

MIDDLEBY CORP  
Form DEF 14A  
April 12, 2005

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

**SCHEDULE 14A**

Proxy Statement Pursuant to Section 14(a) of  
the Securities Exchange Act of 1934 (Amendment No. )

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

- ☐ Preliminary Proxy Statement
- ☐ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- ☒ Definitive Proxy Statement
- ☐ Definitive Additional Materials
- ☐ Soliciting Material Pursuant to §240.14a-12

**THE MIDDLEBY CORPORATION**

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(Name of Registrant as Specified In Its Charter)

**N/A**

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(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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- ☒ No fee required.
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***THE MIDDLEBY CORPORATION***

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*1400 Toastmaster Drive  
Elgin, Illinois 60120*

April 12, 2005

Notice of Annual Stockholders' Meeting:

You are hereby notified that the Annual Meeting of Stockholders (the "Meeting") of The Middleby Corporation (the "Company") will be held at the Company's facility located at 1400 Toastmaster Drive, Elgin, Illinois 60120 at 10:30 a.m., local time, on, Wednesday, May 11, 2005, for the following purposes:

- (1) To elect seven directors to hold office until the 2006 Annual Meeting.
- (2) To consider and act on a proposal to ratify the selection of Deloitte & Touche LLP as independent public accountants of the Company for the current fiscal year ending December 31, 2005.
- (3) To consider and act on a proposal to amend and restate the Management Incentive Compensation Plan.
- (4) To consider and act on a proposal to amend the 1998 Stock Incentive Plan.
- (5) To consider and act upon a proposal to amend the Company's current restated certificate of incorporation (the "Charter") to remove obsolete provisions and to clarify certain existing provisions.
- (6) To consider and act upon a proposal to amend the Charter to grant the Board of Directors the authority to adopt, amend, alter or repeal the Company's bylaws.
- (7) To transact such other business as may properly come before the Meeting or any adjournment thereof.

The Board of Directors has fixed the close of business on March 24, 2005 as the record date for the determination of stockholders entitled to notice of and to vote at the Meeting.

You are invited to attend the Meeting in person. If you attend the Meeting in person, you may vote your shares by bringing valid photo identification and delivering your completed proxy card or ballot at the Meeting. Please note that if you hold your shares through a bank, broker or other nominee, you must also bring a form of legal proxy, which you must request from such nominee, in order to vote at the Meeting.

Whether or not you plan to attend the Meeting in person, we urge you to return your proxy promptly in accordance with the following instructions. If you own shares in your own name, you may vote (i) by signing and returning the enclosed proxy card in the postage-paid envelope provided, (ii) by telephone or (iii) electronically via the Internet, as described in further detail on the proxy card. If you own shares through a bank, broker or other nominee, please execute your vote by following the instructions provided by such nominee.

By Order of the Board of Directors

MARTIN M. LINDSAY  
*Treasurer*

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***THE MIDDLEBY CORPORATION***

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*1400 Toastmaster Drive  
Elgin, Illinois 60120*

**2005 ANNUAL MEETING OF STOCKHOLDERS**

**May 11, 2005**

**PROXY STATEMENT**

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**GENERAL**

This Proxy Statement and the accompanying proxy are furnished to stockholders of The Middleby Corporation (the "Company") in connection with the solicitation of proxies by the Company's Board of Directors (the "Board") for use at the 2005 Annual Meeting of Stockholders (the "Meeting") to be held at the Company's facility located at 1400 Toastmaster Drive, Elgin, Illinois 60120, at 10:30 a.m., local time, on Wednesday, May 11, 2005, for the purposes set forth in the accompanying Notice of Meeting. This Proxy Statement, the form of proxy included herewith and the Company's Annual Report to Stockholders for the fiscal year ended January 1, 2005 are being mailed to stockholders on or about April 12, 2005.

Stockholders of record at the close of business on March 24, 2005 are entitled to notice of and to vote at the Meeting. On such date there were outstanding 7,761,000 shares of common stock, par value \$0.01 per share, of the Company ("Common Stock"). In deciding all questions, each holder of Common Stock will be entitled to one vote, in person or by proxy, for each share held on the record date.

Stockholders who are entitled to vote at the Meeting may vote by proxy pursuant to the following methods. Stockholders who own shares in their own name may vote by mail, telephone or electronically via the Internet, pursuant to the instructions on the proxy card enclosed with this Proxy Statement. Stockholders who own shares through a bank, broker or other nominee should follow the instructions provided by such nominee.

The election inspectors appointed for the Meeting will determine the presence of a quorum and tabulate the votes cast by proxy or in person at the Meeting. The presence, in person or represented by proxy, of the holders of a majority of the shares of Common Stock outstanding and entitled to vote at the Meeting is necessary to constitute a quorum. A quorum is necessary for the transaction of business at the Meeting. Abstentions and broker non-votes will be included in determining the presence or absence of a quorum. Generally, broker non-votes occur on a proposal when a broker indicates on the proxy that it does not have discretionary authority as to certain shares to vote on a particular matter or when a broker has such discretionary authority but does not exercise such discretion.

The seven nominees for election to the Board of Directors who receive the greatest number of votes cast for the election of directors by the shares present, in person or represented by proxy, will be elected to the Board of Directors. For the election of directors, abstentions and broker non-votes will have the effect of neither a vote for nor a vote against the nominee and thus will have no effect on the outcome. The approval of the proposed amendments to the Company's current restated certificate of incorporation (the "Charter") and current amended and restated bylaws (the "Bylaws") requires the vote of a majority of the total number of shares of Common Stock entitled to vote at the Meeting. For proposed amendments to the Charter and Bylaws, abstentions and broker non-votes are not affirmative votes and therefore will have the same effect as a vote against such proposals. Approval of all other matters that are

properly brought before the Meeting, including the proposals to ratify the Company's appointment of independent public accountants and to amend the Company's Management Incentive Compensation Plan and 1998 Stock Incentive Plan, requires the vote of a majority of the votes cast at the Meeting by holders of shares present in person or represented by proxy and entitled to vote at the Meeting. For these other matters, abstentions and broker non-votes will not be counted as votes cast either for or against approval of such matters and therefore will not have an effect on the outcome of the votes.

Properly executed proxies will be voted in the manner directed by the stockholders. If no direction is made, such proxies will be voted as follows:

"Proposal No. 1 Election of Directors"; FOR the election of each of the named nominees as a director of the Company;

"Proposal No. 2 Ratification of Selection of Independent Public Accountants"; FOR the ratification of the selection of Deloitte & Touche LLP as the Company's independent public accountants for the current fiscal year ending December 31, 2005;

"Proposal No. 3 Amendment and Restatement of the Management Incentive Compensation Plan"; FOR the approval of an amendment and restatement of the Management Incentive Compensation Plan;

"Proposal No. 4 Amendment to the 1998 Stock Incentive Plan"; FOR the approval of an amendment to the 1998 Stock Incentive Plan;

"Proposal No. 5 Amendments to the Company's Charter to Remove Obsolete Provisions and to Clarify Certain Existing Provisions"; FOR approval of amendments to the Charter to remove obsolete provisions and to clarify certain existing provisions; and

"Proposal No. 6 Amendment to the Company's Charter to Grant the Board of Directors the Authority to Adopt, Amend, Alter or Repeal the Company's Bylaws"; FOR approval of an amendment to the Company's Charter to grant the Board of Directors the authority to adopt, amend, alter or repeal the Bylaws.

Any proxy may be revoked by the stockholder at any time prior to the voting thereof by notice in writing to the Secretary of the Company, either prior to the Meeting (at the above Elgin address) or at the Meeting if the stockholder attends in person. A later dated proxy will revoke a prior dated proxy. As of the date of this Proxy Statement, the Board of Directors knows of no other business which will be presented for consideration at the Meeting. If other proper matters are presented at the Meeting, however, it is the intention of the proxy holders named in the enclosed form of proxy to take such actions as shall be in accordance with their best judgment.

The information contained in this Proxy Statement relating to the occupations and security holdings of directors and officers of the Company and such individuals' transactions with the Company is based upon information received from each individual as of March 24, 2005.

#### **SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table sets forth certain information with respect to the beneficial ownership of shares of the Common Stock, as of March 24, 2005, by each person known by the Company to be the beneficial owner of more than five percent of Common Stock, each director and each nominee for director of the Company, each executive officer of the Company and all current directors and executive officers of the

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Company as a group. Unless otherwise indicated below, the address for each person listed below is c/o The Middleby Corporation, 1400 Toastmaster Drive, Elgin, Illinois 60120.

Name of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent Of Class
<b>Directors, Director Nominees and Executive Officers:</b>		
Selim A. Bassoul	887,530 shares(1)	11.4%
Timothy J. FitzGerald	129,535 shares(2)	1.7%
A. Don Lummus	73,278 shares	(10)
Phil Dei Dolori	50,913 shares(3)	(10)
Robert L. Yohe	50,000 shares(4)	(10)
Mark Sieron	40,300 shares(5)	(10)
Sabin C. Streeter	32,500 shares(6)	(10)
John R Miller III	32,000 shares(6)(7)	(10)
David P. Riley	31,730 shares(6)	(10)
Philip G. Putnam	21,000 shares(6)(7)(8)	(10)
Nazih Ibrahim	5,250 shares(9)	(10)
Gordon O'Brien	0 shares	(10)
Robert B. Lamb	0 shares	(10)
All directors and executive officers of the Company	1,366,631 shares(1)-(10)	17.5%

## Other 5% Holders:

Barbara K. Whitman(15)	718,500 shares(11)	9.3%
William F. Whitman, Jr.(15)	100,000 shares(12)	1.3%
W. Fifield Whitman III(15)	542,094 shares(13)	7.0%
Laura B. Whitman(15)	431,325 shares(13)	5.6%
Mellon Financial Corporation(16)	598,982 shares(14)	7.7%
The Boston Company, Inc.(16)	575,525 shares(14)	7.4%
Mellon Private Trust Company(16)	472,625 shares(14)	6.1%

## NOTES:

1. Mr. Bassoul, age 48, is the Chairman, Chief Executive Officer and President of the Company. His holdings include 375,000 vested shares of Common Stock deemed issued upon exercise of stock options, 200,000 shares of restricted Common Stock, and 23,000 shares held by Mr. Bassoul's spouse as trustee.
2. Mr. FitzGerald, age 35, is the Vice President and Chief Financial Officer of the Company. His holdings include 43,000 vested shares of Common Stock deemed issued upon exercise of stock options, 50,000 shares of restricted common stock, and 4,700 shares held by Mr. FitzGerald's spouse and children.
3. Mr. Dei Dolori, age 45, operating division President. His holdings include 34,000 vested shares of Common Stock deemed issued upon exercise of stock options.
4. Includes 5,000 vested shares of Common Stock deemed issued upon exercise of stock options granted in February 1996.
5. Mr. Sieron, age 56, operating division Vice President. His holdings include 10,200 vested shares of Common Stock deemed issued upon exercise of stock options.

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6. Includes 3,000 vested shares of Common Stock deemed issued upon exercise of stock options granted in March 2003.
7. Includes 3,000 vested shares of Common Stock deemed issued upon exercise of stock options granted in May 2000.
8. Includes 15,000 vested shares of Common Stock deemed issued upon exercise of stock options granted in February 1996.
9. Mr. Ibrahim, age 51, operating division President. His holdings include 5,000 vested shares of Common Stock deemed issued upon exercise of stock options.
10. Represents less than 1% of all Common Stock outstanding.
11. Consists of 718,500 shares of Common Stock held by Barbara K. Whitman, the spouse of William F. Whitman, Jr., as trustee of the following three trusts: (a) 437,250 shares of Common Stock for the benefit of Mrs. Whitman's two adult children, W. Fifield Whitman III and Laura B. Whitman (See Note 13 below), and (b) 281,250 shares of Common Stock for the benefit of Mrs. Whitman. Does not include 100,000 shares held in the William F. Whitman Jr. and Barbara K. Whitman Charitable Remainder Trust.
12. Includes 100,000 shares of Common Stock held in the William F. Whitman, Jr. and Barbara K. Whitman Charitable Remainder Trust under which William F. Whitman, Jr. and Barbara K. Whitman act as trustees.
13. Does not include 218,625 shares of Common Stock owned by Barbara K. Whitman as trustee for the benefit of Laura B. Whitman or 218,625 shares of Common Stock owned by Barbara K. Whitman as trustee for the benefit of W. Fifield Whitman III described in Note 11 above.
14. The Boston Company, Inc. and Mellon Private Trust Company are subsidiaries of Mellon Financial Corporation. Information presented in the above table was obtained from the Schedule 13G of Mellon Financial Corporation, filed on February 10, 2005. Mellon Financial Corporation and its subsidiaries disclaim beneficial ownership of these securities.
15. The address of these 5% Holders is c/o William Whitman, Jr., 8050 S.E. Little Harbor Drive, H-7, Hobe Sound, FL 33455.
16. The address of these 5% Holders is c/o Mellon Financial Corporation, One Mellon Bank Center, 500 Grant St., Pittsburgh, PA 15258.

### CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Pursuant to the terms of the Stock Repurchase Agreement, dated December 23, 2004, by and among the Company, William F. Whitman, Jr., the former Chairman of the Board of Directors, members of his family, including Laura B. Whitman and W. Fifield Whitman, III, former directors, and trusts controlled by his family (collectively, the "Whitmans") (the "Stock Repurchase Agreement"), the Company repurchased 1,808,774 shares of the Common Stock and 271,000 stock options from the Whitmans for a total aggregate purchase price of \$83,974,578 in cash. The repurchased shares represented 19.6% of the Company's outstanding shares and were repurchased for \$75,968,508 at \$42.00 per share. The 271,000 stock options were purchased for \$8,006,070, which represented the difference between \$42.00 and the exercise price of the option. In connection with the Stock Repurchase Agreement, William F. Whitman, Jr., Laura B. Whitman and W. Fifield Whitman, III resigned as directors of the Company.

Pursuant to the terms of the Stock Repurchase Agreement, the Company is required to file a registration statement under the Securities Act of 1933, as amended, with respect to the sale of some or all of the

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Whitmans' remaining 1,851,719 shares of Common Stock in an underwritten public offering. In the event that the Whitmans decide not to proceed with this underwritten public offering, the Whitmans have the right, subject to certain conditions, to require the Company to register their shares for sale in the public markets on up to two additional occasions.

In February 2005, the Company settled all remaining pension obligations associated with William F. Whitman, Jr. for \$7.5 million in cash.

The Board of Directors agreed to waive the retirement age requirement for A. Don Lummus so that upon his retirement at the Meeting, Mr. Lummus will be eligible for full retirement benefits under the directors' retirement plan described below on page 21 of this Proxy Statement. Upon his retirement, Mr. Lummus will be 69 years old.

### SECTION 16(A) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

The Company is required to report to its stockholders those directors, officers (as defined in Rule 16a-1(f) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) and owners of more than 10% of any class of the Company's equity securities registered pursuant to Section 12 of the Exchange Act, who fail to timely file reports of beneficial ownership and changes in beneficial ownership, as required by Section 16(a) of the Exchange Act during the Company's most recent fiscal year. A review of fiscal year 2004 reporting records reveals that three such reports were filed in an untimely manner. William F. Whitman Jr. filed one late report that covered two transactions. Barbara K. Whitman filed one late report that covered two transactions. Nazih Ibrahim filed one late report that covered one transaction. As of March 24, 2005, there are no known Securities and Exchange Commission ("SEC") beneficial ownership reports pending or overdue except for one late filing by Nazih Ibrahim which will be filed prior the mailing of this Proxy Statement.

### PROPOSAL NO. 1 ELECTION OF DIRECTORS

Seven directors are to be elected by a plurality of the stockholder votes cast at the Meeting to serve until the 2006 Annual Meeting of Stockholders and until their successors shall be duly elected and qualified or until their earlier death, resignation or removal. The following persons have been nominated:

Name	Age	Principal Occupation(s) During Past Five Years and Other Public Directorships	Director of Company or Predecessor Since
Selim A. Bassoul	48	President, Chief Executive Officer, and Chairman of the Board of the Company and its principal subsidiary, Middleby Marshall Inc. ("MM") since December 23, 2004. President and Chief Executive Officer of the Company and MM from 2001 to 2004. Chief Operating Officer of the Company and MM from 2000 to 2001. Group President of Middleby Cooking Systems Group from 1999 to 2000. President of Southbend, a Middleby company, from 1996 to 1999.	2001



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Robert B. Lamb	63	Clinical Professor of Management at the Leonard N. Stern School of Business at New York University since 1977. Has served as adviser to U.S. and foreign corporations, commercial banks, investment banks and government agencies. Director of Bondholders Communication Corporation. Member of the Board of Editors, The Municipal Finance Journal, since 1985.	N/A
John R. Miller III	64	Chairman and Chief Executive Officer of E.O.P, Inc., publisher of special market trade magazines since 1968. Director of First National Bank of Long Island and its holding company, the First of Long Island Corporation.	1978
Gordon O'Brien	39	Principal and Managing Director of American Capital Strategies since 1998. Vice President of Pennington Partners/PENMAN Partners, a private equity firm, from 1995 to 1998. A Board member of numerous companies as a representative of American Capital Strategies.	N/A
Philip G. Putnam	64	Managing Director, Flagstone Capital, LLC, investment bankers, since 2000. Executive Vice President, Brean Murray & Co. Inc., investment bankers, from 1996 to 2000.	1978
Sabin C. Streeter	63	Adjunct Professor and Executive-in-Residence at Columbia Business School since 1997. Managing Director and Vice President of Donaldson, Lufkin & Jenrette Securities Corp., investment bankers, from 1976 to 1997.	1987
Robert L. Yohe	68	Retired Vice Chairman and Director of Olin Corporation, a chemicals manufacturer, from 1993 to 1994, and from 1985 to 1992, President of Olin Chemicals, a division of Olin Corporation. Director of Airgas, Inc., Calgon Carbon Corporation, and Marsulex Inc.	1996

The Board of Directors knows of no reason why any of the foregoing nominees will be unavailable to serve, but, in the event of any such unavailability, the proxies received will be voted for such substitute nominees as the Board of Directors may recommend.

Pursuant to the terms of the Stock Repurchase Agreement previously described under the caption "Certain Relationships and Related Transactions" above, the Whitmans have agreed to vote all of the shares of Common Stock owned or controlled by them to elect Messrs. Bassoul, O'Brien and Lamb to the Board of Directors.

A. Don Lummus and David P. Riley will not stand for re-election as directors. They have no disagreements with the Company on any matter relating to the Company's operations, policies or practices.

#### **Vote Required for Approval; Board Recommendation**

Nominees for election to the Board of Directors who receive the greatest number of votes cast for the election of directors by the shares present, in person or represented by proxy, will be elected to the Board of Directors. With regard to the election of directors, votes may be cast for or withheld against each nominee. Votes that are withheld will have no effect on the outcome of the election because directors will be elected by a plurality of the votes cast. Stockholders eligible to vote at the Meeting do not have cumulative voting rights with respect to the election of directors.

**THE BOARD OF DIRECTORS RECOMMENDS THAT STOCKHOLDERS VOTE "FOR" EACH OF THE ABOVE NAMED NOMINEES AS A DIRECTOR OF THE COMPANY.**

#### **Committees; Board Meetings**

The Board of Directors of the Company held five meetings during the fiscal year ended January 1, 2005, and each director attended at least 75% of all Board and applicable Committee meetings. The Company encourages all directors to attend the annual meetings of stockholders. All of the Company's directors at the time attended the 2004 Annual Meeting of Stockholders. Current directors, Messrs. Putnam, Streeter, Yohe and Miller, and director nominees, Messrs. O'Brien and Lamb, have been determined by the Board of Directors to be "independent directors" as such term is defined under Rule 4200(a)(15) The Nasdaq Stock Market, Inc. ("Nasdaq"). The Board is comprised of a majority of independent directors. The Company currently has an Audit Committee and a Compensation Committee. A Nominating Committee may be established at the next Board meeting immediately following the Meeting.

During the fiscal year ended January 1, 2005, the Audit Committee was composed of Messrs. Putnam (Chairman), Streeter and Lummus. As noted above, Mr. Lummus will not stand for re-election to the Board. During the fiscal year ended January 1, 2005, the Audit Committee met five times for the purposes of (i) approving the selection of the Company's independent auditors; (ii) reviewing the arrangements for and scope of the audit and pre-approving permitted non-audit services; (iii) reviewing the Company's interim and annual financial statements or other results of the audit; (iv) reviewing the Company's internal accounting procedures and controls and the recommendations of the Company's independent auditors; and (v) reviewing the external audit process. All of the members of the Audit Committee have been determined by the Board of Directors to be financially sophisticated as required by Nasdaq Rule 4350(d) and to be "audit committee financial experts" as such term is defined in Item 401(h) of Regulation S-K promulgated by the SEC. All of the members of the Audit Committee have been determined by the Board of Directors to meet the additional independence criteria set forth in Nasdaq Rule 4350(d). The Audit Committee has a charter which was approved by the Board of Directors on March 4, 2003 and modified as of February 25, 2004, a copy of which was attached as Appendix A to the Company's proxy statement for the 2004 Annual Meeting of Stockholders of the Company.

The Compensation Committee is currently composed of Messrs. Yohe (Chairman), Miller and Lummus. Mr. Henry was a member of the Compensation Committee until December 2004, when he resigned from the Board of Directors. Upon Mr. Henry's resignation, Mr. Lummus was appointed to serve on the Compensation Committee in Mr. Henry's place. During the fiscal year ended January 1, 2005, the Compensation Committee met four times. The function of the Compensation Committee is to make recommendations concerning the compensation of the Chairman of the Board, the President and Chief Executive Officer, and other executive officers of the Company. The Compensation Committee is also

responsible for making grants to executive officers under the 1998 Stock Incentive Plan and for administering the Management Incentive Compensation Plan. All of the members of the Compensation Committee have been determined by the Board of Directors to be independent as defined in current Nasdaq listing standards.

The Company does not currently have a Nominating Committee, nor does it have a charter for a Nominating Committee. Instead, the Board of Directors, including a majority of the directors who are "independent directors" as such term is defined in Nasdaq Rule 4200(a)(15), has selected the nominees for election to the Board and has considered any and all factors that it deems to be relevant in connection with such selection of nominees. The Board of Directors does not have a formal policy for consideration of director candidates recommended for selection as nominees for election to the Board by the Company's stockholders; however, the Board considers a variety of factors, including but not limited to, a candidate's demonstrated good character and integrity, experience at strategy/policy setting levels, high level experience in dealing with business organizations, ability and willingness to devote time to the affairs of the Company, financial, technical or other special skills and experience, business contacts and ability to work effectively with other Board members. The Board evaluates stockholder recommended candidates under the same criteria as internally generated candidates.

Management has recommended that the Board establish a Nominating Committee comprised solely of "independent directors" as such term is defined in Nasdaq Rule 4200(a)(15) and adopt a charter for such Nominating Committee at the next Board meeting immediately following the Meeting. Management has also recommended that the Board establish at the next Board meeting immediately following the Meeting a formal policy for consideration of director candidates recommended for selection as nominees for election to the Board by the Company's stockholders.

Executive sessions of the independent directors are held in conjunction with regularly scheduled meetings of the Board of Directors and as otherwise deemed necessary. In the third quarter of the fiscal year ended January 1, 2005, the Board of Directors created the position of lead independent director. Since such time, Mr. Lummus has served as the lead independent director and currently presides at all executive sessions of the independent directors. However, as noted above, Mr. Lummus will not stand for re-election to the Board. Consequently, the Board intends to appoint Mr. Yohe as lead independent director, assuming that Mr. Yohe is elected to the Board, to preside at all executive sessions of the independent directors subsequent to the Meeting.

The Board of Directors has adopted the following procedure for stockholders and other interested parties to communicate with the Board. All such communications should be sent by email to the Chairman of the Board at the address found on the Company's website, [www.middleby.com](http://www.middleby.com), or by regular mail to the Chairman of the Board at the Company's executive office in Elgin, Illinois. The Chairman will collect and organize all such communications, deleting any sales or other solicitations and any which contain offensive material. A summary of the communications received will be periodically provided to the Board, which will determine the disposition of any such communication.

**EXECUTIVE OFFICERS**

The following is a summary of the professional experience of the executive officers of the Company.

<b>Name</b>	<b>Age</b>	<b>Principal Occupation(s) During Past Five Years</b>
Selim A. Bassoul	48	Refer to professional experience, described above under Proposal No. 1 "Election of Directors."
Timothy J. FitzGerald	35	Vice President and Chief Financial Officer of the Company and MM since May 2003. Vice President and Corporate Controller of the Company and MM from February 2000 to May 2003. Corporate Controller of the Company and MM from November 1998 to May 2003.
Phil Dei Dolori	45	Group President, GS Blodgett Corporation, Pitco Frialator, Inc. and MagiKitch'n Inc., since May 2003. President, Pitco Frialator, Inc., from January 2002 to May 2003. President, Vulcan-Hart, an Illinois Tool Works Company, from September 2000 to December 2001. Vice President of Sales, Vulcan-Hart, an Illinois Tool Works Company, from 1999 to 2000.
Mark A. Sieron	56	Division Vice President, since 2000. Vice President and General Manager, Middleby Cooking Systems Group, from 1988 to 2005.
Nazih Ibrahim	51	Division President, Southbend since August 2004. Vice President of Supply Chain Management, from July 2003 to August 2004. Vice President, Materials Management, Franke Group from 1999 to 2003. Vice President, Purchasing, Stainless Incorporated, from 1995 to 1999.
Martin M. Lindsay	40	Corporate Treasurer of the Company and MM since February 2000. Assistant Treasurer of the Company and MM from March 1999 to February 2002.

## EXECUTIVE COMPENSATION

The following table sets forth information concerning the annual and long-term compensation for services to the Company in all capacities for the fiscal years ending January 1, 2005 (the "2004 fiscal year"), January 3, 2004 (the "2003 fiscal year"), and December 28, 2002 (the "2002 fiscal year"), received by the following persons collectively referred to as the Company's "Named Executive Officers": (i) the Chief Executive Officer of the Company during the 2004 fiscal year, (ii) the four most highly compensated executive officers of the Company (other than the Chief Executive Officer) during the 2004 fiscal year and (iii) pursuant to Item 402(a)(3)(iii) of Regulation S-K promulgated by the SEC, two former executive officers of the Company (Messrs. Whitman and Baker) who would have been included among the Company's four most highly compensated executive officers (other than the Chief Executive Officer) during the 2004 fiscal year had Mr. Whitman not retired or Mr. Baker not resigned from the Company prior to the end of the 2004 fiscal year.

## SUMMARY COMPENSATION TABLE

Name and Principal Position	Fiscal Year	Annual Compensation			Long-Term Compensation		
		Salary (\$)	Bonus (\$)(1)	Other Annual Compensation (\$)(2)	Restricted Stock Awards (\$)(3)	Securities Underlying Options/SARs(4)	All Other Compensation (\$)(5)
Selim A. Bassoul <i>Chairman of the Board, President and Chief Executive Officer</i>	2004	\$ 403,077	\$ 2,400,000	\$ 20,000	\$4,819,000		\$ 11,358
	2003	\$ 360,000	\$ 1,710,000	\$403,623			\$ 12,139
	2002	\$ 319,600	\$ 1,185,000	\$465,853		325,000 200,000	\$ 8,071
Timothy J. FitzGerald <i>Vice President and Chief Financial Officer</i>	2004	\$ 176,923	\$ 244,150				\$ 10,332
	2003	\$ 134,524	\$ 165,000				\$ 11,690
	2002	\$ 97,126	\$ 150,063			40,000 10,000	\$ 7,874
Phil Dei Dolori <i>Division President</i>	2004	\$ 258,000	\$ 503,100				\$ 10,495
	2003	\$ 208,000	\$ 416,000				\$ 8,850
	2002	\$ 208,000	\$ 416,000			35,000 10,000	\$ 7,156
Mark Sieron <i>Division General Manager</i>	2004	\$ 167,229	\$ 313,621				\$ 10,619
	2003	\$ 161,035	\$ 118,321				\$ 14,067
	2002	\$ 161,035	\$ 313,621			8,000 10,000	\$ 9,411
Nazih Ibrahim <i>Division President</i>	2004	\$ 155,769	\$ 250,000				\$ 8,931
	2003	\$ 80,769	\$ 31,423				\$ 3,965
	2002					5,000	
William F. Whitman, Jr. <i>Former Chairman of the Board(6)</i>	2004	\$ 565,962	\$ 2,400,000	\$75,000			\$ 13,208
	2003	\$ 600,000	\$ 2,015,000	\$75,000			\$ 19,726
	2002	\$ 440,487	\$ 1,185,000	\$70,000		170,000 100,000	\$ 16,151
David B. Baker <i>Former Vice President, Chief Administrative Officer and Secretary(6)</i>	2004	\$ 155,769	\$ 157,000				\$ 10,458
	2003	\$ 155,187	\$ 120,000				\$ 11,928
	2002	\$ 134,429	\$ 230,230			15,000 10,000	\$ 8,634

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Annual Compensation

Long-Term  
Compensation

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**NOTES:**

1.  
Amounts in 2004, 2003, and 2002 include amounts paid pursuant to the Company's Management Incentive Compensation Plan, described elsewhere in this Proxy Statement. Amounts in 2003 include performance bonuses of \$430,000 and \$125,000 paid to Mr. Whitman and Mr. Bassoul, respectively.
2.  
Amounts in 2004, 2003, and 2002 for Mr. Whitman represent director's fees for services to the Company and its subsidiaries. Mr. Bassoul's 2004, 2003, and 2002 amounts include director's fees for services to the Company and its subsidiaries and the forgiveness of a debt plus interest upon reaching certain operating performance goals in 2003 and 2002.

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3.

Amounts represent the fair market value of restricted shares of Common Stock awarded under the Company's 1998 Stock Incentive Plan, measured by multiplying the number of shares subject to the grant by the closing market price of \$48.19 of the Company's Common Stock on the date of grant. Mr. Bassoul held 100,000 shares of restricted Common Stock as of the end of the 2004 fiscal year with a value of \$5,072,000, calculated by multiplying the number of such shares held by \$50.72, the closing price of the Company's Common Stock on December 31, 2004. Mr. Bassoul was awarded 100,000 restricted shares of Common Stock on December 23, 2004. 60,000 of these shares will vest on December 31, 2005, and the remaining 40,000 shares will vest on December 31, 2006, provided that Mr. Bassoul remains employed by the Company on the respective vesting dates. Dividends on the restricted shares subject to the award (to the extent declared by the Company) will be payable to Mr. Bassoul.

4.

Amounts represent options to purchase shares of Common Stock granted under the Company's 1998 Stock Incentive Plan.

5.

All Other Compensation consists of (a) the Company's Profit Sharing Contributions, (b) 401(k) Company Matching Contributions and (c) insurance premiums paid by the Company on a group term life insurance policy. Individual amounts are as follows (amounts shown are for each of 2004, 2003, and 2002, respectively):

(1)

Messrs. Bassoul, Baker, FitzGerald, Sieron, and Dei Dolori received Profit Sharing Contributions of \$5,908, \$7,490, and \$5,863. Profit Sharing Contributions received by Mr. Whitman were \$0, \$7,490, and \$5,863, and for Mr. Ibrahim were \$5,817, \$2,202, and \$0.

(2)

401(k) Company Matching Contributions for Mr. Whitman were \$4,100, \$3,128, and \$2,824; for Mr. Bassoul were \$4,100, \$3,300, and \$1,833; for Mr. Baker were \$4,100, \$4,000, and \$2,399; for Mr. FitzGerald were \$4,100, \$4,000, and \$1,868; for Mr. Dei Dolori were \$4,100, \$1,060, and \$993.34; for Mr. Sieron were \$3,266, \$5,132, and \$2,775; and for Mr. Ibrahim were \$2,424, \$1,500, and N/A.

(3)

Life insurance premiums paid by the Company for Mr. Whitman were \$9,108, \$9,108, and \$7,464; for Mr. Bassoul were \$1,350, \$1,350, and \$375; for Mr. Baker were \$450, \$438, and \$372; for Mr. FitzGerald were \$324, \$200, and \$144; for Mr. Dei Dolori were \$487, \$300, and \$300; for Mr. Sieron were \$1,445, \$1,445, and \$773; and for Mr. Ibrahim were \$690, \$263, \$0.

6.

As previously disclosed, Mr. Whitman retired from his position as Chairman of the Board effective December 23, 2004 in connection with entering into the Stock Repurchase Agreement and is no longer affiliated with the Company. Mr. Baker resigned from his position as Vice President, Chief Administrative Officer and Secretary effective January 21, 2005 and is no longer affiliated with the Company.

#### **Employment, Change in Control and Termination Agreements**

##### *Selim A. Bassoul*

The Company and MM entered into an employment agreement with Mr. Bassoul dated as of December 23, 2004. The agreement provides, among other things, for Mr. Bassoul to serve as President, Chief Executive Officer, and Chairman of the Board of the Company and of MM for a term ending March 1, 2012. Under the agreement, Mr. Bassoul receives an annual base salary of \$770,000.

The employment agreement further provides that Mr. Bassoul is eligible to participate in the Company's Management Incentive Compensation Plan, described in Proposal No. 3 of this Proxy Statement. Under the terms of such plan, if the Company attains certain pre-established performance goals, Mr. Bassoul shall be entitled to receive (i) 100% of his base salary as in effect at the beginning of the fiscal year to which the award relates and (ii) for each year, an additional performance bonus determined on a scale based on the amount by which the Company's earnings before income taxes and depreciation and amortization ("EBITDA") as determined under the plan exceeds the pre-established performance goal.

The employment agreement provides for an aggregate grant to Mr. Bassoul of 300,000 shares of restricted stock (the "Restricted Stock") pursuant to the terms of the 1998 Stock Incentive Plan, which is fully outlined under Proposal No. 4 of this Proxy Statement. The Restricted Stock is to be granted in three separate tranches as follows: (i) 100,000 shares of Restricted Stock were granted on December 23, 2004, (ii) 100,000 shares of Restricted Stock were granted on January 5, 2005, and (iii) 100,000 shares of





Restricted Stock will be granted at the earlier to occur of (1) the date following the next annual meeting of stockholders of the Company after the effective date at which the stockholders approve an amendment to the 1998 Stock Incentive Plan increasing the annual grant limit under such plan or (2) January of 2006. The Restricted Stock is non-transferable and shall be forfeitable subject to the following vesting conditions: 60,000 shares of the Restricted Stock shall vest on December 31, 2005; 60,000 shares of the Restricted Stock shall vest on December 31, 2006; 60,000 shares of the Restricted Stock shall vest on December 31, 2007; 60,000 shares of the Restricted Stock shall vest on December 31, 2008; and 60,000 shares of the Restricted Stock shall vest on December 31, 2009, in each case subject to the continued employment of Mr. Bassoul on such date. Mr. Bassoul is entitled to vote and receive declared dividends with respect to all shares of Restricted Stock shares granted to him, irrespective of whether they are vested or not. The restricted stock will immediately vest if: (a) Mr. Bassoul terminates his employment because of a material diminution in duties, (b) Mr. Bassoul's employment is terminated other than for cause, or (b) Mr. Bassoul terminates his employment within six months following a "change in control" of the Company, as defined in the employment agreement.

The employment agreement gives the parties the right to terminate at any time and, in the case of any termination, Mr. Bassoul will be paid all compensation accrued to date, including, in the event that the termination is by the Company and MM for reasons other than cause, a pro rata share of incentive compensation under the Management Incentive Compensation Plan that would otherwise have been payable to him had he remained employed by the Company until the last day of the fiscal year, such pro rata share to be paid following the conclusion of the fiscal year for which payable. Under the employment agreement, if the Company terminates Mr. Bassoul's employment without cause, Mr. Bassoul terminates his employment due to a material diminution of his duties or a change in his title, or Mr. Bassoul terminates his employment within the six-month period following a change in control, Mr. Bassoul will be entitled to an amount equal to three times the sum of his annual base salary and the greater of (x) the amount of incentive compensation earned under the Management Incentive Compensation Plan with respect to the full calendar year immediately prior to the date of termination and (y) the average incentive compensation paid to Mr. Bassoul under the Management Incentive Compensation Plan for each of the three calendar years immediately prior to the date of termination. Further, the employment agreement provides that if Mr. Bassoul's employment agreement is terminated by either party, for reasons other than cause, Mr. Bassoul and his dependents are entitled to continue to participate in all health and medical plans and programs which the Company maintains for its senior executives and their families for life, subject to any Medicare coverage being the primary coverage. The agreement also provides Mr. Bassoul with certain additional payments intended to reimburse him for the excise tax payable should any payments made to him in the event of a change in control be subject to the excise tax imposed on "excess parachute payments" under section 4999 of the Code, and to reimburse him for the income, excise and employment taxes on the reimbursement payment.

Mr. Bassoul's employment agreement also provides for a nonqualified retirement benefit, which is described on page 14 of this Proxy Statement.

*Timothy J. FitzGerald*

The Company and MM entered into an employment agreement with Timothy J. FitzGerald, the Company's Vice President and Chief Financial Officer, which superseded both a severance agreement dated March 1, 2004 and a retention agreement dated July 22, 2004. The employment agreement has a five-year term and will continue until March 1, 2010, unless Mr. FitzGerald's employment is earlier terminated under the terms of the employment agreement. Under his employment agreement, Mr. FitzGerald is entitled to receive an annual base salary of \$250,000 and is eligible to earn an annual incentive bonus under the Company's Management Incentive Compensation Plan, described in Proposal No. 3 to this Proxy Statement. Pursuant to the Management Incentive Compensation Plan, the

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performance bonus for Mr. FitzGerald will be paid determined on a scale based on the amount by which the Company's EBITDA (as determined under the plan) exceeds the pre-established performance goal for Mr. FitzGerald for the applicable year. The Company is also obligated to grant Mr. FitzGerald an aggregate of 50,000 shares of restricted stock of the Company pursuant to the terms and conditions set forth in a restricted stock agreement further described below. The restricted shares granted to Mr. FitzGerald will vest ratably over a five year period, commencing on December 31, 2005 and will become fully vested on December 31, 2009, generally as long as Mr. FitzGerald remains employed by the Company on each applicable vesting date. The restricted stock will immediately vest if: (a) Mr. FitzGerald's employment is terminated other than for cause, or (b) Mr. FitzGerald terminates his employment within six months following a "change in control" of the Company, as defined in the employment agreement.

Under the employment agreement, Mr. FitzGerald's employment may be terminated by the Employer (defined as the Company and MM) or by Mr. FitzGerald at any time, or by the death of Mr. FitzGerald. The employment agreement provides Mr. FitzGerald with the following severance benefits. If the Employer terminates Mr. FitzGerald's employment without "cause" (as defined in the employment agreement), or if Mr. FitzGerald terminates his employment within six months following a change in control of the Company, Mr. FitzGerald will be entitled to a lump sum payment equal to two times the sum of: (a) Mr. FitzGerald's annual base salary for the full calendar year immediately prior to the date of termination, and (b) the greater of (i) the amount of his annual bonus paid under the Company's Management Incentive Compensation Plan with respect to the full calendar year immediately prior to the year of termination and (ii) the average of Mr. FitzGerald's annual bonuses paid under the Management Incentive Compensation Plan for each of the two calendar years immediately prior to the year of termination. Mr. FitzGerald will also be entitled to an additional payment (referred to as a "gross-up" payment) to cover the amount of any excise tax, including income taxes and excise taxes incurred with respect to the gross-up payment, in the event that any amount payable to him in connection with a change in control of the Company results in the excise tax imposed on "excess parachute payments" under the Code.

*William F. Whitman, Jr.*

In connection with the Stock Repurchase Agreement previously described under the caption "Certain Relationships and Related Transactions" above, the Company and Mr. Whitman terminated Mr. Whitman's amended and restated employment agreement, dated January 1, 1995, as amended, in accordance with its terms. Pursuant to the terms of the Stock Repurchase Agreement and Mr. Whitman's employment agreement, the Company settled all remaining pension obligations associated with Mr. Whitman for \$7.5 million in cash in February 2005.

### **The Middleby Corporation Stock Ownership Plan**

In 1993, the Company adopted The Middleby Corporation Stock Ownership Plan, which requires eligible employees that elect to participate in the plan to hold a minimum number of shares of the Common Stock. The number of shares each such employee is required to hold is determined annually based on the price of the Common Stock and the salary of that employee. In the event any employee participating in the plan holds less than the minimum number of shares, the employee will be paid up to one-third of his or her bonus in the form of shares of the Common Stock, up to the minimum number of shares required by the plan.

### **Pension Plans**

Pursuant to his employment agreement, Mr. Bassoul is entitled to a nonqualified defined benefit pension benefit as follows: Upon Mr. Bassoul's retirement on or after the date on which he attains the age of 55 (the "Age 55 Retirement Benefit"), but in no event prior thereto, he shall be fully vested in a monthly retirement benefit equal to one-twelfth of 50% of his then current base salary, payable for the remainder of his life. If Mr. Bassoul retires after the date on which he attains the age of 60 (the "Age 60 Retirement Benefit"), he shall be fully vested in a monthly retirement benefit equal to one-twelfth of 62.5% of his then current base salary, in lieu of the age 55 Retirement Benefit, payable for the remainder of his life. If Mr. Bassoul retires after the date on which he attains the age of 65, he shall be fully vested in a monthly retirement benefit equal to one-twelfth of 75% of his then current base salary, in lieu of the age 60 Retirement Benefit, payable for the remainder of his life. The estimated monthly retirement benefit payable to Mr. Bassoul based on his compensation level as of January 1, 2005 would be \$32,084 at the retirement age of 55, \$40,104 at the retirement age of 60, and \$48,125 at the retirement age of 65. The amount of Mr. Bassoul's nonqualified retirement benefit would be offset by the amount of Mr. Bassoul's accrued benefits under the tax-qualified plans maintained by the Company, other than any portion of such benefits that are attributable to Mr. Bassoul's own contributions to the qualified plans.

The Company maintains two tax-qualified defined contribution pension plans; annual contributions made by the Company for the benefit of the Named Executive Officers under the applicable tax-qualified plan are shown in the Summary Compensation Table on page 10 of this Proxy Statement.

### **Stock Option/SAR Grants**

The Company did not make any grants of stock options or stock appreciation rights during the fiscal year ended January 1, 2005, including to the Named Executive Officers.

### **Option Exercises and Fiscal Year-End Values**

The following table sets forth certain information concerning the exercise of stock options during the fiscal year ended January 1, 2005 by each of the Named Executive Officers and the fiscal year-end value of unexercised options under the 1998 Stock Incentive Plan. Options awarded under the plan become exercisable in accordance with the terms of the grant and generally have a ten year term.

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**Aggregated Option/SAR Exercises in Last Fiscal Year  
and FY End Option/SAR Values**

<b>Name</b>	<b>Shares Acquired on Exercise (#)</b>	<b>Value Realized (\$)</b>	<b>Number of Securities Underlying Unexercised Options/SARs at FY End(#) Exercisable/ Unexercisable</b>	<b>Value of Unexercised in the Money Options/SARs at FY End(\$) Exercisable/ Unexercisable(1)</b>
William F. Whitman, Jr.	0	\$0	0/0	0/0
Selim A. Bassoul	0	\$0	325,000/160,000	\$11,063,650/\$6,986,800
David B. Baker	0	\$0	20,500/0	\$779,781/\$0
Timothy J. FitzGerald	1,000	\$55,580(2)	45,000/10,000	\$1,566,528/ \$429,760
Mark Sieron	0	\$0	7,600/8,400	\$275,016/\$365,424
Phil Dei Dolori	2,000	\$84,360(3)	31,000/10,000	\$1,007,710/\$429,760
Nazih Ibrahim	0	\$0	5,000/0	\$161,250/\$0

**NOTES:**

- (1) Values based on the Company's 2004 fiscal year end closing Common Stock share price of \$50.72.
- (2) Value based on the Company's June 3, 2004 Common Stock share price of \$60.08.
- (3) Value based on the Company's April 23, 2004 Common Stock share price of \$48.08.

**Equity Compensation Plan Information**

The following table provides information as of January 1, 2005 with respect to shares of Common Stock that may be issued under the Company's existing equity compensation plans, including the 1998 Stock Incentive Plan and the 1989 Stock Incentive Plan.

<b>Plan Category</b>	<b>Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights (a)</b>	<b>Weighted Average Exercise Price of Outstanding Options, Warrants and Rights (b)</b>	<b>Number of Securities Remaining Available for Future Issuance (c)</b>
Equity compensation plans approved by security holders	698,200	\$ 13.56	255,840(1)
Equity compensation plans not approved by security holders	56,000	\$ 8.15	N/A
<b>Total</b>	<b>754,200</b>	<b>\$ 13.16</b>	<b>255,840</b>

**NOTES:**

- (1) The shares that remain available for issuance under the 1998 Stock Incentive Plan may be issued in the form of restricted Common Stock. The number shown in column (c) takes into account 100,000 shares of restricted Common Stock granted to Selim A. Bassoul on December 24, 2004 under the 1998 Stock Incentive Plan.

### Summary of Equity Compensation Plans Not Approved by Stockholders

As of January 1, 2005, the Company had made three outstanding option grants to non-employee directors which were not approved by stockholders: a 1996 grant, a 2000 grant, and a 2003 grant. The Company believes that it is important to develop compensation and incentive packages that will attract and retain qualified members to serve on the Board of Directors, while linking their performance to increasing stockholder value. The Company believes that periodically granting stock options to board members is an effective means to achieving this goal. Each non-employee director received option grants to purchase 15,000 shares of Common Stock in 1996, 3,000 shares of Common Stock in 2000, and 3000 shares of Common Stock in 2003. Such options were tied to the level of effectiveness of the Board of Directors in direct relation to creating stockholder value in the applicable year. Under each grant, the options were granted at the current market value, and the options vested immediately with a term of no longer than 10 years.

### Stock Price Performance Graph

The graph below compares five year cumulative total return for a stockholder investing \$100 in the Company on December 31, 1999 with the Nasdaq Stock Market Index and the Index of Nasdaq Non-Financial Stocks over the same period, assuming reinvestment of dividends. The Company does not believe it is feasible to provide a comparison against a group of peer companies, as there is an insufficient number of other similar publicly traded companies. The following graph shall not be deemed incorporated by reference by any general statement incorporating by reference this Proxy Statement into any filing under the Securities Act of 1933, as amended (the "Securities Act") or the Exchange Act, except to the extent the Company specifically incorporates the information contained therein by reference, and shall not otherwise be deemed filed under such Acts.

### EDGAR REPRESENTATION OF DATA POINTS USED IN PRINTED GRAPHIC

	1999	2000	2001	2002	2003	2004
The Middleby Corporation	100	108.38	93.99	191.41	737.16	923.86
The Nasdaq Stock Market Index	100	60.31	47.84	33.07	49.45	53.81
Nasdaq Non-Financial Stocks Index	100	58.33	44.61	29.14	44.61	48.12

### REPORT OF THE AUDIT COMMITTEE

The Audit Committee conducted its oversight activities for the Company in accordance with the duties and responsibilities outlined in the Audit Committee charter, approved by the Board of Directors on March 4, 2003 and modified as of February 25, 2004, a copy of which was attached as Appendix A to the Company's proxy statement for the 2004 Annual Meeting of Stockholders of the Company.

The Audit Committee has reviewed and discussed with management the Company's audited financial statements as of and for the fiscal year ended January 1, 2005.

The Audit committee discussed with the independent auditors, Deloitte & Touche LLP, the matters required to be discussed by Statement on Auditing Standards No. 61, Communications with Audit Committees, as modified or supplemented, by the Auditing Standards Board of the American Institute of Certified Public Accountants.

The Audit Committee has received and reviewed the written disclosures and the letter from the independent auditors required by Independence Standard No. 1, Independence Discussions with Audit Committees, as modified or supplemented, by the Independence Standards Board, and have discussed with the auditors the auditors' independence.

Based on reviews and discussions referred to above, the Audit Committee recommended to the Board of Directors that the audited financial statements for the fiscal year ended January 1, 2005 be included in the Company's annual report on Form 10-K for the fiscal year ended January 1, 2005.

The Middleby Corporation Audit Committee

Philip G. Putnam, Chairman,  
Sabin C. Streeter, A. Don Lummus

### REPORT OF THE COMPENSATION COMMITTEE AND BOARD OF DIRECTORS

The Compensation Committee makes recommendations concerning the compensation of the Chairman as well as the President and Chief Executive Officer of the Company. The full Board of Directors reviews the Company's operating profit target levels and the bonus component of the compensation of executive officers and senior managers of the Company, other than the Chairman and the President and Chief Executive Officer. The compensation philosophy of the Compensation Committee is based on the following key principles: The Compensation Committee intends to provide compensation packages that will attract and retain executive talent and deliver higher rewards for extraordinary performance. The Compensation Committee also believes that compensation for senior management, including the Company's Chairman, President and Chief Executive Officer should vary with the Company's financial and operating performance. Cash-based short-term incentive opportunities should be linked to annual corporate earnings objectives. A portion of compensation should be delivered through equity-based awards which further the Company's goals of executive retention through time-based vesting of awards. In addition, performance-based compensation provided to the Company's Chairman, President and Chief Executive Officer and those other senior executives who are "covered employees" under Section 162(m) of the Internal Revenue Code (generally, the Company's Named Executive Officers) should comply with the requirements that qualify the compensation as tax deductible to the Company, unless the Company determines under particular circumstances that it is in the Company's best interest to provide compensation that it not fully tax deductible. In accordance with this philosophy, the Compensation Committee approved the Management Incentive Compensation Plan, and determined that a significant portion of executive compensation would be at risk by basing the bonus opportunities for senior management on performance and the creation of stockholder value.

*Overview*

William F. Whitman, Jr., Chairman of the Board, was employed by the Company through December 23, 2004 pursuant to an employment agreement. The employment agreement was terminated pursuant to the Stock Repurchase Agreement which is described under the caption "Certain Relationships and Related Transactions" in this Proxy Statement. The base salary paid to Mr. Whitman in 2004 was determined on the basis of the value contributed by Mr. Whitman to the longstanding operations of the Company and MM. Mr. Whitman's 2004 bonus, which is shown in the Summary Compensation Table elsewhere in this Proxy Statement, was based upon achieving strategic initiatives, fulfilling cost containment goals, and fulfilling certain earnings before interest, taxes, depreciation and amortization ("EBITDA") goals.

Selim A. Bassoul, President and Chief Executive Officer, is employed by the Company pursuant to an employment agreement, which is summarized under the heading "Employment, Change in Control and Termination Agreements" in this Proxy Statement. Mr. Bassoul's compensation for the fiscal year ended January 1, 2005 was based upon his performance as President and Chief Executive Officer of the Company, including his contributions to achieving strategic initiatives, fulfilling cost containment goals, and fulfilling certain EBITDA goals. Effective as of December 23, 2004, Mr. Bassoul was appointed as the Company's Chairman of the Board of Directors, and certain changes were made to his compensation package as described below.

The key components of the compensation provided to the Named Executive Officers and other members of senior management are base salary, annual performance incentive awards and, for selected officers including the President and Chief Executive Officer, long-term equity-based grants. The Compensation Committee sets base salaries at a level determined to be slightly below the median for industry peers. The Named Executive Officers, and other members of senior management participate in the Management Incentive Compensation Plan. The Management Incentive Compensation Plan provides for payment of bonuses expressed as a percentage of such participant's base salary depending on the achievement of certain levels of EBITDA. The percentage which may be earned is determined for each individual based on the individual's level of responsibility within the Company. The Compensation Committee determines the minimum amount of growth that must be achieved each year in order for an annual bonus to be paid. Target levels are set annually to be in line with the Company's annual budget and are presented by the President and Chief Executive Officer to the Board of Directors for review and approval. The total compensation of the Named Executive Officers and senior managers of the Company are set at levels to be competitive with amounts paid to executive officers and senior managers with comparable qualifications, experience and responsibilities at other businesses of similar type or with similar market capitalization, with an emphasis on pay for performance. Salaries are reviewed annually and may be increased based on the individual's level of responsibility and merit. Executive officers also participate in annual cash-based incentive plans under which bonuses may be paid based on specified levels of growth in divisional or corporate goals.

The Compensation Committee did not grant any equity-based incentive awards under the Company's incentive plans in 2004, except as described below for Mr. Bassoul. As stated above, the Compensation Committee believes that extraordinary performance and contribution to the operations of the Company deserve extraordinary compensation. For this reason and in light of 2004 contributions to the Company's success, the Compensation Committee, in a series of meetings held in November and December of 2004, approved changes to the compensation package for Mr. Bassoul, as explained below.

*Selim A. Bassoul*

In consideration of the extraordinary contributions made by Mr. Bassoul to the success of the Company and his appointment as Chairman, the Compensation Committee approved the following changes to Mr. Bassoul's compensation package. Effective December 23, 2004, Mr. Bassoul's base salary (and base bonus amount) was increased from \$400,000 to \$770,000. In addition, the Company will reimburse

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Mr. Bassoul for legal and/or consulting expenses incurred by him for his personal financial, tax and estate planning and will cover the cost of a suitable leased automobile for Mr. Bassoul.

The Compensation Committee approved the payment to Mr. Bassoul of an annual incentive bonus of \$2,400,000 in respect of performance in 2004. The bonus was paid pursuant to the performance goals established by the Compensation Committee for 2004 under the Management Incentive Compensation Plan. As a result, the Compensation Committee expects the bonus payment to be fully tax deductible to the Company.

The Compensation Committee also approved the following additional changes to Mr. Bassoul's compensation package, which have been reflected in amendments to his employment agreement: (i) an increase in the severance payable to Mr. Bassoul upon involuntary termination of his employment by the Company for reasons other than cause or upon his voluntary termination within six months of a change in control (as defined in his employment agreement) from two times his base salary plus two times his bonus to three times his base salary plus three times his bonus; (ii) the ability to terminate employment and receive the described severance benefits in the event that Mr. Bassoul's duties are materially diminished or there is a change in his title; (iii) a nonqualified retirement benefit, which will provide Mr. Bassoul with monthly payments based on a percentage of his annual base salary and his age at the time of retirement (for example, Mr. Bassoul will vest in an annual nonqualified retirement benefit if he retires from the Company after attaining the age of 55, in an amount based on 50% of his annual base salary and, in the event that Mr. Bassoul retires from the Company on or after attaining the age of 65, he will become vested in an annual nonqualified retirement benefit in an amount based on 75% of his annual base salary); and (iv) pro rata vesting in the nonqualified retirement benefit in the case of a qualifying termination (generally, Mr. Bassoul's death or disability, termination without cause by the Company or under the circumstances specified in the employment agreement as described in clause (ii) above). In connection with its evaluation of the nonqualified retirement benefit, the Compensation Committee reviewed a schedule of the estimated monthly payments and aggregate annual retirement benefit that would become payable to Mr. Bassoul, based on both (1) a qualifying termination during the term of the employment agreement and (2) his retirement on and after age 55, up to and including retirement at age 65. The full or pro rata nonqualified retirement benefit, as the case may be, would be payable to Mr. Bassoul for the remainder of his life, but in no event may payments commence prior to his attaining the age of 55.

Pursuant to his employment agreement, as amended as of December 23, 2004, the Compensation Committee approved a grant to Mr. Bassoul under the Company's 1998 Stock Incentive Plan in the aggregate amount of 300,000 shares of restricted stock. The restricted stock grant will vest ratably over a five year period (with respect to 60,000 shares per year on December 31 of each year commencing on December 31, 2005), generally to the extent that Mr. Bassoul remains employed by the Company on each vesting date. The Compensation Committee determined that the aggregate grant would be made in three installments, as follows. The first 100,000 shares of restricted stock were granted to Mr. Bassoul on December 23, 2004 and the second 100,000 shares of restricted stock were granted to Mr. Bassoul on January 5, 2005. The final grant of 100,000 shares of restricted stock will be made to Mr. Bassoul following the annual meeting of the Company's stockholders, contingent on stockholder approval of an amendment to the Company's 1998 Stock Incentive Plan to increase the maximum number of shares that may be granted to any individual in a single tax year from 100,000 to 200,000. This amendment to the 1998 Stock Incentive Plan was approved by the Compensation Committee and adopted by the Company's Board of Directors, subject to stockholder approval, which is being sought pursuant to Proposal No. 4 "Amendment to the 1998 Stock Incentive Plan" elsewhere in this Proxy Statement. In its deliberations regarding the restricted stock grant for Mr. Bassoul, the Compensation Committee considered the estimated value of the grant by multiplying 300,000 by the closing price of the Company's Common Shares at the time of consideration (approximately \$50.00 per share) and determined that the value of the compensation was reasonable due to the creation of stockholder value during his tenure as President and Chief Executive Officer (as evidenced by the increase in the Company's stock price,



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among other measures) and due to the expected retention effect of the award. The long-term incentive award represented approximately 50% of the total compensation provided to Mr. Bassoul.

*William F. Whitman, Jr.*

As contemplated by the Stock Repurchase Agreement previously described under the caption "Certain Relationships and Related Transactions" above, the Compensation Committee approved the payment to Mr. Whitman of an annual incentive bonus of \$2,400,000 in respect of performance in 2004. The bonus was paid pursuant to the performance goals established by the Compensation Committee for 2004 under the Management Incentive Compensation Plan. As a result, the Compensation Committee expects the bonus payment to be fully tax deductible to the Company. Additionally, in February 2005, the Company settled all remaining pension obligations associated with Mr. Whitman for \$7.5 million in cash.

The Compensation Committee\*:  
Robert L. Yohe, Chairman, Robert R. Henry,  
A. Don Lummus and John R. Miller III

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