disposables during the three and nine months ended January 26, 2007 were \$109 million and \$315 million, respectively, an increase of 14% and 7% as compared to the same periods of the prior year.

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## [Table of Contents](#)

Looking ahead, we expect our Diabetes operating segment should benefit from the following:

- Continued Acceptance of the Guardian REAL-Time Continuous Glucose Monitoring System for diabetes management. The Guardian REAL-Time System is a stand alone glucose monitoring system that provides patients with real-time glucose trend graphs and predictive alarms informing them when their glucose levels become too high or too low, enabling better management of diabetes.
- The Mini-Link, our next generation sensor transmitter, recently received FDA approval. Mini-Link significantly improves patient comfort as the transmitter has no cable and is about one third the size of the previous version. The Mini-Link is rechargeable, snaps directly into the sensor and can be used with the Paradigm Real Time as well as the Guardian Real-Time Continuous Glucose Monitoring Systems. We plan to launch Mini-Link in fiscal fourth quarter 2007.

## Cardiac Surgery

Cardiac Surgery products include perfusion systems, products for the repair and replacement of heart valves, and cardiac technologies, including minimally invasive cardiac surgery products, positioning and stabilization systems for beating heart surgery, surgical accessories and surgical ablation products. Cardiac Surgery net sales for the three and nine months ended January 26, 2007 were \$174 million and \$509 million, an increase of 13% and 6%, respectively, when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$4 million and \$5 million, respectively, when compared to the same periods of the prior year. The increase in net sales was led by a 19% increase in sales from heart valves. During the three months ended January 27, 2006, we completed a sales force restructuring which negatively impacted net sales for that quarter.

Looking ahead, we expect our Cardiac Surgery operating segment should benefit from the following:

- Further acceptance of the Melody Transcatheter Pulmonary Valve and Ensemble Transcatheter Delivery System, which received CE Mark approval for commercial sale in Europe in October 2006. The first U.S. patient implant in a feasibility study to evaluate the use of the Medtronic Melody Transcatheter Pulmonary Valve and Ensemble Transcatheter Delivery System in the U.S. was implanted in February 2007. This technology provides a catheter-based approach to pulmonic valve replacement for patients with congenital heart defects, thereby reducing the number of open-heart surgeries required during their lifetime.
- Future acceptance of Navigator, a device that enables surgical ablation procedures, which was launched in early November 2006.

## ENT

ENT consists of ear, nose and throat related products (Core ENT) and neurologic technology related products including powered tissue-removal systems and other microendoscopy instruments, implantable devices, nerve monitoring systems, disposable fluid-control products, image-guided surgery systems, a Ménière's treatment device, hydrocephalus shunt devices, external drainage systems, cranial fixation devices, neuroendoscopes and dura repair products. ENT net sales for the three and nine months ended January 26, 2007 were \$134 million and \$391 million, an increase of 7% in both periods when compared to the same periods of the prior year. Foreign currency translation had a favorable impact on net sales for the three and nine months ended January 26, 2007 of approximately \$2 million for both periods when compared to the same periods of the prior year. Core ENT net sales for the three and nine months ended January 26, 2007 were \$69 million and \$200 million, representing an increase of 6% and 3% when compared to the same periods of the prior year. Net sales were impacted by the loss of revenue from our tonometry product line that was sold in fiscal third quarter 2006. The tonometry product line contributed approximately \$4 million and \$12 million of net sales for the three and nine months ended January 27, 2006, respectively. The primary drivers of the increase in Core ENT related net sales were continued physician acceptance of the Straightshot M4 Microdebrider, the NIM-Response 2.0 Nerve Integrity Monitor and image guided surgery systems. Neurologic Technology related net sales for the three and nine months ended January 26, 2007 were \$65 million and \$191 million, an increase of 8% and 11%, respectively, as compared to the same periods of the prior year. The primary drivers of growth in Neurologic Technologies were continued acceptance of the high-speed powered surgical drill systems, including the EHS Stylus system and the Strata valve, an adjustable flow control valve in which the resistance properties of the valve can be changed non-invasively by the caregiver. The valve is designed to minimize overdrainage of cerebrospinal fluid and maintain intraventricular pressure within a normal physiologic range, regardless of patient position.

## [Table of Contents](#)

Looking ahead, we expect our ENT operating segment should benefit from the following:

- Continued adoption of nerve monitoring in ENT and thyroid procedures.
- Continued development of the normal pressure hydrocephalus market, resulting in increased sales of our shunt products, including the Strata valve.
- Continued acceptance of our Legend high-speed drill systems and our Durepair dura substitute.

Continued net sales growth in all operating segments is contingent on our ability to gain further market share, penetrate existing markets, develop new products and improve existing products.

## Costs and Expenses

The following is a summary of major costs and expenses as a percent of net sales:

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
Cost of products sold	25.4%	25.2%	25.5%	24.9%
Research & development	9.6	10.1	10.1	10.0
Selling, general & administrative	34.1	32.5	33.9	32.6
IPR&D	-	-	-	4.4
Certain litigation	-	-	0.4	-
Special charges	-	-	-	1.2
Other expense, net	1.4	0.3	1.8	1.2
Interest income, net	(1.2)	(0.9)	(1.3)	(0.6)

## Cost of Products Sold

Cost of products sold for the three and nine months ended January 26, 2007, as a percentage of net sales, increased by 20 and 60 basis points, respectively, over the same periods of the prior year to 25.4% and 25.5%, respectively. The increase in cost of products sold as a percentage of net sales in the three months ended January 26, 2007 was due to a 90 basis point increase relating to geographic and product mix shifts and a 10 basis point increase for the recognition of \$5 million of stock-based compensation expense in the period. These increases in cost of products sold were offset by 40 basis points of favorable foreign currency adjustments and 40 basis points of favorable manufacturing variances in the period. For the nine months ended January 26, 2007, the 60 basis point increase in cost of products sold as a percentage of net sales was due to a 110 basis point increase relating to geographic and product mix shifts and a 20 basis point increase due to the recognition of \$15 million of stock-based compensation expense in the period, offset by 40 basis points of favorable foreign currency adjustments and 30 basis points of favorable manufacturing variances.

## Research and Development

Consistent with prior periods, we have continued to invest in the future by spending aggressively on research and development efforts. For the three and nine months ended January 26, 2007, research and development spending was \$293 million and \$912 million, respectively, or 9.6% and 10.1% as a percentage of net sales compared to \$280 million and \$819 million, or 10.1% and 10.0% as a percentage of net sales, for the three and nine months ended January 27, 2006, respectively. For the three months ended January 26, 2007, approximately 20 basis points (\$7 million) of the 50 basis point decrease was the result of stock-based compensation expense recognized in the period. The remainder of the decrease is the result of sales outpacing research and development spending compared to the prior period. For the nine months ended January 26, 2007, approximately 30 basis points (\$29 million) of the 10 basis point increase was the result of stock-based compensation expense for the period. This increase was slightly offset by sales outpacing research and development spending compared to the prior

period. We remain committed to developing technological enhancements and new indications for existing products, and less invasive and new technologies to address unmet medical needs.

## Selling, General and Administrative

Selling, general and administrative expense for the three and nine months ended January 26, 2007, as a percentage of net sales, increased 160 basis points and 130 basis points to 34.1% and 33.9%, respectively, as compared to the same periods of the prior year. The increases were due mainly to the recognition of stock-based compensation expense of \$33 million and \$95 million, or 110 basis points and 105 basis points, respectively. The remaining increases for the three and nine months ended January 26, 2007 were due to expenses associated with our previously communicated investment in selling and marketing activities, particularly for CRDM, Spinal and Diabetes, offset by our continual cost control measures across all of our businesses and attempts to leverage the general and administrative categories.

31

## [Table of Contents](#)

## Special, Certain Litigation and IPR&D Charges

Special, certain litigation and IPR&D charges for the three and nine months ended January 26, 2007 and January 27, 2006 were as follows:

(dollars in millions, except per share data)	Three months ended		Nine months ended	
	January 26,	January 27,	January 26,	January 27,
	2007	2006	2007	2006
Special charges (net of \$34 tax)	\$ -	\$ -	\$ -	\$ 66
Certain litigation charges (net of \$- tax)	-	-	40	-
IPR&D charges (net of \$69 tax)	-	-	-	295
Tax benefit from the reversal of tax reserves	-	-	-	(225)
Total special, certain litigation and IPR&D charges, net of tax	\$ -	\$ -	\$ 40	\$ 136
Per Diluted Share Data:				
Special charges	\$ -	\$ -	\$ -	\$ 0.05
Certain litigation charges	-	-	0.04	-
IPR&D charges	-	-	-	0.24
Tax benefit from the reversal of tax reserves	-	-	-	(0.18)
Total Per Diluted Share	\$ -	\$ -	\$ 0.04	\$ 0.11

### Special Charges

There were no special charges for the three and nine months ended January 26, 2007.

In fiscal second quarter 2006, we recorded a \$100 million (\$66 million, after-tax) charitable donation to The Medtronic Foundation, a related party non-profit organization. Additionally, during fiscal second quarter 2006, we recorded a \$225 million tax benefit associated with favorable agreements with the IRS involving the review of domestic income tax returns for fiscal years 1997 through 2002 (see Note 12 to the condensed consolidated financial statements).

### Certain Litigation

During fiscal first quarter 2007, we recorded a certain litigation charge of \$40 million related to a settlement agreement with the United States Department of Justice which requires the government to obtain dismissal of two qui tam civil suits pending against us, and is conditioned upon such dismissal being obtained. The two suits were based upon allegations about certain sales and marketing practices in the Spinal business. The settlement agreement reflects our assertion that the Company and its current employees have not engaged in any wrongdoing or illegal activity.

There were no certain litigation charges for the three and nine months ended January 27, 2006.

### IPR&D Charges

There were no IPR&D charges for the three and nine months ended January 26, 2007.

On July 1, 2005, we acquired all of the outstanding stock of TNI. At the date of the acquisition, \$169 million of the purchase price was expensed as IPR&D related to a product being developed for the treatment of obesity by stimulation of the stomach, that had not yet reached technological feasibility and for which no future alternative use had been identified. The technology is expected to be adapted for use in therapeutic treatments for obesity. This acquisition is expected to complement our strategy to deliver therapeutic solutions for the worldwide challenges of obesity.

On May 18, 2005, we acquired substantially all of the spine-related intellectual property and related contracts, rights, and tangible materials owned by Michelson and settled all outstanding litigation and disputes between Michelson and us. The patent portfolio consists of more than 100 issued U.S. patents, over 110 pending U.S. patent applications and numerous foreign counterparts to these patents. At the date of acquisition, \$175 million of the purchase price was expensed as IPR&D related to spinal technology based devices that had not yet reached technological feasibility and which had no future alternative use. The patents pertain to novel spinal technology and techniques that have the potential for future patentable commercial products in the area of spinal surgery.

32



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[Table of Contents](#)

In fiscal first quarter 2006, we also entered into a royalty bearing, non-exclusive patent cross-licensing agreement with NeuroPace, Inc. Under the terms of the agreement, the two companies cross-licensed patents and patent applications of neurological technology related to direct electrical stimulation or monitoring of the brain. On the date of the agreement, \$20 million was expensed as IPR&D related to the licensed technology since technological feasibility of the project has not yet been reached and it had no future alternative use. This licensed technology is expected to enhance our ability to further develop and expand our therapies for neurological disorders.

### Other Expense, Net

Other expense, net includes intellectual property amortization expense, royalty income and expense, realized minority investment gains/(losses), realized foreign currency transaction and derivative gains/(losses) and impairment charges. Other expense, net for the three and nine months ended January 26, 2007 increased \$34 million and \$59 million, to \$44 million and \$160 million, respectively, as compared to the same periods of the prior year. The change for the three months ended January 26, 2007 is primarily due to currency hedges, which resulted in gains in the quarter of \$3 million versus gains in the third quarter of the prior year of \$31 million. Fiscal third quarter 2007 was also positively impacted by \$26 million due to the accelerated amortization of deferred income in connection with a product supply agreement in the Vascular business, where the other party elected not to exercise its option to extend the agreement. Also related to this agreement, the fiscal fourth quarter 2007 *Other expense, net* will be positively impacted by an additional \$30 million of accelerated amortization of deferred income. In addition, the quarter was negatively impacted by a \$10 million charge in connection with an intellectual property dispute. The increase of \$58 million for the nine months ended January 26, 2007 is due to increased royalty expenses of Vascular drug eluting stents launched outside the U.S. during the period and increased transaction hedge expenses. In addition, the prior year expense was offset by a \$21 million gain for the sale of the Tonometry product line.

### Interest Income, Net

For the three and nine months ended January 26, 2007, we generated net interest income of \$36 and \$113 million, respectively, as compared to net interest income of \$24 and \$52 million, respectively, for the same periods of the prior fiscal year. The increases for the three and nine months ended January 26, 2007 are the result of the higher cash and cash investment balances as compared to the prior periods. Interest income continues to increase, as we have maintained our ability to generate rates of returns on our investments that exceed the interest rates we are paying on our outstanding debt.

### Income Taxes

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
	(dollars in millions)			
Income tax (benefit) provision	\$ 224	\$ 235	\$ 670	\$ 354
Effective tax rate	23.98%	26.00 %	25.19%	16.40%
Impact of special, IPR&D charges, and tax benefit from a law change	1.27%	-	0.06%	9.60
Non-GAAP nominal tax rate <sup>(1)</sup>	25.25%	26.00%	25.25%	26.00%

<sup>(1)</sup> Non-GAAP nominal tax rate is defined as the income tax (benefit) provision as a percentage of taxable income, excluding special, certain litigation, IPR&D charges, and tax benefit from a change in law.

Our effective tax rate for the three and nine months ended January 26, 2007 was 23.98% and 25.19% compared to 26.00% and 16.40%, respectively, from the same periods of the prior fiscal year. Our non-GAAP nominal tax rate for the three and nine months ended January 26, 2007 was 25.25% compared to 26.00% from the same periods of the prior fiscal year. The fluctuation in our effective tax rate is primarily due to certain items being taxed at different tax rates than our non-GAAP nominal tax rates, cumulative tax benefits resulting from retroactive renewal of a research & development credit, recognition of tax benefits associated with favorable agreements reached with the IRS, and the impact of benefits derived from our international operations. The decrease in the Company's non-GAAP nominal tax rate for the three and nine months ended January 26, 2007 is primarily due to the impact of benefits derived from our international operations.

Tax audits associated with the allocation of income, and other complex issues, may require an extended period of time to resolve and may result in income tax adjustments if changes to our allocation are required between jurisdictions with different tax rates. Tax authorities periodically review our tax returns and propose adjustments to our tax filings. The IRS has completed its audits with us for all years through fiscal year 2002. Tax years audited by the IRS, however, remain open for foreign tax audits and competent authority proceedings. Competent authority proceedings are a means to resolve intercompany pricing disagreements between countries.

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[Table of Contents](#)

In August 2003, the IRS proposed adjustments arising out of its audit of our fiscal years 1997, 1998 and 1999 tax returns. We initiated a defense of these adjustments at the IRS appellate level in November 2004. All matters related to these tax years have been resolved except for an issue related to the allocation of

income between Medtronic, Inc., and its wholly owned subsidiary in Switzerland. Also, during fiscal year 2006, the IRS issued its audit report for fiscal years 2000, 2001 and 2002. We have reached agreement with the IRS on substantially all of the proposed adjustments for those fiscal years. The only item of significance that remains unresolved relates to the carryover impact of the proposed allocation of income for fiscal years 1997 through 1999. The unresolved issue from the 1997 through 2002 tax audits, as well as tax positions taken by the IRS or foreign tax authorities during future tax audits, could have a material unfavorable impact on our effective tax rate in future periods. We continue to believe that we have meritorious defenses for our tax filings and will vigorously defend them through litigation in the courts, as necessary. We believe that we have appropriately reserved for probable liabilities resulting from tax assessments by taxing authorities.

## Liquidity and Capital Resources

	January 26, 2007	April 28, 2006
	(dollars in millions)	
Working capital	\$ 5,507	\$ 5,971
Current ratio*	3.0:1.0	2.4:1.0
Cash, cash equivalents, and short-term investments	\$ 3,321	\$ 6,101
Long-term investments in public and private debt securities**	2,754	767
Cash, cash equivalents, short-term investments, and long-term debt securities	\$ 6,075	\$ 6,868
Short-term borrowings and long-term debt	\$ 6,128	\$ 7,923
Net cash position***	\$ (53)	\$ (1,055)

\* Current ratio is the ratio of current assets to current liabilities.

\*\* Long-term investments include public and private debt securities with a maturity date greater than one year from the end of the period.

\*\*\* Net cash position is the sum of cash, cash equivalents, short-term investments and long-term investments in public and private debt securities less short-term borrowings and long-term debt.

The increase in our net cash position primarily relates to the retirement of \$1.877 billion in debentures, cash outlays for capital expenditures, dividend payments and share repurchases offset by income from operations and other cash proceeds. (See "Summary of Cash Flows" section of this management's discussion and analysis for further discussion of our cash uses and proceeds). The decrease in our working capital relates to our investment of the repatriated controlled foreign operations earnings in long-term trading securities, offset by normal operating changes in other account balances.

At January 26, 2007 and April 28, 2006, approximately \$5.023 billion and \$4.168 billion, respectively, of cash, cash equivalents, short-term investments and long-term investments in debt securities were held by our non-U.S. subsidiaries. These funds are available for use by worldwide operations; however, if these funds were repatriated to the U.S. or used for U.S. operations, the amounts would be subject to U.S. tax.

We believe our existing cash and investments, as well as our unused lines of credit and commercial paper capacity of \$2.387 billion, if needed, will satisfy our foreseeable working capital requirements for at least the next twelve months. However, we periodically consider various financing alternatives and may, from time to time, seek to take advantage of favorable interest rate environments or other market conditions.

## Summary of Cash Flows

	For the nine months ended	
	January 26, 2007	January 27, 2006
	(dollars in millions)	
Cash provided by (used in):		
Operating activities	\$ 2,054	\$ 1,512
Investing activities	(629)	(3,434)
Financing activities	(2,354)	946
Effect of exchange rate changes on cash and cash equivalents	22	112
Net change in cash and cash equivalents	\$ (907)	\$ (864)

## [Table of Contents](#)

## Operating Activities

Our net cash provided by operating activities was \$2.054 billion for the nine months ended January 26, 2007 compared to net cash provided by operating activities of \$1.512 billion in the same period of the prior year. The \$542 million increase in net cash provided by operating activities was primarily attributable to:

- A \$592 million decrease in cash used for operating assets and liabilities, primarily driven by a \$670 million change in accounts payable and accrued liabilities and changes in deferred taxes

partially offset by the timing of other receipts and payments in the ordinary course of business.

## Investing Activities

Our net cash used in investing activities was \$629 million for the nine months ended January 26, 2007 compared to \$3.434 billion used in investing activities for the nine months ended January 27, 2006. The \$2.805 billion decrease in net cash used in investing activities was primarily attributable to:

- A decrease of \$1.012 billion in cash used for acquisitions and the purchase of intellectual property, as fiscal year 2006 included several large strategic acquisitions; and
- A \$1.912 billion decrease in the net position of marketable securities, as additional securities were sold to redeem the convertible notes put to the Company in September 2006 and to fund working capital requirements.

## Financing Activities

Our net cash used in financing activities was \$2.354 billion for the nine months ended January 26, 2007, compared to net cash provided by financing activities of \$946 million for the nine months ended January 27, 2006. The \$3.300 billion increase in net cash used in financing activities was primarily attributable to:

- \$1.877 billion in cash used to repurchase long-term debt after the bond holders put the Contingent Convertible debentures to us and a \$488 million decrease in proceeds from issuance of commercial paper; and
- A \$990 million net decrease in proceeds from the issuance of long-term debt as the Company had issued \$1.000 billion in Senior Notes in the prior year to fund acquisitions and purchases of intellectual property

partially offset by a \$202 million decrease in proceeds from the issuance of common stock and a \$271 million decline in stock repurchases.

### Off-Balance Sheet Arrangements and Long-Term Contractual Obligations

We acquire assets still in development, enter into research and development arrangements and sponsor certain clinical trials that often require milestone and/or royalty payments to a third-party, contingent upon the occurrence of certain future events. Milestone payments may be required contingent upon the successful achievement of an important point in the development life cycle of a product or upon certain pre-designated levels of achievement in clinical trials. In addition, if required by the arrangement, we may have to make royalty payments based on a percentage of sales related to the product under development or in the event that regulatory approval for marketing is obtained. In situations where we have no ability to influence the achievement of the milestone or otherwise avoid the payment, we have included those milestone or minimum royalty payments in the following table. However, the majority of these arrangements give us the discretion to unilaterally make the decision to stop development of a product or cease progress of a clinical trial, which would allow us to avoid making the contingent payments. Although we are unlikely to cease development if a device successfully achieves clinical testing objectives, these payments are not included in the table of contractual obligations because of the contingent nature of these payments and our ability to avoid them if we decided to pursue a different path of development or testing.

In the normal course of business, we periodically enter into agreements that require us to indemnify customers or suppliers for specific risks, such as claims for injury or property damage arising out of our products or the negligence of our personnel or claims alleging that our products infringe third-party patents or other intellectual property. Our maximum exposure under these indemnification provisions cannot be estimated, and we have not accrued any liabilities within our condensed consolidated financial statements or included any indemnification provisions in our commitments table. Historically, we have not experienced significant losses on these types of indemnifications.

## [Table of Contents](#)

We believe our off-balance sheet arrangements do not have a material current or anticipated future effect on our consolidated earnings, financial position, or cash flows. Presented below is a summary of contractual obligations and other minimum commercial commitments as of January 26, 2007.

	Maturity by Fiscal Year					
	Total	Remaining 2007	2008	2009	2010	2011 Thereafter
<i>Contractual obligations related to off-balance sheet arrangements</i>						
Foreign currency contracts (1)	\$ 4,420	\$ 1,433	\$ 2,228	\$ 759	\$ -	\$ -
Operating leases	256	35	74	56	33	17
Inventory purchases (2)	620	75	281	79	74	68
Commitments to fund minority investments/contingent acquisition consideration (3)	120	33	32	32	1	1
Interest payments (4)	1,020	35	139	139	139	128
Other (5)	441	73	213	41	21	19
Total	\$ 6,877	\$ 1,684	\$ 2,967	\$ 1,106	\$ 268	\$ 233
<i>Contractual obligations reflected in the balance sheet:</i>						
	\$ 5,494	\$ -	\$ -	\$ 94	\$ 2,600	\$ -
						\$ 2,800



Long-term debt, excluding capital leases (6)							
Capital leases (7)	86	-	16	15	17	19	19
Other(8)	25	12	13	-	-	-	-
Total	\$ 5,605	\$ 12	\$ 29	\$ 109	\$ 2,617	\$ 19	\$ 2,819

- (1) As these obligations were entered into as hedges, the majority of these obligations will be offset by gains/losses on the related assets, liabilities, and/or transactions being hedged.
- (2) We have included inventory purchase commitments, which are legally binding and specify minimum purchase quantities. These purchase commitments do not exceed our projected requirements and are in the normal course of business. These commitments do not include open purchase orders.
- (3) Certain commitments related to the funding of minority investments and/or previous acquisitions are contingent upon the achievement of certain product-related milestones and various other favorable operational conditions. While it is not certain if and/or when these payments will be made, the maturity dates included in this table reflect our best estimates.
- (4) Interest payments in the table above reflect the interest on our outstanding debt, including the \$4.400 billion of Senior Convertible Notes, \$1.000 billion of Senior Notes and \$94 million of Contingent Convertible Debentures. The interest rate on each outstanding obligation varies and interest is payable semi-annually. The interest rate is 1.500% on the \$2.200 billion Senior Convertible Notes due 2011 and 1.625% on the \$2.200 billion Senior Convertible Notes due 2013, 4.375% on the \$400 million of Senior Notes due 2010, 4.750% on the \$600 million of Senior Notes due 2015 and 1.250% on the Contingent Convertible Debentures due 2021.
- (5) These obligations include commitments to replace our existing legacy enterprise resource systems, construction of our new CRDM campus and certain research and development arrangements.
- (6) Long-term debt in the table above includes \$4.400 billion Senior Convertible Notes issued in April 2006, \$1.000 billion Senior Notes issued in September 2005 and \$94 million related to our Contingent Convertible Debentures. In September 2006, the Company repurchased \$1.877 billion of Contingent Convertible Debentures as a result of certain holders exercising their put options.
- (7) Capital lease obligations include a sale-leaseback agreement entered into in fiscal fourth quarter 2006 whereby certain manufacturing equipment was sold and is being leased by us over a seven year period.
- (8) These obligations include royalty payments and a financing arrangement associated with our fiscal year 2002 acquisition of Kobayashi Pharmaceutical Co.'s interest in a joint venture it had formed with us in 1996 to distribute spinal products in Japan.

## [Table of Contents](#)

### [Debt and Capital](#)

Our capital structure consists of equity and interest-bearing debt. Interest-bearing debt as a percent of total interest-bearing debt and equity was 36% and 46% at January 26, 2007 and April 28, 2006, respectively.

In October 2005, our Board of Directors authorized the repurchase of up to 40 million shares of our common stock. Shares are repurchased from time to time to support our stock-based compensation programs and to take advantage of favorable market conditions. In April 2006, the Board of Directors made a special authorization for the Company to repurchase up to 50 million shares of the Company's common stock in conjunction with the \$4.400 billion Senior Convertible Note offering (see below for further discussion). During the three and nine months ended January 26, 2007, we repurchased approximately 0.75 million shares and 10 million shares at an average price of \$53.35 and \$43.97, respectively. During the three and nine months ended January 27, 2006, we repurchased approximately 2.7 million shares and 13.0 million shares at an average price of \$56.54 and \$54.93, respectively. The amounts disclosed as repurchased for the nine months ended January 26, 2007 include 544,224 shares that we repurchased as part of the final settlement of the previously announced and executed accelerated share repurchase program. Excluding the shares repurchased in the settlement of the accelerated share repurchase program, for the nine months ended January 26, 2007, we repurchased 9.4 million shares at an average price of \$46.51. The Company has approximately 26.8 million shares remaining under current buyback authorizations approved by the Board of Directors.

In April 2006, we issued \$2.200 billion of 1.500% Senior Convertible Notes due 2011 and \$2.200 billion of 1.625% Senior Convertible Notes due 2013, collectively the Senior Convertible Notes. The Senior Convertible Notes were issued at par and pay interest in cash semi-annually in arrears on April 15 and October 15 of each year. The Senior Convertible Notes are unsecured unsubordinated obligations and rank equally with all other unsecured and unsubordinated indebtedness. The Senior Convertible Notes have an initial conversion price of \$56.14 per share. The Senior Convertible Notes may only be converted: (i) during any calendar quarter if the closing price of our common stock reaches 140% of the conversion price for 20 trading days during a specified period, or (ii) if specified distributions to holders of our common stock are made or specified corporate transactions occur, or (iii) during the last month prior to maturity of the applicable notes. Upon conversion, a holder would receive: (i) cash equal to the lesser of the principal amount of the note or the conversion value and (ii) to the extent the conversion value exceeds the principal amount of the note, shares of our common stock, cash, or a combination of common stock and cash, at our option. In addition, upon a change in control, as defined, the holders may require us to purchase for cash all or a portion of their notes for 100% of the principal amount of the notes plus accrued and unpaid interest, if any, plus a number of additional make-whole shares of our common stock, as set forth in the applicable indenture. The indentures under which the Senior Convertible Notes were issued contain customary covenants, all of which we remain in compliance as of January 26, 2007. A total of \$2.500 billion of the net proceeds from these note issuances were used to repurchase common stock.

Concurrent with the issuance of the Senior Convertible Notes, we purchased call options on our common stock in private transactions. The call options allow us to receive shares of our common stock and/or cash from counterparties equal to the amounts of common stock and/or cash related to the excess conversion value

that we would pay to the holders of the Senior Convertible Notes upon conversion. These call options will terminate upon the earlier of the maturity dates of the related Senior Convertible Notes or the first day all of the related Senior Convertible Notes are no longer outstanding due to conversion or otherwise. The call options, which cost an aggregate \$1.075 billion (\$699 million net of tax benefit), were recorded as a reduction of shareholders' equity.

In separate transactions, we sold warrants to issue shares of our common stock at an exercise price of \$76.56 per share in private transactions. Pursuant to these transactions, warrants for 41 million shares of our common stock may be settled over a specified period beginning in July 2011 and warrants for 41 million shares of our common stock may be settled over a specified period beginning in July 2013 (the "settlement dates"). If the average price of our common stock during a defined period ending on or about the respective settlement dates exceeds the exercise price of the warrants, the warrants will be settled in shares of our common stock. Proceeds received from the issuance of the warrants totaled approximately \$517 million and were recorded as an addition to shareholders' equity.

In September 2005, we issued two tranches of Senior Notes with the aggregate face value of \$1.000 billion. The first tranche consisted of \$400 million of 4.375% Senior Notes due 2010 and the second tranche consisted of \$600 million of 4.750% Senior Notes due 2015. Each tranche was issued at a discount which resulted in an effective interest rate of 4.433% and 4.760% for the five and ten year Senior Notes, respectively. Interest on each series of Senior Notes is payable semi-annually, on March 15 and September 15 of each year. The Senior Notes are unsecured unsubordinated obligations and rank equally with all other unsecured and unsubordinated indebtedness. The indentures under which the Senior Notes were issued contain customary covenants, all of which we remain in compliance as of January 26, 2007. We used the net proceeds from the sale of the Senior Notes for repayment of a portion of our outstanding commercial paper.

In November 2005, we entered into a five year interest rate swap agreement with a notional amount of \$200 million. This interest rate swap agreement was designated as a fair value hedge of the changes in fair value of a portion of our fixed-rate \$400 million Senior Notes due 2010. We pay variable interest equal to the three-month London Interbank Offered Rate (LIBOR) minus 55 basis points and we receive a fixed interest rate of 4.375%.

37

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## [Table of Contents](#)

In September 2001, we completed a \$2.013 billion private placement of 1.25% Contingent Convertible Debentures due September 2021 (Old Debentures). Interest is payable semi-annually. Each Old Debenture is convertible into shares of common stock at an initial conversion price of \$61.81 per share; however, the Old Debentures are not convertible before their final maturity unless the closing price of our common stock reaches 110% of the conversion price for 20 trading days during a consecutive 30 trading day period. In September 2002 and 2004, as a result of certain holders of the Old Debentures exercising their put options, we repurchased \$39 million and \$1 million respectively, of the Old Debentures for cash.

On January 24, 2005, we completed an exchange offer whereby holders of approximately \$1.930 billion of the total principal amount of the Old Debentures exchanged their existing securities for an equal principal amount of 1.25% Contingent Convertible Debentures, Series B due 2021 (New Debentures), as described below. Following the completion of the exchange offer, we repurchased approximately \$2 million of the Old Debentures for cash.

The terms of the New Debentures are consistent with the terms of the Old Debentures noted above, except that: (i) the New Debentures require us to settle all conversions for a combination of cash and shares of our common stock, if any, in lieu of only shares. Upon conversion of the New Debentures we will pay holders cash equal to the lesser of the principal amount of the New Debentures or their conversion value, and shares of our common stock to the extent the conversion value exceeds the principal amount of the New Debentures; and (ii) the New Debentures require us to pay only cash (in lieu of shares of our common stock or a combination of cash and shares of our common stock) when we repurchase the New Debentures at the option of the holder or when we repurchase the New Debentures in connection with a change of control.

In September 2006, as a result of certain holders of the New Debentures and Old Debentures exercising their put options, we repurchased \$1.835 billion of the New Debentures for cash and \$42 million of the Old Debentures for cash. Twelve months prior to the put options becoming exercisable, the remaining balance of the New Debentures and the Old Debentures will be classified as *short-term borrowings*. At each balance sheet date without a put option within the subsequent four quarters, the remaining balance will be classified as *long-term debt*. Accordingly, during the second quarter of fiscal year 2007, \$93 million of New Debentures and \$1 million of the Old Debentures were reclassified from *short-term borrowings* to *long-term debt* as a result of the September 2006 put option expiring. For put options exercised by the holders of the New Debentures and the Old Debentures, the purchase price is equal to the principal amount of the applicable debenture plus any accrued and unpaid interest thereon to the repurchase date. If the put option is exercised, we will pay holders the repurchase price solely in cash (or, for the Old Debentures, in cash or stock at our option). We may be required to repurchase the remaining debentures at the option of the holders in September 2008, 2011 or 2016. As of January 26, 2007, approximately \$93 million aggregate principal amount of New Debentures remain outstanding and approximately \$1 million aggregate principal amount of Old Debentures remain outstanding. We can redeem the debentures for cash at any time.

We maintain a commercial paper program that allows us to have a maximum of \$2.250 billion in commercial paper outstanding, with maturities up to 364 days from the date of issuance. At January 26, 2007 and April 28, 2006, outstanding commercial paper totaled \$249 million and \$190 million, respectively. During the three and nine months ended January 26, 2007, the weighted average original maturity of the commercial paper outstanding was approximately 73 and 57 days, respectively, and the weighted average interest rate was 5.31% and 5.25%, respectively.

In connection with the issuance of the contingent convertible debentures, Senior Notes, Senior Convertible Notes and commercial paper, Standard and Poor's Ratings Group and Moody's Investors Service issued us strong long-term debt ratings of AA- and A1, respectively, and strong short-term debt ratings of A-1+ and P-1, respectively. These ratings remain unchanged from the same periods of the prior year.

We have existing lines of credit of approximately \$2.422 billion with various banks at January 26, 2007. The existing lines of credit include a five-year \$1.750 billion syndicated credit facility dated December 20, 2006 that will expire on December 20, 2011 (New Facility). This New Facility replaced two credit facilities; one for \$1.000 billion which was scheduled to expire in January 2010, and a \$750 million facility which was scheduled to expire in January 2007. The New Facility provides us with the ability to increase the capacity of the facility by an additional \$500 million at any time during the life of the five-year term of the agreement. The Company can also request the extension of the New Facility maturity date for one additional year, at the first and second anniversary of the date of this facility. The credit facilities provide backup funding for the commercial paper program and may also be used for general corporate purposes.

Interest rates on these borrowings are determined by a pricing matrix, based on our long-term debt ratings, assigned by Standard and Poor's Ratings Group and Moody's Investors Service. Facility fees are payable on the credit facilities and are determined in the same manner as the interest rates. The agreements also contain other customary covenants, all of which we remain in compliance with as of January 26, 2007.

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[Table of Contents](#)

As of January 26, 2007, we have unused credit lines and commercial paper capacity of approximately \$2.387 billion.

**Operations Outside of the United States**

The table below illustrates U.S. net sales versus net sales outside the U.S. for the three and nine months ended January 26, 2007 and January 27, 2006 (dollars in millions):

	Three months ended		Nine months ended	
	January 26, 2007	January 27, 2006	January 26, 2007	January 27, 2006
U.S. net sales	\$ 1,957	\$ 1,896	\$ 5,873	\$ 5,617
Non U.S. net sales	1,091	874	3,146	2,608
Total net sales	\$ 3,048	\$ 2,770	\$ 9,019	\$ 8,225

For the three and nine months ended January 26, 2007, consolidated net sales outside the U.S. grew 25% and 21%, respectively over the same periods of the prior year. For the three months ended January 26, 2007, growth outside the U.S. was 22% higher than net sales growth in the U.S. primarily as a result of a decrease in U.S. CRDM sales and increases in outside the U.S. sales within the CRDM and Vascular businesses. For the nine months ended January 26, 2007, growth outside the U.S. was 16% higher than net sales growth in the U.S. primarily as a result of a decline in U.S. CRDM sales and an increase in outside the U.S. sales for the CRDM and Vascular businesses. Overall, outside U.S. sales continue to be led by continued acceptance of Vascular's Endeavor and CRDM's product offerings.

Net sales outside the U.S. are accompanied by certain financial risks, such as collection of receivables, which typically have longer payment terms. Outstanding receivables from customers outside the U.S. totaled \$1.367 billion at January 26, 2007, or 49%, of total outstanding accounts receivable, and \$1.179 billion at April 28, 2006, or 45%, of total outstanding accounts receivable. Operations outside the U.S. could be negatively impacted by changes in political, labor or economic conditions, changes in regulatory requirements or potentially adverse foreign tax consequences, among other factors.

Additionally, markets outside the U.S. are commonly funded by government-sponsored health care systems. These governments frequently impose reimbursement limits to control government spending and to ensure local health care consumers can obtain medical products and services at a low cost. Decisions made by these government agencies to further limit or eliminate reimbursement for our products could have a material adverse affect on net earnings.

**Cautionary Factors That May Affect Future Results**

Certain statements contained in this Quarterly Report on Form 10-Q and other written and oral statements made from time to time by us do not relate strictly to historical or current facts. As such, they are considered "forward-looking statements" which provide current expectations or forecasts of future events. Our forward-looking statements generally relate to our growth strategies, financial results, product development, regulatory approvals, competitive strengths, the scope of our intellectual property rights, litigation, mergers and acquisitions, divestitures, market acceptance or continued acceptance of our products, accounting estimates, financing activities, ongoing contractual obligations, and sales efforts. Such statements can be identified by the use of terminology such as "anticipate," "believe," "could," "estimate," "expect," "forecast," "intend," "may," "plan," "possible," "potential," "project," "should," "will" and similar words or expressions. One must carefully consider forward-looking statements that may be affected by inaccurate assumptions, and understand that such statements involve a variety of risks and uncertainties, known and unknown, including, among others, risks related to competition in the medical device industry, reduction or interruption in our supply, quality problems and price decrease for our products and services, and international operations, as well as those discussed in the section entitled "Risk Factors" in our Annual Report on Form 10-K for the year ended April 28, 2006. Consequently, no forward-looking statement can be guaranteed and actual results may vary materially. We intend to take advantage of the Safe Harbor provisions of the Private Securities Litigation Reform Act of 1995 regarding our forward-looking statements, and are including this sentence for the express purpose of enabling us to use the protections of the safe harbor with respect to all forward-looking statements.

We undertake no obligation to update any forward-looking statement, but investors are advised to consult any further disclosures by us in our filings with the Securities and Exchange Commission, especially on Forms 10-K, 10-Q, and 8-K (if any), in which we may discuss in more detail various important factors that could cause actual results to differ from expected or historical results. It is not possible to foresee or identify all such factors. As such, investors should not consider any list of such factors to be an exhaustive statement of all risks, uncertainties or potentially inaccurate assumptions.

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[Table of Contents](#)

**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Due to the global nature of our operations, we are subject to the exposures that arise from foreign exchange rate fluctuations. We manage these exposures using operational and economic hedges as well as derivative financial instruments. The primary currencies hedged are the Euro and the Japanese Yen.

Our objective in managing exposure to foreign currency fluctuations is to minimize cash flow volatility associated with foreign exchange rate changes. We enter into various contracts, principally forward contracts that change in value as foreign exchange rates change, to protect the value of existing foreign currency assets, liabilities, net investments, and probable commitments. The gains and losses on these contracts offset changes in the value of the related exposures. It is

our policy to enter into foreign currency hedging transactions only to the extent true exposures exist; we do not enter into foreign currency transactions for speculative purposes.

We had foreign exchange derivative contracts outstanding in notional amounts of \$4.420 billion and \$1.561 billion at January 26, 2007 and April 28, 2006, respectively. The fair value of these contracts at January 26, 2007 was \$15 million more than the original contract value. A sensitivity analysis of changes in the fair value of all foreign exchange derivative contracts at January 26, 2007 indicates that, if the U.S. dollar uniformly strengthened/weakened by 10% against all currencies, the fair value of these contracts would increase/decrease by \$413 million, respectively. Any gains and losses on the fair value of derivative contracts would be largely offset by gains and losses on the underlying transactions. These offsetting gains and losses are not reflected in the above analysis.

We entered into agreements to sell specific pools of receivables in Italy in the amount of \$13 million during the three and nine months ended January 26, 2007. During the three and nine months ended January 27, 2006, we entered into similar agreements in the amount of \$6 and \$27 million, respectively. The discount cost related to Italy sales was insignificant and recorded in *interest income, net* in the condensed consolidated statement of earnings.

We are also exposed to interest rate changes affecting principally our investments in interest rate sensitive instruments. A sensitivity analysis of the impact on our interest rate sensitive financial instruments of a hypothetical 10% change in short-term interest rates compared to interest rates at January 26, 2007 indicates that the fair value of these instruments would change by \$34 million.

In fiscal third quarter 2004, we began lending certain fixed income securities to enhance our investment income. These lending activities are collateralized at an average rate of 102%, with the collateral determined based on the underlying securities and creditworthiness of the borrowers. The value of the securities on loan at January 26, 2007 and April 28, 2006 was \$1.320 billion and \$362 million, respectively.

#### **Item 4. Controls and Procedures**

##### Evaluation of disclosure controls and procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures and changes in the Company's internal control over financial reporting (as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934 (the Exchange Act)) as of the end of the period covered by this report. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this quarterly report, our disclosure controls and procedures are effective and are adequately designed to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in applicable rules and forms.

##### Changes in internal control

We continue to implement a new enterprise resource planning (ERP) system using a multi-phased approach which has resulted in certain changes in internal controls. During fiscal third quarter 2007, portions of our Spinal and Navigation operating segment implemented the new ERP system which resulted in some changes in internal controls. As a result, management could not test or rely on some of the recurring internal controls from previous quarters. However, management performed other procedures and analysis to ensure the financial statements were materially correct for the three months ended January 26, 2007. There have been no other changes in the Company's internal control over financial reporting during the period covered by this Quarterly Report on Form 10-Q that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

#### [Table of Contents](#)

## **PART II — OTHER INFORMATION**

### **Item 1. Legal Proceedings**

A discussion of the Company's policies with respect to legal proceedings is discussed in the management's discussion and analysis and our legal proceedings and other loss contingencies are described in Note 15 of the condensed consolidated financial statements. The description of our legal proceedings in Note 15 of the condensed consolidated financial statements to this filing is incorporated herein by reference.

### **Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

#### **Issuer Purchases of Equity Securities**

The following table provides information about the shares repurchased by Medtronic during fiscal third quarter 2007:

<u>Fiscal Period</u>	<u>Total Number of Shares Purchased(1)</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as a Part of Publicly Announced Program</u>	<u>Maximum Number of Shares that May Yet Be Purchased Under the Program</u>
10/28/06-11/24/06	-	\$ -	-	27,532,830
11/25/06-12/29/06	-	-	-	27,532,830
12/30/06-1/26/07	749,900	53.35	749,900	26,782,930
Total	749,900	\$ 53.35	749,900	26,782,930

(1)

In October 2005, our Board of Directors authorized the repurchase of up to 40 million shares of our common stock. In April 2006, the Board of Directors made a special authorization for the Company to repurchase up to 50 million shares of the Company's common stock in conjunction with the \$4.400 billion Senior Convertible Note offering. As authorized by the Board of Directors each program expires when its total number of authorized shares has been repurchased.

## **Item 6. Exhibits**

### (a) Exhibits

- 4.1 Credit Agreement (\$1,750,000,000 Five Year Revolving Credit Facility) dated as of December 20, 2006, among Medtronic, Inc. as Borrower, the Lenders party thereto, Bank of America, N.A., as Issuing Bank, and Citicorp USA, Inc., as Administrative Agent, Issuing Bank and Swingline Lender.
  - 12.1 Computation of Ratio of Earnings to Fixed Charges.
  - 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
  - 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
  - 32.1 Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
  - 32.2 Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
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## [Table of Contents](#)

### SIGNATURES

Pursuant to the requirements 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.

Date: March 6, 2007

Medtronic, Inc.  
(Registrant)

/s/ Arthur D. Collins, Jr.  
Arthur D. Collins, Jr.  
Chairman of the Board and  
Chief Executive Officer

Date: March 6, 2007

/s/ Gary L. Ellis  
Gary L. Ellis  
Senior Vice President and  
Chief Financial Officer



CREDIT AGREEMENT  
(\$1,750,000,000 Five Year Revolving Credit Facility)

dated as of

December 20, 2006

among

MEDTRONIC, INC.,

as Borrower,

THE LENDERS PARTY HERETO,

CITICORP USA, INC.

as Administrative Agent

BANK OF AMERICA, N.A.

as Syndication Agent

and

CITIGROUP GLOBAL MARKETS INC.

and

BANC OF AMERICA SECURITIES LLC,

as Joint Lead Arrangers and Joint Book Managers

TABLE OF CONTENTS

ARTICLE I <a href="#">Definitions</a>		1
Section 1.01	<a href="#">Defined Terms</a>	1
Section 1.02	<a href="#">Classification of Loans and Borrowings</a>	15
Section 1.03	<a href="#">Terms Generally</a>	15
Section 1.04	<a href="#">Accounting Terms; GAAP</a>	15
ARTICLE II <a href="#">The Credits</a>		15
Section 2.01	<a href="#">Commitments</a>	15
Section 2.02	<a href="#">Revolving Loans and Revolving Borrowings</a>	16
Section 2.03	<a href="#">Requests for Revolving Borrowings</a>	16
Section 2.04	<a href="#">Requests for Swingline Borrowings</a>	17
Section 2.05	<a href="#">Letters of Credit</a>	19
Section 2.06	<a href="#">Funding of Revolving Borrowings</a>	24
Section 2.07	<a href="#">Interest Elections</a>	25
Section 2.08	<a href="#">Termination and Reduction of Commitments</a>	26
Section 2.09	<a href="#">Repayment of Loans; Evidence of Debt</a>	27
Section 2.10	<a href="#">Prepayment of Loans</a>	27
Section 2.11	<a href="#">Fees</a>	28
Section 2.12	<a href="#">Interest</a>	29
Section 2.13	<a href="#">Alternate Rate of Interest</a>	30
Section 2.14	<a href="#">Increased Costs</a>	31
Section 2.15	<a href="#">Break Funding Payments</a>	32
Section 2.16	<a href="#">Taxes</a>	33
Section 2.17	<a href="#">Payments Generally; Pro Rata Treatment; Sharing of Set-offs</a>	34
Section 2.18	<a href="#">Mitigation Obligations; Replacement of Lenders</a>	36
Section 2.19.	<a href="#">Increase in the Aggregate Commitments</a>	36

Section 2.20.	<a href="#">Extension of Maturity Date</a>	38
ARTICLE III <a href="#">Representations and Warranties</a>		41
Section 3.01	<a href="#">Organization; Powers</a>	41
Section 3.02	<a href="#">Authorization; Enforceability</a>	41
Section 3.03	<a href="#">Governmental Approvals; No Conflicts</a>	41
Section 3.04	<a href="#">Financial Condition; No Material Adverse Change</a>	41
Section 3.05	<a href="#">Properties</a>	42
Section 3.06	<a href="#">Litigation and Environmental Matters</a>	42
Section 3.07	<a href="#">Compliance with Laws and Agreements</a>	43
Section 3.08	<a href="#">Investment Company Status</a>	43
Section 3.09	<a href="#">Taxes</a>	43
Section 3.10	<a href="#">ERISA</a>	43
Section 3.11	<a href="#">Disclosure</a>	44
Section 3.12	<a href="#">Federal Regulations</a>	44
Section 3.13	<a href="#">Purpose of Loans</a>	44
Section 3.14	<a href="#">Significant Subsidiaries</a>	44

---

ARTICLE IV <a href="#">Conditions</a>		44
Section 4.01	<a href="#">Closing Conditions</a>	44
Section 4.02	<a href="#">Each Credit Event</a>	45
ARTICLE V <a href="#">Affirmative Covenants</a>		46
Section 5.01	<a href="#">Financial Statements and Other Information</a>	46
Section 5.02	<a href="#">Notices of Material Events</a>	47
Section 5.03	<a href="#">Existence; Conduct of Business</a>	48
Section 5.04	<a href="#">Payment of Obligations</a>	48
Section 5.05	<a href="#">Maintenance of Properties; Insurance</a>	48
Section 5.06	<a href="#">Books and Records; Inspection Rights</a>	48
Section 5.07	<a href="#">Compliance with Laws</a>	49
Section 5.08	<a href="#">Use of Proceeds</a>	49
Section 5.09	<a href="#">Maintenance of Accreditation, Etc.</a>	49
ARTICLE VI <a href="#">Negative Covenants</a>		49
Section 6.01	<a href="#">Indebtedness</a>	49
Section 6.02	<a href="#">Liens</a>	50
Section 6.03	<a href="#">Fundamental Changes</a>	50
Section 6.04	<a href="#">Transactions with Affiliates</a>	51
Section 6.05	<a href="#">Restrictive Agreements</a>	51
Section 6.06	<a href="#">Business Activity</a>	51
Section 6.07	<a href="#">Restricted Payments</a>	51
ARTICLE VII <a href="#">Events of Default</a>		52
ARTICLE VIII <a href="#">The Administrative Agent</a>		54
Section 8.01	<a href="#">Appointment and Authorization of Administrative Agent</a>	54
Section 8.02	<a href="#">Notice of Default</a>	54
Section 8.03	<a href="#">Reliance by Administrative Agent</a>	55
Section 8.04	<a href="#">Delegation of Duties</a>	55
Section 8.05	<a href="#">Successor Administrative Agent</a>	55
Section 8.06	<a href="#">Credit Decision; Disclosure of Information by Administrative Agent</a>	56
Section 8.07	<a href="#">Indemnification of Administrative Agent</a>	56
Section 8.08	<a href="#">Administrative Agent in its Individual Capacity</a>	56
ARTICLE IX <a href="#">Miscellaneous</a>		57
Section 9.01	<a href="#">Notices</a>	57
Section 9.02	<a href="#">Waivers; Amendments</a>	58
Section 9.03	<a href="#">Expenses; Indemnity; Damage Waiver</a>	59
Section 9.04	<a href="#">Successors and Assigns</a>	61
Section 9.05	<a href="#">Survival</a>	64
Section 9.06	<a href="#">Counterparts; Integration; Effectiveness</a>	64
Section 9.07	<a href="#">Severability</a>	64
Section 9.08	<a href="#">Right of Setoff</a>	65
Section 9.09	<a href="#">Governing Law; Jurisdiction; Consent to Service of Process</a>	65



Section 9.10	<a href="#">WAIVER OF JURY TRIAL</a>	66
Section 9.11	<a href="#">Headings</a>	66
Section 9.12	<a href="#">Confidentiality</a>	66
Section 9.13	<a href="#">Patriot Act Notice</a>	67
<a href="#">Schedule 2.01 – Commitments</a>		
<a href="#">Schedule 3.06 – Disclosed Matters</a>		
<a href="#">Schedule 3.14 – Significant Subsidiaries</a>		
<a href="#">Schedule 6.01 – Existing Indebtedness</a>		

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SCHEDULES:

Schedule 2.01 - Commitments  
Schedule 3.06 - Disclosed Matters  
Schedule 3.14 - Subsidiaries and Significant Subsidiaries  
Schedule 6.01 - Existing Indebtedness

EXHIBITS:

Exhibit A - Form of Assignment and Acceptance  
Exhibit B - Form of Revolving Borrowing Request  
Exhibit C - Form of Interest Election Request

**CREDIT AGREEMENT**

Dated as of December 20, 2006

MEDTRONIC, INC., a Minnesota corporation (the “Borrower”), the Lenders party hereto, BANK OF AMERICA, N.A., as Issuing Bank, and CITICORP USA, INC. (“CUSA”), as Administrative Agent, Issuing Bank and Swingline Lender, hereby agree as follows:

**ARTICLE I**

**Definitions**

**Section 1.01      Defined Terms.**

As used in this Credit Agreement, the following terms have the meanings specified below:

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

“Administrative Agent” means CUSA, in its capacity as administrative agent for the Lenders hereunder, and its successors in such capacity.

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

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

“Agent-Related Persons” means the Administrative Agent (including any successor agent), together with its Affiliates (including, in the case of CUSA in its capacity as the Administrative Agent, Citigroup Global Markets Inc., as Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

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

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

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“Applicable Rate” means, for any day, with respect to any Eurodollar Loan, or with respect to the facility fees payable hereunder, as the case may be, the applicable rate per annum set forth below (in basis points) under the caption “Eurodollar Spread” or “Facility Fee Rate”, as the case may be, based upon the ratings by Moody’s and S&P, respectively, applicable on such date to the Index Debt:

Category	Moody’s/S&P Rating	Eurodollar Spread	Facility Fee Rate
I	Greater than or equal to Aa2/AA	11.0	4.0
II	Greater than or equal to Aa3/AA- but less than Aa2/AA	13.5	4.0
III	Greater than or equal to A1/A+ but less than Aa3/AA-	15.0	5.0
IV	Greater than or equal to A2/A but less than A1/A+	19.0	6.0
V	Less than A2/A	26.0	9.0

For purposes of the foregoing, (i) if either Moody’s or S&P shall not have in effect a rating for the Index Debt (other than by reason of the circumstances referred to in the last sentence of this definition), then such rating agency shall be deemed to have established a rating in Category V; (ii) if the ratings established or deemed to have been established by Moody’s and S&P for the Index Debt shall fall within different Categories, the Applicable Rate shall be based on the higher of the two ratings unless one of the two ratings is two or more Categories lower than the other, in which case the Applicable Rate shall be determined by reference to the Category next above that of the lower of the two ratings; and (iii) if the ratings established or deemed to have been established by Moody’s and S&P for the Index Debt shall be changed (other than as a result of a change in the rating system of Moody’s or S&P), such change shall be effective as of the date on which it is first announced by the applicable rating agency. Each change in the Applicable Rate shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. If the rating system of Moody’s or S&P shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Borrower and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Applicable Rate shall be determined by reference to the rating most recently in effect prior to such change or cessation.

“Approved Fund” means with respect to any Lender that is a fund that invests in commercial loans, any other fund that invests in commercial loans and is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

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“Arranger” means each of Citigroup Global Markets Inc. and Banc of America Securities LLC, in its capacity as joint lead arranger and joint book manager.

“Assignment and Acceptance” means an assignment and acceptance entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Assuming Lender” has the meaning specified in Section 2.19(d).

“Assumption Agreement” has the meaning specified in Section 2.19(d)(ii).

“Availability Period” means the period from and including the Closing Date to but excluding the Maturity Date.

“Bank of America” means Bank of America, N.A.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower” means Medtronic, Inc., a Minnesota corporation.

“Borrowing” means a Revolving Borrowing or a Swingline Borrowing, as the case may be.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

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

“Capital Stock” means (i) in the case of a corporation, capital stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (iii) in the case of a partnership, partnership interests (whether general or limited), (iv) in the case of a limited liability company, membership interests and (v) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

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“Cash Equivalents” shall mean (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition (“Government Obligations”), (b) U.S. dollar denominated (or foreign currency fully hedged) time deposits, certificates of deposit, Eurodollar time deposits and Eurodollar certificates of deposit of (y) any domestic commercial bank of recognized standing having capital and surplus in excess of \$250,000,000 or (z) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody’s is at least P-1 or the equivalent thereof (any such bank being an “Approved Bank”), in each case with maturities of not more than 364 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or commercial paper or any variable rate notes issued by, or guaranteed by any domestic corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s and maturing within six months of the date of acquisition, (d) repurchase agreements with a bank or trust company (including a Lender) or a recognized securities dealer having capital and surplus in excess of \$500,000,000 for direct obligations issued by or fully guaranteed by the United States of America, (e) obligations of any state of the United States or any political subdivision thereof for the payment of the principal and redemption price of and interest on which there shall have been irrevocably deposited Government Obligations maturing as to principal and interest at times and in amounts sufficient to provide such payment and (f) auction preferred stock rated in the highest short-term credit rating category by S&P or Moody’s.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof), of shares representing more than 25% of the aggregate ordinary voting power represented by the issued and outstanding Capital Stock of the Borrower; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated by the board of directors of the Borrower nor (ii) appointed by directors so nominated; or (c) the acquisition of direct or indirect Control of the Borrower by any Person or group.

“Change in Law” means (a) the adoption of any law, rule or regulation after the date of this Credit Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Credit Agreement or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.14(b), by any lending office of such Lender or by such Lender’s or such Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Credit Agreement.

“Closing Date” means the date hereof.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Commitment” means, with respect to each Lender, the commitment of such Lender to make Loans and to acquire participations in Swingline Loans and Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Revolving Credit Exposure hereunder, as such commitment may be reduced from time to time pursuant to Section 2.08 or increased pursuant to Section 2.19. The initial amount of each Lender’s Commitment is set forth on Schedule 2.01, or in the Assignment and Acceptance pursuant to which such Lender shall have assumed its Commitment, as applicable.

“Commitment Date” has the meaning specified in Section 2.19(b).

“Commitment Increase” has the meaning specified in Section 2.19(a).

“Consenting Lender” has the meaning specified in Section 2.20(b).

“Consolidated Assets” means the consolidated assets of the Borrower and its Subsidiaries, determined in accordance with GAAP.

“Consolidated Tangible Assets” means the Consolidated Assets less: (i) goodwill and (ii) other intangibles (other than patents, trademarks, licenses, copyrights and other intellectual property and prepaid assets).

“Consolidated Tangible Net Worth” means at any date, Consolidated Tangible Assets minus Consolidated Total Liabilities, determined in accordance with GAAP.

“Consolidated Total Liabilities” means at any date, with respect to the Borrower and its Subsidiaries on a consolidated basis, total liabilities, determined in accordance with GAAP.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Documents” means a collective reference to this Credit Agreement, the promissory notes, if any, and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto (in each case as the same may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time), and “Credit Document” means any one of them.

“CUSA” means Citicorp USA, Inc.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

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“Disclosed Matters” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06.

“dollars” or “\$” refers to lawful money of the United States of America.

“Eligible Assignee” has the meaning specified in Section 2.19(c).

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources or the management, release or threatened release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any

liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal

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Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the LIBO Rate.

“Event of Default” has the meaning assigned to such term in Article VII.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which any Lender is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.18(b)), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Credit Agreement or is attributable to such Foreign Lender’s failure or inability to comply with Section 2.16(e), except to the extent that such Foreign Lender’s assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16(a).

“Existing Credit Agreements” means (a) the \$1,000,000,000 Five Year Revolving Credit Facility dated as of January 20, 2005 among the Borrower, certain of its Subsidiaries, the lenders party thereto and Citicorp, as administrative agent, and (b) the \$750,000,000 Five Year Revolving Credit Facility dated as of January 24, 2002 among the Borrower, certain of its Subsidiaries, the lenders party thereto and Bank of America, N.A., as administrative agent.

“Extension Date” has the meaning specified in Section 2.20(b).

“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Fee Letter” means the letter agreement dated November 17, 2006 addressed to the Borrower from the Administrative Agent, as amended, modified, restated or otherwise supplemented from time to time.

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“Financial Officer” means the chief financial officer, principal accounting officer, senior vice president of finance, treasurer, assistant treasurer, controller or assistant controller of the Borrower or any officer having substantially the same position for the Borrower.

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

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious

or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Hedging Agreement” means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement.

“Increase Date” has the meaning specified in Section 2.19(a).

“Increasing Lender” has the meaning specified in Section 2.19(b).

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to similar cash advances (including, without limitation, all obligations pursuant to any sale or financing of receivables, but excluding any premiums, fees and deposits received in the ordinary course of business), (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable or other like obligations incurred in the ordinary course of business), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty and (i) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. Notwithstanding the foregoing, Indebtedness shall exclude Indebtedness of the Borrower to any Subsidiary and of any Subsidiary to the Borrower or any other Subsidiary.

“Indemnified Liabilities” shall have the meaning assigned to such term in Section 9.03(b).

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Index Debt” means senior, unsecured, long-term indebtedness for borrowed money of the Borrower that is not guaranteed by any other Person or subject to any other credit enhancement.

“Interest Election Request” means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.07, in substantially the form of Exhibit C.

“Interest Payment Date” means (a) with respect to any ABR Loan (including Swingline Loans), the last day of each March, June, September and December, and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Revolving Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period.

“Interest Period” means with respect to any Eurodollar Borrowing, the period commencing on the date of such Eurodollar Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the immediately preceding Business Day and (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period.

“Issuing Bank” means CUSA and Bank of America in their respective capacities as an issuer of Letters of Credit hereunder, and their successors in such capacity as provided in Section 2.05(j). Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“LC Commitment” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder, expressed as an amount representing the maximum aggregate undrawn amount of all outstanding Letters of Credit issued by such Issuing Bank plus the aggregate amount of all LC Disbursements by or on behalf of such Issuing Bank under Letters of Credit issued by such Issuing Bank that have not yet been reimbursed. The initial amount of each Issuing Bank’s LC Commitment is set forth on Schedule 2.01.

“LC Disbursement” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure

of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lenders” means the Persons listed on Schedule 2.01, each Assuming Lender that shall become a party hereto pursuant to Section 2.19 or 2.20 and any other Person that shall have become a party hereto pursuant to an Assignment and Acceptance, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Acceptance.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the rate appearing on Page 3750 of the Moneyline Telerate Markets screen (or on

any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the “LIBO Rate” with respect to such Eurodollar Borrowing for such Interest Period shall be the rate at which dollar deposits of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

“Lien” means, with respect to any asset (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loans” means the loans made by the Lenders to the Borrower pursuant to Article II of this Credit Agreement (including, without limitation, the Swingline Loans).

“Material Adverse Effect” means a material adverse effect on (a) the business, property, operations or financial condition of the Borrower and the Subsidiaries taken as a whole, (b) the ability of the Borrower to perform any of its obligations under this Credit Agreement or (c) the legal rights of or benefits available to the Lenders under this Credit Agreement.

“Material Indebtedness” means Indebtedness (other than the Loans), or obligations in respect of one or more Hedging Agreements, of any one or more of the Borrower and its Subsidiaries in an aggregate principal amount exceeding \$100,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Maturity Date” means the earlier of (a) the fifth anniversary of the Closing Date, subject to the extension thereof pursuant to Section 2.20 and (b) the date of termination in whole of the Commitments pursuant to Section 2.08 or Article VII; provided, however, that the Maturity Date of any Lender that is a Non-Consenting Lender to any requested extension pursuant to Section 2.20 shall be the Maturity Date in effect immediately prior to the applicable Extension Date for all purposes of this Agreement.

“Moody’s” means Moody’s Investors Service, Inc.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Non-Consenting Lender” has the meaning specified in Section 2.20(b).

“Other Taxes” means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Credit Agreement.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.



“Prime Rate” means the rate of interest per annum publicly announced from time to time by Citibank, N.A. as its base rate in effect at its principal office in New York, New York, each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Register” has the meaning set forth in Section 9.04(c).

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

“Required Lenders” means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

“Restricted Payment” means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of capital stock of the Borrower or any of its Subsidiaries, now or hereafter outstanding (other than (A) dividends payable solely in the same class of capital stock of such Person and (B) dividends or other distributions payable to the Borrower (directly or indirectly through Subsidiaries) and ratably to minority shareholders), (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of capital stock of the Borrower or any of its Subsidiaries, now or hereafter outstanding and

12

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(iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of capital stock of the Borrower or any of its Subsidiaries, now or hereafter outstanding.

“Revolving Borrowing” means Revolving Loans of the same Type, made, converted or continued on the same date and in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

“Revolving Borrowing Request” means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03, in substantially the form of Exhibit B.

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Loans, Swingline Exposure and LC Exposure at such time.

“Revolving Loan” means a Loan made pursuant to Section 2.03.

“SEC” means the United States Securities and Exchange Commission.

“S&P” means Standard & Poor’s Ratings Services.

“Significant Subsidiary” means, at any particular time, any Subsidiary of the Borrower (or such Subsidiary and its Subsidiaries taken together) that would be a “significant subsidiary” of the Borrower within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent or any Lender is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other

13

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ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Borrower.

“Swingline Borrowing” means a Swingline Loan made pursuant to Section 2.04(b).

“Swingline Commitment” means the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding of up to the Swingline Committed Amount.

“Swingline Committed Amount” shall have the meaning assigned to such term in Section 2.04(a).

“Swingline Exposure” means, at any time, the aggregate amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time.

“Swingline Lender” means CUSA, in its capacity as lender of Swingline Loans hereunder, and its successors in such capacity.

“Swingline Loan” means a Loan made pursuant to Section 2.04.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

“Transactions” means the execution, delivery and performance by the Borrower of this Credit Agreement, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the LIBO Rate or the Alternate Base Rate.

“Used Commitment” means the aggregate outstanding principal amount of Loans (but not including any Swingline Loans) hereunder plus the aggregate amount of LC Exposure hereunder.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

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## **Section 1.02      Classification of Loans and Borrowings.**

For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a “Eurodollar Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Eurodollar Borrowing”).

## **Section 1.03      Terms Generally.**

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Credit Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Credit Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

## **Section 1.04      Accounting Terms: GAAP.**

Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

## **ARTICLE II**

### **The Credits**

## **Section 2.01      Commitments.**

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that will not result in the aggregate principal amount of such Lender's Revolving Credit Exposure exceeding such Lender's Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Loans.

**Section 2.02      Revolving Loans and Revolving Borrowings.**

(a) Each Revolving Loan shall be made as part of a Revolving Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Revolving Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Revolving Loans as required.

(b) Subject to Section 2.13, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Credit Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing or on the date of any ABR Borrowing, such Revolving Borrowing shall be in a minimum aggregate amount of \$5,000,000 and integral multiples of \$500,000 in excess thereof; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments. Revolving Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than an aggregate total of ten Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Credit Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Revolving Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

**Section 2.03      Requests for Revolving Borrowings.**

To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 12:00 noon (New York City time), three Business Days before the date of the proposed Revolving Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon (New York City time), on the date of the proposed Revolving Borrowing, including any such notice of an ABR Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e). Each such telephonic Revolving Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Revolving Borrowing Request signed by a Financial Officer of the Borrower. Each such

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telephonic and written Revolving Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate amount of the requested Revolving Borrowing;
- (ii) the date of such Revolving Borrowing, which shall be a Business Day;
- (iii) whether such Revolving Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.06.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Revolving Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Revolving Borrowing.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrower from time to time during the Availability Period; provided that (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed \$50,000,000 (the “Swingline Committed Amount”), and (ii) the sum of the total Revolving Credit Exposures shall not exceed the total Commitments. Subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(b) Whenever the Borrower desires a Swingline Loan hereunder it shall give written notice (or telephonic notice promptly confirmed in writing), signed by a Financial Officer of the Borrower, to the Swingline Lender not later than 1:00 P.M., (New York City time), on the Business Day of the requested Swingline Loan. Each such notice shall be irrevocable and shall specify (i) that a Swingline Loan is requested, (ii) the date of the requested Swingline Loan (which shall be a Business Day) and (iii) the principal amount of the Swingline Loan requested. Each Swingline Loan shall be made as an ABR Loan and shall have such maturity date as set forth in paragraph (d) below. The Swingline Lender shall make each Swingline Loan available to the Borrower by 3:00 P.M., (New York City time), on the Business Day of the requested Swingline Borrowing.

17

(c) Each Swingline Loan shall be in a minimum principal amount of \$1,000,000 and integral multiples of \$100,000 in excess thereof (or the remaining amount of the Swingline Committed Amount, if less).

(d) The principal amount of all Swingline Loans shall be due and payable on the earlier of (i) a date not more than seven (7) Business Days from the date of advance thereof or (ii) the Maturity Date. The Borrower may prepay all or a portion of any Swingline Loan at any time without premium or penalty. The Swingline Lender may, at any time, in its sole discretion, upon one Business Day's prior written notice to the Borrower and the Lenders, demand repayment of any Swingline Loan by way of a Revolving Borrowing, in which case the Borrower shall be deemed to have requested a Revolving Borrowing comprised solely of ABR Loans in the amount of such Swingline Loan. Each Lender hereby irrevocably agrees to make a Loan ratably in accordance with its respective Commitment as set forth in Section 2.02(a) in the amount, in the manner and on the date specified in the preceding sentence notwithstanding (i) the amount of such Revolving Borrowing may not comply with the minimum amount for ABR Borrowings otherwise required hereunder, (ii) whether any conditions specified in Section 4.02 are then satisfied, (iii) whether a Default or an Event of Default then exists, (iv) failure of any such request or deemed request for an ABR Borrowing to be made by the time otherwise required hereunder, (v) whether the date of such Revolving Borrowing is a date on which ABR Borrowings are otherwise permitted to be made hereunder or (vi) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such Revolving Borrowing. In the event that any Revolving Borrowing cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect), then each Lender hereby agrees that it shall forthwith purchase (as of the date such Revolving Borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Swingline Lender its Applicable Percentage of the outstanding Swingline Loans as shall be necessary to cause each such Lender to share in such Swingline Loans ratably based upon its Applicable Percentage (determined before giving effect to any termination of the Commitments pursuant to Section 2.08), provided that (i) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective interests in the outstanding Swingline Loans are purchased and (ii) at the time any purchase of the respective interests in the outstanding Swingline Loans pursuant to this sentence is actually made, the purchasing Lender shall be required to pay to the Swingline Lender, to the extent not paid to the Swingline Lender by the Borrower in accordance with Section 2.12, interest on the principal amount of the outstanding Swingline Loans purchased for each day from and including the day upon which such Revolving Borrowing would otherwise have occurred to but excluding the date of payment for such purchase, at the rate equal to the Federal Funds Effective Rate.

18

(a) General. Subject to the terms and conditions set forth herein, each Issuing Bank will issue (or amend, renew or extend) at the request of the Borrower Letters of Credit for account of the Borrower or the account of any Subsidiary, in a form acceptable to such Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Notwithstanding any language in a letter of credit application or other agreement, no Lien shall be granted by the Borrower or any Subsidiary pursuant to such application or agreement.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to an Issuing Bank and the Administrative Agent (not less than 2 Business Days in advance of the requested date of issuance, amendment, renewal or extension) a letter of credit application on such Issuing Bank's standard form and signed by a Financial Officer of the Borrower requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension, the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only (x) if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the total Revolving Credit Exposures shall not exceed the total Commitments, (ii) the LC Exposure for each Issuing Bank shall not exceed such Issuing

Bank's LC Commitment and (iii) the LC Exposure shall not exceed \$200,000,000, (y) if the applicable Issuing Bank has not received written notice from any Lender, the Agent or the Company, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions set forth in Section 4.02 shall not be satisfied and (z) the applicable Issuing Bank shall have confirmed with the Administrative Agent that the Borrower's representations in clause (x) above are correct.

(c) Expiration Date. No Letter of Credit shall (i) have an original expiry date more than one year from the date of issuance (provided that any such Letter of Credit may contain customary "evergreen" provisions pursuant to which the expiry date is automatically extended by a specific time period unless the applicable Issuing Bank gives notice to the beneficiary of such Letter of Credit at least a specified time period prior to the expiry date

19

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then in effect) and (ii) as originally issued or extended, have an expiry date extending beyond the date that is five Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Lenders, each Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 12:00 noon (New York City time) on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m. (New York City time) on such date, and otherwise such payment shall be made not later than 12:00 noon (New York City time) on the Business Day immediately following the day such notice is received by the Borrower. Unless the Borrower shall immediately notify the applicable Issuing Bank and the Administrative Agent of its intent to otherwise reimburse such Issuing Bank for an LC Disbursement, the Borrower shall be deemed to have requested a Revolving Borrowing in the amount of the LC Disbursement as provided in paragraph (f) below, the proceeds of which will be used to satisfy its reimbursement obligation. If the LC Disbursement is not reimbursed as provided above, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank

20

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as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for any LC Disbursement (other than the funding of a Revolving Borrowing as contemplated in paragraph (f) below) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Repayment with Revolving Loans. On any day on which the Borrower shall have requested, or been deemed to have requested, a Revolving Borrowing to reimburse an LC Disbursement, the Administrative Agent shall give notice to the Lenders that a Revolving Borrowing has been requested or deemed requested in connection with an LC Disbursement, in which case a Revolving Borrowing comprised entirely of ABR Loans (each such Borrowing, a "Mandatory Borrowing") shall be immediately made (without giving effect to any termination of the Commitments hereunder) ratably by the Lenders based on each Lender's respective Applicable Percentage of the total Commitments (determined before giving effect to any termination of the Commitments hereunder) and the proceeds thereof shall be paid directly to the Administrative Agent, for the benefit of the applicable Issuing Bank, for application to the applicable LC Disbursement. Each Lender hereby irrevocably agrees to make its Revolving Loan immediately upon any such request or deemed request on account of each Mandatory Borrowing in the amount and in the manner specified in the preceding sentence and on the same date notwithstanding (i) the amount of the Mandatory Borrowing may not comply with the minimum amount for ABR Borrowings otherwise required hereunder, (ii) whether any conditions specified in Section 4.02 are then satisfied, (iii) whether a Default or Event of Default then exists, (iv) failure of any such request or deemed request for an ABR Borrowing to be made by the time otherwise required hereunder, (v) the date of the Mandatory Borrowing or (vi) any reduction in the total Commitments after any such Letter of Credit may have been drawn upon.

(g) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of:

- (i) any lack of validity or enforceability of any Letter of Credit or this Credit Agreement, or any term or provision therein;
- (ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Letter of Credit or this Credit Agreement;
- (iii) the existence of any claim, setoff, defense or other right that the Borrower, any other party guaranteeing, or otherwise obligated with, the Borrower, any Subsidiary or other Affiliate thereof or any other Person may at any time have against the beneficiary under any Letter of Credit, the applicable Issuing Bank, the Administrative Agent or any Lender or any other Person, whether in connection with this Agreement or any other related or unrelated agreement or transaction;

21

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- (iv) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;
  - (v) payment by the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not strictly comply with the terms of such Letter of Credit; and
  - (vi) any other act or omission to act or delay of any kind of the applicable Issuing Bank, the Lenders, the Administrative Agent or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of the Borrower's obligations hereunder.

provided that (i) the Borrower shall not be obligated to reimburse any Issuing Bank for any payment or indemnify such Issuing Bank for any wrongful dishonor or any other matter to the extent resulting from acts or omissions constituting gross negligence or willful misconduct by such Issuing Bank, (ii) the Borrower shall not be obligated to reimburse any Lender for any payment or indemnify any Lender for any matter to the extent resulting from acts or omissions constituting gross negligence or willful misconduct by such Lender and (iii) the Lenders shall not be obligated to reimburse any Issuing Bank for any payment or indemnify such Issuing Bank for any wrongful dishonor or any other matter to the extent resulting from acts or omissions constituting gross negligence or willful misconduct by such Issuing Bank.

Nothing in this Agreement shall be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise the agreed standard of care (as set forth below) in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that each Issuing Bank shall have exercised the agreed standard of care in the absence of gross negligence or willful misconduct on the part of such Issuing Bank and if performed in accordance with the standards of care specified in the Uniform Commercial Code of the State of New York and The Uniform Customs and Practice for Documentary Credits.

(h) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit issued by it. Such Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

22

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(i) Interim Interest. If the applicable Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that such LC Disbursement is reimbursed, at the rate per annum then applicable to ABR Loans. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(j) Replacement of an Issuing Bank. Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of any Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(k) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure

representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest and fees thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any income earned on the investment of such deposits in Cash Equivalents, which investments the Administrative Agent agrees to make at the Borrower's risk and expense, such deposits shall not otherwise bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for

LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time (including, without limitation, reimbursement of the Lenders with LC Exposure), or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within two Business Days after all Events of Default have been cured or waived.

(l) **Letter of Credit Reports.** The Administrative Agent shall furnish (i) to each Lender on the first Business Day of each month a written report summarizing issuance and expiration dates of Letters of Credit issued during the preceding month and drawings during such month under all Letters of Credit issued by such Issuing Bank and (ii) to each Lender on the first Business Day of each calendar quarter a written report setting forth the average daily aggregate LC Exposure during the preceding calendar quarter related to all Letters of Credit, in each case with a copy to the Borrower.

#### **Section 2.06      Funding of Revolving Borrowings.**

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m. (New York City time), to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City and designated by the Borrower in the applicable Revolving Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Revolving Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Revolving Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Revolving Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the Federal Funds Effective Rate or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Revolving Borrowing.

#### **Section 2.07      Interest Elections.**

(a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Revolving Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Revolving Borrowing Request. Thereafter, the Borrower may elect to convert such Revolving Borrowing to a different Type or to continue such Revolving Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefore, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Revolving Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Revolving Borrowing, and the Loans comprising each such portion shall be considered a separate Revolving Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Revolving Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Interest Election Request signed by a Financial Officer of the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:



- (i) the Revolving Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Revolving Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Revolving Borrowing);
- (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;
- (iii) whether the resulting Revolving Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and
- (iv) if the resulting Revolving Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Revolving Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Revolving Borrowing is repaid as provided herein, at the end of such Interest Period such Revolving Borrowing shall be continued as a Eurodollar Borrowing with an Interest Period of one month's duration. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

## **Section 2.08      Termination and Reduction of Commitments.**

- (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.
- (b) The Borrower may at any time terminate, or from time to time reduce, the Commitments in whole or in part; provided that (i) each reduction of the Commitments shall be in an aggregate amount not less than \$50,000,000 and integral multiples of \$10,000,000 in excess thereof and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, the Revolving Credit Exposures would exceed the total Commitments.
- (c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

## **Section 2.09      Repayment of Loans; Evidence of Debt.**

- (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan and all interest, fees and other amounts payable hereunder on the Maturity Date and (ii) to the Swingline Lender, the then unpaid principal amount of each Swingline Loan on the maturity thereof.
- (b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.
- (c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Credit Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender and in a form approved by the Administrative Agent and the Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein.

## **Section 2.10      Prepayment of Loans.**

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, without premium or penalty, subject to Section 2.15 and subject to prior notice in accordance with paragraph (b) of this Section.

(b) The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy) of any prepayment hereunder (A) in the case of prepayment of a Eurodollar Borrowing, not later than 12:00 noon (New York City time), three Business Days before the date of prepayment, (B) in the case of prepayment of an ABR Borrowing, not later than 12:00 noon (New York City time), on the date of prepayment or (C) in the case of prepayment of a Swingline Loan, not later than 12:00 noon (New

27

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York City time), on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

## **Section 2.11      Fees.**

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a facility fee, which shall accrue at the Applicable Rate on the daily amount of the Commitment of such Lender (whether used or unused) during the period from and including the Closing Date to but excluding the date on which such Commitment terminates; provided that, if such Lender continues to have any Revolving Credit Exposure after its Commitment terminates, then such facility fee shall continue to accrue on the daily amount of such Lender's Revolving Credit Exposure from and including the date on which its Commitment terminates to but excluding the date on which such Lender ceases to have any Revolving Credit Exposure. Accrued facility fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; provided that any facility fees accruing after the date on which the Commitments terminate shall be payable on demand. All facility fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at a rate per annum equal to the Applicable Rate for Eurodollar Spreads (as defined under "Applicable Rate") on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Closing Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank a fronting fee, which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) related to Letters of Credit issued by such Issuing Bank during the period from and including the Closing Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings

28

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thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Closing Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of

days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of facility fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

## **Section 2.12      Interest.**

(a) The Loans comprising each ABR Borrowing shall bear interest at a rate per annum equal to the Alternate Base Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at a rate per annum equal to the LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due (following the expiration of any grace period specified in Article VII), whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided above or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided above.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment, (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefore, accrued

29

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interest on such Loan shall be payable on the effective date of such conversion and (iv) all accrued interest shall be payable upon termination of the Commitments.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) If any Lender shall be required under the regulations of the Board to maintain reserves with respect to liabilities or assets consisting of, or including, Eurocurrency Liabilities (as defined in Regulation D of the Board), the Borrower shall pay to the Administrative Agent for the account of such Lender, additional interest on the unpaid principal amount of each Eurodollar Loan made to the Borrower by such Lender, from the later of the date of such Loan or the date such Lender was required to maintain such reserves until such Loan is paid in full, at an interest rate per annum equal to the remainder obtained by subtracting (i) the LIBO Rate for the Interest Period for such Loan from (ii) the rate obtained by multiplying LIBO Rate as referred to in clause (i) above by the Statutory Reserve Rate applicable to such Lender for such Interest Period. Such additional interest shall be determined by such Lender and notified to the Borrower (with a copy to the Administrative Agent) not later than five Business Days before the next Interest Payment Date for such Eurodollar Loan, and such additional interest so notified to the Borrower by any Lender shall be payable to the Administrative Agent for the account of such Lender on each Interest Payment Date for such Eurodollar Loan.

## **Section 2.13      Alternate Rate of Interest.**

If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent reasonably determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBO Rate for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the LIBO Rate for such Interest Period will not, in their reasonable judgment, adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Revolving Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a

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Borrowing Request requests a Eurodollar Borrowing, such Revolving Borrowing shall be made as an ABR Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Revolving Borrowings, then the other Type of Revolving Borrowings shall be permitted.

**Section 2.14            Increased Costs.**

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any Issuing Bank (other than any reserves included in the Statutory Reserve Rate); or

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition affecting this Credit Agreement or Eurodollar Loans or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost (except with respect to Excluded Taxes) to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost (except with respect to Excluded Taxes) to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable (except to the extent caused by Excluded Taxes) by such Lender or such Issuing Bank hereunder (whether of principal, interest or otherwise) by an amount deemed by such Lender or such Issuing Bank to be material, then the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding

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company, as the case may be, as specified in paragraph (a) or (b) of this Section and the method of calculating such amounts, in reasonable detail, shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than six months prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefore; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof.

**Section 2.15            Break Funding Payments.**

In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice is permitted to be revocable under Section 2.10(b) if such notice is revoked in accordance herewith two Business Days or less before the specified effective date), (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to

Section 2.18, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense (but not loss of profit) attributable to such event. In the case of a Eurodollar Loan, the loss to any Lender attributable to any such event shall be deemed to include an amount reasonably determined by such Lender to be equal to the excess, if any, of (i) the amount of interest that such Lender would pay for a deposit equal to the principal amount of such Loan for the period from the date of such payment, conversion, failure or assignment to the last day of the then current Interest Period for such Loan (or, in the case of a failure to borrow, convert or continue, the duration of the Interest Period that would have resulted from such borrowing, conversion or continuation) if the interest rate payable on such deposit were equal to the LIBO Rate for such Interest Period, over (ii) the amount of interest that such Lender would earn on such principal amount for such period if such Lender were to invest such principal amount for such period at the interest rate that would be bid by such Lender (or an affiliate of such Lender) for dollar deposits from other banks in the eurodollar market at the commencement of such period. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

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**Section 2.16      Taxes.**

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

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

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

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

(e) Each Foreign Lender, on or prior to the date of its execution and delivery of this Credit Agreement or on the date of the Assumption Agreement or the Assignment and Acceptance pursuant to which it becomes a Lender, as applicable, shall provide the Borrower with any form or certificate that is required by any taxing authority (including, if applicable, a copy of Internal Revenue Service Forms W-9, W-8BEN or W-8ECI, as appropriate, or any successor or other form prescribed by the Internal Revenue Service), certifying that such Lender is exempt from or entitled to a reduced rate of withholding taxes on payments pursuant to this Credit Agreement. Thereafter, each such Lender shall provide additional forms or certificates (i) to the extent a form or certificate previously provided has been inaccurate, invalid or otherwise ceases to be effective or (ii) as requested in writing by the Borrower or the Administrative Agent. If any Foreign Lender

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fails to comply with the provisions of this Section, the Borrower, may, as required by law, deduct and withhold federal income tax payments from payments to such Lender under this Credit Agreement. The obligation of the Lenders under this Section shall survive the payment of all obligations and the resignation or replacement of the Administrative Agent.

(f) Any Lender claiming any additional amounts payable pursuant to this Section 2.16 agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to select or change the jurisdiction of its applicable lending office if the making of such a selection or change would avoid the need for, or reduce the amount of, any such additional amounts that may thereafter accrue and would not, in the reasonable judgment of such Lender, be otherwise disadvantageous to such Lender.

(g) If any Lender, the Administrative Agent or any Issuing Bank, as the case may be, obtains a refund of any Tax for which payment has been made pursuant to this Section 2.16, which refund in the good faith judgment of such Lender, the Administrative Agent or such Issuing Bank, as the case may be, (and without any obligation to disclose its tax records) is allocable to such payment made under this Section 2.16, the amount of such refund (together with any interest received thereon and reduced by reasonable costs incurred in obtaining such refund) promptly shall be paid to the Borrower to the extent payment has been made in full by the Borrower pursuant to this Section 2.16.

**Section 2.17 Payments Generally; Pro Rata Treatment; Sharing of Set-offs.**

(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or under Section 2.14, 2.15 or 2.16, or otherwise) prior to 1:00 P.M. (New York City time), on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 388 Greenwich Street, New York, New York, except payments to be made directly to an Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, to pay interest and fees then due hereunder, ratably among the parties entitled thereto in

34

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accordance with the amounts of interest and fees then due to such parties, and (ii) second, to pay principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Distributions then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Credit Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or an Issuing Bank, as the case may be, hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Federal Funds Effective Rate.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(d) or (e), 2.06(a) or 2.17(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy

35

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such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

## **Section 2.18      Mitigation Obligations; Replacement of Lenders.**

(a) If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, or if any Lender defaults in its obligation to fund Loans hereunder, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Credit Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

## **Section 2.19. Increase in the Aggregate Commitments.**

(a) The Borrower may, at any time but in any event not more than once in any calendar year prior to the Maturity Date, by notice to the Administrative Agent, request that the aggregate amount of the Commitments be increased by an amount of \$10,000,000 or an integral multiple thereof (each a "Commitment Increase") to be effective as of a date that is at least 90 days prior to the scheduled Maturity Date (the "Increase Date ") as specified in the related notice

36

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to the Administrative Agent; provided, however that (i) in no event shall the aggregate amount of the Commitments at any time exceed \$2,250,000,000 and (ii) on the date of any request by the Borrower for a Commitment Increase and on the related Increase Date, (x) the representations and warranties in Article III shall be true and correct and (y) no Default shall have occurred and be continuing.

(b) The Administrative Agent shall promptly notify the Lenders of a request by the Borrower for a Commitment Increase, which notice shall include (i) the proposed amount of such requested Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Commitment Increase must commit to an increase in the amount of their respective Commitments (the "Commitment Date"). Each Lender that is willing to participate in such requested Commitment Increase (each an "Increasing Lender") shall, in its sole discretion, give written notice to the Administrative Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Commitment. If the Lenders notify the Administrative Agent that they are willing to increase the amount of their respective Commitments by an aggregate amount that exceeds the amount of the requested Commitment Increase, the requested Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrower and the Administrative Agent.

(c) Promptly following each Commitment Date, the Administrative Agent shall notify the Borrower as to the amount, if any, by which the Lenders are willing to participate in the requested Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Commitment Increase on any such Commitment Date is less than the requested Commitment Increase, then the Borrower may extend offers to one or more Persons (other than the Borrower or any of its Affiliates) approved by the Administrative Agent, the Borrower and each Issuing Bank (such approval not to be unreasonably withheld) (each, an "Eligible Assignee") to participate in any portion of the requested Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Commitment of each such Eligible Assignee shall be in an amount of \$5,000,000 or more.

(d) On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Commitment Increase in accordance with Section 2.19(b) (each such Eligible Assignee and each Eligible Assignee that agrees to an extension of the Maturity Date in accordance with Section 2.20(c), an "Assuming Lender") shall become a Lender party to this Agreement as of such Increase Date and the Commitment of each Increasing Lender for such requested Commitment Increase shall be so increased by such amount (or by the amount allocated to such Lender pursuant to the last sentence of Section 2.19(b)) as of such Increase Date; provided, however, that the Administrative Agent shall have received on or before such Increase Date the following, each dated such date:

(i) (A) certified copies of resolutions of the Board of Directors of the Borrower approving the Commitment Increase and the corresponding modifications to this Agreement and (B) an opinion of counsel for the Borrower (which may be in-house counsel), in form and substance satisfactory to the Administrative Agent;

37

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(ii) an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrower and the Administrative Agent (each an "Assumption Agreement"), duly executed by such Assuming Lender, the Administrative Agent and the Borrower; and



(iii) confirmation from each Increasing Lender of the increase in the amount of its Commitment in a writing satisfactory to the Borrower and the Administrative Agent.

On each Increase Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this Section 2.19(d), the Administrative Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrower, on or before 1:00 P.M. (New York City time), by telecopier, of the occurrence of the Commitment Increase to be effected on such Increase Date and shall record in the Register the relevant information with respect to each Increasing Lender and each Assuming Lender on such date.

(e) On the Increase Date, if any Loans are then outstanding, the Borrower shall borrow from all or certain of the Lenders and/or (subject to compliance by the Borrower with Section 2.15) prepay Loans of all or certain of the Lenders such that, after giving effect thereto, the Loans (including, without limitation, the Types and Interest Periods thereof) shall be held by the Lenders (including for such purposes the Increasing Lenders and the Assuming Lenders) ratably in accordance with their respective Commitments. On and after each Increase Date, the Applicable Percentage of each Lender's participation in Letters of Credit and Loans from draws under Letters of Credit shall be calculated after giving effect to each such Commitment Increase.

## **Section 2.20. Extension of Maturity Date.**

(a) At least 45 days but not more than 60 days prior to the first or second anniversary of the Closing Date, the Borrower, by written notice to the Administrative Agent, may request an extension of the Maturity Date in effect at such time by one year from its then scheduled expiration. The Administrative Agent shall promptly notify each Lender of such request, and each Lender shall in turn, in its sole discretion, not later than 20 days prior to such anniversary date, notify the Borrower and the Administrative Agent in writing as to whether such Lender will consent to such extension. If any Lender shall fail to notify the Administrative Agent and the Borrower in writing of its consent to any such request for extension of the Maturity Date at least 20 days prior to the applicable anniversary date, such Lender shall be deemed to be a Non-Consenting Lender with respect to such request. The Administrative Agent shall notify the Borrower not later than 15 days prior to the applicable anniversary date of the decision of the Lenders regarding the Borrower's request for an extension of the Maturity Date.

(b) If all the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.20, the Maturity Date in effect at such time shall, effective as at the applicable anniversary date (the "Extension Date"), be extended for one year; provided that on each Extension Date (x) the representations and warranties in Article III shall be true and correct and (y) no Default shall have occurred and be continuing. If less than all of the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.20, the

38

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Maturity Date in effect at such time shall, effective as at the applicable Extension Date and subject to subsection (d) of this Section 2.20, be extended for one year as to those Lenders that so consented (each a "Consenting Lender") but shall not be extended as to any other Lender (each a "Non-Consenting Lender"). To the extent that the Maturity Date is not extended as to any Lender pursuant to this Section 2.20 and the Commitment of such Lender is not assumed in accordance with subsection (c) of this Section 2.20 on or prior to the applicable Extension Date, the Commitment of such Non-Consenting Lender shall automatically terminate in whole on such unextended Maturity Date without any further notice or other action by the Borrower, such Lender or any other Person; provided that such Non-Consenting Lender's rights under Sections 2.14, 2.15, 2.16 and 9.03, and its obligations under Section 8.07, shall survive the Maturity Date for such Lender as to matters occurring prior to such date. It is understood and agreed that no Lender shall have any obligation whatsoever to agree to any request made by the Borrower for any requested extension of the Maturity Date.

(c) If less than all of the Lenders consent to any such request pursuant to subsection (a) of this Section 2.20, the Administrative Agent shall promptly so notify the Consenting Lenders, and each Consenting Lender may, in its sole discretion, give written notice to the Administrative Agent not later than 10 days prior to the Extension Date of the amount of the Non-Consenting Lenders' Commitments for which it is willing to accept an assignment. If the Consenting Lenders notify the Administrative Agent that they are willing to accept assignments of Commitments in an aggregate amount that exceeds the amount of the Commitments of the Non-Consenting Lenders, such Commitments shall be allocated among the Consenting Lenders willing to accept such assignments in such amounts as are agreed between the Borrower and the Administrative Agent. If after giving effect to the assignments of Commitments described above there remains any Commitments of Non-Consenting Lenders, the Borrower may arrange for one or more Consenting Lenders or other Eligible Assignees as Assuming Lenders to assume, effective as of the Extension Date, any Non-Consenting Lender's Commitment and all of the obligations of such Non-Consenting Lender under this Agreement thereafter arising, without recourse to or warranty by, or expense to, such Non-Consenting Lender; provided, however, that the amount of the Commitment of any such Assuming Lender as a result of such substitution shall in no event be less than \$5,000,000 unless the amount of the Commitment of such Non-Consenting Lender is less than \$5,000,000, in which case such Assuming Lender shall assume all of such lesser amount; and provided further that:

(i) any such Consenting Lender or Assuming Lender shall have paid to such Non-Consenting Lender (A) the aggregate principal amount of, and any interest accrued and unpaid to the effective date of the assignment on, the outstanding Advances, if any, of such Non-Consenting Lender plus (B) any accrued but unpaid facility fees owing to such Non-Consenting Lender as of the effective date of such assignment;

(ii) all additional costs reimbursements, expense reimbursements and indemnities payable to such Non-Consenting Lender, and all other accrued and unpaid amounts owing to such Non-Consenting Lender hereunder, as of the effective date of such assignment shall have been paid to such Non-Consenting Lender; and

39

(iii) with respect to any such Assuming Lender, the applicable processing and recordation fee required under Section 9.04(b) for such assignment shall have been paid;

provided further that such Non-Consenting Lender's rights under Sections 2.14, 2.15, 2.16 and 9.03, and its obligations under Section 8.07, shall survive such substitution as to matters occurring prior to the date of substitution. At least three Business Days prior to any Extension Date, (A) each such Assuming Lender, if any, shall have delivered to the Borrower and the Administrative Agent an Assumption Agreement, duly executed by such Assuming Lender, such Non-Consenting Lender, the Borrower and the Administrative Agent, (B) any such Consenting Lender shall have delivered confirmation in writing satisfactory to the Borrower and the Administrative Agent as to the increase in the amount of its Commitment and (C) each Non-Consenting Lender being replaced pursuant to this Section 2.20 shall have delivered to the Administrative Agent any Note or Notes held by such Non-Consenting Lender. Upon the payment or prepayment of all amounts referred to in clauses (i), (ii) and (iii) above, each such Consenting Lender or Assuming Lender, as of the Extension Date, will be substituted for such Non-Consenting Lender under this Agreement and shall be a Lender for all purposes of this Agreement, without any further acknowledgment by or the consent of the other Lenders, and the obligations of each such Non-Consenting Lender hereunder (other than the obligation under Section 8.07) shall, by the provisions hereof, be released and discharged.

(d) If (after giving effect to any assignments or assumptions pursuant to subsection (c) of this Section 2.20) Lenders having Commitments equal to at least 50% of the Commitments in effect immediately prior to the Extension Date have consented in writing to a requested extension (whether by notice as contemplated in subsection (a) of this Section 2.20, or by execution or delivery of an Assumption Agreement or otherwise) not later than one Business Day prior to such Extension Date, the Administrative Agent shall so notify the Borrower, and, subject to (x) the representations and warranties in Article III being true and correct and (y) no Default shall have occurred and be continuing, the Maturity Date then in effect shall be extended for the additional one-year period as described in subsection (a) of this Section 2.20, and all references in this Agreement, and in the Notes, if any, to the "Maturity Date" shall, with respect to each Consenting Lender and each Assuming Lender for such Extension Date, refer to the Maturity Date as so extended. Promptly following each Extension Date, the Administrative Agent shall notify the Lenders (including, without limitation, each Assuming Lender) of the extension of the scheduled Maturity Date in effect immediately prior thereto and shall thereupon record in the Register the relevant information with respect to each such Consenting Lender and each such Assuming Lender.

## ARTICLE III

### Representations and Warranties

The Borrower represents and warrants to the Lenders that:

#### **Section 3.01      Organization; Powers.**

Each of the Borrower and its Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

#### **Section 3.02      Authorization; Enforceability.**

The Transactions are within the Borrower's corporate powers and have been duly authorized by all necessary corporate and, if required, shareholder action. This Credit Agreement and each promissory note, if any, has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

#### **Section 3.03      Governmental Approvals; No Conflicts.**

The Transactions (a) do not require any material consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect except for any filing of this Agreement with the SEC (which, if required, will be timely filed), (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Borrower or any of its Subsidiaries or any order of any Governmental Authority, (c) will not violate or result in a default under any material indenture, agreement or other instrument binding upon the Borrower or any of its Subsidiaries or any of their respective assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Subsidiaries, and (d) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries.

(a) The Borrower has heretofore furnished to the Lenders (i) its consolidated balance sheet and statements of operations, shareholders' equity and cash flows as of and for the fiscal year ended April 28, 2006, reported on by PricewaterhouseCoopers LLP, independent public accountants, and (ii) its consolidated balance sheet and statements of operations and cash flows as of and for the fiscal quarters ended July 28, 2006 and October 27, 2006, signed by its chief financial officer. Such financial statements present

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fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) There has been no material adverse change in the business, assets, operations, or financial condition of the Borrower and its Subsidiaries, taken as a whole, from those disclosed in the Borrower's Form 10-K for the fiscal year ended April 28, 2006, other than as disclosed in the Borrower's quarterly report on Form 10-Q for its fiscal quarters ending on July 28, 2006 and October 27, 2006 and the Borrower's current reports on Form 8-K dated November 20, 2006 and December 4, 2006.

**Section 3.05****Properties.**

(a) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) Except for Disclosed Matters, each of the Borrower and its Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to its business, and the use thereof by the Borrower and its Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

**Section 3.06****Litigation and Environmental Matters.**

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) which in any manner draws into question the validity or enforceability of this Credit Agreement.

(b) Except for the Disclosed Matters or except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

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(c) Since the date of this Credit Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or could reasonably be expected to result in a Material Adverse Effect.

**Section 3.07****Compliance with Laws and Agreements.**

(a) Each of the Borrower and its Subsidiaries is in compliance with all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

(b) Neither the Borrower nor any Subsidiary is in violation of any law, rule or regulation, or in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to result in a Material Adverse Effect.

### **Section 3.08      Investment Company Status.**

Neither the Borrower nor any of its Subsidiaries is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

### **Section 3.09      Taxes.**

Each of the Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed (taking into account any extensions granted by the applicable taxing authority) and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

### **Section 3.10      ERISA.**

No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than \$100,000,000 the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than \$100,000,000 the fair market value of the assets of all such underfunded Plans.

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### **Section 3.11      Disclosure.**

The Borrower has disclosed (which disclosure includes all filings by the Borrower pursuant to the Securities Exchange Act of 1934) to the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished in writing by or on behalf of the Borrower to the Administrative Agent or any Lender for use specifically in connection with the negotiation of this Credit Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

### **Section 3.12      Federal Regulations.**

No part of the proceeds of any Loans will be used in any transaction or for any purpose which violates the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System, as now and from time to time hereafter in effect. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of Form FR U-1 referred to in said Regulation U.

### **Section 3.13      Purpose of Loans.**

The proceeds of the Loans and Letters of Credit shall be used to (i) refinance the Existing Credit Agreements and (ii) finance any lawful general corporate purpose, including acquisitions, and working capital.

Set forth on Schedule 3.14 is a complete and accurate list of all Significant Subsidiaries as of the Closing Date.

**ARTICLE IV**

**Conditions**

**Section 4.01      Closing Conditions.**

This Credit Agreement shall become effective on the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Credit Agreement signed on behalf of such

44

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party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of this Credit Agreement) that such party has signed a counterpart of this Credit Agreement.

(b) The Administrative Agent shall have received a favorable written opinion or opinions (addressed to the Administrative Agent and the Lenders and dated the Closing Date) of (i) Fredrikson & Bryon, P.A., counsel for the Borrower and (ii) of Senior Legal Counsel to the Borrower, and covering such other matters relating to the Borrower, this Credit Agreement or the Transactions as the Required Lenders shall reasonably request. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrower, the authorization of the Transactions and any other legal matters relating to the Borrower, this Agreement or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel.

(d) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by the President, a Vice President or a Financial Officer of the Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Closing Date, including, without limitation the fees set forth in the Fee Letter and, to the extent invoiced, the reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(f) The commitments under each Existing Credit Agreement shall have been terminated and all amounts owing thereunder shall have been paid. By execution hereof, each of the Lenders that is a party to an Existing Credit Agreement hereby waives any requirement of prior notice for the termination of commitments or the prepayment of advances thereunder.

**Section 4.02      Each Credit Event.**

The obligation of each Lender to make a Loan on the occasion of any Revolving Borrowing, each Issuing Bank to issue, amend, renew or extend any Letter of Credit and the Swingline Lender to make a Swingline Loan on the occasion of any Swingline Borrowing is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Credit Agreement shall be true and correct in all material respects on and as of the date of, and after giving effect to, such Borrowing and after giving effect to, the issuance, amendment, renewal or extension of such Letter of Credit, as applicable; provided, that, the representations and warranties contained in Sections 3.04(b), 3.06 (other than clause

45

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(a)(ii) thereof), 3.07(a) and 3.10 shall be deemed made, and shall be required to be true and correct, only on the Closing Date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

## ARTICLE V

### Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, and all Letters of Credit shall have expired or terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

#### **Section 5.01      Financial Statements and Other Information.**

The Borrower will furnish to the Administrative Agent (with copies for each Lender):

(a) within 100 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, shareholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP (the Lenders agree that the Borrower's obligations under this paragraph (a) may be satisfied in respect of any fiscal year by delivery to the Administrative Agent, with copies for each Lender, within 100 days after the end of such fiscal year of its annual report for such fiscal year on Form 10-K as filed with the SEC);

(b) within 55 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (including the fiscal quarter ending on January 26, 2007), its consolidated balance sheet and related statements of operations and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year,

46

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all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes (the Lenders agree that the Borrower's obligations under this paragraph (b) may be satisfied in respect of any fiscal quarter by delivering to the Administrative Agent, with copies for each Lender, within 55 days after the end of such fiscal quarter of its quarterly report for such fiscal quarter on Form 10-Q as filed with the SEC);

(c) concurrently with any delivery of financial statements under paragraph (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (ii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04(a)(i) and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) promptly after the same become publicly available or upon transmission or receipt thereof, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be, provided that, with respect to materials filed with any national securities exchange, only material filings shall be required to be delivered pursuant to this paragraph (d); and

(e) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Credit Agreement, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request.

#### **Section 5.02      Notices of Material Events.**

The Borrower will furnish to the Administrative Agent and each Lender prompt written notice of, but in any event not later than five Business Days after, the following:

(a) the occurrence of any Default;

(b) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Borrower and its Subsidiaries in an aggregate amount exceeding \$100,000,000;

(c) the non-compliance with any contractual obligation or requirement of law that is not currently being contested in good faith by appropriate proceedings if all such non-compliance in the aggregate could reasonably be expected to have a Material Adverse Effect;

47

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(d) the revocation of any license, permit, authorization, certificate, qualification or accreditation of the Borrower or any Subsidiary by any Governmental Authority if all such revocations in the aggregate could reasonably be expected to have a Material Adverse Effect;

(e) a change in rating for the Index Debt by either Moody's or S&P; and

(f) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

#### **Section 5.03      Existence; Conduct of Business.**

The Borrower will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation, dissolution or stock or asset sale permitted under Section 6.03.

#### **Section 5.04      Payment of Obligations.**

The Borrower will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

#### **Section 5.05      Maintenance of Properties; Insurance.**

The Borrower will, and will cause each of its Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations or maintain a system or systems of self-insurance or assumption of risk which accords with the practices of similar businesses.

#### **Section 5.06      Books and Records; Inspection Rights.**

The Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in

48

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relation to its business and activities. The Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.



**Section 5.07      Compliance with Laws.**

The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

**Section 5.08      Use of Proceeds.**

The proceeds of the Loans will be used for the purposes described in Section 3.13. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations U and X.

**Section 5.09      Maintenance of Accreditation, Etc.**

The Borrower will preserve and maintain, and cause each of its Subsidiaries to preserve and maintain, all licenses, permits, authorizations, certifications and qualifications (including, without limitation, those qualifications with respect to solvency and capitalization) required, except where the failure to do so would not result in a Material Adverse Effect.

**ARTICLE VI**

**Negative Covenants**

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

**Section 6.01      Indebtedness.**

The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any other Indebtedness or liability on account of borrowed money, represented by any notes, bonds, debentures or similar obligations, or on account of the deferred purchase price of any property, or any other deposits, advance or progress payments under contracts, except:

- (a) Indebtedness arising or existing under this Credit Agreement and the other Credit Documents;

49

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- (b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof;

- (c) Indebtedness of the Borrower and its Subsidiaries incurred after the Closing Date consisting of Capital Lease Obligations or Indebtedness incurred to provide all or a portion of the purchase price or cost of construction of an asset provided that (i) such Indebtedness when incurred shall not exceed the purchase price or cost of construction of such asset and (ii) no such Indebtedness shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing;

- (d) Indebtedness of any Subsidiary to the Borrower or any other Subsidiary;

- (e) Indebtedness secured by Liens to the extent permitted under Section 6.02;

- (f) other unsecured Indebtedness of the Borrower and its Subsidiaries; provided that such Indebtedness is not senior in right of payment to the payment of the Indebtedness arising or existing under this Credit Agreement and the other Credit Documents.

**Section 6.02      Liens.**

The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except Liens securing obligations in an aggregate amount not exceeding at any time 20% of Consolidated Tangible Net Worth as at the end of the immediately preceding fiscal quarter of the Borrower.

#### **Section 6.03      Fundamental Changes.**

The Borrower will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of its assets, or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Person, including any Affiliate, may merge with any Subsidiary in a transaction in which the surviving entity is a Subsidiary, (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets or stock to the Borrower or to another Subsidiary, (iv) any Subsidiary may liquidate or dissolve or the Borrower or any Subsidiary may sell, transfer, lease or otherwise dispose of the assets or stock of any Subsidiary if, in each case, the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders, (v) the Borrower and its Subsidiaries may sell immaterial businesses, including Subsidiaries, in the ordinary course of

50

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business and (vi) any Subsidiary formed for the purpose of acquiring a Person or a minority interest in any Person may merge into such Person.

#### **Section 6.04      Transactions with Affiliates.**

The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and its Subsidiaries not involving any other Affiliates, (c) contributions to the Medtronic Foundation in amounts consistent with past practices or (d) as otherwise permitted by this Credit Agreement.

#### **Section 6.05      Restrictive Agreements.**

The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Subsidiary to pay dividends or other distributions to the Borrower (directly or indirectly through Subsidiaries) and ratably to minority shareholders with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law, rule, regulation or regulatory administrative agreement or determination or by this Credit Agreement, and (ii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder.

#### **Section 6.06      Business Activity.**

The Borrower will not, nor will it permit any Significant Subsidiary to, alter the character of its business in any material respect from that conducted as of the Closing Date.

#### **Section 6.07      Restricted Payments.**

The Borrower will not, nor will it permit any Subsidiary to, directly or indirectly, declare, order, make or set apart any sum for or pay any Restricted Payment, except distributions in respect of the capital stock of such Person or the redemption, retirement, purchase or other acquisition of the capital stock of such Person (or any warrant, option or other rights with respect to any shares of capital stock (now or hereafter outstanding) of such Person) if no Default has occurred and is continuing or would result from such action.

51

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## ARTICLE VII

### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect to any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Credit Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Credit Agreement or any amendment or modification hereof, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Credit Agreement or any amendment or modification hereof, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, 5.03 (with respect to the Borrower's existence) or 5.08 or in Article VI;

(e) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in this Credit Agreement (other than those specified in clause (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent (given at the request of any Lender) to the Borrower;

(f) the Borrower or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (subject to any applicable grace periods or notice requirements);

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with the giving of notice if required) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or (ii) the Indebtedness under this Agreement;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Significant Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Significant Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Significant Subsidiary shall become unable, admit in writing its inability to pay, or fail generally to pay its debts as they become due;

(k) one or more judgments or decrees shall be rendered against the Borrower, any Significant Subsidiary or any combination thereof and the same shall not have been paid, vacated, discharged, stayed or bonded pending appeal within 75 days from the entry thereof that involves in the aggregate a liability (not paid or fully covered by insurance) of \$100,000,000 or more;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; or

(m) a Change in Control of the Borrower shall occur;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the

Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all

fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately (and the Commitments shall terminate), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

## **ARTICLE VIII**

### **The Administrative Agent**

#### **Section 8.01      Appointment and Authorization of Administrative Agent.**

Each of the Lenders and each Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Administrative Agent is required to exercise in writing by the Required Lenders, and (c) except as expressly set forth herein, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders or in the absence of its own gross negligence or willful misconduct.

#### **Section 8.02      Notice of Default.**

The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Credit Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Credit Agreement or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein,

other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

#### **Section 8.03      Reliance by Administrative Agent.**

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

#### **Section 8.04      Delegation of Duties.**

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

#### **Section 8.05            Successor Administrative Agent.**

The Administrative Agent may resign as Administrative Agent upon 30 days' notice to the Lenders. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor administrative agent for the Lenders which successor administrative agent shall be consented to by the Borrower at all times other than during the existence of an Event of Default (which consent of the Borrower shall not be unreasonably withheld or delayed). If no successor administrative agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Borrower, a successor administrative agent from among the Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor administrative agent and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article and Section 9.03 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall

55

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nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

#### **Section 8.06 Credit Decision; Disclosure of Information by Administrative Agent.**

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Credit Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Credit Agreement, any related agreement or any document furnished hereunder or thereunder.

#### **Section 8.07            Indemnification of Administrative Agent.**

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of the Borrower and without limiting the obligation of the Borrower to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it; provided, however, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Person's gross negligence or willful misconduct; provided, however, that no action taken in accordance with the directions of the Required Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorney costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Credit Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower. The undertaking in this Section shall survive termination of the Commitments, the payment of all obligations hereunder and the resignation or replacement of the Administrative Agent.

#### **Section 8.08            Administrative Agent in its Individual Capacity.**

CUSA and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Borrower and its Affiliates as though CUSA were not the Administrative Agent or an Issuing Bank hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, CUSA or its Affiliates may receive information regarding the Borrower or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Person

56

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or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, CUSA shall have the same rights and powers under this Credit Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or an Issuing Bank, and the terms "Lender" and "Lenders" include CUSA in its individual capacity.

## ARTICLE IX

### Miscellaneous

#### Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone or as otherwise set forth in Section 9.01(b) below, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower:

Medtronic, Inc.  
710 Medtronic Parkway  
Minneapolis, MN 55432-5604,  
Attention: Treasury Department, Mail Stop LC480  
Telecopy No. (763) 505-2700

with a copy to:

Medtronic, Inc.  
710 Medtronic Parkway  
Minneapolis, MN 55432-5604,  
Attention: General Counsel, Mail Stop LC400  
Telecopy No. (763) 572-5459

(ii) if to the Administrative Agent, CUSA or its Affiliates as an Issuing Bank and/or the Swingline Lender:

Citicorp USA, Inc.  
Two Penns Way  
New Castle, Delaware 19720  
Attn: Bank Loan Syndications  
Telephone: 302-894-6142  
Telecopy: 212-994-0961

57

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(iii) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Credit Agreement shall be deemed to have been given on the date of receipt.

(b) So long as CUSA or any of its Affiliates is the Administrative Agent, materials required to be delivered pursuant to Section 5.01(a), (b), and (d) shall be delivered to the Administrative Agent in an electronic medium in a format acceptable to the Administrative Agent and the Lenders by e-mail at [oploanswebadmin@citigroup.com](mailto:oploanswebadmin@citigroup.com). The Borrower agrees that the Administrative Agent may make such materials (collectively, the "Communications") available to the Lenders by posting such notices on Intralinks or a substantially similar electronic system (the "Platform"). The Borrower acknowledges that (i) the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution, (ii) the Platform is provided "as is" and "as available" and (iii) neither the Administrative Agent nor any of its Affiliates warrants the accuracy, adequacy or completeness of the Communications or the Platform and each expressly disclaims liability for errors or omissions in the Communications or the Platform. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by the Administrative Agent or any of its Affiliates in connection with the Platform.

(c) Each Lender agrees that notice to it (as provided in the next sentence) (a "Notice") specifying that any Communications have been posted to the Platform shall constitute effective delivery of such information, documents or other materials to such Lender for purposes of this Agreement; provided that if requested by any Lender the Administrative Agent shall deliver a copy of the Communications to such Lender by email or telecopier. Each Lender agrees (i) to notify the Administrative Agent in writing of such Lender's e-mail address to which a Notice may be sent by electronic transmission (including by electronic communication) on or before the date such Lender becomes a party to this Agreement (and from

time to time thereafter to ensure that the Administrative Agent has on record an effective e-mail address for such Lender) and (ii) that any Notice may be sent to such e-mail address.

**Section 9.02      Waivers; Amendments.**

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No

58

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waiver of any provision of this Credit Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Credit Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change Section 2.17(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender or (vi) change or amend Section 2.04 without the consent of the Swingline Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank hereunder without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be.

**Section 9.03      Expenses; Indemnity; Damage Waiver.**

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of outside counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of this Credit Agreement or any amendments, modifications or waivers of the provisions hereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit issued by such Issuing Bank or any demand for payment thereunder and (iii) all reasonable out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees and disbursements of any outside counsel for the Administrative Agent, any Issuing Bank or any Lender, in connection with the

59

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enforcement or protection of its rights in connection with this Credit Agreement, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including in connection with any workout, restructuring or negotiations in respect thereof.

(b) The Borrower shall indemnify the Administrative Agent, each Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the fees and disbursements of any outside counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Credit Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the actual or proposed use of the proceeds therefrom (including any refusal by an Issuing Bank to honor a demand for payment under a Letter of Credit issued by it if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by the Borrower or any of its directors, shareholders or creditors,

an Indemnitee or any other Person, and regardless of whether any Indemnitee is a party thereto (all of the foregoing, collectively, the “Indemnified Liabilities”); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent or any Issuing Bank under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent or such Issuing Bank as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or such Issuing Bank in its capacity as such.

(d) To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Credit Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan, Letter of Credit or the use of the proceeds thereof.

60

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(e) All amounts due under this Section shall be payable promptly after written demand therefor.

#### **Section 9.04      Successors and Assigns.**

(a) The provisions of this Credit Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void); provided, however, that no such consent shall be required for any transaction permitted under Section 6.03. Nothing in this Credit Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Credit Agreement.

(b) Any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Credit Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that (i) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund with respect thereto, each of the Borrower and the Administrative Agent (and, in the case of an assignment of all or a portion of a Commitment or any Lender’s obligations in respect of its LC Exposure, the Issuing Banks) must give their prior written consent to such assignment (which consent shall not be unreasonably withheld), (ii) except in the case of an assignment to a Lender, an Affiliate of a Lender, an Approved Fund with respect thereto or an assignment of the entire remaining amount of the assigning Lender’s Commitment, the amount of the Commitment of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000, except in the case of an assignment of the entire remaining amount of the assigning Lender’s Commitment, unless each of the Borrower and the Administrative Agent otherwise consent and, after giving effect to such assignment, the assigning Lender and its Affiliates and the Approved Funds with respect to such Lender shall have a Commitment of at least \$5,000,000 unless each of the Borrower and the Administrative Agent otherwise consents, (iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Credit Agreement, (iii) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of \$3,500 and (iv) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; provided further that any consent of the Borrower otherwise required under this paragraph shall not be required if an Event of Default has occurred and is continuing. Upon acceptance and recording pursuant to paragraph (d) of this Section, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to

61

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the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Credit Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Credit Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender’s rights and obligations under this Credit Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 and shall continue to be bound by Section 8.07, in each as relates to matters arising before such assignment). Any assignment or transfer by a Lender of rights or obligations under this Credit Agreement that does not comply with this paragraph shall be treated for purposes of this Credit Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section.

(c) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices in New Castle, Delaware a copy of each Assumption Agreement and each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive (absent manifest error), and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to



the terms hereof as a Lender hereunder for all purposes of this Credit Agreement, notwithstanding notice to the contrary.

(d) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective for purposes of this Credit Agreement unless it has been recorded in the Register as provided in this paragraph.

(e) Any Lender may, without the consent of the Borrower, the Administrative Agent or any Issuing Bank, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Credit Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Credit Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Credit Agreement and to approve any amendment, modification or waiver of any

62

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provision of this Credit Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (f) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section.

(f) A Participant shall not be entitled to receive any greater payment under Section 2.14 or 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.16(e) as though it were a Lender.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Credit Agreement to secure obligations of such Lender, including any such pledge or assignment to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such assignee for such Lender as a party hereto.

(h) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC") of such Granting Lender, identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrower pursuant to Section 2.01; provided that (i) nothing herein shall constitute a commitment to make any Loan by any SPC and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by the Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any payment under this Credit Agreement for which a Lender would otherwise be liable, for so long as, and to the extent, the related Granting Lender makes such payment. In furtherance of the foregoing, each party hereto hereby agrees that, prior to the date that is one year and one day after the payment in full of all outstanding senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or similar proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04 or in Section 9.12, any SPC may (i) with notice to, but without the prior written consent of, the Borrower or

63

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the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to its Granting Lender or to any financial institutions providing liquidity and/or credit facilities to or for the account of such SPC to fund the Loans made by such SPC or to support the securities (if any) issued by such SPC to fund such Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of a surety, guarantee or credit or liquidity enhancement to such SPC.

## **Section 9.05      Survival.**

All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Credit Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Credit Agreement and the making of any Loans and issuance of Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued

interest on any Loan or any fee or any other amount payable under this Credit Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.14, 2.15, 2.16 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Credit Agreement or any provision hereof.

**Section 9.06            Counterparts; Integration; Effectiveness.**

This Credit Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Credit Agreement and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Credit Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Credit Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Credit Agreement.

**Section 9.07            Severability.**

Any provision of this Credit Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality

64

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or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

**Section 9.08            Right of Setoff.**

If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower now or hereafter existing under this Credit Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Credit Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

**Section 9.09            Governing Law; Jurisdiction; Consent to Service of Process.**

(a) This Credit Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Credit Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Credit Agreement shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Credit Agreement against the Borrower or its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Credit Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Credit Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Credit

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Agreement will affect the right of any party to this Credit Agreement to serve process in any other manner permitted by law.

**Section 9.10      WAIVER OF JURY TRIAL.**

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

**Section 9.11      Headings.**

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Credit Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Credit Agreement.

**Section 9.12      Confidentiality.**

Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' and its Approved Funds' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent, and only to the extent, required by applicable laws or regulations or by any subpoena or similar legal process, provided that the Person required to disclose such information shall take reasonable efforts (at Borrower's expense) to ensure that any Information so disclosed shall be afforded confidential treatment, (d) to any other party to this Credit Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Credit Agreement or the enforcement of rights hereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Credit Agreement, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower who is not, to the knowledge of the Administrative Agent, such Issuing Bank or such Lender, under an obligation of confidentiality to Borrower with respect to such Information. For the purposes of this Section,

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

**Section 9.13      Patriot Act Notice.**

Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Patriot Act. The Borrower shall provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Administrative Agent or any Lenders in order to assist the Administrative Agent and the Lenders in maintaining compliance with the Patriot Act.

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IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be duly executed by their respective authorized officers as of the day and year first above written

**BORROWER:**

**MEDTRONIC, INC.,**  
a Minnesota corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDERS:**

**CITICORP USA, INC.,**  
as Administrative Agent, Lender and Swingline Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITIBANK, N.A.,**  
as an Issuing Bank

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BANK OF AMERICA, N.A.**  
as Lender and an Issuing Bank

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE BANK OF TOKYO-MITSUBISHI UFJ,  
LTD., CHICAGO BRANCH**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**DEUTSCHE BANK AG NEW YORK BRANCH**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MIZUHO CORPORATE BANK, LTD.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ABN AMRO BANK, N.V.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HSBC BANK USA, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**JPMORGAN CHASE BANK, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**U.S. BANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**UBS LOAN FINANCE LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MERRILL LYNCH BANK USA**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MORGAN STANLEY BANK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WILLIAM STREET COMMITMENT  
CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FIFTH THIRD BANK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**SUNTRUST BANK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**Schedule 3.06 – Disclosed Matters**

The Borrower hereby incorporates by reference those matters disclosed in reports filed by the Borrower with the United States Securities and Exchange Commission: (a) on Form 10-K for the Borrower's fiscal year ended April 28, 2006, (b) on Form 10-Q for the Borrower's fiscal quarter ended July 28, 2006, (c) on Form 10-Q for the Borrower's fiscal quarters ended October 27, 2006, (d) on Form 8-K dated November 20, 2006 and December 4, 2006 and before the Closing Date.

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**Schedule 3.14 – Significant Subsidiaries**

Borrower's Significant Subsidiaries are:

Medtronic USA, Inc.

Medtronic International Trading Inc.

Medtronic Sofamor Danek, Inc.

Medtronic MiniMed, Inc.

Medtronic Cayman Holding

Medtronic Europe Sarl (Switzerland)

Medtronic Swiss Principal

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**Schedule 6.01 – Existing Indebtedness**

- (1) Commercial Paper outstanding at closing does not exceed \$500,000,000.
- (2) Miscellaneous loans outstanding at closing does not exceed \$300,000,000.
- (3) Convertible debentures of \$4,494,248,000.
- (4) Senior Notes of \$1,000,000,000.
- (5) Capital Lease Obligations outstanding at closing does not exceed \$100,000,000.

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## MEDTRONIC, INC. COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES

The ratio of earnings to fixed charges for the nine months ended January 26, 2007 and the fiscal years ended April 28, 2006, April 29, 2005, April 30, 2004, April 25, 2003 and April 26, 2002 was computed based on Medtronic's historical consolidated financial information included in Medtronic's most recent Annual Report incorporated by reference on Form 10-K.

	Nine months ended January 26, 2007	Year ended April 28, 2006	Year ended April 29, 2005	Year ended April 30, 2004	Year ended April 25, 2003	Year ended April 26, 2002
<b>Earnings:</b>						
Net earnings	\$ 1,990	\$ 2,547	\$ 1,804	\$ 1,959	\$ 1,600	\$ 984
Income taxes	670	615	740	838	742	540
Minority interest (loss)/income	—	—	(1)	3	(1)	3
Capitalized interest <sup>(1)</sup>	(2)	(3)	(1)	—	(1)	—
	<u>\$ 2,658</u>	<u>\$ 3,159</u>	<u>\$ 2,542</u>	<u>\$ 2,800</u>	<u>\$ 2,340</u>	<u>\$ 1,527</u>
<b>Fixed Charges:</b>						
Interest expense <sup>(2)</sup>	\$ 161	\$ 116	\$ 55	\$ 56	\$ 47	\$ 45
Capitalized interest <sup>(1)</sup>	2	3	1	—	1	1
Amortization of debt issuance costs <sup>(3)</sup>	11	4	1	—	—	32
Rent interest factor <sup>(4)</sup>	25	26	24	21	18	16
	<u>\$ 199</u>	<u>\$ 149</u>	<u>\$ 81</u>	<u>\$ 77</u>	<u>\$ 66</u>	<u>\$ 94</u>
Earnings before income taxes and fixed charges	<u>\$ 2,857</u>	<u>\$ 3,308</u>	<u>\$ 2,623</u>	<u>\$ 2,877</u>	<u>\$ 2,406</u>	<u>\$ 1,621</u>
Ratio of earnings to fixed charges	<u>14</u>	<u>22</u>	<u>32</u>	<u>37</u>	<u>36</u>	<u>17</u>

(1) Capitalized interest relates to construction projects in process.

(2) Interest expense consists of interest on indebtedness.

(3) Represents the amortization of debt issuance costs incurred in connection with the Company's registered debt securities. See Note 8 to the condensed consolidated financial statements for further information regarding the debt securities.

(4) Approximately one-third of rental expense is deemed representative of the interest factor.

**Certification of Chief Executive Officer  
Pursuant to Section 302 of the  
Sarbanes-Oxley Act of 2002**

I, Arthur D. Collins, Jr., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Medtronic, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal 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.

Date: March 6, 2007

/s/ Arthur D. Collins, Jr.  
Arthur D. Collins, Jr.  
Chairman of the Board and  
Chief Executive Officer

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**Certification of Chief Financial Officer  
Pursuant to Section 302 of the  
Sarbanes-Oxley Act of 2002**

I, Gary L. Ellis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Medtronic, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal 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.

Date: March 6, 2007

/s/ Gary L. Ellis

Gary L. Ellis

Senior Vice President and  
Chief Financial Officer

**Certification of Chief Executive Officer  
Pursuant to Section 906 of the  
Sarbanes-Oxley Act of 2002**

In connection with this quarterly report on Form 10-Q of Medtronic, Inc. for the quarter ended January 26, 2007, the undersigned hereby certifies, in his capacity as Chief Executive Officer of Medtronic, Inc., for purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in this report fairly presents, in all material respects, the financial condition and results of operations of Medtronic, Inc.

Date: March 6, 2007

/s/ Arthur D. Collins, Jr.

Arthur D. Collins, Jr.

Chairman of the Board and  
Chief Executive Officer

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**Certification of Chief Financial Officer  
Pursuant to Section 906 of the  
Sarbanes-Oxley Act of 2002**

In connection with this quarterly report on Form 10-Q of Medtronic, Inc. for the quarter ended January 26, 2007, the undersigned hereby certifies, in his capacity as Chief Financial Officer of Medtronic, Inc., for purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in this report fairly presents, in all material respects, the financial condition and results of operations of Medtronic, Inc.

Date: March 6, 2007

/s/ Gary L. Ellis  
\_\_\_\_\_  
Gary L. Ellis  
Senior Vice President and  
Chief Financial Officer

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