

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 10-K**

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

**For the Fiscal Year Ended December 29, 2012**

or

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

Commission File No. 1-9973

**THE MIDDLEBY CORPORATION**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**36-3352497**

(IRS Employer Identification Number)

**1400 Toastmaster Drive, Elgin, Illinois**

(Address of principal executive offices)

**60120**

(Zip Code)

Registrant's telephone number, including area code: **847-741-3300**

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

Title of each class

Name of each exchange on which registered

**Common stock, par value \$0.01 per share**

**The NASDAQ Stock Market LLC**

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Exchange Act from their obligations under those Sections.

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 has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "accelerated filer, large accelerated filer and smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

The aggregate market value of the voting stock held by nonaffiliates of the Registrant as of June 30, 2012 was approximately \$1,740,873,212.

The number of shares outstanding of the Registrant's class of common stock, as of February 25, 2013, was 18,791,446 shares.

**Documents Incorporated by Reference**

Part III of Form 10-K incorporates by reference the Registrant's definitive proxy statement to be filed pursuant to Regulation 14A in connection with the 2013 annual meeting of stockholders.

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**December 29, 2012**

**FORM 10-K ANNUAL REPORT**

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## **PART I**

### **Item 1. Business**

#### **General**

The Middleby Corporation (“Middleby” or the “company”), through its operating subsidiary Middleby Marshall Inc. (“Middleby Marshall”) and its subsidiaries, is a leader in the design, manufacture, marketing, distribution, and service of a broad line of (i) cooking and warming equipment used in all types of commercial restaurants and institutional kitchens and (ii) food preparation, cooking, baking, chilling and packaging equipment for food processing operations.

Founded in 1888 as a manufacturer of baking ovens, Middleby Marshall Oven Company was acquired in 1983 by TMC Industries Ltd., a publicly traded company that changed its name in 1985 to The Middleby Corporation. The company has established itself as a leading provider of (i) commercial restaurant equipment and (ii) food processing equipment as a result of its acquisition of industry leading brands and through the introduction of innovative products within both of these segments.

The company's annual reports on Form 10-K, including this Form 10-K, as well as the company's quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to such reports are available, free of charge, on the company's internet website, [www.middleby.com](http://www.middleby.com). These reports are available as soon as reasonably practicable after they are electronically filed with or furnished to the Securities and Exchange Commission (“SEC”).

#### **Business Segments and Products**

The company conducts its business through two principal business segments: the Commercial Foodservice Equipment Group and the Food Processing Equipment Group. See Note 9 to the Consolidated Financial Statements for further information on the company's business segments.

##### **Commercial Foodservice Equipment Group**

The Commercial Foodservice Equipment Group has a broad portfolio of cooking and warming equipment, which enable it to serve virtually any cooking or warming application within a commercial kitchen or foodservice operation. This cooking and warming equipment is used across all types of foodservice operations, including quick-service restaurants, full-service restaurants, convenience stores, retail outlets, hotels and other institutions.

This commercial foodservice equipment is marketed under a portfolio of thirty one brands, including Anets®, Beech®, Blodgett®, Blodgett Combi®, Blodgett Range®, Bloomfield®, Britannia®, CTX®, Carter-Hoffmann®, CookTek®, Doyon®, Frifri®, Giga®, Holman®, Houno®, IMC®, Jade®, Lang®, Lincat®, MagiKitch'n®, Middleby Marshall®, MPC®, Nieco®, Nu-Vu®, PerfectFry®, Pitco Frialator®, Southbend®, Star®, Toastmaster®, TurboChef® and Wells®.

The products offered by this group include conveyor ovens, combi-ovens, convection ovens, baking ovens, proofing ovens, deck ovens, speed cooking ovens, hydrovection ovens, ranges, fryers, rethermalizers, steam cooking equipment, warming equipment, heated cabinets, charbroilers, ventless cooking systems, kitchen ventilation, induction cooking equipment, countertop cooking equipment, toasters, and beverage equipment.

##### **Food Processing Equipment Group**

The Food Processing Equipment Group offers a broad portfolio of processing solutions for customers producing pre-cooked meat products, such as hot dogs, dinner sausages, poultry and lunchmeats and baked goods such as muffins, cookies and bread. Through its broad line of products, the company is able to deliver a wide array of cooking solutions to service a variety of food processing requirements demanded by its customers. The company can offer highly integrated solutions that provide a food processing operation a uniquely integrated solution providing for the highest level of food quality, product consistency, and reduced operating costs resulting from increased product yields, increased capacity, greater throughput and reduced labor costs through automation.

This food processing equipment is marketed under a portfolio of eleven brands, including Alkar®, Armor Inox®, Auto-Bake®, Baker Thermal Solutions®, Cozzini®, Danfotech®, Drake®, Maurer-Atmos®, MP Equipment®, RapidPak® and Stewart Systems®.

The products offered by this group include a wide array of cooking and baking solutions including, batch ovens, baking ovens, proofing ovens, conveyor ovens, continuous processing ovens, frying systems and automated thermal processing systems. The company also provides a comprehensive portfolio of complementary food preparation equipment such as grinders, slicers, emulsifiers, mixers, blenders, battering equipment, breadng equipment, food presses, and forming equipment, as well as a variety of food safety, food handling, freezing and packaging equipment. This portfolio of equipment can be integrated to provide customers a highly efficient and customized solution.

### **Acquisition Strategy**

The company has pursued a strategy to acquire and assemble a leading portfolio of brands and technologies for each of its two business segments. Over the past three years the company has completed twelve acquisitions to add to its portfolio of brands and technologies of the Commercial Foodservice Equipment Group and its Food Processing Equipment Group. These acquisitions have added fourteen brands to the Middleby portfolio and positioned the company as a leading provider of equipment in both industries.

In July 2010, the company acquired substantially all of the assets and operations of PerfectFry Company (“PerfectFry”), a leading manufacturer of ventless countertop frying units for a purchase price of approximately \$4.9 million. This acquisition further strengthens Middleby’s leadership position in ventless cooking solutions for the commercial foodservice industry.

In September 2010, the company acquired the food processing equipment business of Cozzini Inc. (“Cozzini”), a leading manufacturer of equipment solutions for the food processing industry for an aggregate purchase price of approximately \$19.2 million in cash, 34,263 shares of Middleby common stock valued at \$1.8 million and \$2.0 million in deferred payments. The acquisition of Cozzini complements Middleby’s existing food processing equipment brands Alkar, RapidPak and MP Equipment.

In April 2011, the company acquired all of the capital stock of J.W. Beech Pty. Ltd., together with its subsidiary, Beech Ovens Pty. Ltd. (“Beech”), a leading manufacturer of stone hearth ovens for the commercial foodservice industry for a purchase price of approximately \$13.0 million. The acquisition of Beech continues to expand Middleby’s portfolio of leading brands in the cooking and warming segments and reinforce its position as a leading manufacturer of commercial ovens.

In May 2011, the company acquired all of the capital stock of Lincat Group PLC (“Lincat”), a leading manufacturer of ranges, ovens, and counterline equipment for the commercial foodservice industry for a purchase price of approximately \$82.1 million. The acquisition of Lincat not only expands its portfolio of leading brands but also increases its presence in European markets.

In July 2011, the company acquired all of the capital stock of Danfotech Inc. (“Danfotech”), a leading manufacturer of meat presses and defrosting equipment for the food processing industry for a purchase price of approximately \$6.1 million and \$1.5 million in contingent payments. The acquisition of Danfotech further complements Middleby’s existing food processing brands.

In July 2011, the company acquired the assets of Maurer-Atmos GmbH (“Maurer”), a leading manufacturer of thermal processing systems for the food processing industry based in Germany for a purchase price of approximately \$3.3 million. The addition of this brand complements and further strengthens Middleby’s food processing equipment platform.

In August 2011, the company acquired all of the capital stock of Auto-Bake Pty. Ltd., (“Auto-Bake”) a leading manufacturer of automated baking systems for the food processing industry for a purchase price of approximately \$22.5 million. The acquisition of Auto-Bake allows further expansion of product offerings in food processing equipment.

In December 2011, the company acquired all of the capital stock of F.R. Drake Company (“Drake”), a leading manufacturer of automated loading systems for the food processing industry for approximately \$21.7 million. The acquisition of Drake further complements the Middleby’s existing food processing brands.

In December 2011, the company acquired all of the capital stock of Armor Inox, S.A. together with its subsidiaries Armor Inox Production S.a.r.l. and Armor Inox UK Ltd. (collectively “Armor Inox”), a leading manufacturer of thermal processing systems for the food processing industry for approximately \$28.7 million.

In March 2012, the company acquired certain assets of Turkington USA, LLC (now known as Baker Thermal Solutions "Baker"), a manufacturer of automated baking ovens for the food processing industry for approximately \$10.3 million.

In September 2012, the company acquired certain assets of Stewart Systems Global, LLC ("Stewart"), a manufacturer of automated proofing and oven baking systems for the food processing industry for approximately \$27.8 million.

In October 2012, the company acquired Nieco Corporation ("Nieco"), a leading manufacturer of automatic broilers for the commercial foodservice industry for approximately \$23.9 million.

On December 31, 2012, subsequent to the end of the company's 2012 fiscal year, the company acquired Viking Range Corporation ("Viking"), a leading manufacturer of premium residential cooking ranges, ovens and kitchen appliances, for \$380.0 million. The company believes that this acquisition will strategically position Middleby as a leading manufacturer in the premium residential sector with a top brand.

## **The Customers and Market**

### **Commercial Foodservice Equipment Industry**

The company's end-user customers include: (i) fast food or quick-service restaurants, (ii) full-service restaurants, including casual-theme restaurants, (iii) retail outlets, such as convenience stores, supermarkets and department stores and (iv) public and private institutions, such as hotels, resorts, schools, hospitals, long-term care facilities, correctional facilities, stadiums, airports, corporate cafeterias, military facilities and government agencies. The company's domestic sales are primarily through independent dealers and distributors and are marketed by the company's sales personnel and network of independent manufacturers' representatives. Many of the dealers in the U.S. belong to buying groups that negotiate sales terms with the company. Certain large multi-national restaurant and hotel chain customers have purchasing organizations that manage product procurement for their systems. Included in these customers are several large multi-national restaurant chains, which account for a meaningful portion of the company's business, although no single customer accounts for more than 10% of net sales.

Over the past several decades, the foodservice equipment industry has enjoyed steady growth in the United States due to the development of new quick-service and casual-theme restaurant chain concepts, the expansion into nontraditional locations by quick-service restaurants and store equipment modernization. In the international markets, foodservice equipment manufacturers have been experiencing stronger growth than the U.S. market due to rapidly expanding international economies and increased opportunity for expansion by U.S. chains into developing regions.

The company believes that the worldwide commercial foodservice equipment market has sales in excess of \$20.0 billion. The cooking and warming equipment segment of this market is estimated by management to exceed \$1.5 billion in North America and \$3.0 billion worldwide. The company believes that continuing growth in demand for foodservice equipment will result from the development of new restaurant concepts in the U.S. and the expansion of U.S. and foreign chains into international markets, the replacement and upgrade of existing equipment and new equipment requirements resulting from menu changes.

### **Food Processing Equipment Industry**

The company's customers include a diversified base of leading food processors. Customers include several large international food processing companies, which account for a significant portion of the revenues of this business segment, although none of which is greater than 10% of net sales. A large portion of the company's revenues have been generated from producers of pre-cooked meat products such as hot dogs, dinner sausages, poultry, and lunchmeats and producers of baked goods such as muffins, cookies and bread; however, the company believes that it can leverage its expertise and product development capabilities in thermal processing to organically grow into new end markets.

Food processing has quickly become a highly competitive landscape dominated by a few large conglomerates that possess a variety of food brands. The consolidation of food processing plants associated with industry consolidation drives a need for more flexible and efficient equipment that is capable of processing large volumes in quicker cycle times. In recent years, food processors have had to conform to the demands of "big-box" retailers and the restaurant industry, including, most importantly, greater product consistency and exact package weights. Food processors are beginning to realize that their old equipment is no longer capable of efficiently producing adequate uniformity in the large product volumes required, and they are turning to equipment manufacturers that offer product consistency, innovative packaging designs and other solutions. To protect their own brands and reputations, retailers and large restaurant chains are also dictating food safety standards that are often more strict than government regulations.

A number of factors, including rising raw material prices, labor and health care costs, are driving food processors to focus on ways to improve their generally thin profitability margins. In order to increase the profitability and efficiency in processing plants, food processors pay increasingly more attention to the performance of their machinery and the flexibility in the functionality of the equipment. Food processors are continuously looking for ways to make their plants safer and reduce labor-intensive activities. Food processors have begun to recognize the value of new technology as an important vehicle to drive productivity and profitability in their plants. Due to customer requirements, food processors are expected to continue to demand new and innovative equipment that addresses food safety, food quality, automation and flexibility.

Improving living standards in developing countries is spurring increased worldwide demand for pre-cooked and convenience food products. As industrializing countries create more jobs, consumers in these countries will have the means to buy pre-cooked food products. In industrialized regions, such as Western Europe and the U.S., consumers are demanding more pre-cooked and convenience food products, such as deli tray variety packs, frozen food products and ready-to-eat varieties of ethnic foods.

The global food processing equipment industry is highly fragmented, large and growing. The company estimates demand for food processing equipment is approximately \$5.0 billion in North America and \$40.0 billion worldwide. The company's product offerings compete in a subsegment of the total industry, and the relevant market size for its products is estimated by management to exceed \$1.0 billion in North America and \$4.0 billion worldwide.

## **Backlog**

### **Commercial Foodservice Equipment Group**

The backlog of orders for the Commercial Foodservice Equipment Group was \$43.2 million at December 29, 2012, all of which is expected to be filled during 2013. The acquired Nieco business accounted for \$1.9 million of the backlog. The Commercial Foodservice Equipment Group's backlog was \$30.3 million at December 31, 2011. The backlog is not necessarily indicative of the level of business expected for the year, as there is generally a short time between order receipt and shipment for the majority of the company's products.

### **Food Processing Equipment Group**

The backlog of orders for the Food Processing Equipment Group was \$107.2 million at December 29, 2012, all of which is expected to be filled during 2013. The acquired Baker and Stewart businesses accounted for \$15.6 million of the backlog. The Food Processing Equipment Group's backlog was \$108.7 million at December 31, 2011.

## **Marketing and Distribution**

### **Commercial Foodservice Equipment Group**

Middleby's products and services are marketed in the U.S. and in over 100 countries through a combination of the company's sales and marketing personnel, together with an extensive network of independent dealers, distributors, consultants, sales representatives and agents. The company's relationships with major restaurant chains are primarily handled through an integrated effort of top-level executive and sales management at the corporate and business division levels to best serve each customer's needs.

In the United States, the company distributes its products to independent end-users primarily through a network of non-exclusive dealers nationwide, who are supported by manufacturers' marketing representatives. Sales are made direct to certain large restaurant chains that have established their own procurement and distribution organization for their franchise system. International sales are primarily made through a network of independent local country stocking and servicing distributors and dealers and, at times, directly to major chains, hotels and other large end-users.

### **Food Processing Equipment Group**

The company maintains a direct sales force to market the brands and maintain direct relationships with each of its customers. The company also involves division management in the relationships with large global accounts. In North America, the company employs regional sales managers, each with responsibility for a group of customers and a particular region. Internationally, the company maintains sales and distribution offices in Australia, Brazil, Denmark, France, Italy, Germany and Mexico along with global sales managers supported by a network of independent sales representatives.

The company's sale process is highly consultative due to the highly technical nature of the equipment. During a typical sales process, a salesperson makes several visits to the customer's facility to conceptually discuss the production requirements, footprint and configuration of the proposed equipment. The company employs a technically proficient sales force, many of whom have previous technical experience with the company as well as education backgrounds in food science.

### **Services and Product Warranty**

The company is an industry leader in equipment installation programs and after-sales support and service. The company provides a warranty on its products typically for a one year period and in certain instances greater periods. The emphasis on global service increases the likelihood of repeat business and enhances Middleby's image as a partner and provider of quality products and services.

#### **Commercial Foodservice Equipment Group**

The company's domestic service network consists of over 100 authorized service parts distributors and 3,000 independent certified technicians who have been formally trained and certified by the company through its factory training school and on-site installation training programs. Technicians work through service parts distributors, which are required to provide around-the-clock service. The company provides substantial technical support to the technicians in the field through factory-based technical service engineers. The company has stringent parts stocking requirements for these agencies, leading to a high first-call completion rate for service and warranty repairs.

It is critical to major foodservice chains that equipment providers be capable of supporting equipment on a worldwide basis. The company's international service network covers over 100 countries with thousands of service technicians trained in the installation and service of the company's products and supported by internationally-based service managers along with the factory-based technical service engineers. As with its domestic service network, the company maintains stringent parts stocking requirements for its international distributors.

#### **Food Processing Equipment Group**

The company maintains a technical service group of employees that oversees and performs installation and startup of equipment and completes warranty and repair work. This technical service group provides services for customers both domestically and internationally. Service technicians are trained regularly on new equipment to ensure the customer receives a high level of customer service. From time to time the company utilizes trained third party technicians supervised by company employees to supplement company employees on large projects.

### **Competition**

The commercial foodservice and food processing equipment industries are highly competitive and fragmented. Within a given product line the company may compete with a variety of companies, including companies that manufacture a broad line of products and those that specialize in a particular product category. Competition is based upon many factors, including brand recognition, product features, reliability, quality, price, delivery lead times, serviceability and after-sale service. The company believes that its ability to compete depends on strong brand equity, exceptional product performance, short lead-times and timely delivery, competitive pricing and superior customer service support. In the international markets, the company competes with U.S. manufacturers and numerous global and local competitors.

The company believes that it is one of the largest multiple-line manufacturers of food production equipment in the U.S. and worldwide although some of its competitors are units of operations that are larger than the company and possess greater financial and personnel resources. Among the company's major competitors to the Commercial Foodservice Equipment Group are: Manitowoc Company, Inc.; Vulcan-Hart and Hobart Corporation, subsidiaries of Illinois Tool Works Inc.; Electrolux AB; Groen, a subsidiary of Dover Corporation; Rational AG; and the Ali Group. Major competitors to the Food Processing Equipment Group include AMF Bakery Systems, Convenience Food Systems, FMC Technologies, Multivac, Marel, Formax, and Heat and Control.

## **Manufacturing and Quality Control**

The company's manufacturing operations provide for an expertise in the design and production of specific products for each of the two business segments. The company has from time to time either consolidated manufacturing facilities producing similar product or transferred production of certain products to another existing operation with a higher level of expertise or efficiency.

The Commercial Foodservice Equipment Group manufactures its products in twelve domestic and eight international production facilities. These production facilities are located in Brea, California; Windsor, California; Chicago, Illinois; Elgin, Illinois; Mundelein, Illinois; Menominee, Michigan; Bow, New Hampshire; Fuquay-Varina, North Carolina; Smithville, Tennessee; Dallas, Texas; Burlington, Vermont; Brisbane, Australia; Randers, Denmark; Scandicci, Italy; Shanghai, China; Laguna, the Philippines; Lincoln, the United Kingdom; Wrexham, the United Kingdom; and Warwickshire, the United Kingdom.

The Food Processing Equipment Group manufactures its products in six domestic and four international production facilities. These production facilities are located in Algona, Iowa; Chicago, Illinois; Clayton, North Carolina; Plano, TX; Waynesboro, Virginia; Lodi, Wisconsin; New South Wales, Australia; Maun, France; Guadalupe, Mexico; and Reichenau, Germany.

Metal fabrication, finishing, sub-assembly and assembly operations are conducted at each manufacturing facility. Equipment installed at individual manufacturing facilities includes numerically controlled turret presses and machine centers, shears, press brakes, welding equipment, polishing equipment, CAD/CAM systems and product testing and quality assurance measurement devices. The company's CAD/CAM systems enable virtual electronic prototypes to be created, reviewed and refined before the first physical prototype is built.

Detailed manufacturing drawings are quickly and accurately derived from the model and passed electronically to manufacturing for programming and optimal parts nesting on various numerically controlled punching cells. The company believes that this integrated product development and manufacturing process is critical to assuring product performance, customer service and competitive pricing.

The company has established comprehensive programs to ensure the quality of products, to analyze potential product failures and to certify vendors for continuous improvement. Products manufactured by the company are tested prior to shipment to ensure compliance with company standards.

## **Sources of Supply**

The company purchases its raw materials and component parts from a number of suppliers. The majority of the company's material purchases are standard commodity-type materials, such as stainless steel, electrical components and hardware. These materials and parts generally are available in adequate quantities from numerous suppliers. Some component parts are obtained from sole sources of supply. In such instances, management believes it can substitute other suppliers as required. The majority of fabrication is done internally through the use of automated equipment. Certain equipment and accessories are manufactured by other suppliers for sale by the company. The company believes it enjoys good relationships with its suppliers and considers the present sources of supply to be adequate for its present and anticipated future requirements.

## **Research and Development**

The company believes its future success will depend in part on its ability to develop new products and to improve existing products. Much of the company's research and development efforts at both the Commercial Foodservice Equipment Group and the Foodprocessing Equipment Group are directed to the development and improvement of products designed to reduce cooking and processing time, increase capacity or throughput, reduce energy consumption, minimize labor costs, improve product yield and improve safety while maintaining consistency and quality of cooking production and food preparation. The company has identified these issues as key concerns for most of its customers. The company often identifies product improvement opportunities by working closely with customers on specific applications. Most research and development activities are performed by the company's technical service and engineering staff located at each manufacturing location. On occasion, the company will contract outside engineering firms to assist with the development of certain technical concepts and applications. See Note 3(o) to the Consolidated Financial Statements for further information on the company's research and development activities.



## **Trademarks, Patents and Licenses**

The company has developed, acquired and assembled a leading portfolio of trademarks and trade names. The company believes that these tradenames and trademarks provide for a significant competitive advantage due to a long-standing recognition in the marketplace with customers, restaurant operators, distribution partners, sales and service agents, and foodservice consultants that specify foodservice equipment. The company has historically maintained a high level of marketshare of products sold with these tradenames and trademarks.

The company's leading portfolio of tradenames of its Commercial Foodservice Equipment Group include Anets®, Blodgett®, Blodgett Combi®, Blodgett Range®, Beech®, Bloomfield®, Britannia®, Carter-Hoffmann®, CookTek®, CTX®, Doyon®, FriFri®, Giga®, Holman®, Houno®, IMC®, Jade®, Lang®, Lincat®, MagiKitch'n®, Middleby Marshall®, MPC®, Nieco®, Nu-Vu®, PerfectFry®, Pitco Frialator®, Southbend®, Star®, Toastmaster®, Turbochef® and Wells®.

The company's leading portfolio of tradenames of its Food Processing Equipment Group include Alkar®, Armor Inox®, Auto-Bake®, Baker Thermal Solutions®, Cozzini®, Danfotech®, Drake®, Maurer-Atmos®, MP Equipment®, RapidPak®, and Stewart Systems®.

The company holds a broad portfolio of patents and licenses covering technology and applications related to various products, equipment and systems. Management believes the expiration of any one of these patents would not have a material adverse effect on the overall operations or profitability of the company.

## **Employees**

### **Commercial Foodservice Equipment Group**

As of December 29, 2012, 2,314 persons were employed within the Commercial Foodservice Equipment Group. Of this amount, 920 were management, administrative, sales, engineering and supervisory personnel; 1,203 were hourly production non-union workers; and 191 were hourly production union members. Included in these totals were 764 individuals employed outside of the United States, of which 396 were management, sales, administrative and engineering personnel, 294 were hourly production non-union workers and 74 were hourly production union workers, who participate in an employee cooperative. At its Windsor, CA facility, the company has a union contract with the Sheet Metal Workers International Association that expires on December 31, 2016. At its Elgin, Illinois facility, the company has a union contract with the International Brotherhood of Teamsters that expires on July 31, 2017. The company also has a union workforce at its manufacturing facility in the Philippines, under a contract that extends through June 2015. Management believes that the relationships between employees, unions and management are good.

### **Food Processing Equipment Group**

As of December 29, 2012, 806 persons were employed within the Food Processing Equipment Group. Of this amount, 402 were management, administrative, sales, engineering and supervisory personnel; 285 were hourly production non-union workers; and 119 were hourly production union members. Included in these totals were 263 individuals employed outside of the United States, of which 139 were management, sales, administrative and engineering personnel, 124 were hourly production non-union workers. At its Lodi, Wisconsin facility, the company has a contract with the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers that expires on December 31, 2014. At its Algona, Iowa facility, the company has a union contract within the United Food and Commercial Workers that expires on December 31, 2014. Management believes that the relationships between employees, unions and management are good.

### **Corporate**

As of December 29, 2012, 20 persons were employed at the corporate office.

## **Seasonality**

The company's revenues historically have been stronger in the second and third quarters due to increased purchases from customers involved with the catering business and institutional customers, particularly schools, during the summer months.

## **Item 1A. Risk Factors**

The company's business, results of operations, cash flows and financial condition are subject to various risks, including, but not limited to those set forth below. If any of the following risks actually occurs, the company's business, results of operations, cash flows and financial condition could be materially adversely affected. These risk factors should be carefully considered together with the other information in this Annual Report on Form 10-K, including the risks and uncertainties described under the heading "Special Note Regarding Forward-Looking Statements."

### **Economic conditions may cause a decline in business and consumer spending which could adversely affect the company's business and financial performance.**

The company's operating results are impacted by the health of the North American, European, Asian and Latin American economies. The company's business and financial performance, including collection of its accounts receivable, may be adversely affected by the current and future economic conditions that caused, and may cause in the future, a decline in business and consumer spending, a reduction in the availability of credit and decreased growth by our existing customers, resulting in customers electing to delay the replacement of aging equipment. Higher energy costs, rising interest rates, weakness in the residential construction, housing and home improvement markets, financial market volatility, recession and acts of terrorism may also adversely affect the company's business and financial performance. Additionally, the company may experience difficulties in scaling its operations due to economic pressures in the U.S. and International markets.

### **The company's level of indebtedness could adversely affect its business, results of operations and growth strategy.**

The company now has and may continue to have a significant amount of indebtedness. At December 29, 2012, the company had \$260.1 million of borrowings and \$7.8 million in letters of credit outstanding. On December 31, 2012, subsequent to year end, the company incurred additional indebtedness to acquire Viking Range Corporation for \$380.0 million. To the extent the company requires additional capital resources, there can be no assurance that such funds will be available on favorable terms, or at all. The unavailability of funds could have a material adverse effect on the company's financial condition, results of operations and ability to expand the company's operations.

The company's level of indebtedness could adversely affect it in a number of ways, including the following:

- the company may be unable to obtain additional financing for working capital, capital expenditures, acquisitions and other general corporate purposes;
- a significant portion of the company's cash flow from operations must be dedicated to debt service, which reduces the amount of cash the company has available for other purposes;
- the company may be more vulnerable in the event of a downturn in the company's business or general economic and industry conditions;
- the company may be disadvantaged competitively by its potential inability to adjust to changing market conditions, as a result of its significant level of indebtedness; and
- the company may be restricted in its ability to make strategic acquisitions and to pursue new business opportunities.

**The company's current credit agreement limits its ability to conduct business, which could negatively affect the company's ability to finance future capital needs and engage in other business activities.**

The covenants in the company's existing credit agreement contain a number of significant limitations on its ability to, among other things:

- pay dividends;
- incur additional indebtedness;
- create liens on the company's assets;
- engage in new lines of business;
- make investments;
- make capital expenditures and enter into leases; and
- acquire or dispose of assets.

These restrictive covenants, among others, could negatively affect the company's ability to finance its future capital needs, engage in other business activities or withstand a future downturn in the company's business or the economy.

Under the company's current credit agreement, the company is required to maintain certain specified financial ratios and meet financial tests, including certain ratios of leverage and fixed charge coverage. The company's ability to comply with these requirements may be affected by matters beyond its control, and, as a result, there can be no assurance that the company will be able to meet these ratios and tests. A breach of any of these covenants would prevent the company from being able to draw under the company revolver and would result in a default under the company's credit agreement. In the event of a default under the company's current credit agreement, the lenders could terminate their commitments and declare all amounts borrowed, together with accrued interest and other fees, to be immediately due and payable. Borrowings under other debt instruments that contain cross-acceleration or cross-default provisions may also be accelerated and become due and payable at such time. The company may be unable to pay these debts in these circumstances.

**The company has a significant amount of goodwill and could suffer losses due to asset impairment charges.**

The company's balance sheet includes a significant amount of goodwill, which represents approximately 42% of its total assets as of December 29, 2012. The excess of the purchase price over the fair value of assets acquired, including identifiable intangible assets, and liabilities assumed in conjunction with acquisitions is recorded as goodwill. In accordance with Accounting Standards Codification ("ASC") 350 "Intangibles-Goodwill and Other", the company's long-lived assets (including goodwill and other intangibles) are reviewed for impairment annually and whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. In assessing the recoverability of long-lived assets, the company considers changes in economic conditions and makes assumptions regarding estimated future cash flows and other factors. Various uncertainties, including continued adverse conditions in the capital markets or changes in general economic conditions, could impact the future operating performance at one or more of the company's businesses, which could significantly affect the company's valuations and could result in additional future impairments. Also, estimates of future cash flows are judgments based on the company's experience and knowledge of operations. These estimates can be significantly impacted by many factors, including changes in global and local business and economic conditions, operating costs, inflation, competition, and consumer and demographic trends. If the company's estimates or the underlying assumptions change in the future, the company may be required to record impairment charges. Any such charge could have a material adverse effect on the company's reported net earnings.

**Competition in the foodservice equipment industry is intense and could impact the company's results of operations and cash flows.**

The company operates in a highly competitive industry. In the company's business, competition is based on product features and design, brand recognition, reliability, durability, technology, energy efficiency, breadth of product offerings, price, customer relationships, delivery lead times, serviceability and after-sale service. The company has a number of competitors in each product line that it offers. Many of the company's competitors are substantially larger and enjoy substantially greater financial, marketing, technological and personnel resources. These factors may enable them to develop similar or superior products, to provide lower cost products and to carry out their business strategies more quickly and efficiently than the company can. In addition, some competitors focus on particular product lines or geographic regions or emphasize their local manufacturing presence or local market knowledge. Some competitors have different pricing structures and may be able to deliver their products at lower prices. Although the company believes that the performance and price characteristics of its products will provide competitive solutions for its customers' needs, there can be no assurance that the company's customers will continue to choose the company's products over products offered by its competitors.

Further, the market for the company's products is characterized by changing technology and evolving industry standards. The company's ability to compete in the past has depended in part on the company's ability to develop innovative new products and bring them to market more quickly than the company's competitors. The company's ability to compete successfully will depend, in large part, on its ability to enhance and improve its existing products, to continue to bring innovative products to market in a timely fashion, to adapt the company's products to the needs and standards of its current and potential customers and to continue to improve operating efficiencies and lower manufacturing costs. Moreover, competitors may develop technologies or products that render the company's products obsolete or less marketable. If the company's products, markets and services are not competitive, the company's business, financial condition and operating results will be materially harmed.

In addition, the success of the company's business depends, in part, on its ability to maintain and expand the company's product offerings and the company's customer base. The company's success also depends on its ability to offer competitive prices and services in a price sensitive business. Many of the company's larger restaurant chain customers have multiple sources of supply for their equipment purchases and periodically approve new competitive equipment as an alternative to the company's products for use within their restaurants. There can be no assurance that the company will be able to continue to expand its product lines or that it will be able to retain its current customers or attract new customers. The company also cannot assure you that it will not lose customers to low-cost competitors with comparable or superior products and services. If the company fails to expand its product offerings, or loses a substantial number of the company's current customers or substantial business from current customers, or is unable to attract new customers, the company's business, financial condition and results of operations will be adversely affected.

**The company is subject to risks associated with developing products and technologies, which could delay product introductions and result in significant expenditures.**

The product, program and service needs of the company's customers change and evolve regularly, and the company invests substantial amounts in research and development efforts to pursue advancements in a wide range of technologies, products and services. Also, the company continually seeks to refine and improve upon the performance, utility and physical attributes of its existing products and to develop new products. As a result, the company's business is subject to risks associated with new product and technological development, including unanticipated technical or other problems, meeting development, production, certification and regulatory approval schedules, execution of internal and external performance plans, availability of supplier- and internally-produced parts and materials, performance of suppliers and subcontractors, hiring and training of qualified personnel, achieving cost and production efficiencies, identification of emerging technological trends in the company's target end-markets, validation of innovative technologies, the level of customer interest in new technologies and products, and customer acceptance of the company's products and products that incorporate technologies that the company develops. These factors involve significant risks and uncertainties. Also, any development efforts divert resources from other potential investments in the company's businesses, and these efforts may not lead to the development of new technologies or products on a timely basis or meet the needs of the company's customers as fully as competitive offerings. In addition, the markets for the company's products or products that incorporate the company's technologies may not develop or grow as the company anticipates. The company or its suppliers and subcontractors may encounter difficulties in developing and producing these new products and services, and may not realize the degree or timing of benefits initially anticipated. Due to the design complexity of the company's products, the company may in the future experience delays in completing the development and introduction of new products. Any delays could result in increased development costs or deflect resources from other projects. The occurrence of any of these risks could cause a substantial change in the design, delay in the development, or abandonment of new technologies and products. Consequently, there can be no assurance that the company will develop new technologies superior to the company's current technologies or successfully bring new products to market.

Additionally, there can be no assurance that new technologies or products, if developed, will meet the company's current price or performance objectives, be developed on a timely basis, or prove to be as effective as products based on other technologies. The inability to successfully complete the development of a product, or a determination by the company, for financial, technical or other reasons, not to complete development of a product, particularly in instances in which the company has made significant expenditures, could have a material adverse effect on the company's financial condition and operating results.

**The company has depended, and will continue to depend, on key customers for a material portion of its revenues. As a result, changes in the purchasing patterns of such key customers could adversely impact the company's operating results.**

Many of the company's key customers are large restaurant chains and major food processing companies. The demand for the company's equipment can vary from quarter to quarter depending on the company's customers' internal growth plans, construction, seasonality and other factors. In addition, during an economic downturn, key customers could both open fewer facilities and defer purchases of new equipment for existing operations. Either of these conditions could have a material adverse effect on the company's financial condition and results of operations.

**Price changes in some materials and sources of supply could affect the company's profitability.**

The company uses large amounts of stainless steel, aluminized steel and other commodities in the manufacture of its products. A significant increase in the price of steel or any other commodity that the company is not able to pass on to its customers would adversely affect the company's operating results. In addition, an unanticipated delay in delivery of raw materials and component inventories by suppliers—including a delay due to capacity constraints, labor disputes, the financial condition of suppliers, weather emergencies, or other natural disasters—may impair the ability of the company to satisfy customer demand. An interruption in or the cessation of an important supply by any third party and the company's inability to make alternative arrangements in a timely manner, or at all, could have a material adverse effect on the company's business, financial condition and operating results.

**The company's acquisition, investment and alliance strategy involves risks. If the company is unable to effectively manage these risks, its business will be materially harmed.**

To achieve the company's strategic objectives, the company has pursued and may continue to pursue strategic acquisitions and investments or invest in other companies, businesses or technologies. Acquisitions entail numerous risks, including the following:

- difficulties in the assimilation of acquired businesses or technologies;
- inability to operate acquired businesses or utilize acquired technologies profitably;
- diversion of management's attention from other business concerns;
- potential assumption of unknown material liabilities;
- failure to achieve financial or operating objectives;
- unanticipated costs relating to acquisitions or to the integration of the acquired businesses; and
- loss of customers, suppliers, or key employees

The company may not be able to successfully integrate any operations, personnel, services or products that it has acquired or may acquire in the future.

The company may seek to expand or enhance some of its operations by forming joint ventures or alliances with various strategic partners throughout the world. Entering into joint ventures and alliances also entails risks, including difficulties in developing and expanding the businesses of newly formed joint ventures, exercising influence over the activities of joint ventures in which the company does not have a controlling interest and potential conflicts with the company's joint venture or alliance partners.

**An inability to identify or complete future acquisitions could adversely affect future growth.**

The company has historically followed a strategy of identifying and acquiring businesses with complementary products and services. As part of its growth strategy, the company intends to pursue acquisitions that provide opportunities for profitable growth and which enable it to leverage its competitive strengths. While the company continues to evaluate potential acquisitions, it may not be able to identify and successfully negotiate suitable acquisitions, obtain financing for future acquisitions on satisfactory terms, obtain regulatory approval for certain acquisitions, or otherwise complete acquisitions in the future. An inability to identify or complete future acquisitions could limit the company's growth.

**Expansion of the company's operations internationally involves special challenges that it may not be able to meet. The company's failure to meet these challenges could adversely affect its business, financial condition and operating results.**

The company plans to continue to expand its operations internationally. The company faces certain risks inherent in doing business in international markets. These risks include:

- extensive regulations and oversight, tariffs and other trade barriers;
- reduced protection for intellectual property rights;
- difficulties in staffing and managing foreign operations;
- potentially adverse tax consequences;
- limitations on ownership and on repatriation of earnings;
- transportation delays and interruptions;
- political, social, and economic instability and disruptions;
- labor unrests;
- potential for nationalization of enterprises; and
- limitations on the company's ability to enforce legal rights and remedies.

In addition, the company is and will be required to comply with the laws and regulations of foreign governmental and regulatory authorities of each country in which the company conducts business.

There can be no assurance that the company will be able to succeed in marketing its products and services in international markets. The company may also experience difficulty in managing its international operations because of, among other things, competitive conditions overseas, management of foreign exchange risk, established domestic markets, language and cultural differences and economic or political instability. Any of these factors could have a material adverse effect on the success of the company's international operations and, consequently, on the company's business, financial condition and operating results.

**The company is subject to currency fluctuations and other risks from its operations outside the United States.**

The company has manufacturing and distribution operations located in Asia, Europe and Latin America. The company's operations are subject to the impact of economic downturns, political instability and foreign trade restrictions, which may adversely affect the company's business, financial condition and operating results. The company anticipates that international sales will continue to account for a significant portion of consolidated net sales in the foreseeable future. Some sales and operating costs of the company's foreign operations are realized in local currencies, and an increase in the relative value of the U.S. dollar against such currencies would lead to a reduction in consolidated sales and earnings. Additionally, foreign currency exposures are not fully hedged, and there can be no assurances that the company's future results of operations will not be adversely affected by currency fluctuations. Furthermore, currency fluctuations may affect the prices paid to the company's suppliers for materials the company uses in production. As a result, operating margins may also be negatively impacted by worldwide currency fluctuations that result in higher costs for certain cross-border transactions.

**The company may not be able to adequately protect its intellectual property rights, and this inability may materially harm its business.**

The company relies primarily on trade secret, copyright, service mark, trademark and patent law and contractual protections to protect the company's proprietary technology and other proprietary rights. The company has filed numerous patent applications covering the company's technology. Notwithstanding the precautions the company takes to protect its intellectual property rights, it is possible that third parties may copy or otherwise obtain and use the company's proprietary technology without authorization or may otherwise infringe on the company's rights. In some cases, including a number of the company's most important products, there may be no effective legal recourse against duplication by competitors. In the future, the company may have to rely on litigation to enforce its intellectual property rights, protect its trade secrets, determine the validity and scope of the proprietary rights of others or defend against claims of infringement or invalidity. Any such litigation, whether successful or unsuccessful, could result in substantial costs to the company and diversions of the company's resources, either of which could adversely affect the company's business.

**Any infringement by the company on patent rights of others could result in litigation and adversely affect its ability to continue to provide, or could increase the cost of providing, the company's products and services.**

Patents of third parties may have an important bearing on the company's ability to offer some of its products and services. The company's competitors, as well as other companies and individuals, may obtain, and may be expected to obtain in the future, patents related to the types of products and services the company offers or plans to offer. There can be no assurance that the company is or will be aware of all patents containing claims that may pose a risk of infringement by its products and services. In addition, some patent applications in the United States are confidential until a patent is issued and, therefore, the company cannot evaluate the extent to which its products and services may be covered or asserted to be covered by claims contained in pending patent applications. In general, if one or more of the company's products or services were to infringe patents held by others, the company may be required to stop developing or marketing the products or services, to obtain licenses from the holders of the patents to develop and market the services, or to redesign the products or services in such a way as to avoid infringing on the patent claims. The company cannot assess the extent to which it may be required in the future to obtain licenses with respect to patents held by others, whether such licenses would be available or, if available, whether it would be able to obtain such licenses on commercially reasonable terms. If the company were unable to obtain such licenses, it also may not be able to redesign the company's products or services to avoid infringement, which could materially adversely affect the company's business, financial condition and operating results.

**The company may be the subject of product liability claims or product recalls, and it may be unable to obtain or maintain insurance adequate to cover potential liabilities.**

Product liability is a significant commercial risk to the company. The company's business exposes it to potential liability risks that arise from the manufacture, marketing and sale of the company's products. In addition to direct expenditures for damages, settlement and defense costs, there is a possibility of adverse publicity as a result of product liability claims. Some plaintiffs in some jurisdictions have received substantial damage awards against companies based upon claims for injuries allegedly caused by the use of their products. In addition, it may be necessary for the company to recall products that do not meet approved specifications, which could result in adverse publicity as well as costs connected to the recall and loss of revenue.

The company cannot be certain that a product liability claim or series of claims brought against it would not have an adverse effect on the company's business, financial condition or results of operations. If any claim is brought against the company, regardless of the success or failure of the claim, the company cannot assure you that it will be able to obtain or maintain product liability insurance in the future on acceptable terms or with adequate coverage against potential liabilities or the cost of a recall. The company currently maintains insurance programs consisting of self insurance up to certain limits and excess insurance coverage for claims over established limits. There can be no assurance that the company will be able to obtain insurance on acceptable terms or that its insurance programs will provide adequate protection against actual losses. In addition, the company is subject to the risk that one or more of its insurers may become insolvent or become unable to pay claims that may be made in the future.

**The company may be subject to litigation, environmental, and other legal compliance risks.**

In addition to product liability claims, the company is subject to a variety of litigation, tax, and legal compliance risks. These risks include, among other things, possible liability relating to personal injuries, intellectual property rights, contract-related claims, taxes, environmental matters, and compliance with U.S. and foreign export laws, competition laws, and laws governing improper business practices. The company or one of its business units could be charged with wrongdoing as a result of such matters. If convicted or found liable, the company could be subject to significant fines, penalties, repayments, or other damages.

**An increase in warranty expenses could adversely affect the company's financial performance.**

The company offers purchasers of its products warranties covering workmanship and materials typically for one year and, in certain circumstances, for periods of up to ten years, during which period the company or an authorized service representative will make repairs and replace parts that have become defective in the course of normal use. The company estimates and records its future warranty costs based upon past experience. These warranty expenses may increase in the future and may exceed the company's warranty reserves, which, in turn, could adversely affect the company's financial performance.



**The company is subject to potential liability under environmental laws.**

The company's operations are regulated under a number of federal, state and local environmental laws and regulations that govern, among other things, the discharge of hazardous materials into the air and water as well as the handling, storage and disposal of these materials. Compliance with these environmental laws and regulations is a significant consideration for the company because it uses hazardous materials in its manufacturing processes. In addition, because the company is a generator of hazardous wastes, even if it fully complies with applicable environmental laws, it may be subject to financial exposure for costs associated with an investigation and remediation of sites at which it has arranged for the disposal of hazardous wastes if these sites become contaminated. In the event of a violation of environmental laws, the company could be held liable for damages and for the costs of remedial actions. Environmental laws could also become more stringent over time, imposing greater compliance costs and increasing risks and penalties associated with any violation, which could negatively affect the company's operating results. There can be no assurance that identification of presently unidentified environmental conditions, more vigorous enforcement by regulatory authorities, or other unanticipated events will not arise in the future and give rise to additional environmental liabilities, compliance costs, and penalties that could be material. Environmental laws and regulations are constantly evolving, and it is impossible to predict accurately the effect they may have upon the financial condition, results of operations, or cash flows of the company.

**The company's financial performance is subject to significant fluctuations.**

The company's financial performance is subject to quarterly and annual fluctuations due to a number of factors, including:

- general economic conditions;
- the lengthy, unpredictable sales cycle for commercial foodservice equipment and food processing equipment;
- the gain or loss of significant customers;
- unexpected delays in new product introductions;
- the level of market acceptance of new or enhanced versions of the company's products;
- unexpected changes in the levels of the company's operating expenses; and
- competitive product offerings and pricing actions.

Each of these factors could result in a material and adverse change in the company's business, financial condition and results of operations.

**The company may be unable to manage its growth.**

The company has recently experienced rapid growth in business. Continued growth could place a strain on the company's management, operations and financial resources. There also will be additional demands on the company's sales, marketing and information systems and on the company's administrative infrastructure as it develops and offers additional products and enters new markets. The company cannot be certain that the company's operating and financial control systems, administrative infrastructure, outsourced and internal production capacity, facilities and personnel will be adequate to support the company's future operations or to effectively adapt to future growth. If the company cannot manage the company's growth effectively, the company's business may be harmed.

**The company's business could suffer in the event of a work stoppage by its unionized labor force.**

Because the company has a significant number of workers whose employment is subject to collective bargaining agreements and labor union representation, the company is vulnerable to possible organized work stoppages and similar actions. Unionized employees accounted for approximately 10% of the company's workforce as of December 29, 2012. The company has union contracts with employees at its facilities in Windsor, California, Algona, Iowa, Elgin, Illinois and Lodi, Wisconsin that extend through December 2016, December 2014, July 2017 and December 2014, respectively. The company also has a union workforce at its manufacturing facility in the Philippines under a contract that extends through June 2015. Any future strikes, employee slowdowns or similar actions by one or more unions, in connection with labor contract negotiations or otherwise, could have a material adverse effect on the company's ability to operate the company's business.

**The company depends significantly on its key personnel.**

The company depends significantly on certain of the company's executive officers and certain other key personnel, many of whom could be difficult to replace. While the company has employment agreements with certain key executives, the company cannot be certain that it will succeed in retaining this personnel or their services under existing agreements. The incapacity, inability or unwillingness of certain of these people to perform their services may have a material adverse effect on the company. There is intense competition for qualified personnel within the company's industry, and there can be no assurance that the company will be able to continue to attract, motivate and retain personnel with the skills and experience needed to successfully manage the company business and operations.

**The impact of future transactions on the company's common stock is uncertain.**

The company periodically reviews potential transactions related to products or product rights and businesses complementary to the company's business. Such transactions could include mergers, acquisitions, joint ventures, alliances or licensing agreements. In the future, the company may choose to enter into such transactions at any time. The impact of transactions on the market price of a company's stock is often uncertain, but it may cause substantial fluctuations to the market price. Consequently, any announcement of any such transaction could have a material adverse effect upon the market price of the company's common stock. Moreover, depending upon the nature of any transaction, the company may experience a charge to earnings, which could be material and could possibly have an adverse impact upon the market price of the company's common stock.

**Item 1B. Unresolved Staff Comments**

Not applicable.

## Item 2. Properties

The company's principal executive offices are located in Elgin, Illinois. The company operates eighteen manufacturing facilities in the U.S and twelve manufacturing facilities internationally.

The principal properties of the company utilize to conduct business operations are listed below:

<u>Location</u>	<u>Principal Function</u>	<u>Square Footage</u>	<u>Owned/ Leased</u>	<u>Lease Expiration</u>
Brea, CA	Manufacturing, Warehousing and Offices	74,800	Leased	June 2016
Windsor, CA	Manufacturing, Warehousing and Offices	75,000	Leased	October 2017
Buford, GA	Warehousing and Offices	50,000	Leased	December 2014
Chicago, IL	Manufacturing, Warehousing and Offices	64,400	Leased	December 2016
Chicago, IL	Manufacturing, Warehousing and Offices	30,800	Leased	March 2014
Elgin, IL	Manufacturing, Warehousing and Offices	207,000	Owned	N/A
Mundelein, IL	Manufacturing, Warehousing and Offices	70,000	Owned	N/A
Algona, IA	Manufacturing, Warehousing and Offices	47,000	Owned	N/A
Menominee, MI	Manufacturing, Warehousing and Offices	60,000	Owned	N/A
St. Louis, MO	Offices	46,900	Leased	August 2017
Bow, NH	Manufacturing, Warehousing and Offices	100,000	Owned	N/A
		57,400	Leased	March 2015
Clayton, NC	Manufacturing, Warehousing and Offices	65,300	Leased	October 2019
Fuquay-Varina, NC	Manufacturing, Warehousing and Offices	138,900	Owned	N/A
Cookville, TN	Manufacturing, Warehousing and Offices	90,000	Leased	February 2013
Smithville, TN	Manufacturing, Warehousing and Offices	190,000	Owned	N/A
Carrollton, TX	Manufacturing, Warehousing and Offices	132,200	Leased	August 2022
Plano, TX	Manufacturing, Warehousing and Offices	133,300	Leased	December 2015
Waynesburg, VA	Manufacturing, Warehousing and Offices	25,600	Owned	N/A
		14,360	Leased	August 2014
Burlington, VT	Manufacturing, Warehousing and Offices	135,400	Owned	N/A
Lodi, WI	Manufacturing, Warehousing and Offices	114,600	Owned	N/A
Brisbane, Australia	Manufacturing, Warehousing and Offices	22,800	Leased	January 2013
New South Wales, Australia	Manufacturing, Warehousing and Offices	50,500	Leased	September 2015
Sao Paulo, Brazil	Warehousing and Offices	20,700	Leased	May 2014
Quebec City, Canada	Warehousing and Offices	36,000	Owned	N/A
Shanghai, China	Manufacturing, Warehousing and Offices	74,000	Leased	May 2013
Randers, Denmark	Manufacturing, Warehousing and Offices	79,400	Owned	N/A
Mauron, France	Manufacturing, Warehousing and Offices	75,300	Leased	April 2016
Reichenau, Germany	Manufacturing, Warehousing and Offices	57,900	Leased	June 2016
Scandicco, Italy	Manufacturing, Warehousing and Offices	106,350	Leased	March 2020
Mexico City, Mexico	Warehousing and Offices	28,000	Leased	May 2017
Guadalupe, Mexico	Manufacturing, Warehousing and Offices	117,600	Leased	December 2014
Laguna, the Philippines	Manufacturing, Warehousing and Offices	83,100	Owned	N/A
Lincoln, the United Kingdom	Manufacturing, Warehousing and Offices	100,000	Owned	N/A
Warwickshire, the United Kingdom		12,000	Owned	N/A
Wrexham, the United Kingdom	Manufacturing, Warehousing and Offices	68,000	Owned	N/A

At various other locations the company leases small amounts of office space for administrative and sales functions, and in certain instances limited short-term inventory storage. These locations are in Brazil, China, Italy, Mexico, Spain and the United Kingdom.

Management believes that these facilities are adequate for the operation of the company's business as presently conducted.

**Item 3. Legal Proceedings**

The company is routinely involved in litigation incidental to its business, including product liability claims, which are partially covered by insurance or in certain cases by indemnification provisions under purchase agreements for recently acquired companies. Such routine claims are vigorously contested and management does not believe that the outcome of any such pending litigation will have a material effect upon the financial condition, results of operations or cash flows of the company.

**Item 4. Mine Safety Issues**

Not Applicable

## PART II

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

#### Principal Market

The company's Common Stock trades on the Nasdaq Global Market under the symbol "MIDD". The following table sets forth, for the periods indicated, the high and low closing sale prices per share of Common Stock, as reported by the Nasdaq Global Market.

	Closing Share Price	
	High	Low
<b>Fiscal 2012</b>		
First quarter	103.75	91.81
Second quarter	104.82	93.48
Third quarter	122.57	94.03
Fourth quarter	134.51	115.61
<b>Fiscal 2011</b>		
First quarter	94.84	80.55
Second quarter	96.25	79.70
Third quarter	97.74	65.39
Fourth quarter	98.00	66.36

#### Shareholders

The company estimates there were approximately 34,000 record holders of the company's common stock as of February 24, 2012.

#### Dividends

The company does not currently pay cash dividends on its common stock. Any future payment of cash dividends on the company's common stock will be at the discretion of the company's Board of Directors and will depend upon the company's results of operations, earnings, capital requirements, contractual restrictions and other factors deemed relevant by the Board of Directors. The company's Board of Directors currently intends to retain any future earnings to support its operations and to finance the growth and development of the company's business and does not intend to declare or pay cash dividends on its common stock for the foreseeable future. In addition, the company's revolving credit facility limits its ability to declare or pay dividends on its common stock.

#### Issuer Purchases of Equity Securities

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plan or Program	Maximum Number of Shares that May Yet be Purchased Under the Plan or Program (1)
September 30 to October 27, 2012	36,234	\$ 129.28	36,234	61,930
October 28 to November 24, 2012				61,930
November 25 to December 29, 2012	—	—	—	61,930
Quarter ended December 29, 2012	36,234	\$ 129.28	36,234	61,930

(1) This column does not include an additional 1.0 million shares authorized for repurchase by the company's Board of Directors on February 22, 2013

In July 1998, the company's Board of Directors adopted a stock repurchase program and subsequently authorized the purchase of up to 1,800,000 common shares in open market purchases. As of December 29, 2012, 1,738,070 shares had been purchased under the 1998 stock repurchase program.

In May 2007, the company's Board of Directors approved a two-for-one stock split of the company's common stock in the form of a stock dividend. The stock split was paid to shareholders of record as of June 1, 2007. The company's stock began trading on a stock-adjusted basis on June 18, 2007. The stock split effectively doubled the number of shares outstanding at June 15, 2007.

At December 29, 2012, the company had a total of 4,635,315 shares in treasury amounting to \$147.4 million.

**Item 6. Selected Financial Data**

**(amounts in thousands, except per share data)**  
**Fiscal Year Ended(1, 2)**

	2012	2011	2010	2009	2008
<b>Income Statement Data:</b>					
Net sales	1,038,174	\$ 855,907	\$ 719,121	\$ 646,629	\$ 651,888
Cost of sales	635,185	511,770	432,444	396,001	403,746
Gross profit	402,989	344,137	286,677	250,628	248,142
Selling and distribution expenses	106,129	91,113	75,772	64,239	63,593
General and administrative expenses	108,776	104,314	88,117	74,948	64,931
Income from operations	188,084	148,710	122,788	111,441	119,618
Net interest expense and deferred financing amortization, net	9,238	8,503	8,592	11,594	12,982
Other expense (income), net	4,406	(241)	(40)	121	2,414
Earnings before income taxes	174,440	140,448	114,236	99,726	104,222
Provision for income taxes	53,743	44,975	41,369	38,570	40,321
Net earnings	\$ 120,697	\$ 95,473	\$ 72,867	\$ 61,156	\$ 63,901
Net earnings per share:					
Basic	\$ 6.61	\$ 5.30	\$ 4.09	\$ 3.47	\$ 4.00
Diluted	\$ 6.49	\$ 5.15	\$ 3.97	\$ 3.29	\$ 3.75
Weighted average number of shares outstanding:					
Basic	18,265	17,998	17,801	17,605	15,978
Diluted	18,594	18,534	18,337	18,575	17,030
<b>Balance Sheet Data:</b>					
Working capital (3)	\$ 170,167	\$ (182,234)	\$ 79,807	\$ 70,670	\$ 68,198
Total assets	1,244,280	1,146,512	873,172	816,346	654,498
Total debt	260,070	317,335	214,017	275,641	234,700
Stockholders' equity	650,027	510,969	424,913	342,655	227,960

- (1) The company's fiscal year ends on the Saturday nearest to December 31.
- (2) The company has acquired numerous businesses in the periods presented. Please see Footnote 2 in the Notes to Consolidated Financial Statements for further information.
- (3) In 2011, the company's senior secured revolving credit line was classified as a current liability due to the maturity date was within twelve months of the financial statement date.

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

### **Special Note Regarding Forward-Looking Statements**

This report contains "forward-looking statements" subject to the Private Securities Litigation Reform Act of 1995. These forward-looking statements involve known and unknown risks, uncertainties and other factors, which could cause the company's actual results, performance or outcomes to differ materially from those expressed or implied in the forward-looking statements. The following are some of the important factors that could cause the company's actual results, performance or outcomes to differ materially from those discussed in the forward-looking statements:

- changing market conditions;
- volatility in earnings resulting from goodwill impairment losses, which may occur irregularly and in varying amounts;
- variability in financing costs;
- quarterly variations in operating results;
- dependence on key customers;
- risks associated with the company's foreign operations, including market acceptance and demand for the company's products and the company's ability to manage the risk associated with the exposure to foreign currency exchange rate fluctuations;
- the company's ability to protect its trademarks, copyrights and other intellectual property;
- the impact of competitive products and pricing;
- the state of the residential construction, housing and home improvement markets;
- the state of the credit markets, including mortgages, home equity loans and consumer credit;
- the company's ability to maintain and grow the Viking reputation and brand image;
- intense competition in the premium residential appliance industry reflecting the impact of both new and established global competitors, including Asian and European manufacturers;
- the timely development and market acceptance of the company's products; and
- the availability and cost of raw materials.

The company cautions readers to carefully consider the statements set forth in the section entitled "Item 1A Risk Factors" of this filing and discussion of risks included in the company's SEC filings.



**NET SALES SUMMARY**  
(dollars in thousands)

	<b>Fiscal Year Ended<sup>(1)</sup></b>					
	2012		2011		2010	
	Sales	Percent	Sales	Percent	Sales	Percent
<b><u>Business Segments:</u></b>						
Commercial Foodservice	\$ 786,391	75.7%	\$ 723,274	84.5%	\$ 611,596	85.0%
Food Processing	251,783	24.3	132,633	15.5	107,525	15.0
Total	<u>\$ 1,038,174</u>	<u>100.0%</u>	<u>\$ 855,907</u>	<u>100.0%</u>	<u>\$ 719,121</u>	<u>100.0%</u>

(1) The company's fiscal year ends on the Saturday nearest to December 31.

**Results of Operations**

The following table sets forth certain items in the consolidated statements of earnings as a percentage of net sales for the periods presented:

	<b>Fiscal Year Ended<sup>(1)</sup></b>		
	2012	2011	2010
Net sales	100.0%	100.0%	100.0%
Cost of sales	61.2	59.8	60.1
Gross profit	38.8	40.2	39.9
Selling, general and administrative expenses	20.7	22.8	22.8
Income from operations	18.1	17.4	17.1
Interest expense and deferred financing amortization, net	0.9	1.0	1.2
Other expense (income), net	0.4	—	—
Earnings before income taxes	16.8	16.4	15.9
Provision for income taxes	5.2	5.2	5.8
Net earnings	<u>11.6%</u>	<u>11.2%</u>	<u>10.1%</u>

(1) The company's fiscal year ends on the Saturday nearest to December 31.

## **Fiscal Year Ended December 29, 2012 as Compared to December 31, 2011**

**Net sales.** Net sales in fiscal 2012 increased by \$182.3 million or 21.3% to \$1,038.2 million as compared to \$855.9 million in fiscal 2011. The increase in net sales of \$120.5 million, or 14.1%, was attributable to acquisition growth, resulting from the fiscal 2011 acquisitions of Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox and the fiscal 2012 acquisitions of Baker, Stewart and Nieco. Excluding acquisitions, net sales increased \$61.8 million, or 7.2%, from the prior year, reflecting a net sales increase of 5.0% at the Commercial Foodservice Equipment Group and an increase of 19.1% at the Food Processing Equipment Group.

- Net sales of the Commercial Foodservice Equipment Group increased by \$63.1 million or 8.7% to \$786.4 million in fiscal 2012, as compared to \$723.3 million in fiscal 2011. Net sales from the acquisitions of Beech, Lincat and Nieco which were acquired on April 12, 2011, May 27, 2011 and October 31, 2012, respectively, accounted for an increase of \$26.6 million during fiscal 2012. Excluding the impact of acquisitions, net sales of Commercial Foodservice Equipment increased \$36.5 million, or 5.0%, as compared to the prior year. International sales increased \$23.1 million, or 11.7%, to \$221.0 million, as compared to \$197.9 million in the prior year. This includes the increase of \$25.4 million from the recent acquisitions, as these companies primarily have international sales. Excluding acquisitions, the net decrease of \$2.3 million in international sales reflects increased sales in Asia, Latin America and the Middle East as the company continues to realize strong growth in emerging markets due to expansion of restaurant chains, offset by lower sales in Europe due to economic conditions. Domestically, the company also realized a sales increase of \$40.0 million, or 7.6%, to \$565.4 million, as compared to \$525.4 million in the prior year. This increase in domestic sales includes increased sales with customer initiatives to improve efficiencies in restaurant operations by adopting new cooking and warming technologies and general improvements in market conditions.
- Net sales of the Food Processing Equipment Group increased by \$119.2 million or 89.9% to \$251.8 million in fiscal 2012, as compared to \$132.6 million in fiscal 2011. Net sales from the acquisition of Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart which were acquired on July 5, 2011, July 22, 2011, August 1, 2011, December 2, 2011, December 21, 2011, March 14, 2012 and September 5, 2012, respectively, accounted for an increase of \$93.9 million. Excluding the impact of acquisitions, net sales of Food Processing Equipment increased \$25.3 million, or 19.1%. International sales increased \$61.0 million, or 135.9%, to \$105.9 million, as compared to \$44.9 million in the prior year. This includes an increase of \$46.4 million from the recent acquisitions. Domestically, the company realized a sales increase of \$58.2 million, or 66.4%, to \$145.9 million as compared to \$87.7 million in the prior year. This includes an increase of \$47.5 million from the recent acquisitions. The increase in sales, both international and domestic, reflects expansion of food processing operations to support growing global demand and initiatives to upgrade food processing operations to more efficient and cost effective equipment.

**Gross profit.** Gross profit increased by \$58.9 million to \$403.0 million in fiscal 2012 from \$344.1 million in fiscal 2011. The gross margin rate decreased from 40.2% in 2011 to 38.8% in 2012. The net decrease in the gross margin rate reflects the impact of lower margins at certain of the newly acquired companies and the effect of a higher sales mix of sales from the Food Processing Equipment Group at a lower gross margin rate.

- Gross profit at the Commercial Foodservice Equipment Group increased by \$21.8 million, or 7.3%, to \$320.3 million in fiscal 2012 as compared to \$298.5 million in fiscal 2011. The gross margin rate declined to 40.7% as compared to 41.3% in the prior year. Gross profit from the acquisitions of Beech, Lincat and Nieco accounted for approximately \$9.8 million of the increase in gross profit during fiscal 2012. Excluding the recent acquisitions, the gross profit increased by approximately \$12.0 million on the higher sales volumes.
- Gross profit at the Food Processing Equipment Group increased by \$41.0 million, or 89.5%, to \$86.8 million in fiscal 2012 as compared to \$45.8 million in fiscal 2011. The gross profit margin rate remained consistent at 34.5% in fiscal 2012 and fiscal 2011. Gross profit from the acquisitions of Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart accounted for approximately \$30.6 million of the increase. Excluding the recent acquisitions, the gross profit increased by approximately \$10.4 million on higher sales volumes.

**Selling, general and administrative expenses.** Combined selling, general, and administrative expenses increased by \$19.5 million to \$214.9 million in fiscal 2012 from \$195.4 million in 2011. As a percentage of net sales, operating expenses amounted to 20.7% in fiscal 2012 and 22.8% in fiscal 2011.

Selling expenses increased \$15.0 million to \$106.1 million from \$91.1 million, reflecting an increase of \$14.4 million associated with the recently acquired Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker, Stewart and Nieco operations and \$1.9 million related to increased commissions on higher sales volumes. The increase was offset by a decrease of \$1.4 million trade show and travel expenses.

General and administrative expenses increased \$4.5 million to \$108.8 million from \$104.3 million, reflecting an increase of \$14.3 million associated with the recently acquired Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker, Stewart and Nieco acquisitions including \$5.7 million of non-cash intangible amortization expense. The increase in general and administrative costs related to acquisitions is offset by decreases of \$7.7 million in incentive compensation, \$0.8 million in professional fees, \$0.6 million in pension costs and \$0.5 million in professional services associated with acquisition related activities.

**Income from operations.** Income from operations increased \$39.4 million to \$188.1 million in fiscal 2012 from \$148.7 million in fiscal 2011. The increase in operating income resulted from the increase in net sales and gross profit. Operating income as a percentage of net sales increased to 18.1% in 2012 from 17.4% in 2011.

Income from operations in 2012 included \$37.7 million of non-cash expenses, including \$8.7 million of depreciation expense, \$17.0 million of intangible amortization related to acquisitions and \$12.0 million of stock based compensation. This compares to \$37.2 million of non-cash expenses in the prior year, including \$6.9 million of depreciation expense, \$12.2 million of intangible amortization related to acquisitions, and \$18.1 million of stock based compensation costs. Operating income excluding these non-cash expenses, amounted to \$225.8 million, or 21.7%, of net sales in fiscal 2012 as compared to \$185.9 million, or 21.7%, of net sales in 2011.

**Non-operating expenses.** Non-operating expenses increased \$5.3 million to \$13.6 million in fiscal 2012 from \$8.3 million in fiscal 2011. Net interest expense increased \$0.7 million from \$8.5 million in fiscal 2011 to \$9.2 million in fiscal 2012 as a result of higher borrowing costs associated with the new credit facility entered into during 2012. Other expense was \$4.4 million in fiscal 2012 as compared to other income of \$0.2 million in fiscal 2011 primarily reflecting foreign exchange losses during the year.

**Income taxes.** A tax provision of \$53.7 million, at an effective rate of 30.8%, was recorded for fiscal 2012 as compared to \$45.0 million at an effective rate of 32.0%, in fiscal 2011. The current year effective tax rate is comprised of a 35.0% U.S. federal tax rate and 2.7% in U.S. state income taxes, net of 2.4% in tax relief for U.S. manufacturers, 1.6% in permanent tax deductions, 1.5% in foreign rate differentials and 1.4% in other adjustments benefiting the effective rate. In comparison to the prior year, the tax provision reflects a lower effective rate on the increase permanent tax benefits, reduced state tax provisions resulting from increased income in lower rate jurisdictions, increased benefit for U.S. manufacturers and adjustments to tax reserves for reduced tax exposures, which benefited the effective tax rate by 0.5%, 0.3%, 0.3% and 0.1%, respectively.

## **Fiscal Year Ended December 31, 2011 as Compared to January 1, 2011**

**Net sales.** Net sales in fiscal 2011 increased by \$136.8 million or 19.0% to \$855.9 million as compared to \$719.1 million in fiscal 2010. The increase in net sales of \$86.3 million, or 12.0%, was attributable to acquisition growth, resulting from the fiscal 2010 acquisitions of PerfectFry and Cozzini and the fiscal 2011 acquisitions of Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox. Excluding acquisitions, net sales increased \$50.5 million, or 7.0%, from the prior year, reflecting a net sales increase of 11.6% at the Commercial Foodservice Equipment Group offset by a decline of 18.9% at the Food Processing Equipment Group.

- Net sales of the Commercial Foodservice Equipment Group increased by \$111.7 million or 18.3% to \$723.3 million in fiscal 2011, as compared to \$611.6 million in fiscal 2010. Net sales from the acquisitions of PerfectFry, Beech, and Lincat, which were acquired on July 13, 2010, April 4, 2011 and May 27, 2011, respectively, accounted for an increase of \$40.9 million during fiscal 2011. Excluding the impact of acquisitions, net sales of Commercial Foodservice Equipment increased \$70.8 million, or 11.6%, as compared to the prior year. International sales increased \$70.7 million, or 55.8%, to \$197.9 million, as compared to \$127.2 million in the prior year. This includes the increase of \$40.9 million from the recent acquisitions, as these companies primarily have international sales. The increase in international sales reflects continued market penetration resulting from investments in the international selling organization over the past several years and growing business in emerging markets where the company is well positioned. Domestically, the company also realized a sales increase of \$41.0 million, or 8.5%, to \$525.4 million, as compared to \$484.4 million in the prior year. This increase in domestic sales includes increased sales with major restaurant chains on new product initiatives and improvements in general market conditions.
- Net sales of the Food Processing Equipment Group increased by \$25.1 million or 23.3% to \$132.6 million in fiscal 2011, as compared to \$107.5 million in fiscal 2010. Net sales from the acquisition of Cozzini, Danfotech, Maurer, Auto-Bake, Drake, and Armor Inox which were acquired on September 21, 2010, July 5, 2011, July 22, 2011, August 1, 2011, December 2, 2011 and December 21, 2011, respectively, accounted for an increase of \$45.4 million. Excluding the impact of acquisitions, net sales of Food Processing Equipment decreased \$20.3 million, or 18.9%. International sales amounted to \$44.9 million in 2011, an increase of 77.5% over sales of \$25.3 million in 2010, while domestic sales amounted to \$87.7 million in 2011 an increase of 6.7% over sales of \$82.2 million in 2010. Excluding the impact of acquisitions, international sales decreased \$5.6 million while domestic sales decreased \$14.7 million. The prior year sales of the Food Processing Group reflected the benefit of orders that had been delayed during the 2008 and 2009 economic downturn. These orders were deferred to 2010 resulting in stronger sales for the period. As a result, 2011 sales for the group were less favorable than those in 2010, although significantly better than 2008 and 2009, and market conditions remain favorable. Additionally, due to the nature of large orders associated with this business, the timing of orders impacts the growth in comparative periods. During 2011, while order rates were relatively consistent year over year, the timing of orders in the current year was stronger in the second half of the year. However, due to the long lead times less revenue was recognized in the current year period from orders received during the year.

**Gross profit.** Gross profit increased by \$57.4 million to \$344.1 million in fiscal 2011 from \$286.7 million in fiscal 2010. The gross margin rate increased from 40.0% in 2010 to 40.2% in 2011. The net increase in the gross margin rate reflects the benefit of increased sales volumes and margin improvement related to acquisition integration initiatives, offset in part by lower margins at newly acquired companies.

- Gross profit at the Commercial Foodservice Equipment Group increased by \$48.8 million, or 19.5%, to \$298.5 million in fiscal 2011 as compared to \$249.7 million in fiscal 2010. The gross margin rate improved to 41.3% as compared to 38.9% in the prior year. Gross profit from the acquisitions of Beech and Lincat, which were acquired during fiscal 2011, accounted for approximately \$14.8 million of the increase in gross profit during fiscal 2011. Excluding the recent acquisitions, the gross profit increased by approximately \$34.0 million on the higher sales volumes. The gross profit margin rate benefited from increased volumes which resulted in greater absorption of fixed production costs as well as improved profit margins resulting from acquisition integration initiatives implemented during fiscal 2011 and prior years. The margin rate also benefited from lower warranty costs which had been higher in the prior year due to initial costs associated with new product introductions.

- Gross profit at the Food Processing Equipment Group increased by \$9.0 million, or 24.5%, to \$45.8 million in fiscal 2011 as compared to \$36.8 million in fiscal 2010. The gross profit margin rate improved to 34.5% as compared to 34.2% in the prior year. Gross profit from the acquisitions of Cozzini, Danfotech, Maurer, Auto-Bake, Drake, and Armor Inox, accounted for approximately \$13.5 million of the increase. Excluding the recent acquisitions, the gross profit declined approximately \$4.5 million due to lower net sales as compared to the prior year. The gross profit margin rate improved slightly as improvement from integration activities related the Cozzini business acquired in 2010 was offset by lower margins at the business acquired in fiscal 2011.

**Selling, general and administrative expenses.** Combined selling, general, and administrative expenses increased by \$31.5 million to \$195.4 million in fiscal 2011 from \$163.9 million in 2010. As a percentage of net sales, operating expenses amounted to 22.8% in fiscal 2010 and fiscal 2011.

Selling expenses increased \$15.3 million to \$91.1 million from \$75.8 million, reflecting an increase of \$13.4 million associated with the recently acquired PerfectFry, Cozzini, Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox operations. Additionally, expenses increased \$1.5 million due to increased trade show and marketing related costs.

General and administrative expenses increased \$16.2 million to \$104.3 million from \$88.1 million, reflecting an increase of \$10.0 million associated with the recently acquired PerfectFry, Cozzini, Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox operations. General and administrative expenses also included a \$3.5 million increase in non-cash share based compensation, a \$2.7 million increase in incentive compensation, a \$3.7 million increase in professional fees associated with acquisition related activities and legal matters and a \$1.2 million increase in pension costs. General and administrative expenses were offset by a \$1.3 million decrease in bad debt expenses and a \$1.1 million reduction in amounts due to sellers on contingent earnout arrangements related to a prior year acquisition. Additionally, in 2010, \$1.7 million of non-recurring charges associated with plant consolidation initiatives relating to the acquisitions of Doyon and PerfectFry were recorded, while no such charges were recorded in 2011.

**Income from operations.** Income from operations increased \$25.9 million to \$148.7 million in fiscal 2011 from \$122.8 million in fiscal 2010. The increase in operating income resulted from the increase in net sales and gross profit. Operating income as a percentage of net sales increased to 17.4% in 2011 from 17.1% in 2010.

Income from operations in 2011 included \$37.2 million of non-cash expenses, including \$6.9 million of depreciation expense, \$12.2 million of intangible amortization related to acquisitions and \$18.1 million of stock based compensation. This compares to \$31.2 million of non-cash expenses in the prior year, including \$5.9 million of depreciation expense, \$10.6 million of intangible amortization related to acquisitions, and \$14.7 million of stock based compensation costs. Operating income excluding these non-cash expenses, amounted to \$185.9 million, or 21.7%, of net sales in fiscal 2011 as compared to \$154.0 million, or 21.4%, of net sales in 2010.

**Non-operating expenses.** Non-operating expenses decreased \$0.3 million to \$8.3 million in fiscal 2011 from \$8.6 million in fiscal 2010. Net interest expense decreased \$0.1 million from \$8.6 million in fiscal 2010 to \$8.5 million in fiscal 2011 as a result of lower average interest rates during the year offset in part by higher average debt balances. Other income was \$0.2 million in fiscal 2011 as compared to other income of less than \$0.1 million in fiscal 2010.

**Income taxes.** A tax provision of \$45.0 million, at an effective rate of 32.0%, was recorded for fiscal 2011 as compared to \$41.4 million at an effective rate of 36.2%, in fiscal 2010. The current year effective tax rate is comprised of a 35.0% U.S. federal tax rate and 3.0% in U.S. state income taxes, net of 2.1% in tax relief for U.S. manufacturers, 1.1% in permanent tax deductions, 1.5% in foreign rate differentials and 1.3% in other adjustments benefitting the effective rate. In comparison to the prior year, tax provision reflects a lower effective rate on increased income in lower tax rate foreign jurisdictions, reduced state tax provisions resulting from increased income in lower rate jurisdictions, and adjustments to tax reserves for reduced tax exposures, which benefitted the effective tax rate by 1.2%, 1.1% and 1.9%, respectively, as compared to the prior year.

## **Financial Condition and Liquidity**

Total cash and cash equivalents decreased by \$5.8 million to \$34.4 million at December 29, 2012 from \$40.2 million at December 31, 2011. Net borrowings decreased to \$260.1 million at December 29, 2012, from \$317.3 million at December 31, 2011.

***Operating activities.*** Net cash provided by operating activities before changes in assets and liabilities amounted to \$159.5 million as compared to \$138.7 million in the prior year. Adjustments to reconcile 2012 net earnings to operating cash flows before changes in assets and liabilities included \$8.7 million of depreciation and \$18.2 million of amortization, \$12.0 million of non-cash stock compensation expense and \$0.1 million of deferred tax benefit.

Net cash provided by operating activities after changes in assets and liabilities amounted to \$128.3 million as compared to \$130.4 million in the prior year.

During fiscal 2012, working capital levels changed due to increased working capital needs. These changes in working capital levels included a \$19.0 million increase in inventory, primarily due to increased order rates and investments in inventories in growing international markets including newly established distribution operations in Australia and Brazil. Accounts receivable increased \$3.9 million due to increased sales volumes and receivable balances at the Food Processing Equipment Group resulting from the timing of projects. Changes in working capital levels also included a \$7.2 million increase in prepaid expenses and other assets primarily related to deferred financing costs in conjunction with the new credit facility, a \$2.7 million increase in accounts payable due to the timing of vendor payments and a \$3.8 million decrease in accrued expenses and other non-current liabilities.

In connection with the company's acquisition activities during the year, the company added assets and liabilities from the opening balance sheets of the acquired businesses in its consolidated balance sheets and accordingly these amounts are not reflected in the net change in working capital. During fiscal 2012, the amounts of acquired working capital in the opening balance sheets included \$6.4 million of accounts receivable, \$10.7 million of inventories, \$3.1 million of accounts payable and \$4.8 million of accrued liabilities. At December 29, 2012, the balances of the ending combined balance sheets for these acquired business units amounted to \$6.7 million of accounts receivable, \$12.3 million of inventories, \$4.8 million of accounts payable and \$8.2 million of accrued liabilities.

***Investing activities.*** During 2012, net cash used for investing activities amounted to \$69.9 million. This included \$62.0 million of acquisition related investments, which included \$10.3 million, \$27.8 million and \$23.9 million in connection with the acquisitions of Baker, Stewart and Nieco, respectively. Additional investing activities included \$7.7 million of additions and upgrades of production equipment, manufacturing facilities and training equipment.

***Financing activities.*** Net cash flows used in financing activities amounted to \$64.9 million in 2012. The company's borrowing activities included the repayment of \$309.4 million under the company's previous credit facility which was repaid and replaced with its new amended facility, \$256.5 million of net proceeds under its newly amended \$1.0 billion revolving credit facility and \$4.8 million of net repayments of foreign borrowings.

The company used \$20.7 million to repurchase 197,887 shares of its common stock that were surrendered to the company by employees in lieu of cash for payment for withholding taxes related to restricted stock vestings and stock option exercises that occurred during the fiscal 2012.

At December 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements. Management believes that future cash flows from operating activities and borrowings from current lenders will provide the company with sufficient financial resources to meet its anticipated requirements for working capital, capital expenditures and debt amortization for the foreseeable future.

At December 31, 2012, subsequent to year end, the company completed the acquisition of Viking Range Corporation for \$380.0 million. This acquisition was financed with borrowings under the company's \$1.0 billion revolving credit facility.

## **Contractual Obligations**

The company's contractual cash payment obligations are set forth below (dollars in thousands):

	Amounts Due Sellers From Acquisition	Debt	Estimated Interest on Debt	Operating Leases	Total Contractual Cash Obligations
Less than 1 year	\$ 3,563	\$ 1,850	\$ 7,352	\$ 7,981	\$ 20,746
1-3 years	5,046	568	14,861	12,943	33,418
4-5 years	—	256,747	13,608	6,298	276,653
After 5 years	—	905	224	5,289	6,418
	<u>\$ 8,609</u>	<u>\$ 260,070</u>	<u>\$ 36,045</u>	<u>\$ 32,511</u>	<u>\$ 337,235</u>

The company has obligations to make \$8.6 million of contingent purchase price payments to the sellers of Cooktek, Danfotech, Stewart and Nieco that were deferred in conjunction with the acquisitions.

As of December 29, 2012, the company had \$256.5 million outstanding under its revolving credit line as part of its senior credit agreement. The average interest rate on this debt amounted to 1.54% at December 29, 2012. This facility matures on August 7, 2017. As of December 29, 2012, the company also has \$3.2 million of debt outstanding under various foreign credit facilities. The estimated interest payments reflected in the table above assume that the level of debt and average interest rate on the company's revolving credit line under its senior credit agreement does not change until the facility reaches maturity in August 2017. The estimated payments also assume that relative to the company's foreign borrowings: all scheduled term loan payments are made; the level of borrowings does not change; and the average interest rates remain at their December 29, 2012 rates. Also reflected in the table above is \$3.5 million of payments to be made related to the company's interest rate swap agreements in 2013. On December 31, 2012, subsequent to the end of the company's 2012 fiscal year, the company acquired Viking for \$380.0 million in cash. This acquisition was funded through additional borrowings under the company's senior credit agreement.

As indicated in Note 10 to the consolidated financial statements, the company's projected benefit obligation under its defined benefit plans exceeded the plans' assets by \$20.2 million at the end of 2012 as compared to \$22.6 million at the end of 2011. The unfunded benefit obligations were comprised of a \$1.4 million underfunding of the company's union plan, \$7.3 million underfunding of the company's Smithville plan, which was acquired as part of the Star acquisition, \$2.5 million underfunding of the company's Wrexham plan, which was acquired as part of the Lincat acquisition, and \$9.0 million underfunding of the company's director plans. The company made minimum contributions required by the Employee Retirement Income Security Act of 1974 ("ERISA") of \$0.6 million and \$0.2 million in 2012 and 2011, respectively, to the company's Smithville plan and \$0.3 million and \$0.2 million in 2012 and 2011, respectively, to the company's union plan. The company expects to continue to make minimum contributions to the Smithville and union plans as required by ERISA, of \$0.6 million and \$0.3 million, respectively, in 2013. The company expects to contribute \$0.5 million to the Wrexham plan in 2013.

The company places purchase orders with its suppliers in the ordinary course of business. These purchase orders are generally to fulfill short-term manufacturing requirements of less than 90 days and most are cancelable with a restocking penalty. The company has no long-term purchase contracts or minimum purchase obligations with any supplier.

The company has no activities, obligations or exposures associated with off-balance sheet arrangements.

## **Related Party Transactions**

From December 31, 2011 through the date hereof, there were no transactions between the company, its directors and executive officers that are required to be disclosed pursuant to Item 404 of Regulation S-K, promulgated under the Securities and Exchange Act of 1934, as amended.

## **Critical Accounting Policies and Estimates**

Management's discussion and analysis of financial condition and results of operations are based upon the company's consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires the company to make significant estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses as well as related disclosures. On an ongoing basis, the company evaluates its estimates and judgments based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions and any such differences could be material to our consolidated financial statements.

**Revenue Recognition.** At the Commercial Foodservice Group, the company recognizes revenue on the sale of its products where title transfers and when risk of loss has passed to the customer, which occurs at the time of shipment, and collectibility is reasonably assured. The sale prices of the products sold are fixed and determinable at the time of shipment. Sales are reported net of sales returns, sales incentives and cash discounts based on prior experience and other quantitative and qualitative factors.

At the Food Processing Equipment Group, the company enters into long-term sales contracts for certain products that are often significant relative to the business. Revenue under these long-term sales contracts is recognized using the percentage of completion method defined within ASC 605-35 “Construction-Type and Production-Type Contracts” due to the length of time to fully manufacture and assemble the equipment. The company measures revenue recognized based on the ratio of actual labor hours incurred in relation to the total estimated labor hours to be incurred related to the contract. Because estimated labor hours to complete a project are based upon forecasts using the best available information, the actual hours may differ from original estimates. The percentage of completion method of accounting for these contracts most accurately reflects the status of these uncompleted contracts in the company’s financial statements and most accurately measures the matching of revenues with expenses. At the time a loss on a contract becomes known, the amount of the estimated loss is recognized in the consolidated financial statements. Revenue for sales of products and services not covered by long-term sales contracts are recognized risk of loss has passed to the customer, which occurs at the time of shipment, and collectibility is reasonably assured. The sale prices of the products sold are fixed and determinable at the time of shipment. Sales are reported net of sales returns, sales incentives and cash discounts based on prior experience and other quantitative and qualitative factors.

**Inventories.** Inventories are stated at the lower of cost or or market using the first-in, first-out method for the majority of the company’s inventories. The company evaluates the need to record valuation adjustments for inventory on a regular basis. The company’s policy is to evaluate all inventories including raw material, work-in-process, finished goods, and spare parts. Inventory in excess of estimated usage requirements is written down to its estimated net realizable value. Inherent in the estimates of net realizable value are estimates related to our future manufacturing schedules, customer demand, possible alternative uses, and ultimate realization of potentially excess inventory.

**Goodwill and Other Intangibles.** The company’s business acquisitions result in the recognition of goodwill and other intangible assets, which are a significant portion of the company’s total assets. The company recognizes goodwill and other intangible assets under the guidance of ASC Topic 350-10, “Intangibles — Goodwill and Other.” Goodwill represents the excess of acquisition costs over the fair value of the net tangible assets and identifiable intangible assets acquired in a business combination. Identifiable intangible assets are recognized separately from goodwill and include trademarks and trade names, technology, customer relationships and other specifically identifiable assets. Trademarks and trade names are deemed to be indefinite-lived. Goodwill and indefinite-lived intangible assets are not amortized, but are subject to impairment testing. On an annual basis, or more frequently if triggering events occur, the company compares the estimated fair value to the carrying value to determine if a potential goodwill impairment exists. If the fair value is less than its carrying value, an impairment loss, if any, is recorded for the difference between the implied fair value and the carrying value of goodwill. In estimating the fair value of specific intangible assets, management relies on a number of factors, including operating results, business plans, economic projections, anticipated future cash flows, comparable transactions and other market data. There are inherent uncertainties related to these factors and management’s judgment in applying them in the impairment tests of goodwill and other intangible assets.

**Income taxes.** The company provides deferred income tax assets and liabilities based on the estimated future tax effects of differences between the financial and tax bases of assets and liabilities based on currently enacted tax laws. The company’s deferred and other tax balances are based on management’s interpretation of the tax regulations and rulings in numerous taxing jurisdictions. Income tax expense and liabilities recognized by the company also reflect its best estimates and assumptions regarding, among other things, the level of future taxable income, the effect of the Company’s various tax planning strategies and uncertain tax positions. Future tax authority rulings and changes in tax laws, changes in projected levels of taxable income and future tax planning strategies could affect the actual effective tax rate and tax balances recorded by the company. The company follows the provisions under ASC 740-10-25 that provides a recognition threshold and measurement criteria for the financial statement recognition of a tax benefit taken or expected to be taken in a tax return. Tax benefits are recognized only when it is more likely than not, based on the technical merits, that the benefits will be sustained on examination. Tax benefits that meet the more-likely-than-not recognition threshold are measured using a probability weighting of the largest amount of tax benefit that has greater than 50% likelihood of being realized upon settlement. Whether the more-likely-than-not recognition threshold is met for a particular tax benefit is a matter of judgment based on the individual facts and circumstances evaluated in light of all available evidence as of the balance sheet date.



## **New Accounting Pronouncements**

In May 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-04, "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs." This update provides clarification on existing fair value measurement requirements, amends existing guidance primarily related to fair value measurements for financial instruments, and requires enhanced disclosures on fair value measurements. The additional disclosures are specific to Level 3 fair value measurements, transfers between Level 1 and Level 2 of the fair value hierarchy, financial instruments not measured at fair value and use of an asset measured or disclosed at fair value differing from its highest and best use. The company adopted the provisions of ASU No. 2011-04 on January 1, 2012. There was no impact to the company's financial position, results of operations or cash flows.

In June 2011 and December 2011, the FASB issued ASU No. 2011-05, "Presentation of Comprehensive Income" and ASU No. 2011-12, "Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05", respectively. ASU No. 2011-05 eliminated the option to present the components of other comprehensive income in the statement of changes in stockholders' equity. Instead, entities have the option to present the components of net income, the components of other comprehensive income and total comprehensive income in a single continuous statement or in two separate but consecutive statements. The guidance does not change the items reported in other comprehensive income or when an item of other comprehensive income is reclassified to net income. The company adopted the provisions of ASU No. 2011-05 on January 1, 2012. As this guidance only revises the presentation of comprehensive income, there was no impact to the company's financial position, results of operations or cash flows. For annual reporting purposes the company has elected to present comprehensive income in a two-statement format.

In September 2011, the FASB issued ASU No. 2011-08, "Intangibles – Goodwill and Other (Topic 350)." This ASU will allow an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider between annual impairment tests in determining whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Also, the ASU provides additional examples of events and circumstances that an entity having a reporting unit with a zero or negative carrying amount should consider in determining whether to measure an impairment loss, if any, under the second step of the goodwill impairment test. The company adopted the provisions of ASU 2011-08 on January 1, 2012. There was no impact to the company's financial position, results of operation or cash flows. The company applied the qualitative evaluation allowed under this ASU in connection with the company's annual goodwill impairment test for fiscal year 2012.

On July 27, 2012, the FASB issued ASU 2012-02, "Intangibles - Goodwill and Other (Topic 350)". Similar to ASU 2011-08, this ASU amends the guidance in ASC 350-30. While ASU 2011-08 allows an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit, ASU-2012-02 allows an entity the option to make a qualitative evaluation to determine whether the existence of events and circumstances indicate that it is more likely than not the indefinite-lived intangible asset is impaired thus requiring the entity to perform quantitative impairment tests in accordance with ASC 350-30. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider when making the qualitative evaluation. The company is currently evaluating its adoption approach to this guidance. The adoption of this guidance is not expected to affect the company's financial position, results of operations or cash flows.

## **Certain Risk Factors That May Affect Future Results**

An investment in shares of the company's common stock involves risks. The company believes the risks and uncertainties described in "Item 1A Risk Factors" and in "Special Note Regarding Forward-Looking Statements" are the material risks it faces. Additional risks and uncertainties not currently known to the company or that it currently deems immaterial may impair its business operations. If any of the risks identified in "Item 1A. Risk Factors" actually occurs, the company's business, results of operations and financial condition could be materially adversely affected, and the trading price of the company's common stock could decline.

## **Item 7A. Quantitative and Qualitative Disclosure about Market Risk**

### **Interest Rate Risk**

The company is exposed to market risk related to changes in interest rates. The following table summarizes the maturity of the company's debt obligations:

	<u>Fixed Rate Debt</u>	<u>Variable Rate Debt</u>
	(dollars in thousands)	
2013	\$ —	\$ 1,850
2014	—	444
2015	—	124
2016	—	124
2017 and thereafter	—	257,528
	<u>\$ —</u>	<u>\$ 260,070</u>

On August 7, 2012, the company entered into a new senior secured multi-currency credit facility. Terms of the company's senior credit agreement provide for \$1.0 billion of availability under a revolving credit line. As of December 29, 2012, the company had \$256.5 million of borrowings outstanding under this facility. The company also has \$7.8 million in outstanding letters of credit as of December 29, 2012, which reduces the borrowing availability under the revolving credit line. Remaining borrowing availability under this facility, which is also reduced by the company's foreign borrowings, was \$735.7 million at December 29, 2012. On December 31, 2012, subsequent to the end of the company's 2012 fiscal year, the company acquired Viking for \$380.0 million in cash. This acquisition was funded through additional borrowings under the company's senior credit agreement.

At December 29, 2012, borrowings under the senior secured credit facility were assessed at an interest rate at 1.25% above LIBOR for long-term borrowings or at the higher of the Prime rate and the Federal Funds Rate. At December 29, 2012, the average interest rate on the senior debt amounted to 1.54%. The interest rates on borrowings under the senior secured credit facility may be adjusted quarterly based on the company's indebtedness ratio on a rolling four-quarter basis. Additionally, a commitment fee, based upon the indebtedness ratio, is charged on the unused portion of the revolving credit line. This variable commitment fee amounted to 0.23% as of December 29, 2012.

In August 2006, the company completed its acquisition of Houno A/S in Denmark. This acquisition was funded in part with locally established debt facilities with borrowings in Danish Krone. On December 29, 2012, these facilities amounted to \$1.7 million in U.S. dollars, including \$0.1 million outstanding under a revolving credit facility and \$1.6 million of a term loan. The interest rate on the revolving credit facility is assessed at 1.25% above Euro LIBOR, which amounted to 2.75% on December 29, 2012. The term loan matures in 2022 and the interest rate is assessed at 4.55%.

In April 2008, the company completed its acquisition of Giga Grandi Cucine S.r.l. in Italy. This acquisition was funded in part with locally established debt facilities with borrowings denominated in Euro. On December 29, 2012, these facilities amounted to \$1.6 million in U.S. dollars. The interest rate on the credit facilities is tied to three-month Euro LIBOR. The facilities mature in April 2013. At December 29, 2012, the average interest rate on these facilities was approximately 4.68%.

The company has historically entered into interest rate swap agreements to effectively fix the interest rate on a portion its outstanding debt. The agreements swap one-month LIBOR for fixed rates. As of December 29, 2012, the company had the following interest rate swaps in effect.

	<b>Notional Amount</b>	<b>Fixed Interest Rate</b>	<b>Effective Date</b>	<b>Maturity Date</b>
\$	25,000,000	1.610%	2/23/2011	2/24/2014
	25,000,000	2.520%	2/23/2011	2/23/2016
	25,000,000	0.975%	7/18/2011	7/18/2014
	15,000,000	1.185%	9/12/2011	9/12/2016
	15,000,000	0.620%	9/12/2011	9/11/2014

The senior revolving facility matures on August 7, 2017, and accordingly has been classified as a long-term liability on the consolidated balance sheet.

The terms of the senior secured credit facility limit the ability of the company and its subsidiaries to, with certain exceptions: incur indebtedness; grant liens; engage in certain mergers, consolidations, acquisitions and dispositions; make restricted payments; and enter into certain transactions with affiliates; and require, among other things, a maximum ratio of indebtedness to EBITDA of 3.5 and a fixed charge coverage ratio (as defined in the senior secured credit facility) of 1.25. The senior secured credit facility is secured by substantially all of the assets of Middleby Marshall, the company and the company's domestic subsidiaries and is unconditionally guaranteed by, subject to certain exceptions, the company and certain of the company's direct and indirect material domestic subsidiaries. The senior secured credit facility contains certain customary events of default, including, but not limited to, the failure to make required payments; bankruptcy and other insolvency events; the failure to perform certain covenants; the material breach of a representation or warranty; non-payment of certain other indebtedness; the entry of undischarged judgments against the company or any subsidiary for the payment of material uninsured amounts; the invalidity of the Company guarantee or any subsidiary guaranty; and a change of control of the company. The credit agreement also provides that if a material adverse change in the company's business operations or conditions occurs, the lender could declare an event of default. Under the terms of the agreement, a material adverse effect is defined as (a) a material adverse change in, or a material adverse effect upon, the operations, business properties, condition (financial and otherwise) or prospects of the company and its subsidiaries taken as a whole; (b) a material impairment of the ability of the company to perform under the loan agreements and to avoid any event of default; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the company of any loan document. A material adverse effect is determined on a subjective basis by the company's creditors. At December 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements.

#### **Financing Derivative Instruments**

The company has entered into interest rate swaps to fix the interest rate applicable to certain of its variable-rate debt. The agreements swap one-month LIBOR for fixed rates. The company has designated these swaps as cash flow hedges and all changes in fair value of the swaps are recognized in accumulated other comprehensive income. As of December 29, 2012, the fair value of these instruments was a loss of \$2.9 million. The change in fair value of these swap agreements in fiscal 2012 was a gain of \$0.2 million, net of taxes.

#### **Foreign Exchange Derivative Financial Instruments**

The company uses derivative financial instruments, principally foreign currency forward purchase and sale contracts with terms of less than one year, to hedge its exposure to changes in foreign currency exchange rates. The company's primary hedging activities are to mitigate its exposure to changes in exchange rates on intercompany and third party trade receivables and payables. The company does not currently enter into derivative financial instruments for speculative purposes. In managing its foreign currency exposures, the company identifies and aggregates naturally occurring offsetting positions and then hedges residual balance sheet exposures.

The company accounts for its derivative financial instruments in accordance with ASC 815, "Derivatives and Hedging." In accordance with ASC 815, these instruments are recognized on the balance sheet as either an asset or a liability measured at fair value. Changes in the market value and the related foreign exchange gains and losses are recorded in the statement of earnings.

**Item 8. Financial Statements and Supplementary Data**

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All other schedules for which provision is made to applicable regulation of the Securities and Exchange Commission are not required under the related instruction or are inapplicable and, therefore, have been omitted.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of

The Middleby Corporation and Subsidiaries

We have audited the Middleby Corporation and subsidiaries' internal control over financial reporting as of December 29, 2012, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). The Middleby Corporation and subsidiaries' management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Form 10-K. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

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

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

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

As indicated in the Company's accompanying "Management's Report on Internal Control over Financial Reporting", management's assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of Baker Thermal Solutions, Stewart Systems Global, LLC, and Nieco Corporation which are included in the 2012 consolidated financial statements of the Middleby Corporation and subsidiaries and constituted 6.3% of total assets and 0.6% of net assets, respectively, as of December 29, 2012 and 1.8% of net sales and (1.5%) of net earnings, respectively, for the year then ended. Our audit of internal control over financial reporting of the Middleby Corporation and subsidiaries also did not include an evaluation of the internal control over financial reporting of Baker Thermal Solutions, Stewart Systems Global, LLC, and Nieco Corporation.

In our opinion, the Middleby Corporation and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 29, 2012, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of Middleby Corporation and subsidiaries as of December 29, 2012, and the related consolidated statements of earnings, comprehensive income, stockholders' equity, and cash flows for the period ended December 29, 2012, and our report dated February 27, 2013 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Chicago, Illinois

February 27, 2013

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of

The Middleby Corporation and Subsidiaries

We have audited the accompanying consolidated balance sheet of the Middleby Corporation and subsidiaries as of December 29, 2012, and the related consolidated statements of earnings, comprehensive income, shareholders' equity and cash flows for the period ended December 29, 2012. Our audit also includes the financial statement schedule listed in the Index at Item 8. These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audit. The consolidated financial statements and schedule of the Middleby Corporation and subsidiaries for the periods ended December 31, 2011 and January 1, 2011 were audited by other auditors whose report dated March 12, 2012 expressed an unqualified opinion on those statements and schedule.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Middleby Corporation and subsidiaries at December 29, 2012, and the consolidated results of their operations and their cash flows for the period ended December 29, 2012, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Middleby Corporation and subsidiaries' internal control over financial reporting as of December 29, 2012, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 27, 2013 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Chicago, Illinois

February 27, 2013

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of  
The Middleby Corporation  
Elgin, Illinois

We have audited the accompanying consolidated balance sheet of The Middleby Corporation and subsidiaries (the "Company") as of December 31, 2011, and the related consolidated statements of earnings, comprehensive income, changes in stockholders' equity, and cash flows for each of the two years in the period ended December 31, 2011. Our audits also included the financial statement schedule listed in the Index at Item 8 for the fiscal years ended December 31, 2011 and January 1, 2011. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Middleby Corporation and subsidiaries as of December 31, 2011, and the results of their operations and their cash flows for each of the two years in the period ended December 31, 2011, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ Deloitte & Touche LLP

Chicago, Illinois  
March 12, 2012

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**CONSOLIDATED BALANCE SHEETS**  
**December 29, 2012 AND December 31, 2011**  
**(amounts in thousands, except share data)**

	<b><u>2012</u></b>	<b><u>2011</u></b>
<b><u>ASSETS</u></b>		
Current assets:		
Cash and cash equivalents	\$ 34,366	\$ 40,216
Accounts receivable, net	162,230	151,441
Inventories, net	153,490	124,300
Prepaid expenses and other	19,151	12,336
Current deferred taxes	43,365	39,090
Total current assets	<u>412,602</u>	<u>367,383</u>
Property, plant and equipment, net	63,886	62,507
Goodwill	526,011	477,812
Other intangibles	233,341	234,726
Other assets	8,440	4,084
Total assets	<u>\$ 1,244,280</u>	<u>\$ 1,146,512</u>
<b><u>LIABILITIES AND STOCKHOLDERS' EQUITY</u></b>		
Current liabilities:		
Current maturities of long-term debt	\$ 1,850	\$ 315,831
Accounts payable	69,653	63,394
Accrued expenses	170,932	170,392
Total current liabilities	<u>242,435</u>	<u>549,617</u>
Long-term debt	258,220	1,504
Long-term deferred tax liability	44,838	37,845
Other non-current liabilities	48,760	46,577
Stockholders' equity:		
Preferred stock, \$0.01 par value; none issued	—	—
Common stock, \$0.01 par value, 23,438,287 and 23,093,338 shares issued in 2012 and 2011, respectively	141	137
Paid-in capital	233,213	202,321
Treasury stock at cost; 4,635,315 and 4,437,428 shares in 2012 and 2011, respectively	(147,352)	(126,682)
Retained earnings	576,424	455,727
Accumulated other comprehensive loss	(12,399)	(20,534)
Total stockholders' equity	<u>650,027</u>	<u>510,969</u>
Total liabilities and stockholders' equity	<u>\$ 1,244,280</u>	<u>\$ 1,146,512</u>

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



**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF EARNINGS**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**  
**(amounts in thousands, except per share data)**

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Net sales	\$ 1,038,174	\$ 855,907	\$ 719,121
Cost of sales	635,185	511,770	432,444
Gross profit	402,989	344,137	286,677
Selling and distribution expenses	106,129	91,113	75,772
General and administrative expenses	108,776	104,314	88,117
Income from operations	188,084	148,710	122,788
Interest expense and deferred financing amortization, net	9,238	8,503	8,592
Other expense (income), net	4,406	(241)	(40)
Earnings before income taxes	174,440	140,448	114,236
Provision for income taxes	53,743	44,975	41,369
Net earnings	\$ 120,697	\$ 95,473	\$ 72,867
Net earnings per share:			
Basic	\$ 6.61	\$ 5.30	\$ 4.09
Diluted	\$ 6.49	\$ 5.15	\$ 3.97
Weighted average number of shares			
Basic	18,265	17,998	17,801
Dilutive common stock equivalents	329	536	536
Diluted	18,594	18,534	18,337

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

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**  
**(amounts in thousands)**

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Net earnings	\$ 120,697	\$ 95,473	\$ 72,867
Other comprehensive income:			
Foreign currency translation adjustments	5,873	(10,769)	599
Pension liability adjustment, net of tax of \$(137)	2,018	(5,145)	(187)
Unrealized gain on interest rate swaps, net of tax \$(149)	244	(586)	423
Comprehensive income	<u>\$ 128,832</u>	<u>\$ 78,973</u>	<u>\$ 73,702</u>

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

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**  
**(amounts in thousands)**

	Common Stock	Paid-in Capital	Treasury Stock	Retained Earnings	Accumulated Other Comprehensive Income/(loss)	Total Stockholders' Equity
<b>Balance, January 2, 2010</b>	\$ 136	\$ 162,001	\$ (102,000)	\$ 287,387	\$ (4,869)	\$ 342,655
Comprehensive income:						
Net earnings	—	—	—	72,867	—	72,867
Currency translation adjustments	—	—	—	—	599	599
Change in unrecognized pension benefit costs, net of tax of \$105	—	—	—	—	(187)	(187)
Unrealized gain on interest rate swap, net of tax of \$(342)	—	—	—	—	423	423
Comprehensive income	—	—	—	72,867	835	73,702
Exercise of stock options	—	666	—	—	—	666
Stock issuance	1	1,776	—	—	—	1,777
Stock compensation	—	14,682	—	—	—	14,682
Tax benefit on stock compensation	—	450	—	—	—	450
Purchase of treasury stock	—	—	(9,019)	—	—	(9,019)
<b>Balance, January 1, 2011</b>	\$ 137	\$ 179,575	\$ (111,019)	\$ 360,254	\$ (4,034)	\$ 424,913
Comprehensive income:						
Net earnings	—	—	—	95,473	—	95,473
Currency translation adjustments	—	—	—	—	(10,769)	(10,769)
Change in unrecognized pension benefit costs, net of tax of \$3,200	—	—	—	—	(5,145)	(5,145)
Unrealized loss on interest rate swap, net of tax of \$437	—	—	—	—	(586)	(586)
Comprehensive income	—	—	—	95,473	(16,500)	78,973
Exercise of stock options	—	224	—	—	—	224
Stock compensation	—	18,133	—	—	—	18,133
Tax benefit on stock compensation	—	4,389	—	—	—	4,389
Purchase of treasury stock	—	—	(15,663)	—	—	(15,663)
<b>Balance, December 31, 2011</b>	\$ 137	\$ 202,321	\$ (126,682)	\$ 455,727	\$ (20,534)	\$ 510,969
Comprehensive income:						
Net earnings	—	—	—	120,697	—	120,697
Currency translation adjustments	—	—	—	—	5,873	5,873
Change in unrecognized pension benefit costs, net of tax of \$(137)	—	—	—	—	2,018	2,018
Unrealized gain on interest rate swap, net of tax of \$(149)	—	—	—	—	244	244
Comprehensive income	—	—	—	120,697	8,135	128,832
Exercise of stock options	4	2,800	—	—	—	2,804
Stock compensation	—	11,984	—	—	—	11,984
Tax benefit on stock compensation	—	16,108	—	—	—	16,108
Purchase of treasury stock	—	—	(20,670)	—	—	(20,670)
<b>Balance, December 29, 2012</b>	\$ 141	\$ 233,213	\$ (147,352)	\$ 576,424	\$ (12,399)	\$ 650,027

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

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**  
**(amounts in thousands)**

	<b>2012</b>	<b>2011</b>	<b>2010</b>
<b>Cash flows from operating activities—</b>			
Net earnings	\$ 120,697	\$ 95,473	\$ 72,867
Adjustments to reconcile net earnings to net cash provided by operating activities			
Depreciation and amortization	26,903	19,708	17,014
Non-cash share-based compensation	11,984	18,133	14,682
Deferred taxes	(83)	5,421	1,420
Unrealized loss/(gain) on derivative financial instruments	25	4	(7)
Changes in assets and liabilities, net of acquisitions			
Accounts receivable, net	(3,880)	(18,990)	(28,306)
Inventories, net	(19,026)	(2,287)	(6,311)
Prepaid expenses and other assets	(7,198)	2,455	987
Accounts payable	2,684	(2,581)	10,912
Accrued expenses and other liabilities	(3,760)	13,057	14,697
Net cash provided by operating activities	<u>128,346</u>	<u>130,393</u>	<u>97,955</u>
<b>Cash flows from investing activities—</b>			
Additions to property and equipment	(7,652)	(7,840)	(3,159)
Acquisition of Giga	—	(1,603)	(1,621)
Acquisition of Cooktek	(335)	(86)	(1,000)
Acquisition of Anets	—	—	(500)
Acquisition of Doyon	—	—	(577)
Acquisition of PerfectFry, net of cash acquired	—	—	(4,607)
Acquisition of Cozzini, net of cash acquired	—	(2,000)	(17,413)
Acquisition of Beech, net of cash acquired	—	(12,959)	—
Acquisition of Lincat, net of cash acquired	—	(82,130)	—
Acquisition of Danfotech, net of cash acquired	361	(6,111)	—
Acquisition of Maurer	—	(3,264)	—
Acquisition of Auto-Bake, net of cash acquired	—	(22,524)	—
Acquisition of Drake, net of cash acquired	(403)	(21,735)	—
Acquisition of Armor Inox, net of cash acquired	—	(28,658)	—
Acquisition of Baker	(10,250)	—	—
Acquisition of Stewart, net of cash acquired	(27,756)	—	—
Acquisition of Nieco, net of cash acquired	(23,860)	—	—
Net cash (used in) investing activities	<u>(69,895)</u>	<u>(188,910)</u>	<u>(28,877)</u>
<b>Cash flows from financing activities—</b>			
Net proceeds under current revolving credit facilities	256,500	—	—
Net (repayments) proceeds under previous revolving credit facilities	(309,400)	102,150	(58,650)
Net (repayments) proceeds under foreign bank loan	(4,771)	862	(2,421)
Proceeds under other debt arrangement	350	—	—
Repurchase of treasury stock	(20,670)	(15,663)	(9,019)
Debt issuance costs	(5,862)	(373)	—
Excess tax benefit related to share-based compensation	16,108	4,389	(450)
Net proceeds from stock issuances	2,804	224	666
Net cash (used in) provided by financing activities	<u>(64,941)</u>	<u>91,589</u>	<u>(69,874)</u>

<b>Effect of exchange rates on cash and cash equivalents</b>	640	(512)	89
<b>Changes in cash and cash equivalents—</b>			
Net increase (decrease) in cash and cash equivalents	(5,850)	32,560	(707)
Cash and cash equivalents at beginning of year	40,216	7,656	8,363
Cash and cash equivalents at end of year	<u>\$ 34,366</u>	<u>\$ 40,216</u>	<u>\$ 7,656</u>
Non-cash investing and financing activities:			
Stock issuance related to the acquisition of Cozzini	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 1,776</u>

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

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**

**(1) NATURE OF OPERATIONS**

The Middleby Corporation (the "company") is engaged in the design, manufacture and sale of commercial foodservice and food processing equipment. The company manufactures and assembles this equipment at eighteen U.S. production facilities and twelve international production facilities and manufacturing facilities. The company operates in two business segments: 1) the Commercial Foodservice Equipment Group and 2) the Food Processing Equipment Group.

The Commercial Foodservice Equipment Group has a broad portfolio of cooking and warming equipment, which enables it to serve virtually any cooking or warming application within a commercial kitchen or foodservice operation. This cooking and warming equipment is used across all types of foodservice operations, including quick-service restaurants, full-service restaurants, convenience stores, retail outlets, hotels and other institutions. The products offered by this group include conveyor ovens, combi-ovens, convection ovens, baking ovens, proofing ovens, deck ovens, speed cooking ovens, hydrovection ovens, ranges, fryers, rethermalizers, steam cooking equipment, warming equipment, heated cabinets, charbroilers, ventless cooking systems, kitchen ventilation, induction cooking equipment, countertop cooking equipment, toasters, and beverage equipment.

The Food Processing Equipment Group offers a broad portfolio of processing solutions for customers producing pre-cooked meat products, such as hot dogs, dinner sausages, poultry and lunchmeats and baked goods such as muffins, cookies and bread. Through its broad line of products, the company is able to deliver a wide array of cooking solutions to service a variety of food processing requirements demanded by its customers. The company can offer highly integrated solutions that provide a food processing operation a uniquely integrated solution providing for the highest level of food quality, product consistency, and reduced operating costs resulting from increased product yields, increased capacity and greater throughput and reduced labor costs through automation. The products offered by this group include a wide array of cooking and baking solutions including, batch ovens, baking ovens, proofing ovens, conveyor ovens, continuous processing ovens, frying systems and automated thermal processing systems. The company also provides a comprehensive portfolio of complementary food preparation equipment such as grinders, slicers, emulsifiers, mixers, blenders, battering equipment, breading equipment, food presses, and forming equipment, as well as a variety of food safety, food handling, freezing and packaging equipment. This portfolio of equipment can be integrated to provide customers a highly efficient and customized solution.

## (2) ACQUISITIONS AND PURCHASE ACCOUNTING

The company operates in a highly fragmented industry and has completed numerous acquisitions over the past several years as a component of its growth strategy. The company has acquired industry leading brands and technologies to position itself as a leader in the commercial foodservice equipment and food processing equipment industries.

The company has accounted for all business combinations using the acquisition method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements. The results of operations are reflected in the consolidated financial statements of the company from the date of acquisition.

### *Beech*

On April 12, 2011, the company completed its acquisition of all of the capital stock of J.W. Beech Pty. Ltd., together with its subsidiary, Beech Ovens Pty. Ltd. (collectively "Beech"), a leading manufacturer of stone hearth ovens for the commercial foodservice industry for a purchase price of approximately \$13.0 million, net of cash acquired. During the first quarter of 2012, the company finalized the working capital provision provided for by the purchase agreement resulting in no additional payments.

The final allocation of cash paid for the Beech acquisition is summarized as follows (in thousands):

	(as initially reported) Apr 12, 2011	Measurement Period Adjustments	(as adjusted) Apr 12, 2011
Cash	\$ 525	\$ —	\$ 525
Current assets	1,145	(299)	846
Property, plant and equipment	57	—	57
Goodwill	11,433	(192)	11,241
Other intangibles	2,317	(294)	2,023
Current liabilities	(1,100)	(41)	(1,141)
Other non-current liabilities	(893)	826	(67)
Net assets acquired and liabilities assumed	\$ 13,484	\$ —	\$ 13,484

The goodwill and \$1.9 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$0.1 million allocated to backlog which is to be amortized over a period of 3 months. Goodwill and other intangibles of Beech are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

Lincat Group

On May 27, 2011, the company completed its acquisition of Lincat Group PLC (“Lincat”), a leading manufacturer of ranges, ovens, and counterline equipment for the commercial foodservice industry for a purchase price of approximately \$82.1 million, net of cash acquired.

The final allocation of cash paid for the Lincat acquisition is summarized as follows (in thousands):

	(as initially reported) May 27, 2011	Measurement Period Adjustments	(as adjusted) May 27, 2011
Cash	\$ 12,392	\$ —	\$ 12,392
Current assets	16,992	(29)	16,963
Property, plant and equipment	14,368	—	14,368
Goodwill	45,765	(7,274)	38,491
Other intangibles	31,343	1,976	33,319
Current liabilities	(10,924)	1,174	(9,750)
Long-term deferred tax liability	(13,803)	4,153	(9,650)
Other non-current liabilities	(1,611)	—	(1,611)
Net assets acquired and liabilities assumed	\$ 94,522	\$ —	\$ 94,522

The goodwill and \$15.2 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$17.6 million allocated to customer relationships and \$0.5 million allocated to backlog, which are to be amortized over periods of 5 years and 3 months, respectively. Goodwill and other intangibles of Lincat are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.



Danfotech

On July 5, 2011, the company completed its acquisition of all of the capital stock of Danfotech Inc. (“Danfotech”), a manufacturer of meat presses and defrosting equipment for the food processing industry for a purchase price of approximately \$6.1 million, net of cash acquired. The purchase price is subject to adjustment based upon a working capital provision within the purchase agreements. Pursuant to terms of the purchase agreement, in December 2011 the company purchased additional assets from the sellers of Danfotech for approximately \$0.7 million. An additional contingent payment is also payable upon the achievement of certain sales targets. During the first quarter of 2012, the company finalized the working capital provision provided for by the purchase agreement resulting in a refund from the seller in the amount of \$0.4 million.

The final allocation of cash paid for the Danfotech acquisition is summarized as follows (in thousands):

	(as initially reported) Jul 5, 2011	Measurement Period Adjustments	(as adjusted) Jul 5, 2011
Cash	\$ 165	\$ —	\$ 165
Deferred tax asset	—	235	235
Current assets	1,073	(370)	703
Property, plant and equipment	102	(55)	47
Goodwill	3,423	2,255	5,678
Other intangibles	1,864	(778)	1,086
Other assets	4	—	4
Current liabilities	(309)	(807)	(1,116)
Long-term deferred tax liability	(46)	(91)	(137)
Other non-current liabilities	—	(750)	(750)
Consideration paid at closing	\$ 6,276	\$ (361)	\$ 5,915
Additional assets acquired post closing	—	730	730
Contingent consideration	1,500	—	1,500
Net assets acquired and liabilities assumed	\$ 7,776	\$ 369	\$ 8,145

The long term deferred tax liabilities amounted to \$0.1 million. This net liability represents less than \$0.1 million arising from the difference between the book and tax basis of tangible assets and \$0.1 million related to the difference between the book and tax basis of identifiable intangible assets.

The goodwill and \$0.6 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$0.4 million allocated to customer relationships, \$0.1 million allocated to developed technology and less than \$0.1 million allocated to backlog, which are to be amortized over periods of 4 years, 3 years and 3 months, respectively. Goodwill and other intangibles of Danfotech are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Maurer

On July 22, 2011, the company completed its acquisition of substantially all of the assets of Maurer-Atmos GmbH (“Maurer”), a manufacturer of batch ovens and thermal processing systems for the food processing industry for a purchase price of approximately \$3.3 million. In the fourth quarter of 2011, pursuant to terms of the purchase agreement, the purchase price was adjusted to reflect the final valuation of acquired inventories, resulting in a net reduction of approximately \$0.6 million.

The final allocation of cash paid for the Maurer acquisition is summarized as follows (in thousands):

	(as initially reported) Jul 22, 2011	Measurement Period Adjustments	(as adjusted) Jul 22, 2011
Current assets	\$ 1,673	\$ (668)	\$ 1,005
Property, plant and equipment	628	—	628
Goodwill	870	350	1,220
Other intangibles	922	—	922
Current liabilities	(246)	(265)	(511)
<b>Net assets acquired and liabilities assumed</b>	<b>\$ 3,847</b>	<b>\$ (583)</b>	<b>\$ 3,264</b>

The goodwill and \$0.6 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$0.3 million allocated to customer relationships and less than \$0.1 million allocated to developed technology, which are to be amortized over periods of 4 years and 3 years, respectively. Goodwill and other intangibles of Maurer are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

Auto-Bake

On August 1, 2011, the company completed its acquisition of all of the capital stock of Auto-Bake Proprietary Limited (“Auto-Bake”), a manufacturer of automated baking ovens for the food processing industry for a purchase price of approximately \$22.5 million, net of cash acquired. During the fourth quarter of 2011, the company finalized the working capital provision provided for by the purchase agreement resulting in no additional adjustment to the purchase price.

The final allocation of cash paid for the Auto-Bake acquisition is summarized as follows (in thousands):

	(as initially reported) Aug 1, 2011	Measurement Period Adjustments	(as adjusted) Aug 1, 2011
Cash	\$ 110	\$ —	\$ 110
Current assets	3,209	47	3,256
Property, plant and equipment	477	—	477
Goodwill	16,259	1,865	18,124
Other intangibles	6,784	(2,726)	4,058
Other assets	336	(11)	325
Current liabilities	(2,506)	8	(2,498)
Long-term deferred tax liability	(2,035)	817	(1,218)
Net assets acquired and liabilities assumed	\$ 22,634	\$ —	\$ 22,634

The goodwill and \$2.0 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$1.9 million allocated to customer relationships and \$0.2 million allocated to backlog, which are to be amortized over periods of 5 years and 3 months, respectively. Goodwill and other intangibles of Auto-Bake are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Drake

On December 2, 2011, the company completed its acquisition of all of the capital stock of the F.R. Drake Company (“Drake”), a manufacturer of automated loading systems for the food processing industry for a purchase price of approximately \$21.7 million, net of cash acquired. During the second quarter of 2012, the company finalized the working capital provision provided for by the purchase agreement resulting in an additional payment to the seller of \$0.4 million.

The final allocation of cash paid for the Drake acquisition is summarized as follows (in thousands):

	(as initially reported) Dec 2, 2011	Measurement Period Adjustments	(as adjusted) Dec 2, 2011
Cash	\$ 427	\$ —	\$ 427
Deferred tax asset	390	56	446
Current assets	4,245	(213)	4,032
Property, plant and equipment	1,773	—	1,773
Goodwill	15,237	474	15,711
Other intangibles	5,810	—	5,810
Other assets	9	—	9
Current liabilities	(3,334)	54	(3,280)
Long-term deferred tax liability	(2,395)	32	(2,363)
Net assets acquired and liabilities assumed	\$ 22,162	\$ 403	\$ 22,565

The current deferred tax asset and long term deferred tax liability amounted to \$0.4 million and \$2.4 million, respectively. The current deferred tax asset represents \$0.4 million of assets arising from the difference between the book and tax basis of tangible asset and liability accounts. The net long term deferred tax liability is comprised of \$0.1 million arising from the difference between the book and tax basis of tangible assets and liability accounts and \$2.3 million related to the difference between the book and tax basis of identifiable intangible assets.

The goodwill and \$3.2 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$2.5 million allocated to customer relationships and \$0.1 million allocated to backlog, which are to be amortized over periods of 5 years and 1 month, respectively. Goodwill and other intangibles of Drake are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Armor Inox

On December 21, 2011, the company completed its acquisition of all of the capital stock of Armor Inox, S.A., together with its subsidiaries Armor Inox Production S.a.r.l and Armor Inox UK Ltd (collectively "Armor Inox", a manufacturer of thermal processing systems for the food processing industry for a purchase price of approximately \$28.7 million, net of cash acquired.

The final allocation of cash paid for the Armor Inox acquisition is summarized as follows (in thousands):

	(as initially reported) Dec 21, 2011	Measurement Period Adjustments	(as adjusted) Dec 21, 2011
Cash	\$ 18,201	\$ —	\$ 18,201
Current assets	14,612	(958)	13,654
Property, plant and equipment	941	630	1,571
Goodwill	23,789	2,346	26,135
Other intangibles	12,155	(2,735)	9,420
Other assets	25	—	25
Current liabilities	(18,440)	(186)	(18,626)
Long-term deferred tax liability	(3,975)	903	(3,072)
Other non-current liabilities	(450)	—	(450)
<b>Net assets acquired and liabilities assumed</b>	<b>\$ 46,858</b>	<b>\$ —</b>	<b>\$ 46,858</b>

The goodwill and \$3.4 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$1.1 million allocated to customer relationships, \$1.1 million allocated to developed technology and \$3.8 million allocated to backlog, which are to be amortized over periods of 6 years, 7 years and 2 years, respectively. Goodwill and other intangibles of Armor Inox are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Baker

On March 14, 2012, the company completed its acquisition of certain assets of Turkington USA, LLC (now known as Baker Thermal Solutions "Baker"), a manufacturer of automated baking ovens for the food processing industry, for a purchase price of approximately \$10.3 million.

The following estimated fair values of assets acquired and liabilities assumed are provisional and are based on the information that was available as of the acquisition date to estimate the fair value of assets acquired and liabilities assumed (in thousands):

	(as initially reported) Mar 14, 2012	Measurement Period Adjustments	(as adjusted) Mar 14, 2012
Current assets	\$ 4,617	\$ (2,176)	\$ 2,441
Property, plant and equipment	221	—	221
Goodwill	5,797	1,427	7,224
Other intangibles	—	750	750
Current liabilities	(385)	(1)	(386)
Net assets acquired and liabilities assumed	\$ 10,250	\$ —	\$ 10,250

The goodwill is subject to the non-amortization provisions of ASC 350. Other intangibles includes \$0.8 million allocated to customer relationships, which are being amortized over 5 years. Goodwill of Baker is allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

The company believes that information gathered to date provides a reasonable basis for estimating the fair values of assets acquired and liabilities assumed but the company is waiting for additional information necessary to finalize those fair values. Thus, the provisional measurements of fair value set forth above are subject to change. The company expects to complete the purchase price allocation as soon as practicable but no later than one year from the acquisition date.

## Stewart

On September 5, 2012, the company completed its acquisition of certain assets of Stewart Systems Global, LLC ("Stewart"), a manufacturer of automated proofing and oven baking systems for the food processing industry, for a purchase price of approximately \$27.8 million. An additional payment is also payable upon the achievement of certain financial targets. The purchase price is subject to adjustment based upon a working capital provision within the purchase agreement. The company expects to finalize this in the first quarter of 2013.

The following estimated fair values of assets acquired and liabilities assumed are provisional and are based on the information that was available as of the acquisition date to estimate the fair value of assets acquired and liabilities assumed (in thousands)

	(as initially reported) Sep 5, 2012	Measurement Period Adjustments	(as adjusted) Sep 5, 2012
Cash	\$ —	\$ 244	\$ 244
Current assets	11,839	(715)	11,124
Property, plant and equipment	653	(11)	642
Goodwill	17,886	(2,142)	15,744
Other intangibles	6,850	3,310	10,160
Current liabilities	(5,228)	(469)	(5,697)
Other non-current liabilities	(4,000)	(217)	(4,217)
Consideration paid at closing	\$ 28,000	\$ —	\$ 28,000
Contingent consideration	4,000	—	4,000
Net assets acquired and liabilities assumed	\$ 32,000	\$ —	\$ 32,000

The goodwill and \$4.5 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$5.3 million allocated to customer relationships and \$0.4 million allocated to backlog, which are being amortized over periods of 5 years and 6 months, respectively. Goodwill and other intangibles of Stewart are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

The company believes that information gathered to date provides a reasonable basis for estimating the fair values of assets acquired and liabilities assumed but the company is waiting for additional information necessary to finalize those fair values. Thus, the provisional measurements of fair value set forth above are subject to change. The company expects to complete the purchase price allocation as soon as practicable but no later than one year from the acquisition date.

The Stewart purchase agreement includes an earnout provision providing for a contingent payment due the sellers to the extent certain financial targets are exceeded. This earnout is payable within the first quarters of 2014 and 2015, respectively, if Stewart exceeds certain sales and earnings targets for fiscal 2013 and 2014. The contractual obligation associated with the contingent earnout provision recognized on the acquisition date is \$4.0 million.

Nieco

On October 31, 2012, the company completed its acquisition of Nieco Corporation, ("Nieco"), a leading manufacturer of automated broilers for the commercial foodservice industry, for a purchase price of approximately \$23.9 million. An additional payment is also payable upon the achievement of certain financial targets. The purchase price is subject to adjustment based upon a working capital provision within the purchase agreement. The company expects to finalize this in the first quarter of 2013.

The following estimated fair values of assets acquired and liabilities assumed are provisional and are based on the information that was available as of the acquisition date to estimate the fair value of assets acquired and liabilities assumed (in thousands):

	(as initially reported) Oct 31, 2012
Cash	\$ 140
Current assets	4,011
Property, plant and equipment	268
Goodwill	18,855
Other intangibles	5,620
Current liabilities	(1,836)
Other non-current liabilities	(3,058)
Consideration paid at closing	\$ 24,000
Contingent consideration	3,058
Net assets acquired and liabilities assumed	<u>\$ 27,058</u>

The goodwill and \$2.5 million of other intangibles associated with the trade name are subject to the non-amortization provisions of ASC 350. Other intangibles also includes \$3.0 million allocated to customer relationships and \$0.1 million allocated to backlog, which are being amortized over periods of 4 years and 3 months, respectively. Goodwill and other intangibles of Nieco are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

The company believes that information gathered to date provides a reasonable basis for estimating the fair values of assets acquired and liabilities assumed but the company is waiting for additional information necessary to finalize those fair values. Thus, the provisional measurements of fair value set forth above are subject to change. The company expects to complete the purchase price allocation as soon as practicable but no later than one year from the acquisition date.

The Nieco purchase agreement includes an earnout provision providing for a contingent payment due the sellers to the extent certain financial targets are exceeded. This earnout is payable within the first quarters of 2014 and 2015, respectively, if Nieco exceeds certain sales and earnings targets for fiscal 2013 and 2014. The contractual obligation associated with the contingent earnout provision recognized on the acquisition date is \$3.1 million.



Pro forma financial information

In accordance with ASC 805 “Business Combinations”, the following unaudited pro forma results of operations for the years ended December 29, 2012 and December 31, 2011, assumes the 2012 acquisitions of Baker, Stewart and Nieco and the 2011 acquisitions of Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox were completed on January 2, 2011. The following pro forma results include adjustments to reflect additional interest expense to fund the acquisition, amortization of intangibles associated with the acquisition, and the effects of adjustments made to the carrying value of certain assets (in thousands, except per share data):

	December 29, 2012	December 31, 2011
Net sales	\$ 1,074,910	\$ 1,001,467
Net earnings	124,167	102,304
Net earnings per share:		
Basic	6.80	5.68
Diluted	6.68	5.52

The supplemental pro forma financial information presented above has been prepared for comparative purposes and is not necessarily indicative of either the results of operations that would have occurred had the acquisitions of these companies been effective on January 2, 2011 nor are they indicative of any future results. Also, the pro forma financial information does not reflect the costs which the company has incurred or may incur to integrate Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker, Stewart and Nieco.

**(3) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*(a) Basis of Presentation*

The consolidated financial statements include the accounts of the company and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. The company's consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires the company to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses as well as related disclosures. Significant items that are subject to such estimates and judgments include allowances for doubtful accounts, reserves for excess and obsolete inventories, long-lived and intangible assets, warranty reserves, insurance reserves, income tax reserves and post-retirement obligations. On an ongoing basis, the company evaluates its estimates and assumptions based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions.

The company's fiscal year ends on the Saturday nearest December 31. Fiscal years 2012, 2011, and 2010 ended on December 29, 2012, December 31, 2011 and January 1, 2011, respectively, and each included 52 weeks.

Certain prior year amounts have been reclassified to be consistent with current year presentation.

*(b) Cash and Cash Equivalents*

The company considers all short-term investments with original maturities of three months or less when acquired to be cash equivalents. The company's policy is to invest its excess cash in interest-bearing deposits with major banks that are subject to minimal credit and market risk.

*(c) Accounts Receivable*

Accounts receivable, as shown in the consolidated balance sheets, are net of allowances for doubtful accounts of \$6.4 million and \$6.9 million at December 29, 2012 and December 31, 2011, respectively. At December 29, 2012, all accounts receivable are expected to be collected within one year.

(d) Inventories

Inventories are composed of material, labor and overhead and are stated at the lower of cost or market. Costs for inventories at two of the company's manufacturing facilities have been determined using the last-in, first-out ("LIFO") method. These inventories under the LIFO method amounted to \$22.2 million in 2012 and \$18.6 million in 2011 and represented approximately 14% and 15% of the total inventory in each respective year. The amount of LIFO reserve at December 29, 2012 and December 31, 2011 was not material. Costs for all other inventory have been determined using the first-in, first-out ("FIFO") method. The company estimates reserves for inventory obsolescence and shrinkage based on its judgment of future realization. Inventories at December 29, 2012 and December 31, 2011 are as follows:

	2012	2011
	(dollars in thousands)	
Raw materials and parts	\$ 87,184	\$ 69,576
Work in process	18,957	15,463
Finished goods	47,349	39,261
	<u>153,490</u>	<u>124,300</u>

(e) Property, Plant and Equipment

Property, plant and equipment are carried at cost as follows:

	2012	2011
	(dollars in thousands)	
Land	\$ 8,402	\$ 8,189
Building and improvements	48,164	46,104
Furniture and fixtures	13,644	11,680
Machinery and equipment	57,650	50,548
	<u>127,860</u>	<u>116,521</u>
Less accumulated depreciation	(63,974)	(54,014)
	<u>\$ 63,886</u>	<u>\$ 62,507</u>

Property and equipment are depreciated or amortized on a straight-line basis over their useful lives based on management's estimates of the period over which the assets will be utilized to benefit the operations of the company. The useful lives are estimated based on historical experience with similar assets, taking into account anticipated technological or other changes. The company periodically reviews these lives relative to physical factors, economic factors and industry trends. If there are changes in the planned use of property and equipment or if technological changes were to occur more rapidly than anticipated, the useful lives assigned to these assets may need to be shortened, resulting in the recognition of increased depreciation and amortization expense in future periods.

Following is a summary of the estimated useful lives:

Description	Life
Building and improvements	20 to 40 years
Furniture and fixtures	3 to 7 years
Machinery and equipment	3 to 10 years

Depreciation expense amounted to \$8.7 million, \$6.9 million and \$5.9 million in fiscal 2012, 2011 and 2010, respectively.

Expenditures which significantly extend useful lives are capitalized. Maintenance and repairs are charged to expense as incurred. Asset impairments are recorded whenever events or changes in circumstances indicate that the recorded value of an asset is greater than the sum of its expected future undiscounted cash flows.

(f) *Goodwill and Other Intangibles*

In accordance with ASC 350 “Goodwill-Intangibles and Other”, the company’s goodwill and other indefinite lived intangibles are reviewed for impairment annually on the first day of the fourth quarter and whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. In assessing the recoverability of goodwill and other indefinite lived intangibles, the company considers changes in economic conditions and makes assumptions regarding estimated future cash flows and other factors. Estimates of future cash flows are judgments based on the company’s experience and knowledge of operations. These estimates can be significantly impacted by many factors including changes in global and local business and economic conditions, operating costs, inflation, competition, and consumer and demographic trends. If the company’s estimates or the underlying assumptions change in the future, the company may be required to record impairment charges. Any such charge could have a material adverse effect on the company’s reported net earnings.

Goodwill is allocated to the business segments as follows (in thousands):

	Commercial Foodservice	Food Processing	Total
Balance as of January 1, 2011	\$ 330,501	\$ 39,488	\$ 369,989
Goodwill acquired during the year	49,204	64,486	113,690
Measurement period adjustments to goodwill acquired in prior year	(1,272)	(5)	(1,277)
Exchange effect	(3,081)	(1,509)	(4,590)
Balance as of December 31, 2011	\$ 375,352	\$ 102,460	\$ 477,812
Goodwill acquired during the year	18,855	22,968	41,823
Measurement period adjustments to goodwill acquired in prior year	528	2,381	2,909
Exchange effect	2,511	956	3,467
Balance as of December 29, 2012	\$ 397,246	\$ 128,765	\$ 526,011

The company has not recognized any goodwill impairments and therefore no accumulated impairment loss.

Intangible assets consist of the following (in thousands):

	December 29, 2012			December 31, 2011		
	Estimated Weighted Avg Remaining Life	Gross Carrying Amount	Accumulated Amortization	Estimated Weighted Avg Remaining Life	Gross Carrying Amount	Accumulated Amortization
<b>Amortized intangible assets:</b>						
Customer lists	3.3	\$ 76,763	\$ (40,349)	3.1	\$ 67,904	\$ (28,435)
Backlog	1.0	8,751	(6,713)	2.0	9,733	(4,378)
Developed technology	3.3	17,876	(11,975)	1.7	18,106	(9,033)
		\$ 103,390	\$ (59,037)		\$ 95,743	\$ (41,846)
<b>Indefinite-lived assets:</b>						
Trademarks and tradenames		\$ 188,988			\$ 180,829	

The aggregate intangible amortization expense was \$17.0 million, \$12.2 million and \$10.6 million in 2012, 2011 and 2010, respectively. The estimated future amortization expense of intangible assets is as follows (in thousands):

2013	\$ 17,713
2014	12,702
2015	7,498
2016	4,596
2017	1,503
Thereafter	341
	\$ 44,353

(g) *Accrued Expenses*

Accrued expenses consist of the following at December 29, 2012 and December 31, 2011, respectively:

	2012	2011
	(dollars in thousands)	
Accrued payroll and related expenses	\$ 42,960	\$ 41,434
Advanced customer deposits	37,392	33,246
Accrued customer rebates	23,901	23,136
Accrued warranty	17,593	13,842
Accrued product liability and workers compensation	13,290	10,771
Accrued agent commission	9,531	8,668
Accrued professional services	8,346	7,497
Other accrued expenses	17,919	31,798
	<u>\$ 170,932</u>	<u>\$ 170,392</u>

(h) *Litigation Matters*

From time to time, the company is subject to proceedings, lawsuits and other claims related to products, suppliers, employees, customers and competitors. The company maintains insurance to partially cover product liability, workers compensation, property and casualty, and general liability matters. The company is required to assess the likelihood of any adverse judgments or outcomes to these matters as well as potential ranges of probable losses. A determination of the amount of accrual required, if any, for these contingencies is made after assessment of each matter and the related insurance coverage. The required accrual may change in the future due to new developments or changes in approach such as a change in settlement strategy in dealing with these matters. The company does not believe that any such matter will have a material adverse effect on its financial condition, results of operations or cash flows of the company.

(i) *Accumulated Other Comprehensive Income*

The following table summarizes the components of accumulated other comprehensive income (loss) as reported in the consolidated balance sheets:

	2012	2011
	(dollars in thousands)	
Unrecognized pension benefit costs, net of tax	\$ (5,597)	\$ (7,615)
Unrealized loss on interest rate swap, net of tax	(1,447)	(1,691)
Currency translation adjustments	(5,355)	(11,228)
	<u>\$ (12,399)</u>	<u>\$ (20,534)</u>

(j) *Fair Value Measures*

ASC 820 “Fair Value Measurements and Disclosures” defines fair value as the price that would be received for an asset or paid to transfer a liability (an exit price) in the principal most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. ASC 820 establishes a fair value hierarchy, which prioritizes the inputs used in measuring fair value into the following levels:

Level 1 – Quoted prices in active markets for identical assets or liabilities

Level 2 – Inputs, other than quoted prices in active markets, that are observable either directly or indirectly.

Level 3 – Unobservable inputs based on our own assumptions

The company’s financial assets and liabilities that are measured at fair value are categorized using the fair value hierarchy at December 29, 2012 and December 31, 2011 are as follows (in thousands):

	Fair Value Level 1	Fair Value Level 2	Fair Value Level 3	Total
<u>As of December 29, 2012</u>				
Financial Assets:				
Pension Plans	\$ 24,346	\$ 935	—	\$ 25,281
Financial Liabilities:				
Interest rate swaps	—	\$ 2,853	—	\$ 2,853
Contingent consideration	—	—	\$ 8,609	\$ 8,609
<u>As of December 31, 2011</u>				
Financial Assets:				
Pension Plans	\$ 21,229	\$ 1,297	—	\$ 22,526
Financial Liabilities:				
Interest rate swaps	—	\$ 3,216	—	\$ 3,216
Contingent consideration	—	—	\$ 3,398	\$ 3,398

The contingent consideration as of December 29, 2012 relates to the earnout provisions recorded in conjunction with the acquisitions of Cooktek, Danfotech, Stewart and Nieco.

The contingent consideration as of December 31, 2011 relates to the earnout provisions recorded in conjunction with the acquisitions of Cooktek and Danfotech.

(k) *Foreign Currency*

Foreign currency transactions are accounted for in accordance with ASC 830 “Foreign Currency Translation”. The income statements of the company’s foreign operations are translated at the monthly average rates. Assets and liabilities of the company’s foreign operations are translated at exchange rates at the balance sheet date. These translation adjustments are not included in determining net income for the period but are disclosed and accumulated in a separate component of stockholders’ equity. Exchange gains and losses on foreign currency transactions are included in determining net income for the period in which they occur. These transactions amounted to a loss of \$3.7 million in 2012, and gains of \$0.2 million in 2011 and 2010 and are included in other expense on the statements of earnings.

(l) *Revenue Recognition*

The company recognizes revenue on the sale of its products where title transfers and when risk of loss has passed to the customer, which occurs at the time of shipment, and collectability is reasonably assured. The sale prices of the products sold are fixed and determinable at the time of shipment. Sales are reported net of sales returns, sales incentives and cash discounts based on prior experience and other quantitative and qualitative factors.

At the Food Processing Equipment Group, the company enters into long-term sales contracts for certain products. Revenue under these long-term sales contracts is recognized using the percentage of completion method defined within ASC 605-35 "Construction-Type and Production-Type Contracts" due to the length of time to fully manufacture and assemble the equipment. The company measures revenue recognized based on the ratio of actual labor hours incurred in relation to the total estimated labor hours to be incurred related to the contract. Because estimated labor hours to complete a project are based upon forecasts using the best available information, the actual hours may differ from original estimates. Under ASC 605, the company records the asset for revenue recognized but not yet billed on contracts accounted for under the percentage of completion method in Prepaid Expenses and Other on the consolidated balance sheet. For 2012 and 2011, the amount of this asset was \$8.2 million and \$1.9 million, respectively. The percentage of completion method of accounting for these contracts most accurately reflects the status of these uncompleted contracts in the company's financial statements and most accurately measures the matching of revenues with expenses. At the time a loss on a contract becomes known, the amount of the estimated loss is recognized in the consolidated financial statements.

(m) *Shipping and Handling Costs*

Shipping and handling costs are included in cost of products sold.

(n) *Warranty Costs*

In the normal course of business the company issues product warranties for specific product lines and provides for the estimated future warranty cost in the period in which the sale is recorded. The estimate of warranty cost is based on contract terms and historical warranty loss experience that is periodically adjusted for recent actual experience. Because warranty estimates are forecasts that are based on the best available information, claims costs may differ from amounts provided. Adjustments to initial obligations for warranties are made as changes in the obligations become reasonably estimable.

A rollforward of the warranty reserve for the fiscal years 2012 and 2011 are as follows:

	2012	2011
	(dollars in thousands)	
Beginning balance	\$ 13,842	\$ 14,468
Warranty reserve related to acquisitions	819	939
Warranty expense	28,789	21,019
Warranty claims	(25,857)	(22,584)
Ending balance	<u>\$ 17,593</u>	<u>\$ 13,842</u>

(o) *Research and Development Costs*

Research and development costs, included in cost of sales in the consolidated statements of earnings, are charged to expense when incurred. These costs were \$14.1 million, \$10.4 million, and \$7.7 million in fiscal 2012, 2011 and 2010, respectively.

(p) *Non-Cash Share-Based Compensation*

The company estimates the fair value of restricted share grants and stock options at the time of grant and recognizes compensation costs over the vesting period of the awards and options. Non-cash share-based compensation expense of \$12.0 million, \$18.1 million and \$14.7 million was recognized for fiscal 2012, 2011 and 2010, respectively, associated with restricted share grants. The company recorded a related tax benefit of \$4.6 million, \$7.1 million and \$5.8 million in fiscal 2012, 2011 and 2010, respectively. The company issued restricted share grants with a fair value of \$34.7 million in fiscal year 2011. There were no restricted share grants issued in fiscal 2012 or 2010.

As of December 29, 2012, there was \$13.1 million of total unrecognized compensation cost related to nonvested restricted share grant compensation arrangements, which will be recognized over a weighted average life of 2.0 years.

The fair value of restricted share grant awards for which vesting is subject to market conditions have been estimated using binomial option-pricing models, based on the average market price at the grant date and the weighted average assumptions specific to share grant awards. Share grant awards not subject to market conditions for vesting are valued at the closing share price of the company's stock as of the date of the grant. The company issued 386,000 restricted share grant awards in 2011. There were no restricted share grant awards in 2012 or 2010. Share grant awards issued in 2011 are performance based and were not subject to market conditions. The fair value of \$89.98 per share for the awards for 2011 represent the closing share price of the company's stock as of the date of grant.

(q) *Earnings Per Share*

"Basic earnings per share" is calculated based upon the weighted average number of common shares actually outstanding, and "diluted earnings per share" is calculated based upon the weighted average number of common shares outstanding and other dilutive securities.

The company's potentially dilutive securities consist of shares issuable on exercise of outstanding options and vesting of restricted stock grants computed using the treasury method and amounted to 329,000, 536,000, and 536,000 for fiscal 2012, 2011 and 2010, respectively. There were no anti-dilutive equity awards excluded from common stock equivalents for 2012, 2011 or 2010.

(r) *Consolidated Statements of Cash Flows*

Cash paid for interest was \$8.0 million, \$7.8 million and \$7.6 million in fiscal 2012, 2011 and 2010, respectively. Cash payments totaling \$49.0 million, \$32.3 million, and \$34.3 million were made for income taxes during fiscal 2012, 2011 and 2010, respectively.

(s) *New Accounting Pronouncements*

In May 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-04, "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs." This update provides clarification on existing fair value measurement requirements, amends existing guidance primarily related to fair value measurements for financial instruments, and requires enhanced disclosures on fair value measurements. The additional disclosures are specific to Level 3 fair value measurements, transfers between Level 1 and Level 2 of the fair value hierarchy, financial instruments not measured at fair value and use of an asset measured or disclosed at fair value differing from its highest and best use. The company adopted the provisions of ASU No. 2011-04 on January 1, 2012. There was no impact to the company's financial position, results of operations or cash flows.

In June 2011 and December 2011, the FASB issued ASU No. 2011-05, "Presentation of Comprehensive Income" and ASU No. 2011-12, "Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05", respectively. ASU No. 2011-05 eliminated the option to present the components of other comprehensive income in the statement of changes in stockholders' equity. Instead, entities have the option to present the components of net income, the components of other comprehensive income and total comprehensive income in a single continuous statement or in two separate but consecutive statements. The guidance does not change the items reported in other comprehensive income or when an item of other comprehensive income is reclassified to net income. The company adopted the provisions of ASU No. 2011-05 on January 1, 2012. As this guidance only revises the presentation of comprehensive income, there was no impact to the company's financial position, results of operations or cash flows. For annual reporting purposes the company has elected to present comprehensive income in a two-statement format.

In September 2011, the FASB issued ASU No. 2011-08, "Intangibles – Goodwill and Other (Topic 350)." This ASU will allow an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider between annual impairment tests in determining whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Also, the ASU provides additional examples of events and circumstances that an entity having a reporting unit with a zero or negative carrying amount should consider in determining whether to measure an impairment loss, if any, under the second step of the goodwill impairment test. The company adopted the provisions of ASU 2011-08 on January 1, 2012. There was no impact to the company's financial position, results of operation or cash flows. The company applied the qualitative evaluation allowed under this ASU in connection with the company's annual goodwill impairment test for fiscal year 2012.

On July 27, 2012, the FASB issued ASU 2012-02, "Intangibles - Goodwill and Other (Topic 350)". Similar to ASU 2011-08, this ASU amends the guidance in ASC 350-30. While ASU 2011-08 allows an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit, ASU-2012-02 allows an entity the option to make a qualitative evaluation to determine whether the existence of events and circumstances indicate that it is more likely than not the indefinite-lived intangible asset is impaired thus requiring the entity to perform quantitative impairment tests in accordance with ASC 350-30. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider when making the qualitative evaluation. The company is currently evaluating its adoption approach to this guidance. The adoption of this guidance is not expected to affect the company's financial position, results of operations or cash flows.



#### (4) FINANCING ARRANGEMENTS

The following is a summary of long-term debt at December 29, 2012 and December 31, 2011:

	2012	2011
	(dollars in thousands)	
Senior secured revolving credit line	\$ 256,500	\$ 309,400
Foreign loans	3,220	7,935
Other debt arrangement	350	\$ —
Total debt	<u>\$ 260,070</u>	<u>\$ 317,335</u>
Less current maturities of long-term debt	<u>1,850</u>	<u>315,831</u>
Long-term debt	<u>\$ 258,220</u>	<u>\$ 1,504</u>

On August 7, 2012, the company entered into a new senior secured multi-currency credit facility. Terms of the company's senior credit agreement provide for \$1.0 billion of availability under a revolving credit line. As of December 29, 2012, the company had \$256.5 million of borrowings outstanding under this facility. The company also had \$7.8 million in outstanding letters of credit as of December 29, 2012, which reduces the borrowing availability under the revolving credit line. Remaining borrowing availability under this facility was \$735.7 million million at December 29, 2012.

At December 29, 2012, borrowings under the senior secured credit facility are assessed at an interest rate of 1.25% above LIBOR for long-term borrowings or at the higher of the Prime rate and the Federal Funds Rate. At December 29, 2012 the average interest rate on the senior debt amounted to 1.54%. The interest rates on borrowings under the senior secured credit facility may be adjusted quarterly based on the company's indebtedness ratio on a rolling four-quarter basis. Additionally, a commitment fee based upon the indebtedness ratio is charged on the unused portion of the revolving credit line. This variable commitment fee amounted to 0.23% as of December 29, 2012.

In August 2006, the company completed its acquisition of Houno A/S in Denmark. This acquisition was funded in part with locally established debt facilities with borrowings in Danish Krone. On December 29, 2012 these facilities amounted to \$1.7 million in U.S. dollars, including \$0.1 million outstanding under a revolving credit facility and \$1.6 million of a term loan. The interest rate on the revolving credit facility is assessed at 1.25% above Euro LIBOR, which amounted to 2.75% on December 29, 2012. The term loan matures in 2022 and the interest rate is assessed at 4.55%.

In April 2008, the company completed its acquisition of Giga Grandi Cucine S.r.l in Italy. This acquisition was funded in part with locally established debt facilities with borrowings denominated in Euro. On December 29, 2012 these facilities amounted to \$1.6 million in U.S. dollars. The interest rate on the credit facilities is variable based on the three-month Euro LIBOR. At December 29, 2012, the average interest rate on these facilities was approximately 4.68%. The facilities mature in April 2013.

The company's debt is reflected on the balance sheet at cost. Based on current market conditions, the company believes its interest rate margins on its existing debt are consistent with current market conditions and therefore the carrying value of debt reflects the fair value. At December 31, 2011, prior to the company's debt refinancing, the company concluded the interest rate margins on its debt were below the rate available on the market, which causes the fair value of debt to fall below the carrying value. However, as the interest rate margin is based upon numerous factors, including but not limited to the credit rating of the borrower, the duration of the loan, the structure and restrictions under the debt agreement, current lending policies of the counterparty, and the company's relationships with its lenders, there is no readily available market data to ascertain the current market rate for an equivalent debt instrument. As a result, the current interest rate margin is based upon the company's best estimate based upon discussions with its lenders.

The company estimated the fair value of its loans by calculating the upfront cash payment a market participant would require to assume the company's obligations. The upfront cash payment is the amount that a market participant would be able to lend to achieve sufficient cash inflows to cover the cash outflows under the company's senior revolving credit facility assuming the facility was outstanding in its entirety until maturity. Since the company maintains its borrowings under a revolving credit facility and there is no predetermined borrowing or repayment schedule, for purposes of this calculation the company calculated the fair value of its obligations assuming the current amount of debt at the end of the period was outstanding until the maturity of the company's senior revolving credit facility in August 2017. Although borrowings could be materially greater or less than the current amount of borrowings outstanding at the end of the period, it is not practical to estimate the amounts that may be outstanding during future periods. The carrying value and estimated aggregate fair value, a level 2 measurement, based primarily on market prices, of debt is as follows (in thousands):

	December 29, 2012		December 31, 2011	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Total debt	\$ 260,070	\$ 260,070	\$ 317,335	\$ 315,749

The company believes that its current capital resources, including cash and cash equivalents, cash generated from operations, funds available from its current lenders and access to the credit and capital markets will be sufficient to finance its operations, debt service obligations, capital expenditures, product development and expenditures for the foreseeable future.

The company has historically entered into interest rate swap agreements to effectively fix the interest rate on a portion of its outstanding debt. The agreements swap one-month LIBOR for fixed rates. As of December 29, 2012, the company had the following interest rate swaps in effect:

	Notional Amount	Fixed Interest Rate	Effective Date	Maturity Date
\$	25,000,000	1.610%	2/23/2011	2/24/2014
	25,000,000	2.520%	2/23/2011	2/23/2016
	25,000,000	0.975%	7/18/2011	7/18/2014
	15,000,000	1.185%	9/12/2011	9/12/2016
	15,000,000	0.620%	9/12/2011	9/11/2014

The terms of the senior secured credit facility limit the ability of the company and its subsidiaries to, with certain exceptions: incur indebtedness; grant liens; engage in certain mergers, consolidations, acquisitions and dispositions; make restricted payments; and enter into certain transactions with affiliates; and require, among other things, a maximum ratio of indebtedness to EBITDA of 3.5 and a fixed charge coverage ratio (as defined in the senior secured credit facility) of 1.25. The senior secured credit facility is secured by substantially all of the assets of Middleby Marshall, the company and the company's domestic subsidiaries and is unconditionally guaranteed by, subject to certain exceptions, the company and certain of the company's direct and indirect material domestic subsidiaries. The senior secured credit facility contains certain customary events of default, including, but not limited to, the failure to make required payments; bankruptcy and other insolvency events; the failure to perform certain covenants; the material breach of a representation or warranty; non-payment of certain other indebtedness; the entry of undischarged judgments against the company or any subsidiary for the payment of material uninsured amounts; the invalidity of the Company guarantee or any subsidiary guaranty; and a change of control of the company. The credit agreement also provides that if a material adverse change in the company's business operations or conditions occurs, the lender could declare an event of default. Under terms of the agreement, a material adverse effect is defined as (a) a material adverse change in, or a material adverse effect upon, the operations, business properties, condition (financial and otherwise) or prospects of the company and its subsidiaries taken as a whole; (b) a material impairment of the ability of the company to perform under the loan agreements and to avoid any event of default; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the company of any loan document. A material adverse effect is determined on a subjective basis by the company's creditors. At December 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements.

The aggregate amount of debt payable during each of the next five years is as follows:

	(in thousands)
2013	\$ 1,850
2014	444
2015	124
2016	124
2017 and thereafter	257,528
	<u>\$ 260,070</u>

**(5) COMMON AND PREFERRED STOCK**

*(a) Shares Authorized and Issued*

At December 29, 2012 and December 31, 2011 the company had 47,500,000, shares of common stock and 2,000,000 shares of non-voting preferred stock authorized. At December 29, 2012 and December 31, 2011, there were 18,802,972 and 18,655,910, respectively, shares of common stock outstanding.

*(b) Treasury Stock*

In July 1998, the company's Board of Directors adopted a stock repurchase program and during 1998 authorized the purchase of up to 1,800,000 common shares in open market purchases. As of December 29, 2012, 1,738,070 shares had been purchased under the 1998 stock repurchase program and 61,930 remain authorized for repurchase.

At December 29, 2012, the company had a total of 4,635,315 shares in treasury amounting to \$147.4 million.

(c) *Share-Based Awards*

The company maintains several stock incentive plans under which the company's Board of Directors issues stock options and makes restricted share grants to key employees. Stock options issued under the plans provide key employees with rights to purchase shares of common stock at specified exercise prices. Options may be exercised upon certain vesting requirements being met, but expire to the extent unexercised within a maximum of ten years from the date of grant. Restricted share grants issued to employees are transferable upon certain vesting requirements being met.

- 1998 Stock Incentive Plan (the "1998 Plan"), as amended on December 15, 2003. Effective February 15, 2008 and in accordance with plan parameters, the company is no longer permitted to make grants under the 1998 Plan. Accordingly, zero shares are available for issuance under the 1998 Plan.

As of December 29, 2012, a total of 3,363,506 share-based awards have been issued under the 1998 Plan. This includes 928,186 restricted share grants, of which 59,115 remain unvested and 123,514 have been cancelled. This also includes 2,435,320 stock options, of which 2,092,404 have been exercised and 347,916 remain outstanding.

- 2007 Stock Incentive Plan (the "2007 Plan"), as amended on May 7, 2009. Effective August 11, 2011 and in accordance with plan parameters, the company is no longer permitted to make grants under the 2007 Plan. Accordingly, zero additional shares are available for issuance under the 2007 Plan.

As of December 29, 2012, a total of 894,518 share-based awards have been issued under the 2007 Plan. This includes 890,889 restricted share grants, of which 365,801 remain outstanding and unvested. This also includes 3,629 stock options, of which 708 have been exercised, 2,597 have been forfeited and zero remain outstanding.

- 2011 Stock Incentive Plan (the "2011 Plan"). A maximum amount of 550,000 shares can be issued under the 2011 Plan.

As of December 29, 2012, zero share-based awards have been issued under the 2011 Plan.

A summary of stock option activity under the 1998 Plan is presented below (amounts in thousands, except share and per share data):

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Life	Aggregate Intrinsic Value
Outstanding at December 31, 2011:	706,670	\$ 9.41	1.36	\$ 59,809
Granted	—	—	—	—
Exercised	(358,754)	7.82	—	—
Forfeited	—	—	—	—
Outstanding at December 29, 2012:	347,916	\$ 11.04	0.65	\$ 39,811
Exercisable at December 29, 2012:	347,916	\$ 11.04	0.65	\$ 39,811
Vested or expected to vest At December 29, 2012:	347,916	\$ 11.04	0.65	\$ 39,811

A summary of stock option activity under the 2007 Plan is presented below (amounts in thousands, except share and per share data):

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Life	Aggregate Intrinsic Value
Outstanding at December 31, 2011:	2,597	\$ 14.56	0.78	\$ 206
Granted	—	—		
Exercised	—	—		
Forfeited	(2,597)	14.56		
Outstanding at December 29, 2012:	—	\$ —	—	\$ —
Exercisable at December 29, 2012:	—	\$ —	—	\$ —
Vested or expected to vest At December 29, 2012:	—	\$ —	—	\$ —

A summary of the company's nonvested restricted share grant activity under the 1998 and 2007 Plans and related information for fiscal years ended December 29, 2012 and December 31, 2011 is as follows:

	Shares	Weighted Average Grant-Date Fair Value
Nonvested shares at January 1, 2011	631,993	\$ 48.47
Granted	386,000	\$ 89.98
Vested	(327,933)	\$ 83.61
Forfeited	(2,700)	\$ 54.81
Nonvested shares at December 31, 2011	687,360	\$ 65.78
Granted	—	\$ —
Vested	(248,639)	\$ 96.05
Forfeited	(13,805)	\$ 89.98
Nonvested shares at December 29, 2012	424,916	\$ 87.73

The company issues share-based awards from shares that have been authorized as new share issuances. The company does not anticipate it will be required to repurchase any additional shares of common stock in 2013 to satisfy obligations under its share-based award programs.

Additional information related to the share based compensation is as follows:

	2012	2011	2010
	(dollars in thousands)		
Intrinsic value of options exercised	\$ 42,208	\$ 1,477	\$ 2,280
Cash received from exercise	2,804	236	666
Tax benefit from option exercises	14,149	74	450

**(6) INCOME TAXES**

Earnings before taxes is summarized as follows:

	2012	2011	2010
	(dollars in thousands)		
Domestic	\$ 157,471	\$ 125,730	\$ 104,421
Foreign	16,969	14,719	9,815
Total	<u>\$ 174,440</u>	<u>\$ 140,449</u>	<u>\$ 114,236</u>

The provision for income taxes is summarized as follows:

	2012	2011	2010
	(dollars in thousands)		
Federal	\$ 42,660	\$ 33,778	\$ 31,309
State and local	7,216	7,169	7,052
Foreign	3,867	4,028	3,008
Total	<u>\$ 53,743</u>	<u>\$ 44,975</u>	<u>\$ 41,369</u>
Current	\$ 53,826	\$ 39,554	\$ 39,949
Deferred	(83)	5,421	1,420
Total	<u>\$ 53,743</u>	<u>\$ 44,975</u>	<u>\$ 41,369</u>

Reconciliation of the differences between income taxes computed at the federal statutory rate to the effective rate are as follows:

	2012	2011	2010
U.S. federal statutory tax rate	35.0 %	35.0 %	35.0 %
State taxes, net of federal benefit	2.7	3.0	4.1
Tax relief for U.S. manufacturers	(2.4)	(2.1)	(1.9)
Permanent book vs. tax differences	(1.6)	(1.1)	(1.3)
U.S. taxes on foreign earnings and foreign tax rate differentials	(1.5)	(1.5)	(0.3)
Reserve adjustments and other	(1.4)	(1.3)	0.6
Consolidated effective tax	<u>30.8 %</u>	<u>32.0 %</u>	<u>36.2 %</u>

At December 29, 2012 and December 31, 2011, the company had recorded the following deferred tax assets and liabilities, which were comprised of the following:

	2012	2011
	(dollars in thousands)	
<b>Deferred tax assets:</b>		
Federal net operating loss carryforwards	\$ 13,406	\$ 20,430
Compensation related	20,038	18,654
Accrued retirement benefits	7,105	8,780
Inventory reserves	5,241	4,611
Product liability and workers compensation reserves	6,351	5,052
Warranty reserves	5,122	4,490
Receivable related reserves	2,192	2,350
UNICAP	2,425	2,138
State net operating loss carryforwards	509	580
Interest rate swap	964	1,114
Other	10,501	10,802
Gross deferred tax assets	<u>73,854</u>	<u>79,001</u>
Valuation allowance	(740)	—
Deferred tax assets	<u>\$ 73,114</u>	<u>\$ 79,001</u>
<b>Deferred tax liabilities:</b>		
Intangible assets	\$ (68,568)	\$ (69,998)
Foreign tax earnings repatriation	(2,005)	(1,546)
LIFO reserves	(72)	(161)
Depreciation	(1,794)	(2,547)
Other	<u>(2,148)</u>	<u>(3,504)</u>
Deferred tax liabilities	<u>\$ (74,587)</u>	<u>\$ (77,756)</u>
Net deferred tax assets (liabilities)	<u>\$ (1,473)</u>	<u>\$ 1,245</u>
Current deferred asset	\$ 43,365	\$ 39,090
Long-term deferred liability	<u>(44,838)</u>	<u>(37,845)</u>
Net deferred tax assets (liabilities)	<u>\$ (1,473)</u>	<u>\$ 1,245</u>

The company does not provide for deferred taxes and foreign withholding taxes on the remaining undistributed earnings of certain international subsidiaries of approximately \$38.1 million and \$27.2 million as of December 29, 2012 and December 31, 2011, respectively, as these earnings are considered permanently invested. Upon repatriation of these earnings to the U.S. in the form of dividends or otherwise, the company may be subject to U.S. income taxes and foreign withholding taxes. The actual U.S. tax cost would depend on income tax laws and circumstances at the time of distribution. Determination of the related tax liability is not practicable because of the complexities associated with the hypothetical calculation.

As of December 29, 2012, the company has federal and state income tax net operating loss carryforwards of approximately \$38.8 million which are subject to annual utilization limitations pursuant to Internal Revenue Code Section 382. If not utilized, the federal and state net operating loss carryforwards will expire at various dates beginning 2019 through 2028. In addition, the company has Australian income tax net operating loss carryforwards of approximately \$5.2 million which have an indefinite carryforward life.

Although the company believes its tax returns are correct, the final determination of tax examinations may be different than what was reported on the tax returns. In the opinion of management, adequate tax provisions have been made for the years subject to examination. The company is currently under examination by the Internal Revenue Service for the fiscal years ended January 3, 2009, January 2, 2010 and January 1, 2011. The completion dates of these examinations have not been determined as of December 29, 2012.

As of December 29, 2012, the total amount of liability for unrecognized tax benefits related to federal, state and foreign taxes was approximately \$12.1 million (of which \$10.4 million would impact the effective tax rate if recognized) plus approximately \$1.6 million of accrued interest and \$1.6 million of penalties. The company recognizes interest and penalties accrued related to unrecognized tax benefits in income tax expense. Interest recognized in fiscal years 2012, 2011 and 2010 was \$(0.2) million, \$(0.3) million and \$0.1 million, respectively. Penalties recognized in fiscal years 2012, 2011 and 2010 was \$(0.4) million, \$(0.5) million and \$0.2 million, respectively.

The following table summarizes the activity related to the unrecognized tax benefits for the fiscal years ended January 1, 2011, December 31, 2011 and December 29, 2012 (dollars in thousands):

Balance at January 2, 2010	<u>\$ 20,251</u>
Increases to current year tax positions	3,524
Increase to prior year tax positions	1,700
Decrease to prior year tax positions	<u>(7,689)</u>
Balance at January 1, 2011	<u>\$ 17,786</u>
Increases to current year tax positions	2,113
Increase to prior year tax positions	334
Decrease to prior year tax positions	(2,393)
Settlements	(1,494)
Lapse of statute of limitations	<u>(755)</u>
Balance at December 31, 2011	<u>\$ 15,591</u>
Increases to current year tax positions	1,572
Increase to prior year tax positions	84
Decrease to prior year tax positions	(1,289)
Settlements	<u>(3,836)</u>
Balance at December 29, 2012	<u>\$ 12,122</u>



The company operates in multiple taxing jurisdictions; both within the United States and outside of the United States, and faces audits from various tax authorities. The company remains subject to examination until the statute of limitations expires for the respective tax jurisdiction. Within specific countries, the company and its operating subsidiaries may be subject to audit by various tax authorities and may be subject to different statute of limitations expiration dates.

It is reasonably possible that the amounts of unrecognized tax benefits associated with state, federal and foreign tax positions may decrease over the next twelve months due to expiration of a statute or completion of an audit. The company believes that it is reasonably possible that none of its remaining unrecognized tax benefits may be recognized by the end of 2013 as a result of settlements with taxing authorities or lapses of statutes of limitations.

A summary of the tax years that remain subject to examination in the company's major tax jurisdictions are:

United States – federal	2008 – 2012
United States – states	2004 – 2012
Australia	2011 – 2012
Brazil	2010 – 2012
Canada	2009 – 2012
China	2003 – 2012
Denmark	2009 – 2012
France	2011 – 2012
Germany	2011 – 2012
Italy	2009 – 2012
Luxembourg	2011 – 2012
Mexico	2007 – 2012
Philippines	2008 – 2012
South Korea	2006 – 2012
Spain	2008 – 2012
Taiwan	2008 – 2012
United Kingdom	2008 – 2012

(7) **FINANCIAL INSTRUMENTS**

ASC 815 "Derivatives and Hedging" requires an entity to recognize all derivatives as either assets or liabilities and measure those instruments at fair value. Derivatives that do not qualify as a hedge must be adjusted to fair value in earnings. If the derivative does qualify as a hedge under ASC 815, changes in the fair value will either be offset against the change in fair value of the hedged assets, liabilities or firm commitments or recognized in other accumulated other comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a hedge's change in fair value will be immediately recognized in earnings.

(a) *Foreign Exchange*

The company periodically enters into derivative instruments, principally forward contracts to reduce exposures pertaining to fluctuations in foreign exchange rates. There were no forward contracts outstanding at the end of the year.

(b) *Interest Rate*

The company has entered into interest rate swaps to fix the interest rate applicable to certain of its variable-rate debt. The agreements swap one-month LIBOR for fixed rates. The company has designated these swaps as cash flow hedges and all changes in fair value of the swaps are recognized in accumulated other comprehensive income. As of December 29, 2012, the fair value of these instruments was a liability of \$2.9 million. The change in fair value of these swap agreements in 2012 was a gain of \$0.2 million, net of taxes.

A summary of the company's interest rate swaps is as follows:

	Location	Twelve Months Ended	
		Dec 29, 2012	Dec 31, 2011
		(dollars in thousands)	
Fair value	Other liabilities	\$ (2,853)	\$ (3,216)
Amount of gain/(loss) recognized in other comprehensive income	Other comprehensive income	\$ (1,663)	\$ (4,045)
Gain/(loss) reclassified from accumulated other comprehensive income (effective portion)	Interest expense	\$ (2,001)	\$ (3,019)
Gain/(loss) recognized in income (ineffective portion)	Other expense	\$ 25	\$ (4)

Interest rate swaps are subject to default risk to the extent the counterparty is unable to satisfy its settlement obligations under the interest rate swap agreements. The company reviews the credit profile of the financial institutions that are counterparties to such swap agreements and assesses their creditworthiness prior to entering into the interest rate swap agreements and throughout the term. The interest rate swap agreements typically contain provisions that allow the counterparty to require early settlement in the event that the company becomes insolvent or is unable to maintain compliance with its covenants under its existing debt agreement.

**(8) LEASE COMMITMENTS**

The company leases warehouse space, office facilities and equipment under operating leases, which expire in fiscal 2013 and thereafter. Future payment obligations under these leases are as follows:

	Total Operating Lease Commitments
2013	\$ 7,981
2014	6,990
2015	5,953
2016	3,701
2017	2,597
2018 and thereafter	5,289
	<u>\$ 32,511</u>

Rental expense pertaining to the operating leases was \$8.8 million, \$6.6 million, and \$5.6 million in fiscal 2012, 2011 and 2010 respectively.

**(9) SEGMENT INFORMATION**

The company operates in two reportable operating segments defined by management reporting structure and operating activities.

The Commercial Foodservice Equipment Group manufactures, sells, and distributes cooking equipment for the restaurant and institutional kitchen industry. This business segment has manufacturing facilities in California, Illinois, Michigan, New Hampshire, North Carolina, Tennessee, Texas, Vermont, Australia, China, Denmark, Italy, the Philippines and the United Kingdom. Principal product lines of this group include conveyor ovens, ranges, steamers, convection ovens, combi-ovens, broilers and steam cooking equipment, induction cooking systems, baking and proofing ovens, charbroilers, catering equipment, fryers, toasters, hot food servers, foodwarming equipment, griddles, coffee and beverage dispensing equipment and kitchen processing and ventilation equipment. These products are sold and marketed under the brand names: Anets, Beech, Blodgett, Blodgett Combi, Blodgett Range, Bloomfield, Britannia, CTX, Carter-Hoffmann, CookTek, Doyon, Frifri, Giga, Holman, Houno, IMC, Jade, Lang, Lincat, MagiKitch'n, Middleby Marshall, MPC, Nieco, Nu-Vu, PerfectFry, Pitco, Southbend, Star, Toastmaster, TurboChef and Wells.

The Food Processing Equipment Group manufactures preparation, cooking, packaging food handling and food safety equipment for the food processing industry. This business segment has manufacturing operations in Illinois, Iowa, North Carolina, Texas, Virginia, Wisconsin, Australia, France, Germany and Mexico. Principal product lines of this group include batch ovens, belt ovens, continuous processing ovens, frying systems, automated thermal processing systems, automated loading and unloading systems, meat presses, breading, battering, mixing, forming, grinding and slicing equipment, food suspension, reduction and emulsion systems, defrosting equipment, packaging and food safety equipment. These products are sold and marketed under the brand names: Alkar, Armor Inox, Auto-Bake, Baker Thermal Solutions, Danfotech, Drake, Maurer-Atmos, MP Equipment, RapidPak and Stewart Systems.

The accounting policies of the segments are the same as those described in the summary of significant accounting policies. The chief operating decision maker evaluates individual segment performance based on operating income. Management believes that intersegment sales are made at established arms length transfer prices.

The following table summarizes the results of operations for the company's business segments( 1,2) (dollars in thousands):

	Commercial Foodservice	Food Processing	Corporate and Other(3)	Total
<b>2012</b>				
Net sales	\$ 786,391	\$ 251,783	\$ —	\$ 1,038,174
Operating income	194,573	39,924	(46,413)	188,084
Depreciation and amortization expense	17,920	7,366	1,617	26,903
Net capital expenditures	3,834	3,829	(11)	7,652
Total assets	880,333	291,913	72,034	1,244,280
Long-lived assets	45,240	11,074	16,012	72,326
<b>2011</b>				
Net sales	\$ 723,274	\$ 132,633	\$ —	\$ 855,907
Operating income	181,963	19,997	(53,250)	148,710
Depreciation and amortization expense	15,839	3,053	816	19,708
Net capital expenditures	6,896	447	497	7,840
Total assets	848,655	238,724	59,133	1,146,512
Long-lived assets	45,971	7,771	12,849	66,591
<b>2010</b>				
Net sales	\$ 611,596	\$ 107,525	\$ —	\$ 719,121
Operating income	148,443	20,580	(46,235)	122,788
Depreciation and amortization expense	13,331	3,130	553	17,014
Net capital expenditures	2,810	136	213	3,159
Total assets	712,738	103,829	56,605	873,172
Long-lived assets	34,559	4,120	11,591	50,270

(1) Non-operating expenses are not allocated to the reportable segments. Non-operating expenses consist of interest expense and deferred financing amortization, foreign exchange gains and losses and other income and expense items outside of income from operations.

(2) Long lived assets as previously reported included goodwill and other intangibles assets, which have been removed from all years in the current year presentation. In addition, certain amounts of total assets reported in Corporate and Other in 2011 have been reclassified to Commercial Foodservice in the current year presentation.

(3) Includes corporate and other general company assets and operations.

Geographic Information

Long-lived assets, not including goodwill and other intangibles(1) (in thousands):

	2012	2011	2010
	(dollars in thousands)		
United States and Canada	\$ 48,516	\$ 41,428	\$ 44,357
Asia	3,391	2,467	1,805
Europe and Middle East	19,198	18,780	3,159
Latin America	1,221	3,916	949
Total international	23,810	25,163	5,913
	<u>\$ 72,326</u>	<u>\$ 66,591</u>	<u>\$ 50,270</u>

(1) Long lived assets as previously reported included goodwill and other intangibles assets, which have been removed from all years in the current year presentation.

Net sales (in thousands):

	2012	2011	2010
	(dollars in thousands)		
United States and Canada	\$ 711,241	\$ 613,081	\$ 575,527
Asia	91,021	61,078	42,786
Europe and Middle East	167,840	137,335	79,859
Latin America	68,072	44,413	20,949
Total international	326,933	242,826	143,594
	<u>\$ 1,038,174</u>	<u>\$ 855,907</u>	<u>\$ 719,121</u>

**(10) EMPLOYEE RETIREMENT PLANS**

*(a)* Pension Plans

The company maintains a non-contributory defined benefit plan for its union employees at the Elgin, Illinois facility. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 30, 2002, and no further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 30, 2002 upon reaching retirement age. The employees participating in the defined benefit plan were enrolled in a newly established 401K savings plan on July 1, 2002, further described below.

The company maintains a non-contributory defined benefit plan for its employees at the Smithville, Tennessee facility, which was acquired as part of the Star acquisition. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 1, 2008, and no further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 1, 2008 upon reaching retirement age.

The company maintains a defined benefit plan for its employees at the Wrexham, the United Kingdom facility, which was acquired as part of the Lincat acquisition. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 30, 2010 prior to Middleby's acquisition of the company. No further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 30, 2010 upon reaching retirement age.

The company also maintains a retirement benefit agreement with its Chairman. The retirement benefits are based upon a percentage of the Chairman's final base salary. Additionally, the company maintains a retirement plan for non-employee directors participating on the Board of Directors prior to 2004 (together with the Chairman's agreement the "Director Plans"). In November 2010, the Board of Directors approved a revision to the directors' compensation program that resulted in the plan being frozen and benefits being distributed to vested plan participants. Benefit distributions were made in December 2010 and in January 2011 subsequent to the fiscal year end. As of December 29, 2012, there are no longer any participants in the retirement plan for non-employee directors. This plan is not available to any new non-employee directors.

A summary of the plans' net periodic pension cost, benefit obligations, funded status, and net balance sheet position is as follows (dollars in thousands):

Fiscal Year 2012

	Elgin Plan	Smithville Plan	Wrexham Plan	Director Plans
<b>Net Periodic Pension Cost:</b>				
Service cost	\$ —	\$ —	\$ —	\$ 1,625
Interest cost	198	642	654	553
Expected return on assets	(171)	(546)	(787)	—
Amortization of net loss (gain)	218	537	—	(405)
Pension settlement	—	—	—	—
	<u>\$ 245</u>	<u>\$ 633</u>	<u>\$ (133)</u>	<u>\$ 1,773</u>
<b>Change in Benefit Obligation:</b>				
Benefit obligation – beginning of year	\$ 4,801	\$ 15,204	\$ 13,689	\$ 11,378
Benefit obligations – acquisitions	—	—	—	—
Service cost	—	—	—	1,625
Interest on benefit obligations	198	642	654	553
Actuarial loss (gain)	125	724	1,238	(4,563)
Pension settlement	—	—	—	—
Net benefit payments	(262)	(500)	(706)	—
Exchange effect	—	—	587	—
Benefit obligation – end of year	<u>\$ 4,862</u>	<u>\$ 16,070</u>	<u>\$ 15,462</u>	<u>\$ 8,993</u>
<b>Change in Plan Assets:</b>				
Plan assets at fair value – beginning of year	\$ 3,188	\$ 7,820	\$ 11,518	\$ —
Plan assets at fair value – acquisitions	—	—	—	—
Company contributions	255	638	499	—
Investment (loss) gain	322	823	1,191	—
Benefit payments and plan expenses	(262)	(500)	(706)	—
Exchange effect	—	—	495	—
Plan assets at fair value – end of year	<u>\$ 3,503</u>	<u>\$ 8,781</u>	<u>\$ 12,997</u>	<u>\$ —</u>
<b>Funded Status:</b>				
Unfunded benefit obligation	<u>\$ (1,359)</u>	<u>\$ (7,289)</u>	<u>\$ (2,465)</u>	<u>\$ (8,993)</u>
<b>Amounts recognized in balance sheet at year end:</b>				
Other noncurrent liabilities	<u>\$ (1,359)</u>	<u>\$ (7,289)</u>	<u>\$ (2,465)</u>	<u>\$ (8,993)</u>
<b>Pre-tax components in accumulated other comprehensive income:</b>				
Net actuarial loss (gain)	\$ 1,857	\$ 6,201	\$ 2,303	\$ (1,622)
Net prior service cost	—	—	—	—
Net transaction (asset) obligations	—	—	—	—
Total amount recognized	<u>\$ 1,857</u>	<u>\$ 6,201</u>	<u>\$ 2,303</u>	<u>\$ (1,622)</u>
<b>Accumulated Benefit Obligation</b>	<u>\$ 4,862</u>	<u>\$ 16,070</u>	<u>\$ 15,462</u>	<u>\$ 4,764</u>
Salary growth rate	n/a	n/a	n/a	10.0%
Assumed discount rate	4.0%	4.0%	4.1%	4.0%
Expected return on assets	5.5%	7.0%	6.2%	n/a

	Elgin Plan	Smithville Plan	Wrexham Plan	Director Plans
<b>Net Periodic Pension Cost:</b>				
Service cost	\$ —	\$ —	\$ —	\$ 1,123
Interest cost	226	669	415	472
Expected return on assets	(178)	(571)	(480)	—
Amortization of net loss (gain)	125	203	—	507
Pension settlement	—	—	—	13
	<u>\$ 173</u>	<u>\$ 301</u>	<u>\$ (65)</u>	<u>\$ 2,115</u>
<b>Change in Benefit Obligation:</b>				
Benefit obligation – beginning of year	\$ 4,142	\$ 11,958	\$ —	\$ 7,028
Benefit obligations – acquisitions	—	—	13,328	—
Service cost	—	—	—	1,123
Interest on benefit obligations	226	669	415	472
Actuarial losses	695	2,978	192	3,043
Pension settlement	—	—	—	12
Net benefit payments	(262)	(401)	(246)	(300)
Benefit obligation – end of year	<u>\$ 4,801</u>	<u>\$ 15,204</u>	<u>\$ 13,689</u>	<u>\$ 11,378</u>
<b>Change in Plan Assets:</b>				
Plan assets at fair value – beginning of year	\$ 3,342	\$ 8,253	\$ —	\$ —
Plan assets at fair value – acquisitions	—	—	11,798	—
Company contributions	156	225	465	300
Investment (loss) gain	(49)	(257)	(499)	—
Benefit payments and plan expenses	(261)	(401)	(246)	(300)
Plan assets at fair value – end of year	<u>\$ 3,188</u>	<u>\$ 7,820</u>	<u>\$ 11,518</u>	<u>\$ —</u>
<b>Funded Status:</b>				
Unfunded benefit obligation	<u>\$ (1,613)</u>	<u>\$ (7,384)</u>	<u>\$ (2,171)</u>	<u>\$ (11,378)</u>
<b>Amounts recognized in balance sheet at year end:</b>				
Other noncurrent liabilities	<u>\$ (1,613)</u>	<u>\$ (7,384)</u>	<u>\$ (2,171)</u>	<u>\$ (11,378)</u>
<b>Pre-tax components in accumulated other comprehensive income:</b>				
Net actuarial loss (gain)	\$ 2,102	\$ 6,291	\$ 1,409	\$ 2,536
Net prior service cost	—	—	—	—
Net transaction (asset) obligations	—	—	—	—
Total amount recognized	<u>\$ 2,102</u>	<u>\$ 6,291</u>	<u>\$ 1,409</u>	<u>\$ 2,536</u>
<b>Accumulated Benefit Obligation</b>	<u>\$ 4,801</u>	<u>\$ 15,204</u>	<u>\$ 13,689</u>	<u>\$ 3,999</u>
Salary growth rate	n/a	n/a	n/a	10.0%
Assumed discount rate	4.3%	4.3%	4.7%	4.3%
Expected return on assets	5.5%	7.0%	6.6%	n/a



The company has engaged non-affiliated third party professional investment advisors to assist the company to develop its investment policy and establish asset allocations. The company's overall investment objective is to provide a return, that along with company contributions, is expected to meet future benefit payments. Investment policy is established in consideration of anticipated future timing of benefit payments under the plans. The anticipated duration of the investment and the potential for investment losses during that period are carefully weighed against the potential for appreciation when making investment decisions. The company routinely monitors the performance of investments made under the plans and reviews investment policy in consideration of changes made to the plans or expected changes in the timing of future benefit payments.

The assets of the plans were invested in the following classes of securities (none of which were securities of the company):

*Elgin Plan*

	Target Allocation	Percentage of Plan Assets	
		2012	2011
Equity	48%	52%	49%
Fixed income	40	36	37
Money market	4	6	5
Other (real estate & commodities)	8	6	9
	<u>100%</u>	<u>100%</u>	<u>100%</u>

*Smithville Plan*

	Target Allocation	Percentage of Plan Assets	
		2012	2011
Equity	48%	52%	51%
Fixed income	40	37	37
Money market	4	5	4
Other (real estate & commodities)	8	6	8
	<u>100%</u>	<u>100%</u>	<u>100%</u>

*Wrexham Plan*

	Target Allocation	Percentage of Plan Assets	
		2012	2011
Equity	50%	71%	66%
Fixed income	50	26	27
Money market	—	3	7
Other (real estate & commodities)	—	—	—
	<u>100%</u>	<u>100%</u>	<u>100%</u>

In accordance with ASC 820 “Fair Value Measurements and Disclosures”, the company has measured its defined benefit pension plans at fair value. The following tables summarize the basis used to measure the pension plans’ assets at fair value as of December 29, 2012 (in thousands):

Elgin Plan

Asset Category	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Short Term Investment Fund (a)	\$ 205	\$ —	\$ 205	\$ —
Equity Securities:				
Large Cap	752	752	—	—
Mid Cap	86	86	—	—
Small Cap	84	84	—	—
International	778	778	—	—
Fixed Income:				
Government/Corporate	1,119	1,119	—	—
High Yield	141	141	—	—
Alternative:				
Global Real Estate	139	139	—	—
Commodities	199	199	—	—
<b>Total</b>	<b>\$ 3,503</b>	<b>\$ 3,298</b>	<b>\$ 205</b>	<b>\$ —</b>

(a) Represents collective short term investment fund, composed of high-grade money market instruments with short maturities.

Smithville Plan

Asset Category	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Short Term Investment Fund (a)	\$ 402	\$ —	\$ 402	\$ —
Equity Securities:				
Large Cap	1,920	1,920	—	—
Mid Cap	223	223	—	—
Small Cap	212	212	—	—
International	1,958	1,958	—	—
Fixed Income:				
Government/Corporate	2,861	2,861	—	—
High Yield	353	353	—	—
Alternative:				
Global Real Estate	355	355	—	—
Commodities	497	497	—	—
Total	\$ 8,781	\$ 8,379	\$ 402	\$ —

(a) Represents collective short term investment fund, composed of high-grade money market instruments with short maturities.

Wrexham Plan

Asset Category	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Short Term Investment Fund (a)	\$ 328	\$ —	\$ 328	\$ —
Equity Securities:				
UK	4,430	4,430	—	—
International				
Developed	3,663	3,663	—	—
Emerging	548	548	—	—
Global	636	636	—	—
Fixed Income:				
Government/Corporate	1,965	1,965	—	—
Aggregate	373	373	—	—
Index Linked	1,054	1,054	—	—
Total	\$ 12,997	\$ 12,669	\$ 328	\$ —

(a) Represents collective short term investment fund, composed of high-grade money market instruments with short maturities.

The fair value of the Level 1 assets is based on observable, quoted market prices of the identical underlying security in an active market. The fair value of the Level 2 assets is primarily based on market observable inputs to quoted market prices, benchmark yields and broker/dealer quotes. Level 3 inputs, as applicable, represent unobservable inputs that reflect assumptions developed by management to measure assets at fair value.

The expected return on assets is developed in consideration of the anticipated duration of investment period for assets held by the plan, the allocation of assets in the plan, and the historical returns for plan assets.

Estimated future benefit payments under the plans are as follows (dollars in thousands):

	Elgin Plan	Smithville Plan	Wrexham Plan	Director Plans
2013	\$ 311	\$ 470	\$ 646	\$ —
2014	304	501	679	—
2015	299	522	711	—
2016	308	568	743	—
2017 through 2022	1,806	4,195	5,170	4,943

Contributions to the directors plans are based upon actual retirement benefits for directors as they retire. Contributions under the Smithville and Elgin plans are funded in accordance with provisions of The Employee Retirement Income Security Act of 1974. Expected contributions to the Elgin, Smithville and Wrexham plans to be made in 2013 are \$0.3 million, \$0.6 million and \$0.5 million, respectively.

(b) *401K Savings Plans*

As of December 29, 2012, the company maintained two separate defined contribution 401K savings plans covering all employees in the United States. These two plans separately cover the union employees at the Elgin, Illinois facility and all other remaining union and non-union employees in the United States.

In conjunction with the freeze on future benefits under the defined benefit plan for union employees at the Elgin, Illinois facility, the company established a 401K savings plan for this group of employees. The company makes contributions to this plan in accordance with its agreement with the union. These contributions amounted to less than \$0.1 million for each of the years presented. There were no other profit sharing contributions to the 401K savings plans for 2012, 2011 and 2010.

**(11) QUARTERLY DATA (UNAUDITED)**

	1st	2nd	3rd	4th	Total Year
	(dollars in thousands, except per share data)				
<b>2012</b>					
Net sales	\$ 228,823	\$ 260,040	\$ 257,699	\$ 291,612	\$ 1,038,174
Gross profit	87,483	101,816	100,445	113,245	402,989
Income from operations	36,660	45,338	47,429	58,657	188,084
Net earnings	\$ 22,095	\$ 31,045	\$ 29,769	\$ 37,788	\$ 120,697
Basic earnings per share (1)	\$ 1.22	\$ 1.70	\$ 1.63	\$ 2.06	\$ 6.61
Diluted earnings per share (1)	\$ 1.20	\$ 1.67	\$ 1.60	\$ 2.03	\$ 6.49
<b>2011</b>					
Net sales	\$ 182,572	\$ 210,855	\$ 218,720	\$ 243,760	\$ 855,907
Gross profit	71,830	85,337	87,318	99,652	344,137
Income from operations	31,364	35,248	37,186	44,912	148,710
Net earnings	\$ 17,825	\$ 19,628	\$ 23,461	\$ 34,559	\$ 95,473
Basic earnings per share (1)	\$ 1.00	\$ 1.09	\$ 1.30	\$ 1.92	\$ 5.30
Diluted earnings per share (1)	\$ 0.97	\$ 1.06	\$ 1.26	\$ 1.87	\$ 5.15

(1) *Sum of quarters may not equal the total for the year due to changes in the number of shares outstanding during the year.*

## (12) SUBSEQUENT EVENT

On December 31, 2012, subsequent to the company's fiscal 2012 year end, the company completed its acquisition of Viking Range Corporate ("Viking") for \$380.0 million in cash. The transaction was funded from borrowing under the company's senior secured revolving credit facility. Viking is a leading manufacturer of premium residential cooking ranges, ovens and kitchen appliances. Headquartered in Greenwood, Mississippi, Viking has approximately \$200.0 million in annual revenues. The financial results of Viking had no impact on the company's 2012 financial position, results of operations or cash flows.

The company is currently assessing the fair value of assets acquired and liabilities assumed. On a preliminary basis, the company anticipates that the identifiable intangibles will be approximately \$152.5 million primarily related to the tradename. The preliminary estimate of excess purchase price over net assets and liabilities assumed which is to be allocated to goodwill is approximately \$180.0 million. In future periods, the financial results, goodwill and other intangibles of Viking will be allocated to a separate business segment. These assets are expected to be deductible for tax purposes.

Preliminary pro forma results of operations for the nine months ended September 29, 2012 and the full year ended December 31, 2011 for the Viking acquisition assumes the acquisition was completed on January 1, 2011 are as follows:

	September 29, 2012	December 31, 2011
Net sales	920,232	1,075,278
Net earnings	70,217	79,665
Net earnings per share	3.79	4.30
Basic	18,237	17,998
Diluted	18,539	18,534

**THE MIDDLEBY CORPORATION AND SUBSIDIARIES**

**SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS AND RESERVES**  
**FOR THE FISCAL YEARS ENDED DECEMBER 29, 2012, DECEMBER 31, 2011**  
**AND JANUARY 1, 2011**

	Balance Beginning Of Period	Additions/ (Recoveries) Charged to Expense	Write-Offs During the the Period	Acquisition	Balance At End Of Period
Allowance for doubtful accounts; deducted from accounts receivable on the balance sheets-					
2012	\$ 6,878,000	\$ 1,382,000	\$ (1,883,000)	\$ —	\$ 6,377,000
2011	\$ 7,975,000	\$ 83,000	\$ (1,180,000)	\$ —	\$ 6,878,000
2010	\$ 6,596,000	\$ 1,599,000	\$ (512,000)	\$ 292,000	\$ 7,975,000

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

None

**Item 9A. Controls and Procedures**

*Disclosure Controls and Procedures*

The company maintains disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act)) as of the end of the period covered by this report that are designed to ensure that information required to be disclosed in the company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the company's management, including its Chief Executive Officer and Chief Financial Officer as appropriate, to allow timely decisions regarding required disclosure.

The company carried out an evaluation, under the supervision and with the participation of the company's management, including the company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the company's disclosure controls and procedures as of December 29, 2012. Based on the foregoing, the company's Chief Executive Officer and Chief Financial Officer concluded that the company's disclosure controls and procedures were effective as of the end of this period.

*Changes in Internal Control Over Financial Reporting*

During the quarter ended December 29, 2012, there have been no changes in the company's internal controls over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that have materially affected, or are reasonably likely to materially affect, the company's internal control over financial reporting.



## Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Our internal control over financial reporting includes those policies and procedures that:

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

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

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Our assessment of the internal control structure excluded Baker (acquired March 14, 2012), Stewart Systems Baking LLC (acquired September 5, 2012) and Nieco Corporation (acquired October 31, 2012). These acquisitions constitute 0.6% and 6.3% of net and total assets, respectively, 1.8% of net sales and (1.5)% of net income of the consolidated financial statements of the Company as of and for the year ended December 29, 2012. These acquisitions are included in the consolidated financial statements of the company as of and for the year ended December 29, 2012. Under guidelines established by the Securities Exchange Commission, companies are allowed to exclude acquisitions from their assessment of internal control over financial reporting during the first year of an acquisition while integrating the acquired company.

Based on our evaluation under the framework in Internal Control Integrated Framework, our management concluded that our internal control over financial reporting was effective as of December 29, 2012. Ernst & Young LLP, independent registered public accounting firm, who audited and reported on the consolidated financial statements of the company included in this report, has issued an attestation report on the effectiveness of the company's internal control over financial reporting as of December 29, 2012.

The Middleby Corporation  
February 27, 2013

**Item 9B. Other Information**

None.

**PART III**

Pursuant to General Instruction G (3), of Form 10-K, the information called for by Part III (Item 10 (Directors, Executive Officers and Corporate Governance), Item 11 (Executive Compensation), Item 12 (Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters), Item 13 (Certain Relationships and Related Transactions, and Director Independence) and Item 14 (Principal Accountant Fees and Services), is incorporated herein by reference from the registrant's definitive proxy statement filed with the Commission pursuant to Regulation 14A not later than 120 days after the end of the fiscal year covered by this Form 10-K.

## PART IV

### Item 15. Exhibits and Financial Statement Schedules

(a) 1. Financial Statements

The financial statements listed on Page 48 are filed as part of this Form 10-K.

3. Exhibits

- 2.1 Stock Purchase Agreement, dated August 30, 2001, between The Middleby Corporation and Maytag Corporation, incorporated by reference to the company's Form 10-Q Exhibit 2.1, for the fiscal period ended September 29, 2001, filed on November 13, 2001.
- 2.2 Amendment No. 1 to Stock Purchase Agreement, dated December 21, 2001, between The Middleby Corporation and Maytag Corporation, incorporated by reference to the company's Form 8-K Exhibit 2.2 dated December 21, 2001, filed on January 7, 2002.
- 2.3 Amendment No. 2 to Stock Purchase Agreement, dated December 23, 2002 between The Middleby Corporation and Maytag Corporation, incorporated by reference to the company's Form 8-K Exhibit 2.1 dated December 23, 2002, filed on January 7, 2003.
- 2.4 Agreement and Plan of Merger, dated as of November 18, 2007, by and among Middleby Marshall, Inc., New Cardinal Acquisition Sub Inc., New Star International Holdings, Inc. and Weston Presidio Capital IV, L.P., incorporated by reference to the company's Form 8-K, Exhibit 2.1, dated November, 18, 2007, filed on November 23, 2007.
- 2.5 Agreement and Plan of Merger, dated as of August 12, 2008, by and among The Middleby Corporation, Chef Acquisition Corporation and TurboChef Technologies, Inc., incorporated by reference to the company's Form 8-K, Exhibit 2.1, dated August 12, 2008, filed on August 15, 2008.
- 2.6 Amendment to Agreement and Plan of Merger, dated as of November 21, 2008, by and among The Middleby Corporation, Chef Acquisition Corporation and TurboChef Technologies, Inc., incorporated by reference to the company's Form 8-K, Exhibit 2.1, dated November 21, 2008, filed on November 21, 2008.
- 2.7 Stock Purchase Agreement, dated December 31, 2012, by and among Middleby Marshall Inc., VRC Acquisition Company, LLC, Viking Range Corporation and the shareholders of Viking Range Corporation Set Forth on the Signature Pages Thereto, incorporated by reference to the company's Form 8-K, Exhibit 2.1, filed on January 7, 2013.
- 3.1 Restated Certificate of Incorporation of The Middleby Corporation (effective as of May 13, 2005), incorporated by reference to the company's Form 8-K, Exhibit 3.1, dated April 29, 2005, filed on May 17, 2005.
- 3.2 Second Amended and Restated Bylaws of The Middleby Corporation (effective as of December 31, 2007), incorporated by reference to the company's Form 8-K, Exhibit 3.1, dated December 31, 2007, filed on January 4, 2008.
- 3.3 Certificate of Amendment to the Restated Certificate of Incorporation of The Middleby Corporation (effective as of May 3, 2007), incorporated by reference to the company's Form 8-K, Exhibit 3.1, dated May 3, 2007, filed on May 3, 2007.
- 4.1 Certificate of Designations dated October 30, 1987, and specimen stock certificate relating to the company Preferred Stock, incorporated by reference from the company's Form 10-K, Exhibit (4), for the fiscal year ended December 31, 1988, filed on March 15, 1989.

- 10.1 Fifth Amended and Restated Credit Agreement, dated as of August 7, 2012 among Middleby Marshall Inc., The Middleby Corporation, the subsidiary borrowers named therein, the lenders named therein, and Bank of America, N.A., as administrative agent for the lenders, incorporated by reference to the company's Form 8-K, Exhibit 10.1, filed on August 9, 2012.
- 10.2\* Amended 1998 Stock Incentive Plan, dated December 15, 2003, incorporated by reference to the company's Form 10-K, Exhibit 10.21, for the fiscal year ended January 3, 2004, filed on April 2, 2004.
- 10.3\* Employment Agreement of Selim A. Bassoul dated December 23, 2004, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated December 23, 2004, filed on December 28, 2004.
- 10.4\* Amended and Restated Management Incentive Compensation Plan, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated February 25, 2005, filed on March 3, 2005.
- 10.5\* Amended and Restated Employment Agreement by and between The Middleby Corporation and Timothy J. FitzGerald, dated March 1, 2010, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated March 1, 2010, filed on March 4, 2010.
- 10.6\* Form of The Middleby Corporation 1998 Stock Incentive Plan Restricted Stock Agreement, incorporated by reference to the company's Form 8-K Exhibit 10.2, dated March 7, 2005, filed on March 8, 2005.
- 10.7\* Form of The Middleby Corporation 1998 Stock Incentive Plan Non-Qualified Stock Option Agreement, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated April 29, 2005, filed on May 5, 2005.
- 10.8\* Form of Confidentiality and Non-Competition Agreement, incorporated by reference to the company's Form 8-K Exhibit 10.2, dated April 29, 2005, filed on May 5, 2005.
- 10.9\* The Middleby Corporation Amended and Restated Management Incentive Compensation Plan, effective as of January 1, 2005, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated April 29, 2005, filed on May 17, 2005.
- 10.10\* Amendment to The Middleby Corporation 1998 Stock Incentive Plan, effective as of January 1, 2005, incorporated by reference to the company's Form 8-K Exhibit 10.2, dated April 29, 2005, filed on May 17, 2005.
- 10.11\* Revised Form of Restricted Stock Agreement for The Middleby Corporation 1998 Stock Incentive Plan, , incorporated by reference to the company's Form 8-K, Exhibit 10.1, dated March 8, 2007, filed on March 14, 2007.
- 10.12\* Form of Restricted Stock Agreement for The Middleby Corporation 2007 Stock Incentive Plan, incorporated by reference to the company's Form 8-K, Exhibit 10.2, dated May 3, 2007, filed on May 7, 2007.
- 10.13\* First Amendment to the Fourth Amended and Restated Credit Agreement, as of August 8, 2008, among The Middleby Corporation, Middleby Marshall Inc., Various Financial Institutions and Bank of America, N.A. as administrative agent, incorporated by reference to the company's Form 8-K Exhibit 10.1, dated August 8, 2008, filed on August 8, 2008.
- 10.14\* Amendment to Employment Agreement by and between The Middleby Corporation and Selim A. Bassoul, dated as of December 31, 2008.

- 10.15\* Form of Restricted Stock Agreement for The Middleby Corporation 2007 Stock Incentive Plan, incorporated by reference to the company's Form 8-K, Exhibit 10.1, dated December 29, 2009, filed on January 5, 2010.
- 10.16\* The Middleby Corporation Executive Officer Incentive Plan, as Amended and Restated, incorporated by reference to Appendix B of the company's definitive proxy statement filed with the Securities and Exchange Commission on March 28, 2008.
- 10.17\* The Middleby Corporation 2007 Stock Incentive Plan, as amended, incorporated by reference to the company's Form 8-K, Exhibit 10.1, dated May 7, 2009, filed May 13, 2009.
- 10.18\* The Middleby Corporation 2011 Long-Term Incentive Plan, incorporated by reference to Appendix A to the company's definitive proxy statement filed with the Securities and Exchange Commission on April 1, 2011.
- 10.19\* The Middleby Corporation Value Creation Incentive Plan, incorporated by reference to Appendix B to the company's definitive proxy statement filed with the Securities and Exchange Commission on April 1, 2011.
- 10.20\* Letter Agreement, dated February 28, 2012, by and among The Middleby Corporation, Middleby Marshall Inc., and Selim A. Bassoul, incorporated by reference to the company's Form 8-K, Exhibit 10.1, dated February 28, 2012, filed on February 29, 2012.
- 21 List of subsidiaries.
- 23.1 Consent of Ernst & Young LLP.
- 23.2 Deloitte & Touche LLP.
- 31.1 Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended.
- 31.2 Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act, as amended.
- 32.1 Certification of Principal Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of Principal Financial Officer Pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 101 Financial statements on Form 10-K for the year ended December 29, 2012, filed on February 27, 2013, formatted in Extensive Business Reporting Language (XBRL); (i) condensed consolidated balance sheets, (ii) condensed consolidated statements of earnings, (iii) consolidated statements of cash flows, (iv) notes to the consolidated financial statements.

\* Designates management contract or compensation plan.

(c) See the financial statement schedule included under Item 8.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 27th day of February 2013.

**THE MIDDLEBY CORPORATION**

BY: /s/ Timothy J. FitzGerald

Timothy J. FitzGerald  
Vice President,  
Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on February 27, 2013.

<u>Signatures</u>	<u>Title</u>
<b>PRINCIPAL EXECUTIVE OFFICER</b>	
<u>/s/ Selim A. Bassoul</u> Selim A. Bassoul	Chairman of the Board, President, Chief Executive Officer and Director
<b>PRINCIPAL FINANCIAL AND ACCOUNTING OFFICER</b>	
<u>/s/ Timothy J. FitzGerald</u> Timothy J. FitzGerald	Vice President, Chief Financial Officer, Principal Financial Officer and Principal Accounting Officer
<b>DIRECTORS</b>	
<u>/s/ Robert Lamb</u> Robert Lamb	Director
<u>/s/ John R. Miller, III</u> John R. Miller, III	Director
<u>/s/ Gordon O'Brien</u> Gordon O'Brien	Director
<u>/s/ Philip G. Putnam</u> Philip G. Putnam	Director
<u>/s/ Sabin C. Streeter</u> Sabin C. Streeter	Director

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statements No. 333-176233, No. 333-162957, No. 333-142588 and No. 333-128304 on Form S-8 of our reports dated February 27, 2013, with respect to the consolidated financial statements and schedule of the Middleby Corporation, and the effectiveness of internal control over financial reporting of the Middleby Corporation, included in this Annual Report on Form 10-K for the year ended December 29, 2012.

/s/ Ernst & Young LLP

Chicago, Illinois

February 27, 2013



**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-176233, 333-162957, 333-142588, and 333-128304 on Form S-8 of our report dated March 12, 2012, relating to the consolidated financial statements and financial statement schedule of The Middleby Corporation and subsidiaries (the "Company"), as of and for each of the two years in the period ended December 31, 2011, appearing in this Annual Report on Form 10-K of the Company for the year ended December 31, 2012.

/s/ DELOITTE & TOUCHE LLP

Chicago, Illinois  
February 27, 2013

## CERTIFICATIONS

I, Selim A. Bassoul, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 29, 2012 of The Middleby Corporation;
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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the 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 registrant's board of directors (or persons performing the equivalent function):
  - (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 controls over financial reporting.

Date: February 27, 2013

/s/ Selim A. Bassoul

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Selim A. Bassoul

Chairman, President and

Chief Executive Officer of The Middleby Corporation

## CERTIFICATIONS

I, Timothy J. FitzGerald, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 29, 2012 of The Middleby Corporation;
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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the 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 registrant's board of directors (or persons performing the equivalent function):
  - (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 controls over financial reporting.

Date: February 27, 2013

/s/ Timothy J. FitzGerald

Timothy J. FitzGerald

Chief Financial Officer of The Middleby Corporation

**CERTIFICATION BY THE PRINCIPAL EXECUTIVE OFFICER OF  
THE MIDDLEBY CORPORATION  
PURSUANT TO RULE 13A-14(b) UNDER THE EXCHANGE ACT AND  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. 1350)**

This certification is being furnished pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

I, Selim A. Bassoul, Chairman, President and Chief Executive Officer (principal executive officer) of The Middleby Corporation (the "Registrant"), certify, to the best of my knowledge, based upon a review of the Annual Report on Form 10-K for the period ended December 29, 2012 of the Registrant (the "Report"), that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
- (2) The information contained in the Report fairly presents, in all material aspects, the financial condition and results of operations of the Registrant.

Date: February 27, 2013

/s/ Selim A. Bassoul

Selim A. Bassoul

**CERTIFICATION BY THE PRINCIPAL EXECUTIVE OFFICER OF  
THE MIDDLEBY CORPORATION  
PURSUANT TO RULE 13A-14(b) UNDER THE EXCHANGE ACT AND  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. 1350)**

This certification is being furnished pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

I, Selim A. Bassoul, Chairman, President and Chief Executive Officer (principal executive officer) of The Middleby Corporation (the "Registrant"), certify, to the best of my knowledge, based upon a review of the Annual Report on Form 10-K for the period ended December 29, 2012 of the Registrant (the "Report"), that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
- (2) The information contained in the Report fairly presents, in all material aspects, the financial condition and results of operations of the Registrant.

Date: February 27, 2013

/s/ Timothy J. FitzGerald  
\_\_\_\_\_  
Timothy J. FitzGerald

