

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8**

**REGISTRATION STATEMENT UNDER  
THE SECURITIES ACT OF 1933**

**OFFICEMAX INCORPORATED**

(Exact name of registrant as specified in its charter)

**DELAWARE**  
(State or other jurisdiction  
of incorporation or organization)

**82-0100790**  
(I.R.S. Employer  
Identification No.)

**263 SHUMAN BLVD**  
**NAPERVILLE, ILLINOIS**  
(Address of Principal Executive Offices)

**60563**  
(Zip Code)

**2003 OFFICEMAX INCENTIVE AND PERFORMANCE PLAN**

(Full title of the plan)

**SUSAN WAGNER-FLEMING**  
**SENIOR VICE PRESIDENT, SECRETARY, AND ASSOCIATE GENERAL COUNSEL**  
**OFFICEMAX INCORPORATED**  
**263 SHUMAN BLVD**  
**NAPERVILLE, ILLINOIS 60563**  
**(630) 438-7800**

(Name, address and telephone number,  
including area code, of agent for service)

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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer       Accelerated filer       Non-accelerated filer       Smaller reporting company   
(Do not check if a smaller reporting company)

**CALCULATION OF REGISTRATION FEE**

TITLE OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED(1)	PROPOSED MAXIMUM OFFERING PRICE PER SHARE	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE	AMOUNT OF REGISTRATION FEE
Common Stock, par value \$2.50 per share	5,800,000 shares	\$19.33(2)	\$112,114,000(2)	\$4,406.08(2)
Common Stock Purchase Rights(3)	5,800,000 shares	N/A	N/A	N/A

- (1) The shares of common stock being registered will be issued in connection with the 2003 OfficeMax Incentive and Performance Plan. This registration statement also covers an indeterminate number of shares of common stock that may be issuable by reason of stock splits, stock dividends, or other adjustment provisions of the 2003 OfficeMax Incentive and Performance Plan, in accordance with Rule 416 under the Securities Act of 1933, as amended.
- (2) The aggregate offering price and registration fee have been calculated in accordance with Rule 457(h) under the Securities Act of 1933, as amended. The computation is based on the average of the high and low sale prices of the common stock as reported on the New York Stock Exchange on May 12, 2008.
- (3) Rights are evidenced by certificates for shares of the common stock and automatically trade with the common stock.

**EXPLANATORY NOTE**

OfficeMax Incorporated, a Delaware corporation, is filing this registration statement for the purpose of registering an additional 5,800,000 shares of our common stock which may be issued in accordance with the terms of our 2003 OfficeMax Incentive and Performance Plan as a result of an amendment to

that plan approved by shareholders on April 23, 2008.

## PART I

### INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

#### ITEM 1. PLAN INFORMATION.

Information required by Part I, Item 1 to be contained in each Section 10(a) Prospectus is omitted from this registration statement in accordance with Rule 428 under the Securities Act of 1933 and the Note to Part I of Form S-8.

#### ITEM 2. REGISTRANT INFORMATION AND EMPLOYEE PLAN ANNUAL INFORMATION.

Information required by Part I, Item 2 to be contained in each Section 10(a) Prospectus is omitted from this registration statement in accordance with Rule 428 under the Securities Act of 1933 and the Note to Part I of Form S-8.

## PART II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

#### INCORPORATION OF CONTENTS OF REGISTRATION STATEMENT BY REFERENCE

Pursuant to General Instruction E of Form S-8 and Rule 429, this registration statement is being filed to register an additional 5,800,000 shares for issuance under the 2003 OfficeMax Incentive and Performance Plan, as amended, and the contents of the prior registration statements (File Nos. 333-105245 and 333-110397) are incorporated herein by reference.

#### ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed by OfficeMax Incorporated with the Securities and Exchange Commission are incorporated by reference in this registration statement:

- (a) Annual Report on Form 10-K for the year ended December 29, 2007 filed on February 27, 2008;
- (b) Quarterly Report on Form 10-Q for the quarter ended March 29, 2008 filed on May 7, 2008;
- (c) Current Reports on Form 8-K filed on January 22, 2008, February 6, 2008, February 26, 2008, February 29, 2008, March 13, 2008, March 19, 2008, and April 29, 2008 and the disclosure under Item 5.02 in the Current Report on Form 8-K filed on February 19, 2008;

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- (d) The description of OfficeMax Incorporated's common stock which appears on pages 19 to 22 of its Registration Statement on Form 10 filed with the Commission on April 5, 1965, and in the amendments thereto on Form 8 dated May 24, 1965, and March 4, 1986; and
  - (e) The description of OfficeMax Incorporated's common stock purchase rights, contained in the Form 8-A filed by OfficeMax Incorporated on November 25, 1998, and any amendment or report filed with the Commission relating to OfficeMax Incorporated's rights agreement.

In addition, all documents filed by OfficeMax Incorporated pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, subsequent to the effective date of this registration statement, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be a part of this registration statement from the date of filing of such documents. Any statement contained herein or in any document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded for purposes of this registration statement to the extent that a statement contained in any other subsequently filed document which also is or is deemed to be incorporated by reference modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed to constitute a part of this registration statement, except as so modified or superseded.

#### ITEM 4. DESCRIPTION OF SECURITIES.

Not required.

#### ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Susan Wagner-Fleming, Senior Vice President, Secretary, and Associate General Counsel of OfficeMax Incorporated, who has rendered an opinion on the legality of the securities being registered, owns 3,785 shares of common stock of OfficeMax Incorporated as of May 16, 2008.

#### ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 146 of the Delaware General Corporation Law authorizes the company to indemnify its directors and officers under specified circumstances. Our Restated Certificate of Incorporation and Bylaws provide that we shall indemnify, to the extent permitted by Delaware law, our directors, officers, and employees against liability (including expenses, judgments, and settlements) incurred by them in connection with any actual or threatened action, suit, or proceeding to which they are or may become parties and which arises out of their status as directors, officers, or employees. The company has agreements with each director to indemnify him or her to the fullest extent permitted by Delaware law.

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Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors and officers pursuant to the above provisions, we have been advised that in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable.

Our directors and officers are insured, under insurance policies maintained by the company, against expenses incurred in the defense of actions, suits, or proceedings and certain liabilities that might be imposed as a result of such actions, suits, or proceedings, to which they are parties by reason of being or having been directors or officers.

**ITEM 7. EXEMPTION FROM REGISTRATION REQUIRED.**

Not required.

**ITEM 8. EXHIBITS.**

- 4.1\* 2003 OfficeMax Incentive and Performance Plan, as amended
- 5.1\* Opinion of Susan Wagner-Fleming, Senior Vice President, Secretary and Associate General Counsel of the Company
- 23.1\* Consent of Counsel (included in Exhibit 5.1)
- 23.2\* Consent of independent registered public accounting firm

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\*filed herewith

**ITEM 9. UNDERTAKINGS.**

(a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
  - (i) Not applicable;
  - (ii) Not applicable;
  - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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(3) To remove from registration by means of a post-effective amendment any of the securities being registered that remain unsold at the termination of the offering.

(4) Not applicable.

(5) That, for purposes of determining any liability under the Securities Act of 1933, each filing of its annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(6) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of OfficeMax Incorporated pursuant to the foregoing provisions, or otherwise, OfficeMax Incorporated has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by OfficeMax Incorporated of expenses incurred or paid by a director, officer or controlling person of OfficeMax Incorporated in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, OfficeMax Incorporated will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, OfficeMax Incorporated certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Naperville, State of Illinois, on May 16, 2008.

OfficeMax Incorporated

By

/s/ Sam K. Duncan  
 Sam K. Duncan  
 Chief Executive Officer

Dated: May 16, 2008

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons, on behalf of the registrant and in the capacities indicated, on May 16, 2008.

<u>Signature</u>	<u>Capacity</u>
<b>(i) Principal Executive Officer:</b>	
<u>/s/ Sam K. Duncan</u> Sam K. Duncan	Chief Executive Officer
<b>(ii) Principal Financial Officer and Principal Accounting Officer:</b>	
<u>/s/ Don Civgin</u> Don Civgin	Executive Vice President, Finance and Chief Financial Officer
<b>(iii) Directors:</b>	
<u>/s/ Dorrit J. Bern</u> Dorrit J. Bern	<u>/s/ Sam K. Duncan</u> Sam K. Duncan
<u>/s/ Warren F. Bryant</u> Warren F. Bryant	<u>/s/ Rakesh Gangwal</u> Rakesh Gangwal

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/s/ Joseph M. DePinto  
Joseph M. DePinto

/s/ Francesca Ruiz de Luzuriaga  
Francesca Ruiz de Luzuriaga

/s/ David M. Szymanski  
David M. Szymanski

/s/ William J. Montgoris  
William J. Montgoris

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INDEX TO EXHIBITS

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION OF EXHIBITS</u>
4.1*	2003 OfficeMax Incentive and Performance Plan, as amended
5.1*	Opinion of Susan Wagner-Fleming, Senior Vice President, Secretary and Associate General Counsel for the Company
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23.2*	Consent of independent registered public accounting firm

\*filed herewith

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**2003 OFFICEMAX INCENTIVE AND PERFORMANCE PLAN**  
**(Amended and restated effective as of April 23, 2008)**

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**2003 OFFICEMAX INCENTIVE AND PERFORMANCE PLAN**

1. *Purpose and Establishment.*

1.1 *Purpose.* The 2003 OfficeMax Incentive and Performance Plan (the “Plan”) is intended to promote the interests of the Company and its shareholders by (a) attracting, motivating, rewarding, and retaining the broad-based management talent critical to achieving the Company’s business goals; (b) linking a portion of each Participant’s compensation to the performance of both the Company and the individual Participant; and (c) encouraging ownership of Company common stock by Participants. The Plan has been adopted and approved by the Board of Directors (defined below).

1.2 *Successor Plan.* This Plan shall be the successor plan to the 1984 Key Executive Stock Option Plan (the “1984 KESOP”). No further grants shall be made under the 1984 KESOP on or after January 1, 2003. All awards outstanding under the 1984 KESOP on December 31, 2002 (“Prior Awards”), are incorporated into this Plan and shall be treated as awards under this Plan; however, the Prior Awards shall continue to be governed solely by the terms and conditions of the written instrument evidencing the grant or issuance. Except as expressly provided, no provision of this Plan shall affect or otherwise modify the rights or obligations of holders of Prior Awards. Shares of Stock reserved for issuance under the 1984 KESOP in excess of the number of shares as to which awards have been made as of December 31, 2002, shall no longer be available for issuance on or after January 1, 2003.

1.3 *Original Effective Date and Term of Plan.* The Plan’s original effective date was January 1, 2003, as approved by the shareholders of the Company. The Plan shall be amended and restated effective as of April 23, 2008, subject to approval by the shareholders of the Company. The Plan will expire on April 23, 2018. The Board of Directors or the Committee may terminate the Plan at any time prior to April 23, 2018. Awards outstanding at the expiration or termination of the Plan shall remain in effect according to their terms and the provisions of the Plan.

2. *Definitions.* As used in the Plan, the following definitions apply to the terms indicated below:

2.1 “Agreement” means either the written agreement between the Company and a Participant evidencing an Award and setting forth the terms and conditions applicable to the Award or a statement issued by the Company to a Participant describing the terms and conditions of an Award.

2.2 “Affiliate” means any corporation or other entity (including, but not limited to, a partnership or limited liability company) that is affiliated with the Company through stock or equity ownership such that it controls or is controlled by, or is under common control with, the Company.

2.3 “Annual Incentive Award” means an Award granted under Section 13.

2.4 “Award” means any Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, Performance Unit, Performance Share, Annual Incentive Award, or Stock Bonus granted pursuant to the terms of the Plan.

2.5 “Board of Directors” means the Board of Directors of the Company.

2.6 A “Change in Control” means (i) the same definition for “Change in Control” as set forth in any employment agreement, Award Agreement or change in control agreement between the Participant and the Company, Subsidiary and/or Affiliate in effect when the

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event(s) occur, or, (ii) in the absence of such agreements, a “Change in Control” shall be deemed to have occurred if:

(a) Any Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 25% or more of either the then outstanding shares of common stock of the Company or the combined voting power of the Company’s then outstanding securities; provided, however, if such Person acquires securities directly from the Company, such securities shall not be included unless such Person acquires additional securities which, when added to the securities acquired directly from the Company, exceed 25% of the Company’s then outstanding shares of common stock or the combined voting power of the Company’s then outstanding securities, and provided further that any acquisition of securities by any Person in connection with a transaction described in Section 2.5(c)(i) shall not be deemed to be a Change in Control of the Company; or

(b) The following individuals cease for any reason to constitute at least a majority of the number of directors then serving: individuals who, on the date hereof, constitute the Board and any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Company) whose appointment or election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least 2/3rds of the directors then still in office who either were directors on the date hereof or whose appointment, election, or nomination for election was previously so approved (the “Continuing Directors”); or

(c) The consummation of a merger or consolidation of the Company (or any direct or indirect subsidiary of the Company) with any other corporation other than (i) a merger or consolidation which would result in both (a) Continuing Directors continuing to constitute at least a majority of the number of directors of the combined entity immediately following consummation of such merger or consolidation, and (b) the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) more than 50% of the combined voting power of the voting securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (ii) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 25% or more of either the then outstanding shares of common stock of the Company or the combined voting power of the Company’s then outstanding securities; provided that securities acquired directly from the Company shall not be included unless the Person acquires additional securities which, when added to the securities acquired directly from the Company, exceed 25% of the Company’s then outstanding shares of common stock or the combined voting power of the Company’s then outstanding securities; and provided further that any acquisition of securities by any Person in connection with a transaction described in Section 2.6(c)(i) shall not be deemed to be a Change in Control of the Company; or

(d) The stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or the consummation of an agreement for the sale or disposition by the Company of all or substantially all of the Company’s assets, other than a sale or disposition by the Company of all or substantially all of the Company’s assets to an entity, more than 50% of the combined voting power of the voting securities of which are owned by Persons in substantially the same proportions as their ownership of the Company immediately prior to such sale.

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A transaction described in Section 2.6(c) which is not a Change in Control of the Company solely due to the operation of Subsection 2.6(c)(i)(a) will nevertheless constitute a Change in Control of the Company if the Board determines, prior to the consummation of the transaction, that there is not a reasonable assurance that, for at least two years following the consummation of the transaction, at least a majority of the members of the board of directors of the surviving entity or any parent will continue to consist of Continuing Directors and individuals whose election or nomination for election by the shareholders of the surviving entity or any parent would be approved by a vote of at least two-thirds of the Continuing Directors and individuals whose election or nomination for election has previously been so approved.

For purposes of Sections 2.6 and 2.21, “Beneficial Owner” shall have the meaning set forth in Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

For purposes of Sections 2.6 and 2.21, “Person” shall have the meaning given in Section 3(a)(9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof, except that “Person” shall not include (i) the Company or any of its subsidiaries, (ii) a trustee or

other fiduciary holding securities under an employee benefit plan of the Company or any of its subsidiaries, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) a corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company, or (v) an individual, entity or group that is permitted to and does report its beneficial ownership of securities of the Company on Schedule 13G under the Exchange Act (or any successor schedule), provided that if the individual, entity or group later becomes required to or does report its ownership of Company securities on Schedule 13D under the Exchange Act (or any successor schedule), then the individual, person or group shall be deemed to be a Person as of the first date on which the individual, person or group becomes required to or does report its ownership on Schedule 13D.

2.7 “Code” means the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

2.8 “Committee” means the Executive Compensation Committee of the Board of Directors or any successor to the Committee, which shall consist of three or more persons, each of whom, unless otherwise determined by the Board of Directors, is (i) an “outside director” within the meaning of Code Section 162(m), (ii) a “nonemployee director” within the meaning of Rule 16b-3 and (iii) satisfies the requirements of the New York Stock Exchange for independent directors.

2.9 “Company” means OfficeMax Incorporated (formerly Boise Cascade Corporation), a Delaware corporation.

2.10 “Director” means any individual who is a member of the Board of Directors of the Company and who is not an employee of the Company.

2.11 “Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time.

2.12 “Fair Market Value” of a share of Stock means the closing price of the Stock as reported by the consolidated tape of the New York Stock Exchange on the date in question. Notwithstanding the foregoing, the Committee may, in its sole discretion, specify that Fair Market Value of a share of Stock shall be defined as the average of the high and low selling prices of the Stock on the New York Stock Exchange on the date in question. If there are no

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Stock transactions on a particular date, the Fair Market Value shall be determined as of the immediately preceding date on which there were Stock transactions.

2.13 “Full Value Award” means a grant of Restricted Stock, Restricted Stock Units, Performance Shares, Performance Units, an Annual Incentive Award or Stock Bonus that provides for a Participant to receive shares of Stock without payment of an amount at least equal to the Fair Market Value of the Stock at the time of grant.

2.14 “Incentive Stock Option” means an Option that is an “incentive stock option” within the meaning of Code Section 422, or any successor provision, and that is designated by the Committee as an Incentive Stock Option.

2.15 “Nonqualified Stock Option” means an Option other than an Incentive Stock Option.

2.16 “Option” means the right to purchase a stated number of shares of Stock at a stated price for a stated period of time, granted pursuant to Section 7.

2.17 “Participant” means an employee or Director of the Company or a Subsidiary to whom an Award is granted pursuant to the Plan, or upon the death of the Participant, his or her successors, heirs, executors, and administrators, as the case may be.

2.18 “Performance Goals” means the objectives established by the Committee in its sole discretion with respect to any performance-based Awards that relate to one or more business criteria within the meaning of Code Section 162(m). Performance Goals may include or be based upon, without limitation: sales; gross revenue; gross margins; internal rate of return; cost; ratio of debt to debt plus equity; profit before tax; earnings before interest and taxes; earnings before interest, taxes, depreciation, and amortization; earnings per share; operating earnings; economic value added; ratio of operating earnings to capital spending; cash flow; free cash flow; net operating profit; net income; net earnings; net sales or net sales growth; price of Stock; return on capital, net assets, equity, or shareholders’ equity; segment income; market share; productivity ratios; expense targets; working capital targets; or total return to shareholders. Performance Goals may (a) be used to measure the performance of the Company as a whole or any Subsidiary, business unit or segment of the Company, (b) include or exclude (or be adjusted to include or exclude) extraordinary items, the impact of charges for restructurings, discontinued operations and other unusual and non-recurring items, and the cumulative effects of tax or accounting changes, each as defined by generally accepted accounting principles and as identified in the financial statements, notes to the financial statements, management’s discussion and analysis or other Securities and Exchange Commission filings, and/or (c) reflect absolute entity performance or a relative comparison of entity performance to the performance of a peer group, index, or other external measure, in each case as determined by the Committee in its sole discretion.

2.19 “Performance Share” means an Award of a number of shares granted to a Participant pursuant to Section 12 which is initially valued according to Fair Market Value and is paid out based on the achievement of stated Performance Goals during a stated period of time.

2.20 “Performance Unit” means an Award granted to a Participant pursuant to Section 11, denominated in units, the value of which at the time it is payable is determined as a function of the extent to which corresponding performance criteria or Performance Goals, as applicable, have been achieved.

2.21 A “Potential Change in Control” shall be deemed to have occurred if (a) the Company enters into an agreement, the consummation of which would result in the occurrence of a Change in Control of the Company; (b) the Company or any Person publicly announces

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an intention to take or to consider taking actions which if consummated would constitute a Change in Control of the Company; (c) any Person becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 9.5% or more of either the then outstanding shares of common stock of the Company or the combined voting power of the Company's then outstanding securities, provided that securities acquired directly from the Company shall not be included unless the Person acquires additional securities which, when added to the securities acquired directly from the Company, exceed 9.5% of the Company's then outstanding shares of common stock or the combined voting power of the Company's then outstanding securities; or (d) the Board adopts a resolution to the effect that a Potential Change in Control has occurred.

2.22 "Restricted Stock" means an Award of Stock granted in accordance with the terms of Section 9 and the other provisions of the Plan, and which is nontransferable and subject to a substantial risk of forfeiture. Stock shall cease to be Restricted Stock when, in accordance with the terms hereof and the applicable Agreement, they become transferable and free of a substantial risk of forfeiture.

2.23 "Restricted Stock Units" means an Award granted to a Participant pursuant to Section 10, denominated in units, providing a Participant the right to receive payment at a future date after the lapse of restrictions or achievement of performance criteria or Performance Goals, as applicable.

2.24 "Rule 16b-3" means Rule 16b-3 promulgated under the Exchange Act, as amended from time to time.

2.25 "Securities Act" means the Securities Act of 1933, as amended from time to time.

2.26 "Stock" means the common stock of the Company, par value \$2.50 per share.

2.27 "Stock Appreciation Right" or "SAR" means the right to receive an amount calculated as provided in and granted pursuant to Section 8.

2.28 "Stock Bonus" means a bonus payable in shares of Stock granted pursuant to Section 14.

2.29 "Subsidiary" means (i) in the case of an Incentive Stock Option, any company during any period in which it is a "subsidiary corporation" (as that term is defined in Code Section 424(f)), and (ii) in the case of all other Awards, in addition to a "subsidiary corporation" as defined above, a partnership, limited liability company, joint venture or other entity in which the Company has fifty percent (50%) or more of the voting power or equity interests.

### 3. *Stock Subject to the Plan.*

3.1 *Shares Available for Awards.* On and after the effective date of this amendment and restatement of the Plan, the maximum number of shares of Stock available for grant of Awards under the Plan shall be 12,800,000 shares (subject to adjustment as provided herein). Shares may be authorized but unissued Stock or authorized and issued Stock held in the Company's treasury. All shares of Stock reserved with respect to Awards granted under the Plan shall be available for any Awards, including Options and Stock Appreciation Rights. The maximum number of shares of Stock under the Plan that may be issued as Incentive Stock Options shall be 12,800,000. Shares subject to an Award (including a Prior Award, as that term is defined in Section 1.2 or Full Value Award, as that term is defined in Section 2.13) which is cancelled, expired, terminated, forfeited, surrendered, or otherwise settled without the issuance of any Stock shall again be available for Awards under the Plan. If shares covered by a Full Value Award are again available for grants pursuant to this subsection 3.1, the number of Shares that again becomes eligible for grants shall also be multiplied by 2.25. Shares under substitute

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awards for grants made under a plan of an acquired business entity shall not reduce the maximum number of shares that may be issued under the Plan.

3.2 *Accounting for Awards; Fungible Shares.* For purposes of this Section 3, on and after the effective date of this amendment and restatement of the Plan, an Award, other than a Full Value Award, shall reduce the aggregate number of shares of Stock available for grant under the Plan by the total number of shares covered by the Award. A Full Value Award shall reduce the aggregate number of shares available for grants under the Plan by the number of shares covered by the Full Value Award multiplied by 2.25. Notwithstanding any Plan provision to the contrary, shares withheld for payment of the exercise price of an Award and/or shares withheld to satisfy withholding taxes shall not be added back to the number of shares available for the future grant of Awards.

3.3 *Performance-Based Award Limitation.* Awards that are designed to comply with the performance-based exception from the tax deductibility limitation of Code Section 162(m) shall be subject to the following rules:

(a) The number of shares of Stock that may be granted in the form of Options in a single fiscal year to a Participant may not exceed 1,500,000, as adjusted pursuant to Section 3.4.

(b) The number of shares of Stock that may be granted in the form of SARs in a single fiscal year to a Participant may not exceed 1,500,000, as adjusted pursuant to Section 3.4.

(c) The number of shares of stock that may be granted in the form of Restricted Stock in a single fiscal year to a Participant may not exceed 1,500,000, as adjusted pursuant to Section 3.4.

(d) The number of Restricted Stock Units that may be granted in a single fiscal year to a Participant may not exceed 1,500,000, as adjusted pursuant to Section 3.4.

(e) The number of shares of Stock that may be granted in the form of Performance Shares in a single fiscal year to a Participant may not exceed 1,500,000, as adjusted pursuant to Section 3.4.

(f) The maximum amount that may be paid to a Participant for Performance Units granted in a single fiscal year to the Participant may not exceed \$4,000,000.



3.4 *Adjustment for Change in Capitalization.* In the event of any recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, spin-off, combination, share repurchase, share exchange, reclassification, or other similar corporate transaction or event (a) the number and kind of shares of stock which may thereafter be issued in connection with Awards; (b) the number and kind of shares of stock or other property issued or issuable in respect of outstanding Awards; (c) the exercise price, grant price, or purchase price relating to any Award; and (d) the maximum number of shares subject to Awards which may be awarded to any employee during any fiscal year of the Company shall be equitably adjusted as necessary to prevent the dilution or enlargement of the rights of Participants; provided that, with respect to Incentive Stock Options, adjustments shall be made in accordance with Code Section 424.

4. *Administration of the Plan.*

4.1 *Authority and Delegation.* The Committee shall have final discretion, responsibility, and authority to administer and interpret the Plan. This includes the discretion and authority to determine all questions of fact, eligibility, or benefits relating to the Plan. The Committee may also adopt any rules it deems necessary to administer the Plan. Any interpretation, determination, decision, or other action made or taken by the Committee shall be final and

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binding on Participants. The Committee's responsibilities for administration and interpretation of the Plan shall be exercised by Company employees who have been assigned those responsibilities by the Company's management. Unless limited by the Committee in writing, any Company employee exercising responsibilities relating to the Plan in accordance with this section shall be deemed to have been delegated the discretionary authority vested in the Committee with respect to those responsibilities, subject to the requirements of Rule 16b-3, Code Section 162(m) and the New York Stock Exchange. Executive officers designated by the Committee shall have the authority to grant Awards to non-executive officers and non-Directors. Subject to Section 19, the Committee shall have the authority to adopt modifications and amendments to this Plan or any Agreement necessary to comply with the law of the countries in which the Company, its Affiliates and/or Subsidiaries operate.

4.2 *Employees in Foreign Countries.* The Committee shall have the authority to adopt such modifications, procedures, appendices and sub-plans as may be necessary or desirable to comply with provisions of the laws of foreign countries in which the Company or any Subsidiary may operate to assure the viability of the benefits from Awards granted to Employees employed in such countries and to meet the objectives of the Plan.

4.3 *Terms and Conditions of Awards.* The Committee shall have final discretion, responsibility, and authority to:

- (a) grant Awards;
- (b) determine the Participants to whom and the times at which Awards shall be granted;
- (c) determine the type and number of Awards to be granted, the number of shares of Stock to which an Award may relate, and the applicable terms, conditions, and restrictions, including the length of time for which any restriction shall remain in effect;
- (d) establish and administer Performance Goals relating to any Award;
- (e) establish the rights of Participants with respect to an Award upon termination of employment or service as a Director;
- (f) determine whether, to what extent, and under what circumstances an Award may be settled, cancelled, forfeited, exchanged, or surrendered;
- (g) make adjustments in the Performance Goals in recognition of unusual or nonrecurring events affecting the Company or the financial statements of the Company, or in response to changes in applicable laws, regulations, or accounting principles;
- (h) determine the terms and provisions of Agreements;
- (i) provide for forfeiture of outstanding awards and recapture of realized gains and other realized value in such events as determined by the Committee, which include, but are not limited to, a breach of restrictive covenants or an intentional or negligent misstatement of financial records; and
- (j) make all other determinations deemed necessary or advisable for the administration of the Plan.

The Committee may solicit recommendations from the Company's management with respect to any or all of the items listed above.

The Committee shall determine the terms and conditions of each Award at the time of grant. The Committee may establish different terms and conditions for different

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Participants, for different Awards, and for the same Participant for each Award the Participant may receive, whether or not granted at different times.

5. *Eligibility.* The persons who shall be eligible to receive Awards pursuant to the Plan shall be employees of the Company and its Subsidiaries and Affiliates (including officers of the Company, whether or not they are directors of the Company), selected by the Committee from time to time, and Directors. The grant of an Award at any time to any person shall not entitle that person to a grant of an Award at any future time.

6. *Awards under the Plan; Agreement.* Awards that may be granted under the Plan consist of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares, Annual Incentive Awards, and Stock Bonuses, all as described below.

Each Award granted under the Plan, except unconditional Stock Bonuses, shall be evidenced by an Agreement which shall contain such provisions as the Committee may, in its sole discretion, deem necessary or desirable. On and after the effective date of this amendment and restatement of the Plan, if there is any inconsistency between the terms of the Plan and an Agreement, the terms of the Plan shall control unless the Agreement explicitly states that an exception to the Plan is being made. By accepting an Award, a Participant agrees that the Award shall be subject to all of the terms and provisions of the Plan and the applicable Agreement.

7. *Options.*

7.1 *Terms and Agreement.* Subject to the terms of the Plan, Options may be granted to Participants at any time as determined by the Committee. The Committee shall determine, and the Agreement shall reflect, the following for each Option granted:

- (a) the number of shares subject to each Option;
- (b) duration of the Option (provided that no Option shall have an expiration date later than the day after the 7th anniversary of the date of grant);
- (c) vesting requirements which specify a vesting period of no less than one year, except with respect to substitute awards for grants made under a plan of an acquired business entity;
- (d) whether the Option is an Incentive Stock Option or a Nonqualified Stock Option;
- (e) the amount and duration of related Stock Appreciation Rights, if any, and any conditions upon their exercise;
- (f) the exercise price for each Option, which, except with respect to substitute awards complying with Code Section 424 and regulations thereunder, shall not be less than the Fair Market Value on the date of the grant (with respect to Incentive Stock Options, 110% of the Fair Market Value on the date of grant for any Participant who owns, within the meaning of Code Section 424(d), stock of the Company possessing more than 10% of the total combined voting power of all classes of stock of the Company, any Subsidiary, or any Affiliate);
- (g) the permissible method(s) of payment of the exercise price;
- (h) the rights of the Participant upon termination of employment or service as a Director; and
- (i) any other terms or conditions established by the Committee.

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7.2 *Exercise of Options.*

- (a) Options shall be exercisable at such times and subject to such restrictions and conditions as the Committee, in its sole discretion, deems appropriate, which need not be the same for all Participants.
- (b) An Option shall be exercised by delivering written notice as specified in the Agreement on the form of notice provided by the Company. Options may be exercised in whole or in part.

For a Participant who is subject to Section 16 of the Exchange Act, the Company may require that the method of payment comply with Section 16 and the rules and regulations thereunder. Any payment in shares of Stock, if permitted, shall be made by delivering the shares to the secretary of the Company, duly endorsed in blank or accompanied by stock powers duly executed in blank, together with any other documents and evidence as the secretary shall require.

- (c) Certificates for shares of Stock purchased upon the exercise of an Option shall be issued in the name of or for the account of the Participant or other person entitled to receive the shares and delivered to the Participant or other person as soon as practicable following the effective date on which the Option is exercised.

7.3 *Incentive Stock Options.* Notwithstanding anything in the Plan to the contrary, no term of the Plan relating to Incentive Stock Options shall be interpreted, amended, or altered, nor shall any discretion or authority granted under the Plan be exercised so as to disqualify the Plan under Code Section 422, or, without the consent of any affected Participant, to cause any Incentive Stock Option previously granted to fail to qualify for the federal income tax treatment afforded under Code Section 421. Incentive Stock Options shall not be granted to Directors. Incentive Stock Options shall not be granted under the Plan on or after January 1, 2013.

7.4 *Reduction in Price or Reissuance.* In no event shall the Committee cancel any outstanding Option for the purpose of (i) providing a replacement award under this or another Company plan, or (ii) cashing out an Option, unless such cash-out occurs in conjunction with a Change in Control. Additionally, in no event shall the Committee, without first receiving shareholder approval, (a) cancel any outstanding Option for the purpose of reissuing the Option to the Participant at a lower exercise price or (b) reduce the exercise price of a previously issued Option.

7.5 *Notification of Disqualifying Disposition.* If any Participant shall make any disposition of Shares issued pursuant to the exercise of an Incentive Stock Option under the circumstances described in Code Section 421(b) (relating to certain disqualifying dispositions), such Participant shall notify the Company of such disposition within ten (10) calendar days thereof.

8. *Stock Appreciation Rights.*

8.1 *Terms and Agreement.* Subject to the terms of the Plan, Stock Appreciation Rights may be granted to Participants at any time as determined by the Committee. The grant price of the SAR shall be at least equal to one hundred percent (100%) of the Fair Market Value of Stock as determined on the date of the grant, except with respect to substitute awards complying with Code Section 424 and regulations thereunder. The Committee shall determine, and the Agreement shall reflect, the following for each SAR granted:

- (a) the number of shares subject to each SAR;
- (b) whether the SAR is a Related SAR or a Freestanding SAR;

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(c) duration of the SAR (provided that no SAR shall have an expiration date later than the day after the 7th anniversary of the date of grant);

(d) vesting requirements which specify a vesting period of no less than one year, except with respect to substitute awards for grants made under a plan of an acquired business entity;

(e) rights of the Participant upon termination of employment or service as a Director; and

(f) any other terms or conditions established by the Committee.

8.2 *Related and Freestanding SARs.* A Stock Appreciation Right may be granted in connection with an Option, either at the time of grant or at any time thereafter during the term of the Option (a "Related SAR"), or may be granted unrelated to an Option (a "Freestanding SAR").

8.3 *Surrender of Option.* A Related SAR shall require the holder, upon exercise, to surrender the Option with respect to the number of shares as to which the SAR is exercised, in order to receive payment. The Option will, to the extent surrendered, cease to be exercisable.

8.4 *Reduction in Number of Shares Subject to Related SARs.* For Related SARs, the number of shares subject to the SAR shall not exceed the number of shares subject to the Option. For example, if the SAR covers the same number of shares as the Option, the exercise of a portion of the Option shall reduce the number of shares subject to the SAR to the number of shares remaining under the Option. If the Related SAR covers fewer shares than the Option, the exercise of a portion of the Option shall reduce the number of shares subject to the SAR to the extent necessary so that the number of remaining shares subject to the SAR is not more than the remaining shares under the Option.

8.5 *Exercisability.* Subject to Section 8.7 and to any rules and restrictions imposed by the Committee, a Related SAR will be exercisable at the time or times, and only to the extent, that the Option is exercisable and will not be transferable except to the extent that the Option is transferable. A Freestanding SAR will be exercisable as determined by the Committee but in no event after 10 years from the date of grant.

8.6 *Payment.* Upon the exercise of a Stock Appreciation Right, the holder will be entitled to receive payment of an amount determined by multiplying:

- (a) The excess of the Fair Market Value on the date of exercise over the Fair Market Value on the date of grant, by
- (b) The number of shares with respect to which the SAR is being exercised.

The Committee may limit the amount payable upon exercise of a Stock Appreciation Right. Any limitation must be determined as of the date of grant and noted on the Agreement evidencing the grant.

Payment may be made in cash, Stock, or a combination of cash and Stock, in the Committee's sole discretion.

8.7 *Reduction in Price or Reissuance.* In no event shall the Committee cancel any outstanding Stock Appreciation Right for the purpose of (i) providing a replacement award under this or another Company plan, or (ii) cashing out a Stock Appreciation Right, unless such cash-out occurs in conjunction with a Change in Control. Additionally, in no event shall the Committee, without first receiving shareholder approval, (a) cancel any outstanding Stock Appreciation Right for the purpose of reissuing the Stock Appreciation Right to the Participant

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at a lower exercise price or (b) reduce the exercise price of a previously issued Stock Appreciation Right.

8.8 *Additional Terms.* The Committee may impose additional conditions or limitations on the exercise of a Stock Appreciation Right as it may deem necessary or desirable to secure for holders the benefits of Rule 16b-3, or any successor provision, or as it may otherwise deem advisable.

## 9. *Restricted Stock.*

9.1 *Terms and Agreement.* Subject to the terms of the Plan, shares of Restricted Stock may be granted to Participants at any time as determined by the Committee. The Committee shall determine, and the Agreement shall reflect, the following for the Restricted Stock granted:

- (a) the number of shares of Restricted Stock granted;
- (b) the purchase price, if any, to be paid by the Participant for each share of Restricted Stock;
- (c) the restriction period established pursuant to Subsection 9.2 which, except with respect to substitute awards for grants made under a plan of an acquired business entity;

(i) for time-based Awards in excess of 5% of the number of shares available for Awards pursuant to Section 3.1, shall not be less than three (3) years, with restrictions lapsing on a pro rata basis; and

(ii) for Performance Goal-based Awards, shall be based upon a performance period of at least one (1) year;

(d) any requirements with respect to elections under Code Section 83(b);

(e) rights of the Participant upon termination of employment or service as a Director; and

(f) any other terms or conditions established by the Committee.

9.2 *Restriction Period.* At the time of the grant of Restricted Stock, the Committee shall establish a restriction period for the shares granted, which may be time-based, based on the achievement of specified Performance Goals, a combination of time- and Performance Goal-based, or based on any other criteria the Committee deems appropriate. The Committee may divide the shares into classes and assign a different restriction period for each class. The Committee may impose additional conditions or restrictions upon the vesting of the Restricted Stock as it deems fit in its sole discretion. If all applicable conditions are satisfied, then upon the termination of the restriction period with respect to a share of Restricted Stock, the share shall vest and the restrictions of Section 9.3 shall lapse. To the extent required to ensure that a Performance Goal-based Award of Restricted Stock to an executive officer is deductible by the Company pursuant to Code Section 162(m), any such Award shall vest only upon the Committee's determination that the Performance Goals applicable to the Award have been attained.

9.3 *Restrictions on Transfer Prior to Vesting.* Prior to the vesting of Restricted Stock, the Participant may not sell, assign, pledge, hypothecate, transfer, or otherwise encumber the Restricted Stock. Upon any attempt to transfer rights in a share of Restricted Stock, the share and all related rights shall immediately be forfeited by the Participant. Upon the vesting of a share of Restricted Stock, the transfer restrictions of this section shall lapse with respect to that share.

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9.4 *Rights as a Shareholder.* Except for the restrictions set forth here and unless otherwise determined by the Committee, the Participant shall have all the rights of a shareholder with respect to shares of Restricted Stock, including but not limited to the right to vote and the right to receive dividends, provided that the Committee, in its sole discretion, may require that any dividends paid on shares of Restricted Stock be held in escrow until all restrictions on the shares have lapsed.

9.5 *Issuance of Certificates.*

(a) Following the date of grant, the Company shall issue a stock certificate, registered in the name of or for the account of the Participant to whom the shares of Restricted Stock were granted, evidencing the shares. Each stock certificate shall bear the following legend:

The transferability of this certificate and the shares of stock represented hereby are subject to the restrictions, terms, and conditions (including forfeiture provisions and restrictions against transfer) contained in the 2003 OfficeMax Incentive and Performance Plan and an Agreement entered into between the registered owner of the shares and the Company.

This legend shall not be removed until the shares vest pursuant to the terms stated.

(b) Each certificate, together with the stock powers relating to the shares of Restricted Stock evidenced by the certificate, shall be held by the Company unless the Committee determines otherwise.

(c) Following the date on which a share of Restricted Stock vests, the Company shall cause to be delivered to the Participant to whom the shares were granted, a certificate evidencing the share free of the legend stated in subsection (a) above.

9.6 *Section 83(b) Election.* The Committee may provide in the Agreement that the Award is conditioned upon the Participant making or not making an election under Code Section 83(b). If the Participant makes an election pursuant to Code Section 83(b), the Participant shall be required to file a copy of the election with the Company within ten (10) calendar days.

10. *Restricted Stock Units.*

10.1 *Terms and Agreement.* Subject to the terms of the Plan, Restricted Stock Units may be granted to Participants at any time as determined by the Committee. The Committee shall determine, and the Agreement shall reflect, the following for the Restricted Stock Units granted:

(a) the number of Restricted Stock Units awarded:

(b) the purchase price, if any, to be paid by the Participant for each Restricted Stock Unit;

(c) the restriction period established pursuant to Subsection 10.2 which, except with respect to substitute awards for grants made under a plan of an acquired business entity:

(i) for time-based Awards in excess of 5% of the number of shares available for Awards pursuant to Section 3.1, shall not be less than three (3) years, with restrictions lapsing on a pro rata basis; and

(ii) for Performance Goal-based Awards, shall be based on a performance period of no less than one (1) year;

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(d) whether dividend equivalents will be credited with respect to Restricted Stock Units, and, if so, any accrual, forfeiture or payout restrictions on the dividend equivalents;

(e) rights of the Participant upon termination of employment or service as a Director; and

(f) any other terms or conditions established by the Committee.

To the extent a Restricted Stock Unit Award constitutes “deferred compensation” within the meaning of Code Section 409A, the Committee shall establish Agreement terms and provisions that comply with Code Section 409A and regulations thereunder.

10.2 *Restriction Period.* At the time of the grant of Restricted Stock Units, the Committee shall establish a restriction period, which may be time-based, based on the achievement of specified Performance Goals, a combination of time- and Performance Goal-based, or based on any other criteria the Committee deems appropriate. The Committee may divide the awarded units into classes and assign a different restriction period for each class. The Committee may impose any additional conditions or restrictions upon the vesting of the Restricted Stock Units as it deems fit in its sole discretion. If all applicable conditions are satisfied, then upon the termination of the restriction period with respect to a Restricted Stock Unit, the Unit shall vest. To the extent required to ensure that a Performance Goal-based Award of Restricted Stock Units to an executive officer is deductible by the Company pursuant to Code Section 162(m), any such Award shall become vested only upon the Committee’s determination that the Performance Goals applicable to the Award, if any, have been attained.

10.3 *Payment.* Upon vesting of a Restricted Stock Unit, the Participant shall be entitled to receive payment of an amount equal to the Fair Market Value of one share of Stock. Payment may be made in cash, Stock, or a combination of cash and Stock, in the Committee’s sole discretion.

## 11. *Performance Units.*

11.1 *Terms and Agreement.* Subject to the terms of the Plan, Performance Units may be granted to Participants at any time as determined by the Committee. The Committee shall determine, and the Agreement shall reflect, the following for the Performance Units granted:

(a) the number of Performance Units awarded;

(b) the initial value of a Performance Unit;

(c) the rights of the Participant upon termination of employment or service as a Director (which may be different based on the reason for termination);

(d) the performance period, which shall not be less than one (1) year, and Performance Goals applicable to the Award; and

(e) any other terms or conditions established by the Committee.

To the extent an Award constitutes “deferred compensation” within the meaning of Code Section 409A, the Committee shall establish Agreement terms and provisions that comply with Code Section 409A and regulations thereunder.

11.2 *Payment.* After the applicable performance period has ended, the Committee will review the Performance Goals and determine the amount payable with respect to the Award, based upon the extent to which the Performance Goals have been attained within the performance period and any other applicable terms and conditions. Payment of earned Performance Units may be made in cash, Stock, or a combination of cash and Stock, in the Committee’s sole discretion.

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## 12. *Performance Shares.*

12.1 *Terms and Agreement.* Subject to the terms of the Plan, Performance Shares may be granted to Participants at any time as determined by the Committee. The Committee shall determine, and the Agreement shall reflect, the following for the Performance Shares granted:

(a) the number of Performance Shares awarded;

(b) the performance period, which shall not be less than one (1) year, and Performance Goals applicable to the Award;

(c) whether dividend equivalents will be credited with respect to Performance Shares, and if so, any accrual, forfeiture, or payout restrictions on the dividend equivalents;

(d) the rights of the Participant upon termination of employment or service as a Director (which may be different based on the reason for termination); and

(e) any other terms or conditions established by the Committee.

To the extent an Award constitutes “deferred compensation” within the meaning of Code Section 409A, the Committee shall establish Agreement terms and provisions that comply with Code Section 409A and regulations thereunder.

12.2 *Initial Value.* The initial value of each Performance Share shall be the Fair Market Value on the date of grant.

12.3 *Payment.* After the applicable performance period has ended, the Committee will review the Performance Goals and determine the amount payable with respect to the Award, based upon the extent to which the Performance Goals have been attained within the performance period

and any other applicable terms and conditions. Payment of earned Performance Shares may be made in cash, Stock, or a combination of cash and Stock, as determined by the Committee in its sole discretion.

### 13. *Annual Incentive Awards.*

13.1 *Award Period and Performance Goals.* The award period for Annual Incentive Awards is a fiscal year, which may be a calendar year. Within 90 days of the beginning of each award period, the Committee shall establish the specific Performance Goals to be achieved in order for Participants to earn an Annual Incentive Award. The Committee shall establish a mathematical formula pursuant to which an Award equal to a specified percentage of a Participant's salary shall be earned upon the attainment of specific levels of the applicable Performance Goals. This formula may take into account Performance Goals achieved in prior years. The Performance Goals and formula, once established, shall continue for subsequent years unless modified by the Committee. The Performance Goals applicable to an Award Period, and the formula pursuant to which Award amounts shall be determined, shall be selected and published within 90 days from the beginning of the award period. Notwithstanding the foregoing, nothing in this Plan shall be construed to mean that an Award that does not satisfy Code Section 162(m) performance-based compensation requirements does not constitute performance-based compensation for other purposes, including Code Section 409A.

To the extent an Annual Incentive Award constitutes "deferred compensation" within the meaning of Code Section 409A, the Committee shall establish Award terms and provisions that comply with Code Section 409A and regulations thereunder.

13.2 *Payment.* As soon as practical after the conclusion of each year, the Committee shall review and evaluate the Performance Goals applicable to that year in light of the Company's performance measured in accordance with the goals and shall determine whether

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the goals have been satisfied. If satisfied, the Committee shall so certify in a written statement and shall apply the criteria to determine the amount of the Award for each Participant, subject to the Committee's right to reduce or eliminate the amount of any Award under Section 33. Payment of earned Annual Incentive Awards may be made in cash, Stock, or a combination of cash and Stock, in the Committee's sole discretion. No Award may be paid to a Participant in excess of \$5,000,000 for any single year.

14. *Stock Bonuses.* Subject to the terms of the Plan, a Stock Bonus may be granted to Participants at any time as determined by the Committee in payment of earned incentive compensation. If the Committee grants a Stock Bonus, a certificate for the shares of Stock constituting the Stock Bonus shall be issued in the name of the Participant to whom the grant was made and delivered as soon as practicable after the date on which the Stock Bonus is payable.

15. *Rights as a Shareholder.* Except as otherwise provided in Section 9.4 with respect to Restricted Stock, no person shall have any rights as a shareholder with respect to any shares of Stock covered by or relating to an Award until the date of issuance of a stock certificate with respect to the shares. Except as otherwise provided in Sections 3.4 and 12.1, no adjustment to any Award shall be made for dividends or other rights for which the record date occurs prior to the date the stock certificate is issued.

16. *Employment Not Guaranteed.* This Plan is not intended to and does not create a contract of employment in any manner. Employment with the Company is at will, which means that either the employee or the Company may end the employment relationship at any time and for any reason. Nothing in this Plan changes, or should be construed as changing, that at-will relationship.

### 17. *Securities Matters.*

17.1 *Delivery of Stock Certificates.* To the extent that this Plan provides for issuance of certificates to reflect the transfer of Stock, the transfer of such Stock may be effected on a non-certificated basis, to the extent not prohibited by applicable laws. Notwithstanding anything in this Plan to the contrary, the Company shall not be obligated to issue or deliver any certificates evidencing shares of Stock unless and until (a) the Company is advised by its counsel that the issuance and delivery of certificates is in compliance with all applicable laws, regulations of governmental authority, and the requirements of any securities exchange on which the Stock is traded; and (b) any governmental approvals the Company deems necessary or advisable have been obtained. The Committee may require, as a condition of the issuance and delivery of certificates, that the recipient make any agreements and representations and that the certificates bear any legends as the Committee, in its sole discretion, deems necessary or desirable.

17.2 *When Transfer is Effective.* The transfer of any shares of Stock shall be effective only when counsel to the Company has determined that the issuance and delivery of the shares is in compliance with all applicable laws, regulations, and the requirements of any securities exchange on which shares of Stock are traded. The Committee may, in its sole discretion, defer the effectiveness of any transfer of shares of Stock in order to allow the issuance of the shares to be made pursuant to registration or an exemption from registration or other methods for compliance available under federal, state, or foreign securities laws. The Committee shall inform the Participant in writing of its decision to defer the effectiveness of a transfer. During the period of deferral in connection with the exercise of an Option, the Participant may, by written notice, withdraw the exercise and obtain the refund of any amount paid in connection with the exercise.

18. *Withholding Taxes.* When cash is to be paid pursuant to an Award, the Company may deduct an amount sufficient to satisfy any federal, state or other taxes required by law to be

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withheld. When shares of Stock are to be delivered pursuant to an Award, the Company may require the Participant to remit to the Company in cash an amount sufficient to satisfy any federal, state, and foreign taxes required by law to be withheld. With the Committee's approval, a Participant may satisfy the foregoing requirement by electing to have the Company withhold from delivery shares of Stock having a value equal to the minimum amount of required tax to be withheld. The shares shall be valued at Fair Market Value on the date the amount of tax to be withheld is determined. To the extent a fractional share is required to satisfy the minimum amount of required tax to be withheld, the Committee may provide either that (i) shares withheld shall be rounded up to the next whole share, or (ii) fractional amounts shall be settled in cash.

19. *Amendment and Termination.* The Board of Directors may, at any time, amend or terminate the Plan. In addition, the Committee shall have the authority to adopt modifications and amendments to this Plan or any Agreement necessary to comply with the law of the countries in which the Company, its Affiliates and/or Subsidiaries operate. Notwithstanding the foregoing, no amendment shall be made without shareholder approval if approval is required under applicable law or if the amendment would (a) amend Sections 7.4 or 8.7 (other than in connection with a Change in Control), (b) increase the total number of shares of Stock available under the Plan, or (c) materially increase the cost of the Plan to the Company or the benefits to Participants. Any amendment or termination shall not adversely affect the vested or accrued rights or benefits of any Participant without the Participant's prior consent.

20. *Transfers Upon Death; Nonassignability.* Upon the death of a Participant, outstanding Awards granted to the Participant may be exercised only by the executor or administrator of the Participant's estate or by a person who has acquired the right to exercise by will or the laws of descent and distribution. No transfer of an Award by will or the laws of descent and distribution shall be effective to bind the Company unless the Committee has been furnished with (a) written notice and a copy of the will and/or such evidence as the Committee may deem necessary to establish the validity of the transfer, and (b) an agreement by the transferee to comply with all the terms and conditions of the Award that would have applied to the Participant and to be bound by the acknowledgments made by the Participant in connection with the grant of the Award.

Subject to applicable law, the Committee's approval, and any conditions that the Committee may prescribe, a Participant may, upon providing written notice to the secretary of the Company, elect to transfer an Award to (i) a member or members of his or her immediate family (including, but not limited to, children, grandchildren, and spouse, or a trust for the benefit of immediate family members or a partnership in which immediate family members are the only partners) or (ii) a qualified tax-exempt charitable organization; provided, however, that no transfer by any Participant may be made in exchange for consideration.

21. *Expenses and Receipts.* The expenses of the Plan shall be paid by the Company. Any proceeds received by the Company in connection with any Award may be used for general corporate purposes.

22. *Deferral of Awards.* A Participant may elect to defer or the Committee may require the deferral of receipt of all or any portion of any Award to a future date as provided in and subject to the terms of the Company's 2001 Key Executive Deferred Compensation Plan or any successor plan, the Agreement, and rules and procedures established by the Committee regarding Award deferrals. All such deferrals shall be made in accordance with Code Section 409A and regulations issued thereunder.

23. *Short-Term Deferral; Deferred Compensation.*

23.1 *Short-Term Deferral.* Unless the Participant has made a valid election to defer receipt of all or any portion of a payment under the Plan in accordance with the terms of a

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Company nonqualified deferred compensation plan, payment of awards hereunder shall be made no later than the later of (i) the date that is 2½ months from the end of the Participant's first taxable year in which the amount is no longer subject to a substantial risk of forfeiture, or (ii) the date that is 2½ months from the end of the Company's first taxable year in which the amount is no longer subject to a substantial risk of forfeiture.

23.2 *Deferred Compensation.* Notwithstanding any provision in the Plan or any Agreement to the contrary, to the extent an Award (i) constitutes "deferred compensation" within the meaning of Code Section 409A, (ii) is not exempt from the application of Code Section 409A and (iii) is payable to a specified employee (as determined in accordance with Code Section 409A(a)(2)(B) and applicable regulations) due to separation from service (as such term is defined under Code Section 409A), payment shall be delayed for a minimum of six (6) months from the date of such separation from service.

If any Award granted under the Plan is considered deferred compensation as defined under Code Section 409A, and if this Plan or the terms of an Award fail to meet the requirements of Code Section 409A with respect to such Award, then such Award shall remain in effect and be subject to taxation in accordance with Code Section 409A. In this circumstance, the Committee may accelerate distribution or settlement of an Award in accordance with Code Section 409A. The Company shall have no liability for any tax imposed on a Participant under Code Section 409A, and if any tax is imposed on a Participant, the Participant shall have no recourse against the Company for payment of any such tax. Notwithstanding the foregoing, if any modification of an Award causes the Award to be deferred compensation under Code Section 409A, the Committee may rescind such modification in accordance with Code Section 409A.

24. *Change in Control Provisions.*

24.1 *Vesting and Exercisability.* Except as otherwise provided in any employment agreement, Award Agreement or change in control agreement between the Participant and the Company, Subsidiary and/or Affiliate in effect when a Change in Control occurs (i) upon a "qualifying termination" in connection with a Change in Control, or (ii) in the event an acquiring company does not assume Plan Awards:

- (a) all outstanding Option and Stock Appreciation Rights shall become fully vested and exercisable;
- (b) all Performance Goals shall be deemed achieved at target levels and all other terms and conditions met, with Award payout prorated for the portion of the performance period completed as of the "qualifying termination" or Change in Control, as applicable;
- (c) all restrictions and conditions applicable to any Restricted Stock shall lapse;
- (d) all restrictions and conditions applicable to any Restricted Stock Units shall lapse and the Restricted Stock Units shall be paid out as promptly as practicable;
- (e) all Performance Shares shall be prorated for the portion of the performance period completed as of the date of the "qualifying termination" or Change in Control, as applicable, and delivered;
- (f) all Performance Units shall be prorated for the portion of the performance period completed as of the date of the "qualifying termination" or Change in Control, as applicable and paid out as promptly as practicable; and

Notwithstanding any Plan provision to the contrary, in the event of a Change in Control, (i) all Annual Incentive Awards for calendar years ended prior to the Change in Control which have not yet been paid out shall be paid out immediately in cash upon a Change in Control, and (ii) for Annual Incentive Awards for the calendar year during which the Change in Control occurs, all Participants shall be deemed to have achieved a pro rata Award equal to either (a) the Participant's target Annual Incentive Award or (b) the actual Annual Incentive Award as determined by year-to-date performance through the last day of the month prior to the month in which the Change in Control occurs, in either case multiplied by a fraction, the numerator of which is the number of days which have elapsed from the beginning of the year to the date on which the Change of Control occurs, and the denominator of which is 365, and the Awards shall be paid in cash within 10 days after the Change in Control.

For purposes of this Section 24.1, "qualifying termination" means (i) the same definition for "qualifying termination" as set forth in any employment agreement, Award Agreement or change in control agreement between the Participant and the Company, Subsidiary and/or Affiliate in effect when the Change in Control occurs, or, (ii) in the absence of such agreement, a "qualifying termination" shall be any involuntary termination by the Company, Subsidiary and/or Affiliate for any reason, other than disciplinary reasons, within 24 months of the date of the Change in Control.

24.2 *Termination Prior to Change in Control.* Any Participant, whose employment is involuntarily terminated for any reason other than disciplinary reasons within three months prior to the date of the Change in Control, shall be treated, solely for purposes of this Plan, as continuing in the Company's employment until the occurrence of the Change in Control, and to have been terminated immediately thereafter.

24.3 *No Amendment.* Notwithstanding Section 19, upon a Potential Change in Control, the provisions of this Plan may not be amended in any manner that would reduce or alter the rights of Participants to any benefit under this Plan without the consent of each affected Participant. Furthermore, notwithstanding Section 19, upon a Change in Control, the provisions of this Section 24 may not be amended in any respect for three years following a Change in Control but may be amended thereafter.

25. *Claims Procedure.* Claims for benefits under the Plan shall be filed in writing, within 90 days after the event giving rise to a claim, with the Company's compensation manager, who shall have absolute discretion to interpret and apply the Plan, evaluate the facts and circumstances, and make a determination with respect to the claim in the name and on behalf of the Company. The claim shall include a statement of all facts the Participant believes relevant to the claim and copies of all documents, materials, or other evidence that the Participant believes relevant to the claim. Written notice of the disposition of a claim shall be furnished to the Participant within 90 days after the application is filed. This 90-day period may be extended an additional 90 days for special circumstances by the compensation manager, in his or her sole discretion, by providing written notice of the extension to the claimant prior to the expiration of the original 90-day period. If the claim is denied, the compensation manager shall notify the claimant in writing. This written notice shall:

- (a) state the specific reasons for the denial;
- (b) refer to Plan provisions on which the determination is based;
- (c) describe any additional material or information necessary for the claimant to perfect the claim and explain why the information is necessary; and

- (d) explain how the claimant may submit the claim for review and state applicable time limits.

26. *Claims Review Procedure.* Any Participant, former Participant, or beneficiary of either, who has been denied a benefit claim, shall be entitled, upon written request, to access to or copies of all documents and records relevant to his or claim and to a review of his or her denied claim. A request for review, together with a written statement of the claimant's position and any other comments, documents, records, or information that the claimant believes relevant to his or her claim, shall be filed no later than 60 days after receipt of the written notification provided for in Section 25 and shall be filed with the Company's compensation manager. The manager shall promptly inform the Company's senior human resources officer. The senior human resources officer shall make his or her decision, in writing, within 60 days after receipt of the claimant's request for review. This 60-day period may be extended an additional 60 days if, in the senior human resources officer's sole discretion, special circumstances warrant the extension and if the senior human resources officer provides written notice of the extension to the claimant prior to the expiration of the original 60-day period. The written decision shall be final and binding on all parties and shall state the facts and specific reasons for the decision and refer to the Plan provisions upon which the decision is based.

27. *Lawsuits; Venue; Applicable Law.* No lawsuit claiming entitlement to benefits under this Plan may be filed prior to exhausting the claims and claims review procedures described in Sections 25 and 26. Any lawsuit must be initiated no later than (a) one year after the event(s) giving rise to the claim occurred, or (b) 60 days after a final written decision was provided to the claimant under Section 26, whichever is sooner. Any legal action involving benefits claimed or legal obligations relating to or arising under this Plan may be filed only in Federal District Court in the city of Chicago, Illinois. Federal law shall be applied in the interpretation and application of this Plan and the resolution of any legal action. To the extent not preempted by federal law, the laws of the state of Delaware shall apply.

28. *Participant Rights.* No Participant shall have any claim to be granted any Award under the Plan, and there is no obligation to treat Participants uniformly.

29. *Leave of Absence or Transfer.* Transfer between the Company and any Subsidiary or between Subsidiaries, or a leave of absence duly authorized by the Company, shall not be deemed a termination of employment.



30. *Unsecured General Creditor.* Participants and their beneficiaries, heirs, successors, and assigns shall have no legal or equitable rights, interest, or claims in any property or assets of the Company. The assets of the Company shall not be held under any trust for the benefit of Participants, their beneficiaries, heirs, successors, or assigns, or held in any way as collateral security for the fulfilling of the obligations of the Company under this Plan. Any and all Company assets shall be, and remain, the general, unpledged, unrestricted assets of the Company. The Company's obligation under the Plan shall be an unfunded and unsecured promise of the Company.

31. *No Fractional Shares.* No fractional shares of Stock shall be issued or delivered pursuant to the Plan. The Committee shall determine whether cash, other Awards, or other property shall be issued or paid in lieu of any fractional shares or whether fractional shares or any rights to fractional shares shall be forfeited or otherwise eliminated.

32. *Beneficiary.* A Participant who is an executive officer or Director may file with the Committee a written designation of a beneficiary on the form prescribed by the Committee and may, from time to time, amend or revoke the designation. If no designated beneficiary survives the

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Participant, the executor or administrator of the Participant's estate shall be deemed to be the Participant's beneficiary.

33. *Section 162(m).* The Plan is designed and intended, and all provisions shall be construed in a manner, to comply, to the extent applicable, with Code Section 162(m) and the regulations thereunder. To the extent permitted by Code Section 162(m), the Committee shall have sole discretion to reduce, eliminate or defer payment of the amount of any Award which might otherwise become payable upon attainment of a Performance Goal.

34. *Form of Communication.* Any election, application, claim, notice, or other communication required or permitted to be made by a Participant to the Committee or the Company shall be made in writing and in such form as the Company may prescribe. Any communication shall be effective upon receipt by the Company's compensation manager at OfficeMax, 263 Shuman Boulevard, Naperville, IL 60563, USA.

35. *Severability.* If any provision of the Plan is held to be invalid or unenforceable, the other provisions of the Plan shall not be affected.

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## [OFFICEMAX INCORPORATED LETTERHEAD]

May 16, 2008

OfficeMax Incorporated  
263 Shuman Boulevard  
Naperville, Illinois 60563

Re: Registration Statement on Form S-8 of OfficeMax Incorporated

Ladies and Gentlemen:

I am Senior Vice President, Secretary and Associate General Counsel of OfficeMax Incorporated, a Delaware corporation (the "Company"). I have acted as counsel to the Company in connection with the preparation and filing with the Securities and Exchange Commission of a Registration Statement on Form S-8 (the "Registration Statement") relating to the issuance of an additional 5,800,000 shares of common stock, \$2.50 par value per share, of the Company (the "Shares") issuable in connection with the 2003 OfficeMax Incentive and Performance Plan, as amended (the "Plan").

In connection with this opinion, I have reviewed the Registration Statement and the exhibits thereto, and I have examined originals or copies, certified or otherwise identified to my satisfaction, of such corporate records, agreements, certificates of public officials and of officers of the Company, the Plan and other instruments, and such matters of law and fact as I have deemed necessary to render the opinion contained herein.

Based upon and subject to the foregoing, I am of the opinion that the shares of common stock issued under the Plan will, when issued in accordance with the terms of the Plan and any applicable awards or agreements under the Plan, be validly issued, fully paid and nonassessable.

I hereby consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement and all references to me in the Registration Statement. In giving this consent, I do not admit that I am within the category of persons whose consent is required by Section 7 of the Securities Act of 1933, as amended.

Very truly yours,

/s/ Susan Wagner-Fleming

Susan Wagner-Fleming, Esq.  
Senior Vice President, Secretary, and  
Associate General Counsel

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**KPMG LLP**  
303 East Wacker Drive  
Chicago, IL 60601-5212

**Consent of Independent Registered Public Accounting Firm**

The Board of Directors  
OfficeMax Incorporated:

We consent to incorporation by reference in the Registration Statement on Form S-8 of OfficeMax Incorporated of our report dated February 27, 2008, with respect to the consolidated balance sheets of OfficeMax Incorporated as of December 29, 2007 and December 30, 2006, and the related consolidated statements of income (loss), shareholders' equity, and cash flows for each of the years in the three-year period ended December 29, 2007, and the effectiveness of internal control over financial reporting as of December 29, 2007, which report appears in the December 29, 2007 annual report on Form 10-K of OfficeMax Incorporated.

Our report refers to changes in accounting for uncertainty in income taxes in 2007, and for stock-based compensation and defined benefit and other postretirement plans during 2006.

/s/ **KPMG LLP**

Chicago, Illinois  
May 7, 2008

KPMG LLP, a U.S. limited liability partnership, is the U.S.  
member firm of KPMG International, a Swiss cooperative.

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