

# MASCO CORP /DE/

## FORM S-3

(Securities Registration Statement (simplified form))

Filed 11/20/01

Address	21001 VAN BORN RD TAYLOR, MI 48180
Telephone	3132747400
CIK	0000062996
Symbol	MAS
SIC Code	2430 - Millwork, Veneer, Plywood, And Structural Wood
Industry	Constr. - Supplies & Fixtures
Sector	Capital Goods
Fiscal Year	12/31

# MASCO CORP /DE/

## FORM S-3

(Securities Registration Statement (simplified form))

Filed 11/20/2001

Address	21001 VAN BORN RD TAYLOR, Michigan 48180
Telephone	313-274-7400
CIK	0000062996
Industry	Furniture & Fixtures
Sector	Consumer Cyclical
Fiscal Year	12/31

---

---

**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, D.C. 20549**

**FORM S-3**

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

**MASCO CORPORATION**

(Exact name of registrant as specified in its charter)

DELAWARE  
(State or other jurisdiction of  
incorporation)

38-1794485  
(IRS Employer  
Identification No.)

**21001 VAN BORN ROAD  
TAYLOR, MICHIGAN 48180  
(313) 274-7400**

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

---

**JOHN R. LEEKLEY**  
**SENIOR VICE PRESIDENT AND GENERAL COUNSEL**  
**MASCO CORPORATION**  
**21001 VAN BORN ROAD**  
**TAYLOR, MICHIGAN 48180**  
**(313) 274-7400**

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

**COPIES OF COMMUNICATIONS TO:**  
**JOHN M. BRANDOW**  
**DAVIS POLK & WARDWELL**  
**450 LEXINGTON AVENUE**  
**NEW YORK, NEW YORK 10017**  
**(212) 450-4000**

**APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: From time**

to time after this Registration Statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. [ ]

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. [X]

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier registration statement for the same offering. [ ]

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ]

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

---

### CALCULATION OF REGISTRATION FEE

---

TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED(1)	AMOUNT TO BE REGISTERED(2)	PROPOSED MAXIMUM OFFERING PRICE PER UNIT(3)	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE(4)	AMOUNT OF REGISTRATION FEE
Debt Securities, Preferred Stock (par value \$1.00 per share) Depository Shares(5), Common Stock (par value \$1.00 per share) and related Preferred Stock Purchase Rights.....	\$1,249,991,452	--	\$1,249,991,452	\$312,497.86

---

(1) This Registration Statement also covers such indeterminate number of shares of Common Stock of the Registrant and accompanying Preferred Stock Purchase Rights, if any (i) as shall be issuable or deliverable upon conversion of any Debt Securities or Preferred Stock registered hereby which are convertible into such Common Stock and (ii) as may be required for delivery upon conversion of any such convertible Debt Securities or convertible preferred stock as a result of anti-dilution provisions thereof.

(2) In no event will the aggregate initial offering price of the Debt Securities, Preferred Stock, Common Stock and related Preferred Stock Purchase Rights issuable upon exercise of the Preferred Stock Purchase Rights exceed \$1,249,991,452 or the equivalent thereof in one or more foreign currencies or composite currencies.

(3) Not specified as to each class of securities to be registered, pursuant to General Instruction II.D. of Form S-3 under the Securities Act of 1933. The proposed maximum offering price per unit will be determined from time to time by the Registrant in connection with, and at the time of, the issuance by the Registrant of the securities registered hereunder.

(4) Estimated solely for the purpose of calculating the registration fee. Excludes an aggregate of \$750,008,548 of unsold securities previously registered pursuant to Registration Statement No. 333-58034, which are covered by the Prospectus included in this Registration Statement.

(5) Depository Shares representing Preferred Stock.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

Pursuant to Rule 429 of the General Rules and Regulations under the Securities Act of 1933, the Prospectus included as part of this Registration Statement will be used in connection with the offer and sale of Securities of the Registrant with a proposed maximum offering price of \$750,008,548 previously registered under the Registrant's Registration Statement on Form S-3 bearing Registration No. 333-58034, in respect of which Registrant paid filing fees aggregating \$187,502.

---

---

THE INFORMATION IN THIS PROSPECTUS IS NOT COMPLETE AND MAY BE CHANGED. WE MAY NOT SELL THESE SECURITIES UNTIL THE REGISTRATION STATEMENT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION IS EFFECTIVE. THIS PROSPECTUS IS NOT AN OFFER TO SELL THESE SECURITIES AND IT IS NOT SOLICITING AN OFFER TO BUY THESE SECURITIES IN ANY STATE WHERE THE OFFER OR SALE IS NOT PERMITTED.

**SUBJECT TO COMPLETION. DATED NOVEMBER 20, 2001**  
\$2,000,000,000  
**MASCO CORPORATION**

Debt Securities  
Preferred Stock (\$1 Par Value)  
Common Stock (\$1 Par Value)

We may offer and issue debt securities and shares of our preferred stock and common stock from time to time. The debt securities and shares of preferred stock may be convertible into or exchangeable for shares of our common stock or other securities. We may offer and issue preferred stock either directly or represented by depositary shares. This prospectus describes the general terms of these securities and the general manner in which we will offer them. We will provide the specific terms of these securities in supplements to this prospectus. The prospectus supplements will also describe the specific manner in which we will offer these securities.

Our common stock is listed on the New York Stock Exchange under the symbol "MAS." On November 16, 2001, the closing price of our common stock was \$21.16 per share.

---

**INVESTING IN THESE SECURITIES INVOLVES RISKS. SEE "RISK FACTORS" BEGINNING  
ON PAGE 4.**

---

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES, OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

---

We may offer these securities in amounts, at prices and on terms determined at the time of offering. We may sell the securities directly to you, through agents we select, or through underwriters and dealers we select. If we use agents, underwriters or dealers to sell these securities, we will name them and describe their compensation in a prospectus supplement.

---

The date of this prospectus is , 2001.

## TABLE OF CONTENTS

CAPTION -----	PAGE ----
About This Prospectus.....	3
Special Note Regarding Forward- Looking Statements.....	3
Masco Corporation.....	3
Risk Factors.....	4
Use Of Proceeds.....	5
Ratio Of Earnings To Fixed Charges.....	5

CAPTION -----	PAGE ----
Description Of Debt Securities.....	5
Description Of Capital Stock.....	15
Description of Depositary Shares....	17
Plan Of Distribution.....	20
Legal Opinions.....	21
Experts.....	21
Where You Can Find More Information.....	21

## **ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, referred to as the SEC in this prospectus, utilizing a shelf registration process. Under this shelf process, we may issue, from time to time, up to \$2,000,000,000 of debt securities and shares of our preferred stock and common stock. Each time we issue securities under the registration statement we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading "Where You Can Find More Information."

### **SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

We are engaged in the manufacture, sale and installation of home improvement and building products, with emphasis on brand name products and services holding leadership positions in their markets. Our products are sold to the home improvement and home construction markets through mass merchandisers, home centers, hardware stores, wholesalers and other outlets for consumers and contractors.

Factors that affect our results of operations include the levels of home improvement and residential construction activity, principally in the U.S. and Europe (including repair and remodeling and new construction), cost management, fluctuations in the principal European currencies relative to the U.S. dollar (primarily the euro and British pound), the increased importance of key home centers as distributors of home improvement and building products and our ability to maintain our leadership positions in our markets in the face of increasing global competition. Additional factors that may significantly affect our performance are discussed under "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K and in our Quarterly Reports on Form 10-Q that are on file with the SEC as well as under the heading "Risk Factors" in this prospectus.

In this prospectus and in the documents we incorporate by reference, we state our views about our future performance. These views, which constitute "forward-looking statements" under the Private Securities Litigation Reform Act of 1995, involve risks and uncertainties that are difficult to predict and may cause our actual results to differ materially from the results discussed in such forward-looking statements.

**YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED IN THIS PROSPECTUS, IN THE ACCOMPANYING PROSPECTUS SUPPLEMENT AND IN MATERIAL WE FILE WITH THE SEC. WE HAVE NOT AUTHORIZED ANYONE TO PROVIDE YOU WITH INFORMATION THAT IS DIFFERENT.**

**WE ARE OFFERING TO SELL, AND SEEKING OFFERS TO BUY, THE SECURITIES DESCRIBED IN THIS PROSPECTUS ONLY WHERE OFFERS AND SALES ARE PERMITTED. SINCE INFORMATION THAT WE FILE WITH THE SEC IN THE FUTURE WILL AUTOMATICALLY UPDATE AND SUPERSEDE INFORMATION CONTAINED IN THIS PROSPECTUS OR ANY ACCOMPANYING PROSPECTUS SUPPLEMENT, YOU SHOULD NOT ASSUME THAT THE INFORMATION CONTAINED IN THIS PROSPECTUS OR IN ANY PROSPECTUS SUPPLEMENT IS ACCURATE AS OF ANY DATE OTHER THAN THE DATE ON THE FRONT OF THE DOCUMENT.**

### **MASCO CORPORATION**

Masco Corporation manufactures, sells and installs home improvement and building products, with emphasis on brand name products and services holding leadership positions in their

markets. Masco is among the largest manufacturers in North America of brand name consumer products designed for the home improvement and home building industries. Our business segments are: cabinets and related products; plumbing products; decorative architectural products; installation and other services; and other specialty products.

Our executive offices are located at 21001 Van Born Road, Taylor, Michigan 48180. Our telephone number is (313) 274-7400 and our website address is <http://www.masco.com>. Except as the context otherwise indicates, the terms "Masco," "we," "us," and "our" refer to Masco Corporation.

## **RISK FACTORS**

Before purchasing these securities, you should consider all of the information set forth in this prospectus, in any accompanying prospectus supplement and the information incorporated by reference in this prospectus and, in particular, you should take into account the risk factors set forth below.

### **WE CANNOT ASSURE YOU THAT OUR GROWTH STRATEGIES WILL BE SUCCESSFUL**

Mergers and acquisitions have historically contributed significantly to our long-term growth, after the initial impact on earnings of transaction-related costs and expenses such as interest and added depreciation and amortization. Successful strategic acquisitions require the integration of operations and management and other efforts to realize the benefits that may be available to us following the acquisition. Although we believe that we have been successful in doing so in the past, we can give no assurance that we will continue to be able to identify, acquire and integrate successful strategic acquisitions in the future or be able to implement successfully our operating and growth strategies within our existing markets or with respect to any future product or geographic diversification efforts.

### **OUR BUSINESS HAS BEEN AFFECTED BY ECONOMIC WEAKNESS AND BUSINESS CONDITIONS**

Factors that affect our results of operations include the levels of home improvement and residential construction activity, principally in the U.S. and Europe (including repair and remodeling and new construction), cost management, fluctuations in European currencies relative to the U.S. dollar (primarily the euro and British pound), the increased importance of key home centers as distributors of home improvement and building products and our ability to maintain our leadership positions in our markets in the face of increasing global competition. In most years, we have been able largely to offset cyclical declines in housing markets through new product introductions and acquisitions as well as market share gains. We can give no assurance that we will be able to offset these cyclical declines in the future.

### **WE RELY ON OUR KEY CUSTOMERS**

Direct sales of our product lines to home center retailers have increased substantially in recent years. In particular, our largest single customer is The Home Depot, which accounts for a substantial portion of our total sales. Although builders, dealers and other retailers represent other channels of distribution for our products, we believe that the loss of The Home Depot as a customer would have a material adverse impact on our business.

### **OUR INTERNATIONAL BUSINESS HAS SPECIAL RISK**

Our international operations outside of North America, principally in Europe, are subject to political, monetary, economic and other risks attendant generally to international businesses. These risks generally vary from country to country. Results of existing European operations have been adversely influenced in recent years, in part due to softness in our European markets, competitive pricing pressures on certain products, the effect of a higher



percentage of lower margin sales to total European sales and a stronger U.S. dollar.

## **OUR MARKETS ARE HIGHLY COMPETITIVE**

The major markets for our products are highly competitive. Competition in all of our product lines is based primarily on performance, quality, style, delivery, customer service and price, with the relative importance of such factors varying among products.

## **USE OF PROCEEDS**

We expect to use substantially all of the net proceeds from sales of the securities described in this prospectus for our general corporate purposes, which may include making additions to our working capital, repaying indebtedness, financing acquisitions and investments in new or existing lines of business. We will describe our intended use of the proceeds from a particular offering of securities in the related prospectus supplement. Funds not required immediately for any of the previously listed purposes may be invested in marketable securities.

## **RATIO OF EARNINGS TO FIXED CHARGES**

Our ratios of earnings to fixed charges were as follows:

NINE MONTHS ENDED SEPTEMBER 30, 2001	YEAR ENDED DECEMBER 31,				
	2000	1999	1998	1997	1996
1.5	4.9	7.0	7.6	7.5	7.2

We calculated these ratios by dividing earnings before income taxes, extraordinary income and fixed charges by our fixed charges.

We included in the ratios the earnings and fixed charges of Masco and its consolidated subsidiaries and the dividends received from 50% or less owned companies less our equity in their undistributed earnings. Fixed charges consist of interest, amortization of debt expense and the portion of rentals for real and personal properties which we deem representative of the interest factor.

Income before income taxes for the nine months ended September 30, 2001 includes a \$530 million pre-tax, non-cash charge for the write-down of certain investments.

## **DESCRIPTION OF DEBT SECURITIES**

### **DEBT MAY BE SENIOR OR SUBORDINATED**

We may issue senior or subordinated debt securities. The senior debt securities will constitute part of our senior debt, will be issued under our Senior Debt Indenture, as defined below, and will rank on a parity with all of our other unsecured and unsubordinated debt. The subordinated debt securities will be issued under our Subordinated Debt Indenture, as defined below, and will be subordinate and junior in right of payment, as set forth in the Subordinated Debt Indenture, to all of our "senior indebtedness," which is defined in our Subordinated Debt Indenture. If this prospectus is being delivered in connection with a series of subordinated debt securities, the accompanying prospectus supplement or the information we incorporate in this prospectus by reference will indicate the approximate amount of senior indebtedness outstanding as of the end of the most recent fiscal quarter. We refer to our Senior Debt Indenture and our Subordinated Debt Indenture individually as an "indenture" and collectively as the "indentures."

We have summarized below the material provisions of the indentures and the debt

securities, or indicated which material provisions will be described in the related prospectus supplement. These descriptions are only summaries, and each investor should refer to the applicable indenture, which describes completely the terms and definitions summarized below and contains additional information regarding the debt securities.

Any reference to particular sections or defined terms of the applicable indenture in any statement under this heading qualifies the entire statement and incorporates by reference the applicable section or definition into that statement. The indentures are substantially identical, except for the provisions relating to our negative pledge and limitations on sales and leasebacks, which are included in the Senior Debt Indenture only, and the provisions relating to subordination, which are included in the Subordinated Debt Indenture only. Neither indenture limits our ability to incur additional indebtedness.

We may issue debt securities from time to time in one or more series. The debt securities may be denominated and payable in U.S. dollars or foreign currencies. We may also issue debt securities, from time to time, with the principal amount or interest payable on any relevant payment date to be determined by reference to one or more currency exchange rates, securities or baskets of securities, commodity prices or indices. Holders of these types of debt securities will receive payments of principal or interest that depend upon the value of the applicable currency, security or basket of securities, commodity or index on or shortly before the relevant payment dates. As a result, you may receive a payment of principal on any principal payment date, or a payment of interest on any interest payment date, that is greater than or less than the amount of principal or interest otherwise payable on such dates, depending upon the value on such dates of the applicable currency, security or basket of securities, commodity or index. Information as to the methods for determining the amount of principal or interest payable on any date, the currencies, securities or baskets of securities, commodities or indices to which the amount payable on such date is linked and any additional material United States federal income tax considerations will be set forth in the applicable prospectus supplement.

Debt securities may bear interest at a fixed rate, which may be zero, or a floating rate. Debt securities bearing no interest or interest at a rate that at the time of issuance is below the prevailing market rate may be sold at a discount below their stated principal amount.

We may, without the consent of the existing holders of any series of debt securities, issue additional debt securities having the same terms so that the existing debt securities and the new debt securities form a single series under the indenture.

#### **TERMS SPECIFIED IN PROSPECTUS SUPPLEMENT**

The prospectus supplement will contain, where applicable, the following terms of and other information relating to any offered debt securities:

- classification as senior or subordinated debt securities and the specific designation of such securities;
- aggregate principal amount and purchase price;
- currency in which the debt securities are denominated and/or in which principal, and premium, if any, and/or interest, if any, is payable;
- minimum denominations;
- date of maturity;
- the interest rate or rates or the method by which a calculation agent will determine the interest rate or rates, if any;
- the interest payment dates, if any;
- any repayment, redemption, prepayment or sinking fund provisions, including any redemption notice provisions;
- whether we will issue the debt securities in definitive form or in the form of one or more global securities;

- the terms on which holders of the debt securities may convert or exchange these securities into our common stock or other securities of Masco or other entities;
- information as to the methods for determining the amount of principal or interest payable on any date and/or the currencies, securities or baskets of securities, commodities or indices to which the amount payable on that date is linked;
- any special United States federal income tax consequences applicable to the debt securities being issued; and
- any other specific terms of the debt securities, including any additional events of default or covenants, and any terms required by or advisable under applicable laws or regulations.

## **REGISTRATION AND TRANSFER OF DEBT SECURITIES**

You may present debt securities for exchange and transfer in the manner, at the places and subject to the restrictions set forth in the applicable indenture. We will provide you those services free of charge, although you may have to pay any tax or other governmental charge payable in connection with any exchange or transfer, as set forth in the applicable indenture.

If any of the debt securities are held in global form, the procedures for transfer of interests in those securities will depend upon the procedures of the depository for those global securities. See "Global Securities" below.

## **DEFEASANCE**

Unless the prospectus supplement states otherwise, we will be able to discharge all of our obligations, other than administrative obligations such as facilitating transfers and exchanges of certificates and replacement of lost or mutilated certificates, relating to a series of debt securities under an indenture by depositing cash and/or U.S. Government obligations with the trustee in an amount sufficient to make all the remaining payments of principal, premium and interest on those debt securities when those payments are due. We can do this only if we have delivered to the trustee, among other things, an opinion of counsel based on a United States Internal Revenue Service ruling or other change in U.S. federal income tax law stating that holders will not recognize any gain or loss for U.S. federal income tax purposes as a result of this deposit.

We can also avoid having to comply with the restrictive covenants in the applicable indenture, such as the negative pledge and the limitation on sale and leaseback transactions covenants in the Senior Debt Indenture, by depositing cash and/or U.S. Government obligations with the trustee in an amount sufficient to make all the remaining payments of principal, premium and interest on the outstanding debt securities when those payments are due. We can do this only if we have delivered to the trustee, among other things, an opinion of counsel stating that holders of those securities will not recognize any gain or loss for U.S. federal income tax purposes as a result of this deposit.

## **INDENTURES**

Debt securities that will be senior debt will be issued under an Indenture dated as of February 12, 2001 between Masco and Bank One Trust Company, National Association, as trustee. We call that indenture, as further supplemented from time to time, the Senior Debt Indenture. Debt securities that will be subordinated debt will be issued under an Indenture between Masco and The Bank of New York, as trustee. We call that indenture, as further supplemented from time to time, the Subordinated Debt Indenture. We refer to Bank One Trust Company, National Association and The Bank of New York individually as a "trustee" and collectively as the "trustees."

## **SUBORDINATION PROVISIONS**

There are contractual provisions in the Subordinated Debt Indenture that may prohibit us from making payments on our subordinated debt securities. Subordinated debt securities are

subordinate and junior in right of payment, to the extent and in the manner stated in the Subordinated Debt Indenture, to all of our senior indebtedness.

The Subordinated Debt Indenture defines senior indebtedness generally as obligations of, or guaranteed or assumed by, Masco for borrowed money or evidenced by bonds, notes or debentures or other similar instruments or incurred in connection with the acquisition of property, and amendments, renewals, extensions, modifications and refundings of any of that indebtedness or of those obligations. The subordinated debt securities and any other obligations specifically designated as being subordinate in right of payment to senior indebtedness are not senior indebtedness as defined under the Subordinated Debt Indenture.

The Subordinated Debt Indenture provides that, unless all principal of and any premium or interest on the senior indebtedness has been paid in full, or provision has been made to make those payments in full, no payment of principal of, or any premium or interest on, any subordinated debt securities may be made in the event:

- of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings involving us or a substantial part of our property;
- a default has occurred in the payment of principal, any premium, interest or other monetary amounts due and payable on any senior indebtedness, and that default has not been cured or waived or has not ceased to exist;
- there has occurred any other event of default with respect to senior indebtedness that permits the holder or holders of the senior indebtedness to accelerate the maturity of the senior indebtedness, and that event of default has not been cured or waived or has not ceased to exist; or
- that the principal of and accrued interest on any subordinated debt securities have been declared due and payable upon an event of default as defined under the Subordinated Debt Indenture, and that declaration has not been rescinded and annulled as provided under the Subordinated Debt Indenture.

If the trustee under the Subordinated Debt Indenture or any holders of the subordinated debt securities receive any payment or distribution that is prohibited under the subordination provisions, then the trustee or the holders will have to repay that money to the holders of the senior indebtedness.

Even if the subordination provisions prevent us from making any payment when due on the subordinated debt securities of any series, we will be in default on our obligations under that series if we do not make the payment when due. This means that the trustee under the Subordinated Debt Indenture and the holders of subordinated debt securities of that series can take action against us, but they will not receive any money until the claims of the holders of senior indebtedness have been fully satisfied.

## **COVENANTS RESTRICTING PLEDGES, MERGERS AND OTHER SIGNIFICANT CORPORATE ACTIONS**

In the following discussion, we use a number of capitalized terms which have special meanings under the indentures. We provide definitions of these terms under "Definitions" below.

**Negative Pledge.** Section 10.04 of the Senior Debt Indenture provides that so long as any of the senior debt securities remains outstanding, we will not, nor will we permit any Consolidated Subsidiary to, issue, assume or guarantee any Debt if such Debt is secured by a mortgage upon any Principal Property or upon any shares of stock or indebtedness of any Consolidated Subsidiary which owns or leases any Principal Property, whether such Principal Property is owned on the date of the Senior Debt Indenture or is thereafter acquired, without in any such case effectively providing that the senior debt securities shall be secured

equally and ratably with such Debt, except that the foregoing restrictions shall not apply to:

- mortgages on property, shares of stock or indebtedness of any corporation existing at the time such corporation becomes a Consolidated Subsidiary;
- mortgages on property existing at the time of acquisition thereof, or to secure Debt incurred for the purpose of financing all or any part of the purchase price of such property, or to secure any Debt incurred prior to or within 120 days after the later of the acquisition, completion of construction or improvement or the commencement of commercial operation of such property, which Debt is incurred for the purpose of financing all or any part of the purchase price thereof or construction or improvements thereon;
- mortgages securing Debt owing by any Consolidated Subsidiary to Masco or another Consolidated Subsidiary;
- mortgages on property of a corporation existing at the time such corporation is merged or consolidated with us or a Consolidated Subsidiary or at the time of a sale, lease or other disposition of the properties of the corporation or firm as an entirety or substantially as an entirety to us or a Consolidated Subsidiary, provided that no such mortgage shall extend to any other Principal Property of Masco or any Consolidated Subsidiary or any shares of capital stock or any indebtedness of any Consolidated Subsidiary which owns or leases a Principal Property;
- mortgages on our property or a Consolidated Subsidiary's property in favor of the United States of America, any State thereof, or any other country, or any political subdivision of any thereof, to secure payments pursuant to any contract or statute, including Debt of the pollution control or industrial revenue bond type, or to secure any indebtedness incurred for the purpose of financing all or any part of the purchase price or the cost of construction of the property subject to such mortgages; or
- one or more extensions, renewals or replacements, in whole or in part, of mortgages existing at the date of the Senior Debt Indenture or any mortgage referred to in the preceding five bullet points as long as those extensions, renewals or replacements do not increase the amount of Debt secured by the mortgage or cover any additional property.

Notwithstanding the above, we may, and may permit any Consolidated Subsidiary to, issue, assume or guarantee secured Debt which would otherwise be subject to the foregoing restrictions, provided that after giving effect thereto the total of the aggregate amount of such Debt then outstanding, excluding secured Debt permitted under the foregoing exceptions, and the aggregate amount of Attributable Debt in respect of sale and leaseback arrangements at such time, does not exceed 5% of Consolidated Net Tangible Assets, determined as of a date not more than 90 days prior thereto.

The Subordinated Debt Indenture does not include negative pledge provisions.

**Limitation on Sale and Leaseback Arrangements.** Under the Senior Debt Indenture, we and our Consolidated Subsidiaries are not allowed to enter into any sale and leaseback arrangement involving a Principal Property which has a term of more than three years, except for sale and leaseback arrangements between us and a Consolidated Subsidiary or between Consolidated Subsidiaries, unless:

- we or the Consolidated Subsidiary could incur Debt secured by a mortgage on that Principal Property at least equal to the amount of Attributable Debt resulting from that sale and leaseback transaction without having to equally and ratably secure the senior debt securities in the manner described above under "Negative Pledge"; or
- we apply an amount equal to the greater of the net proceeds of the sale of the Principal Property or the fair market value of the Principal Property within 120 days of the effective date of the sale and leaseback arrangement to the retirement of our or a

Consolidated Subsidiary's Funded Debt, including the senior debt securities.

However, we cannot satisfy the second test by retiring:

- Funded Debt that we were otherwise obligated to repay within the 120-day period;
- Funded Debt owned by us or by a Consolidated Subsidiary; or
- Funded Debt that is subordinated in right of payment to the senior debt securities.

The Subordinated Debt Indenture does not include any limitations on sale and leaseback arrangements.

Consolidation, Merger or Sale of Assets. The Senior Debt Indenture provides that we will not consolidate or merge with or into any other corporation and will not sell or convey our property as an entirety, or substantially as an entirety, to another corporation if, as a result of such action, any Principal Property would become subject to a mortgage, unless either:

- such mortgage could be created pursuant to Section 10.04 of the Senior Debt Indenture without equally and ratably securing the senior debt securities; or
- the senior debt securities shall be secured prior to the Debt secured by such mortgage.

Each of the indentures provides that we may consolidate or merge or sell all or substantially all of our assets if:

- we are the continuing corporation or if we are not the continuing corporation, such continuing corporation is organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and assumes by supplemental indenture the due and punctual payment of the principal of, and the premium, if any, and interest on the debt securities and the due and punctual performance and observance of all of the covenants and conditions of the applicable indenture to be performed by us; and
- we are not, or such continuing corporation is not, in default in the performance of any such covenant or condition immediately after such merger, consolidation or sale of assets.

## **DEFINITIONS**

"Attributable Debt" in respect of a sale and leaseback arrangement is defined in the Senior Debt Indenture to mean, at the time of determination, the lesser of:

- the fair value of the property, as determined by our board of directors, subject to such arrangement; or
- the present value, discounted at the rate per annum equal to the interest borne by fixed rate senior debt securities or the yield to maturity at the time of issuance of any Original Issue Discount Securities determined on a weighted average basis, of the total obligations of the lessee for rental payments during the remaining term of the lease included in such arrangement, including any period for which such lease has been extended or may, at the option of the lessor, be extended, or until the earliest date on which the lessee may terminate such lease upon payment of a penalty, in which case the rental payment shall include such penalty, after excluding all amounts required to be paid on account of maintenance and repairs, insurance, taxes, assessments, water and utility rates and similar charges;

provided, however, that there shall not be deemed to be any Attributable Debt in respect of a sale and leaseback arrangement if:

- such arrangement does not involve a Principal Property;
- we or a Consolidated Subsidiary would be entitled pursuant to the provisions of Section 10.04(a) of the Senior Debt Indenture to issue, assume or guarantee Debt secured by a mortgage upon the property involved in such arrangement without equally and ratably securing the senior debt securities; or

- the greater of the net proceeds of such arrangement or the fair market value of the property so leased has been applied to the retirement, other than any mandatory retirement or by way of payment at maturity, of our Funded Debt or any Consolidated Subsidiary's Funded Debt, other than Funded Debt owed by us or any Consolidated Subsidiary and other than Funded Debt which is subordinated in payment of principal or interest to the senior debt securities.

"Consolidated Net Tangible Assets" is defined in the Senior Debt Indenture as the aggregate amount of our assets less applicable reserves and the aggregate amount of assets less applicable reserves of the Consolidated Subsidiaries after deducting therefrom:

- all current liabilities, excluding any such liabilities deemed to be Funded Debt;
- all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles; and
- all investments in any Subsidiary other than a Consolidated Subsidiary, in all cases computed in accordance with the generally accepted accounting principles and which under generally accepted accounting principles would appear on a consolidated balance sheet of Masco and its Consolidated Subsidiaries.

"Consolidated Subsidiary" is defined in the Senior Debt Indenture to mean each Subsidiary other than any Subsidiary the accounts of which:

- are not required by generally accepted accounting principles to be consolidated with our accounts for financial reporting purposes;
- were not consolidated with our accounts in our then most recent annual report to stockholders; and
- are not intended by us to be consolidated with our accounts in our next annual report to stockholders;

provided, however, that the term "Consolidated Subsidiary" shall not include:

- any Subsidiary which is principally engaged in
  - owning, leasing, dealing in or developing real property, or
  - purchasing or financing accounts receivable, making loans, extending credit or other activities of a character conducted by a finance company, or
- any Subsidiary, substantially all of the business, properties or assets of which were acquired after the date of the Senior Debt Indenture whether by way of merger, consolidation, purchase or otherwise,

unless in each case our board of directors thereafter designates such Subsidiary a Consolidated Subsidiary for the purposes of the Senior Debt Indenture.

"Debt" is defined in the Senior Debt Indenture to mean any indebtedness for money borrowed and any Funded Debt.

"Funded Debt" is defined in the Senior Debt Indenture to mean indebtedness maturing more than 12 months from the date of the determination thereof or having a maturity of less than 12 months but renewable or extendible at the option of the borrower beyond 12 months from the date of such determination:

- for money borrowed; or
- incurred in connection with the acquisition of property, to the extent that indebtedness in connection with acquisitions is represented by any notes, bonds, debentures or similar evidences of indebtedness, for which we or any Consolidated Subsidiary is directly or contingently liable or which is secured by our property or the property of a Consolidated Subsidiary.

"Mortgage" is defined in the Senior Debt Indenture to mean a mortgage, security interest, pledge, lien or other encumbrance.

"Original Issue Discount Security" is defined in both indentures to mean any debt security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof.

"Principal Property" is defined in the Senior Debt Indenture to mean any manufacturing plant or research or engineering facility located within the United States of America or Puerto Rico owned or leased by us or any Consolidated Subsidiary unless, in the opinion of our board of directors, such plant or facility is not of material importance to the total business conducted by us and our Consolidated Subsidiaries as an entirety.

"Subsidiary" is defined in both indentures to mean any corporation of which at least a majority of the outstanding stock having voting power under ordinary circumstances to elect a majority of the board of directors of said corporation shall at the time be owned by us, or by us and one or more Subsidiaries, or by one or more Subsidiaries.

#### **EVENTS OF DEFAULT, WAIVER AND NOTICE**

The indentures provide that the following events will be events of default with respect to the debt securities of a series:

- we default in the payment of any interest on the debt securities of that series for more than 30 days;
- we default in the payment of any principal or premium on the debt securities of that series on the date that payment was due;
- we breach any of the other covenants applicable to that series of debt securities and that breach continues for more than 90 days after we receive notice from the trustee or the holders of at least 25% of the aggregate principal amount of debt securities of that series; or
- we commence bankruptcy or insolvency proceedings or consent to any bankruptcy relief sought against us; or
- we become involved in involuntary bankruptcy or insolvency proceedings and an order for relief is entered against us, if that order remains in effect for more than 60 consecutive days.

The trustee or the holders of 25% of the aggregate principal amount of debt securities of a series may declare all of the debt securities of that series to be due and payable immediately if an event of default with respect to a payment occurs. The trustee or the holders of 25% of the aggregate principal amount of debt securities of each affected series voting as one class may declare all of the debt securities of each affected series due and payable immediately if an event of default with respect to a breach of a covenant occurs. The trustee or the holders of 25% of the aggregate principal amount of debt securities outstanding under the indenture voting as one class may declare all of the debt securities outstanding under the indenture due and payable immediately if a bankruptcy event of default occurs. The holders of a majority of the aggregate principal amount of the debt securities of the applicable series or number of series described in this paragraph may annul a declaration or waive a past default except for a continuing payment default. If any of the affected debt securities are Original Issue Discount Securities, by principal amount we mean the amount that the holders would be entitled to receive by the terms of that debt security if the debt security were declared immediately due and payable.

The holders of a majority in principal amount of the debt securities of any or all series affected and then outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable trustee under the indentures. Notwithstanding the foregoing, a trustee shall have the right to decline to follow any such direction if such trustee is advised by counsel that the action so directed may not lawfully be taken or if such trustee determines that such action would be unjustly prejudicial to the holders not taking part in such direction or would involve such trustee in personal liability.



Each indenture requires that we file a certificate each year with the applicable trustee stating that there are no defaults under the indenture. Each indenture permits the applicable trustee to withhold notice to holders of debt securities of any default other than a payment default if the trustee considers it in the best interests of the holders.

## **MODIFICATION OF INDENTURES**

We can enter into a supplemental indenture with the applicable trustee to modify any provision of the applicable indenture or any series of debt securities without obtaining the consent of the holders of any debt securities if the modification does not adversely affect the holders in any material respect. In addition, we can generally enter into a supplemental indenture with the applicable trustee to modify any provision of the indenture or any series of debt securities if we obtain the consent of the holders of a majority of the aggregate principal amount of debt securities of each affected series voting as one class. However, we need the consent of each affected holder in order to:

- change the date on which any payment of principal or interest on the debt security is due;
- reduce the amount of any principal, interest or premium due on any debt security;
- change the currency or location of any payment;
- impair the right of any holder to bring suit for any payment after its due date; or
- reduce the percentage in principal amount of debt securities required to consent to any modification or waiver of any provision of the indenture or the debt securities.

## **CONCERNING THE TRUSTEES**

Each trustee is a depository for funds of, makes loans to and performs other services for us from time to time in the normal course of business.

## **FORM OF DEBT SECURITIES**

Each debt security will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of securities issued at one time. Certificated securities in definitive form and global securities will be issued in registered form. Definitive securities name you or your nominee as the owner of the security and, in order to transfer or exchange these securities or to receive payments other than interest or other interim payments, you or your nominee must physically deliver the securities to the trustee, registrar, paying agent or other agent, as applicable. Global securities name a depository or its nominee as the owner of the debt securities represented by the global securities. The depository maintains a computerized system that will reflect each investor's beneficial ownership of the securities through an account maintained by the investor with its broker/dealer, bank, trust company or other representative, as we explain more fully below under "Global Securities."

## **GLOBAL SECURITIES**

We may issue the debt securities of any series in the form of one or more fully registered global securities that will be deposited with a depository or with a nominee for a depository identified in the prospectus supplement relating to such series and registered in the name of the depository or its nominee. In that case, one or more global securities will be issued in a denomination or aggregate denominations equal to the portion of the aggregate principal or face amount of outstanding registered securities of the series to be represented by such global securities. Unless and until the depository exchanges a global security in whole for securities in definitive registered form, the global security may not be transferred except as a whole by the depository to a nominee of the depository or by a nominee of the depository to the depository or another nominee of the depository or by the depository or any of its nominees to a successor of the depository or a nominee of such successor.

If not described below, any specific terms of the depositary arrangement with respect to any portion of a series of securities to be represented by a global security will be described in the prospectus supplement relating to such series. We anticipate that the following provisions will apply to all depositary arrangements.

Ownership of beneficial interests in a global security will be limited to persons that have accounts with the depositary for such global security ("participants") or persons that may hold interests through participants. Upon the issuance of a global security, the depositary for such global security will credit, on its book-entry registration and transfer system, the participants' accounts with the respective principal or face amounts of the securities represented by such global security beneficially owned by such participants. The accounts to be credited shall be designated by any dealers, underwriters or agents participating in the distribution of such securities. Ownership of beneficial interests in such global security will be shown on, and the transfer of such ownership interests will be effected only through, records maintained by the depositary for such global security, with respect to interests of participants, and on the records of participants, with respect to interests of persons holding through participants. The laws of some states may require that some purchasers of securities take physical delivery of such securities in definitive form. Such limits and such laws may impair the ability to own, transfer or pledge beneficial interests in global securities. So long as the depositary for a global security, or its nominee, is the registered owner of such global security, such depositary or such nominee, as the case may be, will be considered the sole owner or holder of the debt securities represented by such global security for all purposes under the indentures. Except as set forth below, owners of beneficial interests in a global security will not be entitled to have the securities represented by such global security registered in their names, will not receive or be entitled to receive physical delivery of such securities in definitive form and will not be considered the owners or holders thereof under the indentures. Accordingly, each person owning a beneficial interest in a global security must rely on the procedures of the depositary for such global security and, if such person is not a participant, on the procedures of the participant through which such person owns its interest, to exercise any rights of a holder under either indenture. We understand that under existing industry practices, if we request any action of holders or if an owner of a beneficial interest in a global security desires to give or take any action which a holder is entitled to give or take under either indenture, the depositary for such global security would authorize the participants holding the relevant beneficial interests to give or take such action, and such participants would authorize beneficial owners owning through such participants to give or take such action or would otherwise act upon the instructions of beneficial owners holding through them.

Principal, premium, if any, and interest payments on debt securities represented by a global security registered in the name of a depositary or its nominee will be made to such depositary or its nominee, as the case may be, as the registered owner of such global security. We and the trustees or any of our or their agents will not have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in such global security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

We expect that the depositary for any debt securities represented by a global security, upon receipt of any payment of principal, premium, interest or other distribution of underlying securities or commodities to holders in respect of such global security, will immediately credit participants' accounts in amounts proportionate to their respective beneficial interests in such global security as shown on the records of such depositary. We also expect that payments by participants to owners of beneficial interests in such global security held through such participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the

accounts of customers in bearer form or registered in "street name," and will be the responsibility of such participants.

If the depositary for any debt securities represented by a global security is at any time unwilling or unable to continue as depositary or ceases to be a clearing agency registered under the Securities Exchange Act of 1934, and we do not appoint a successor depositary registered as a clearing agency under the Exchange Act within 90 days, we will issue such debt securities in definitive form in exchange for such global security. In addition, we may at any time and in our sole discretion determine not to have any of the debt securities of a series represented by one or more global securities and, in such event, will issue debt securities of such series in definitive form in exchange for all of the global security or securities representing such debt securities. Any securities issued in definitive form in exchange for a global security will be registered in such name or names as the depositary shall instruct the relevant trustee. We expect that such instructions will be based upon directions received by the depositary from participants with respect to ownership of beneficial interests in such global security.

## **DESCRIPTION OF CAPITAL STOCK**

The following description of the material terms of our capital stock is based on the provisions of our amended and restated certificate of incorporation. For more information as to how you can obtain a current copy of our certificate of incorporation, see "Where You Can Find More Information."

Our amended and restated certificate of incorporation authorizes the issuance of one million shares of preferred stock, par value \$1.00 per share and 1.4 billion shares of common stock, par value \$1.00 per share.

### **PREFERRED STOCK**

We may issue preferred stock from time to time in one or more series, without stockholder approval. Subject to limitations prescribed by law, our board of directors is authorized to determine the voting powers, if any, designations and powers, preferences and rights, and the qualifications, limitations or restrictions thereof, for each series of preferred stock that may be issued and to fix the number of shares of each such series.

The prospectus supplement relating to any series of preferred stock will describe the dividend rights of that series of preferred stock. Holders of preferred stock of each series will be entitled to receive, when and as declared by our board of directors out of funds legally available for the payment of dividends, dividends, which may be cumulative or noncumulative, at the rate determined by our board of directors for that series and set forth in the prospectus supplement, as well as any further participation rights in dividend distributions, if any. Dividends on the preferred stock will accrue from the date fixed by our board of directors for that series. Unless we have declared and paid in full all dividends payable on all of our outstanding preferred stock for the current period, we will not be allowed to make any dividend payments on our common stock.

The terms, if any, on which preferred stock of any series may be redeemed will be described in the related prospectus supplement. If we decide to redeem fewer than all of the outstanding shares of preferred stock of any series, we will determine the method of selecting which shares to redeem.

The prospectus supplement relating to any series of preferred stock that is convertible will state the terms on which shares of that series are convertible into shares of another class of stock of Masco.

In the event of our voluntary or involuntary liquidation, before any distribution of assets will be made to the holders of our common stock, the holders of the preferred stock of each series will be entitled to receive out of our assets

available for distribution to our shareholders the liquidation price per share determined by our board of directors prior to the issuance of the preferred stock of that series and described in the applicable prospectus supplement as well as any declared and unpaid dividends on those shares. The holders of all series of preferred stock are entitled to share ratably, in accordance with the respective amounts payable on their shares, in any distribution upon liquidation which is not sufficient to pay in full the aggregate amounts payable on all of those shares.

The preferred stock of a series issued pursuant to this Prospectus will not be entitled to vote, except as provided in the applicable prospectus supplement, unless required by applicable law. Unless otherwise indicated in the prospectus supplement relating to a series of preferred stock, each share of a series will be entitled to one vote on matters on which holders of that series are entitled to vote.

As of September 30, 2001, there were 16,666 shares of series B convertible preferred stock outstanding. These preferred shares are convertible into 16,666,666 shares of common stock, subject to adjustment. Each share of series B preferred stock receives dividends and in general has voting rights equivalent to those of the shares of common stock into which such preferred stock is convertible. Shares of series B preferred stock vote as a class as required by Delaware law and are subject to certain restrictions on transfer.

## **COMMON STOCK**

Subject to the rights of the holders of any preferred stock of Masco then outstanding, holders of common stock are entitled to one vote per share on matters to be voted on by our stockholders and to receive dividends, if any, when declared from time to time by our board of directors in its discretion out of legally available funds. Upon any liquidation or dissolution of Masco, holders of common stock are entitled to receive pro rata all assets remaining after payment of all liabilities and liquidation of any shares of any preferred stock at the time outstanding. Holders of common stock have no preemptive or other subscription rights, and there are no conversion rights or redemption or sinking fund provisions with respect to common stock. As of September 30, 2001, there were approximately 459,019,620 shares of our common stock outstanding and approximately 21,921,000 shares reserved for issuance upon exercise of outstanding stock options. All of our outstanding common stock is fully paid and non-assessable and all of the shares of common stock that may be offered with this prospectus will be fully paid and non-assessable.

## **STOCKHOLDER RIGHTS AGREEMENT**

On December 6, 1995 we entered into a stockholder rights agreement which was amended September 23, 1998. The material provisions of that rights agreement are summarized below. However, since the terms of our rights agreement are complex, this summary may not contain all of the information that is important to you. For more information, you should obtain a copy of the agreement, which is filed as an exhibit with the SEC. See "Where You Can Find More Information" for information on how to obtain a copy.

Our rights agreement currently provides that each share of our outstanding common stock has one-half of one right to purchase one one-thousandth of a share of series A preferred stock. The purchase price per one one-thousandth of a share of series A preferred stock under the stockholder rights agreement is \$100.

Initially, the rights under our rights agreement are attached to outstanding certificates representing our common stock but will be represented by separate certificates on the day someone acquires at least 15% of our outstanding common stock, or approximately 10 days after someone commences a tender offer for at least 15% of our outstanding common stock.

After the rights separate from our common stock, certificates representing the rights will be mailed to record holders of the common stock. Once distributed, the rights certificates alone

will represent the rights. All shares of our common stock issued prior to the date the rights separate from the common stock have been and will be issued with the rights attached. The rights will expire on December 6, 2005 unless earlier redeemed or exchanged by us.

If an acquiring person obtains or has the right to obtain at least 15% of our outstanding common stock and none of the events described in the next paragraph has occurred, then each right will entitle the holder to purchase for \$100 a number of shares of our common stock having a then current market value of \$200.

If an acquiring person obtains or has the right to obtain at least 15% of our outstanding common stock, then each right will entitle the holder to purchase for \$100 a number of shares of common stock of the acquiring person having a then current market value of \$200 if any of the following occurs:

- we merge into another entity;
- an acquiring entity merges into us; or
- we sell more than 50% of our assets or earning power.

Under our rights agreement, any rights that are or were owned by an acquiring person of more than 15% of our outstanding common stock will be null and void.

Our rights agreement contains exchange provisions which provide that after an acquiring person obtains 15% or more, but less than 50%, of our outstanding common stock, our board of directors may, at its option, exchange all or part of the then outstanding and exercisable rights for shares of our common stock, at an exchange ratio of two shares of common stock per right.

Our board of directors may, at its option, redeem all of the outstanding rights at a redemption price of \$0.01 per right, subject to adjustment, prior to the earlier of (1) the time that an acquiring person obtains 15% or more of our outstanding common stock, or (2) the final expiration date of the rights agreement. The ability to exercise the rights will terminate upon the action of our board of directors ordering the redemption of the rights and the only right of the holders of the rights will be to receive the redemption price.

Holders of rights will have no rights as Masco stockholders, such as the right to vote or receive dividends, simply by virtue of holding the rights. The rights agreement includes anti-dilution provisions designed to prevent efforts to diminish the effectiveness of the rights.

For so long as the rights are redeemable, we may amend the rights agreement in any respect. At any time when the rights are no longer redeemable, we may amend the rights in any respect that does not adversely affect the holders of rights, other than the types of acquiring persons we described earlier in this section and their affiliates, that does not cause the rights agreement to become amendable in any other way or does not cause the rights to again become redeemable.

Our rights agreement contains provisions that have anti-takeover effects. The rights may cause substantial dilution to a person or group that attempts to acquire us without conditioning the offer on a substantial number of rights being acquired, redeemed or declared invalid. Accordingly, the existence of the rights may deter acquirors from making takeover proposals or tender offers. However, the rights are not intended to prevent a takeover, but rather are designed to enhance the ability of our board of directors to negotiate with an acquiror on behalf of all of the stockholders. In addition, the rights should not interfere with a proxy contest.

The transfer agent and registrar for our common stock is The Bank of New York, New York, New York.

## **DESCRIPTION OF DEPOSITARY SHARES**

We may, at our option, elect to offer fractional shares of preferred stock rather than full shares of preferred stock. If we exercise this option, we will issue to the public receipts for

depository shares, and each of these depository shares will represent a fraction (to be set forth in the applicable prospectus supplement) of a share of a particular series of preferred stock.

The shares of any series of preferred stock underlying the depository shares will be deposited under a deposit agreement between us and a bank or trust company selected by us. The depository will have its principal office in the United States and a combined capital and surplus of at least \$50,000,000. Subject to the terms of the deposit agreement, each owner of a depository share will be entitled, in proportion to the applicable fraction of a share of preferred stock underlying the depository share, to all the rights and preferences of the preferred stock underlying that depository share. Those rights may include dividend, voting, redemption, conversion and liquidation rights.

The depository shares will be evidenced by depository receipts issued under a deposit agreement. Depository receipts will be distributed to those persons purchasing the fractional shares of preferred stock underlying the depository shares, in accordance with the terms of the offering. The following description of the material terms of the deposit agreement, the depository shares and the depository receipts is only a summary and you should refer to the forms of the deposit agreement and depository receipts that will be filed with the SEC in connection with the offering of the specific depository shares.

Pending the preparation of definitive engraved depository receipts, the depository may, upon our written order, issue temporary depository receipts substantially identical to the definitive depository receipts but not in definitive form. These temporary depository receipts entitle their holders to all the rights of definitive depository receipts. Temporary depository receipts will then be exchangeable for definitive depository receipts at our expense.

**Dividends and Other Distributions.** The depository will distribute all cash dividends or other cash distributions received with respect to the underlying stock to the record holders of depository shares in proportion to the number of depository shares owned by those holders.

If there is a distribution other than in cash, the depository will distribute property received by it to the record holders of depository shares that are entitled to receive the distribution, unless the depository determines that it is not feasible to make the distribution. If this occurs, the depository may, with our approval, sell the property and distribute the net proceeds from the sale to the applicable holders.

**Withdrawal of Underlying Preferred Stock.** Unless we say otherwise in a prospectus supplement, holders may surrender depository receipts at the principal office of the depository and, upon payment of any unpaid amount due to the depository, be entitled to receive the number of whole shares of underlying preferred stock and all money and other property represented by the related depository shares. We will not issue any partial shares of preferred stock. If the holder delivers depository receipts evidencing a number of depository shares that represent more than a whole number of shares of preferred stock, the depository will issue a new depository receipt evidencing the excess number of depository shares to that holder.

**Redemption of Depository Shares.** If a series of preferred stock represented by depository shares is subject to redemption, the depository shares will be redeemed from the proceeds received by the depository resulting from the redemption, in whole or in part, of that series of underlying stock held by the depository. The redemption price per depository share will be equal to the applicable fraction of the redemption price per share payable with respect to that series of underlying stock. Whenever we redeem shares of underlying stock that are held by the depository, the depository will redeem, as of the same redemption date, the number of depository shares representing the shares of underlying stock so redeemed. If fewer than all the depository shares are to be redeemed, the depository shares to be redeemed will be selected by lot or proportionately, as may be determined by the depository.

**Voting.** Upon receipt of notice of any meeting at which the holders of the underlying stock are entitled to vote, the depository will

mail the information contained in the notice to the record holders of the depositary shares underlying the preferred stock. Each record holder of the depositary shares on the record date (which will be the same date as the record date for the underlying stock) will be entitled to instruct the depositary as to the exercise of the voting rights pertaining to the amount of the underlying stock represented by that holder's depositary shares. The depositary will then try, as far as practicable, to vote the number of shares of preferred stock underlying those depositary shares in accordance with those instructions, and we will agree to take all actions which may be deemed necessary by the depositary to enable the depositary to do so. The depositary will not vote the underlying shares to the extent it does not receive specific instructions with respect to the depositary shares representing the preferred stock.

**Conversion of Preferred Stock.** If the prospectus supplement relating to the depositary shares says that the deposited preferred stock is convertible into common stock or preferred stock of another series of Masco, the following will apply. The depositary shares, as such, will not be convertible into any securities of Masco. Rather, any holder of the depositary shares may surrender the related depositary receipts to the depositary with written instructions to instruct us to cause conversion of the preferred stock represented by the depositary shares into or for whole shares of common stock or shares of another series of preferred stock of Masco, as applicable. Upon receipt of those instructions and any amounts payable by the holder in connection with the conversion, we will cause the conversion using the same procedures as those provided for conversion of the deposited preferred stock. If only some of the depositary shares are to be converted, a new depositary receipt or receipts will be issued for any depositary shares not to be converted.

**Amendment and Termination of the Deposit Agreement.** The form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement may at any time be amended by agreement between us and the depositary. However, any amendment which materially and adversely alters the rights of the holders of depositary shares will not be effective unless the amendment has been approved by the holders of at least a majority of the depositary shares then outstanding. The deposit agreement may be terminated by us or by the depositary only if (a) all outstanding depositary shares have been redeemed or converted for any other securities into which the underlying preferred stock is convertible or (b) there has been a final distribution of the underlying stock in connection with our liquidation, dissolution or winding up and the underlying stock has been distributed to the holders of depositary receipts.

**Charges of Depositary.** We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will also pay charges of the depositary in connection with the initial deposit of the underlying stock and any redemption of the underlying stock. Holders of depositary receipts will pay other transfer and other taxes and governmental charges and those other charges, including a fee for any permitted withdrawal of shares of underlying stock upon surrender of depositary receipts, as are expressly provided in the deposit agreement to be for their accounts.

**Reports.** The depositary will forward to holders of depositary receipts all reports and communications from us that we deliver to the depositary and that we are required to furnish to the holders of the underlying stock.

**Limitation on Liability.** Neither we nor the depositary will be liable if either of us is prevented or delayed by law or any circumstance beyond our control in performing our respective obligations under the deposit agreement. Our obligations and those of the depositary will be limited to performance in good faith of our respective duties under the deposit agreement. Neither we nor the depositary will be obligated to prosecute or defend any legal proceeding in respect of any depositary shares or underlying stock unless satisfactory indemnity

is furnished. We and the depositary may rely upon written advice of counsel or accountants, or upon information provided by persons presenting underlying stock for deposit, holders of depositary receipts or other persons believed to be competent and on documents believed to be genuine.

**Resignation and Removal of Depositary.** The depositary may resign at any time by delivering notice to us of its election to resign. We may remove the depositary at any time. Any resignation or removal will take effect upon the appointment of a successor depositary and its acceptance of the appointment. The successor depositary must be appointed within 60 days after delivery of the notice of resignation or removal and must be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$50,000,000.

## **PLAN OF DISTRIBUTION**

We may sell the securities being offered by this prospectus in four ways:

- directly to purchasers;
- through agents;
- through underwriters; and
- through dealers.

We may directly solicit offers to purchase securities, or we may designate agents to solicit such offers. We will, in the prospectus supplement relating to such offering, name any agent that could be viewed as an underwriter under the Securities Act of 1933 and describe any commissions we must pay. Any such agent will be acting on a best efforts basis for the period of its appointment or, if indicated in the applicable prospectus supplement, on a firm commitment basis. Agents, dealers and underwriters may be customers of, engage in transactions with, or perform services for us in the ordinary course of business.

As one of the means of direct issuance of securities, we may utilize the services of any available electronic auction system to conduct an electronic "dutch auction" of the offered securities among potential purchasers who are eligible to participate in the auction of those offered securities, if so described in the prospectus supplement.

If any underwriters are utilized in the sale of the securities in respect of which this prospectus is delivered, we will enter into an underwriting agreement with them at the time of sale to them and we will set forth in the prospectus supplement relating to such offering their names and the terms of our agreement with them.

If a dealer is utilized in the sale of the securities in respect of which the prospectus is delivered, we will sell such securities to the dealer, as principal. The dealer may then resell such securities to the public at varying prices to be determined by such dealer at the time of resale.

Remarketing firms, agents, underwriters and dealers may be entitled under agreements which they may enter into with us to indemnification by us against some types of civil liabilities, including liabilities under the Securities Act of 1933, and may be customers of, engage in transactions with or perform services for us in the ordinary course of business.

If we so indicate in the prospectus supplement, we will authorize agents, underwriters or dealers to solicit offers by the types of purchasers specified in the prospectus supplement to purchase offered securities from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. Such contracts will be subject to only those conditions set forth in the prospectus supplement, and the prospectus supplement will set forth the commission payable for solicitation of such offers.



## LEGAL OPINIONS

The legality of the securities in respect of which this prospectus is being delivered will be passed on for us by John R. Leekley, Senior Vice President and General Counsel of Masco, and for the underwriters, if any, by Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017. Mr. Leekley is a Masco stockholder and a holder of options to purchase shares of our common stock. Davis Polk & Wardwell performs legal services from time to time for us and some of our related companies.

## EXPERTS

The financial statements incorporated in this prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2000, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed this prospectus as part of a registration statement on Form S-3 with the SEC. The registration statement contains exhibits and other information that are not contained in this prospectus. In particular, the registration statement includes as exhibits copies of the forms of our senior and subordinated indentures. Our descriptions in this prospectus of the provisions of documents filed as exhibits to the registration statement or otherwise filed with the SEC are only summaries of the documents' material terms. If you want a complete description of the content of the documents, you should obtain the documents by following the procedures described in the paragraph below.

We file annual, quarterly and special reports and other information with the SEC. You may read and copy any document we file at the SEC's Public Reference Room located at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Rooms. You may also read our SEC filings, including the complete registration statement and all of the exhibits to it, through the SEC's web site at <http://www.sec.gov>.

The SEC allows us to "incorporate by reference" much of the information we file with them, which means that we can disclose important information to you by referring you directly to those publicly available documents. The information incorporated by reference is considered to be part of this prospectus. In addition, information we file with the SEC in the future will automatically update and supersede information contained in this prospectus and the accompanying prospectus supplement.

We incorporate by reference the documents listed below and any filings made with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of the initial filing of this registration statement and before the effective date of this registration statement and after the effectiveness of this registration statement until we sell all of the securities we are offering with this prospectus:

- Our Annual Report on Form 10-K for the year ended December 31, 2000;
- Our Current Report on Form 8-K dated March 28, 2001;
- Our Quarterly Reports on Form 10-Q for the quarters ended March 31, June 30, and September 30, 2001; and
- The description of our common stock contained in the amendment on Form 8 dated May 22, 1991 to our registration statement on Form 8-A and the description

of our preferred stock purchase rights contained in the amendment on Form 8-A12B/A dated March 18, 1999 to our registration statement on Form 8-A.

You may obtain free copies of any of these documents by writing or telephoning us at 21001 Van Born Road, Taylor, Michigan, 48180, Attention: Samuel Cypert, (313) 274-7400, or by visiting our web site at <http://www.masco.com>. However, the information on our website is not a part of this prospectus.

**PART II.**

**INFORMATION NOT REQUIRED IN PROSPECTUS.**

**ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.**

The following expenses will be paid by the Registrant:

Securities and Exchange Commission registration fee.....	\$312,500
Legal fees and expenses.....	45,000
Accountants' fees.....	100,000
Trustees' fees and expenses.....	50,000
Printing and engraving expenses.....	50,000
Rating agency fees.....	160,000
Blue Sky and legal investment fees and expenses.....	5,000
Miscellaneous.....	12,500
	-----
Total.....	\$735,000*
	=====

---

\* All amounts other than the Securities and Exchange Commission registration fee are estimated.

**ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.**

Section 145 of the General Corporation Law of Delaware empowers the Company to indemnify, subject to the standards therein prescribed, any person in connection with any action, suit or proceeding brought or threatened by reason of the fact that such person is or was a director, officer, employee or agent of the Company or is or was serving as such with respect to another corporation or other entity at the request of the Company. Article Fifteenth of the Company's Restated Certificate of Incorporation provides that each person who was or is made a party to (or is threatened to be made a party to) or is otherwise involved in any action, suit or proceeding by reason of the fact that such person is or was a director, officer or employee of the Company shall be indemnified and held harmless by the Company to the fullest extent authorized by the General Corporation Law of Delaware against all expense, liability and loss (including without limitation attorneys' fees, judgments, fines and amounts paid in settlement) reasonably incurred or suffered by such person in connection therewith. The rights conferred by Article Fifteenth are contractual rights and include the right to be paid by the Company the expenses incurred in defending such action, suit or proceeding in advance of the final disposition thereof.

Article Fourteenth of the Company's Restated Certificate of Incorporation provides that the Company's directors will not be personally liable to the Company or its stockholders for monetary damages resulting from breaches of their fiduciary duty as directors, except for liability (a) for any breach of the director's duty of loyalty to the Company or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the General Corporation Law of Delaware, which makes directors liable for unlawful dividends or unlawful stock repurchases or redemptions, or (d) for transactions from which the director derived improper personal benefit.

The Company's directors and officers are covered by insurance policies indemnifying them against certain civil liabilities, including liabilities under the federal securities laws (other than liability under Section 16(b) of the Exchange Act), which might be incurred by them in such capacities.

## ITEM 16. EXHIBITS

The following Exhibits are filed as part of this Registration Statement:

Exhibit 1.1	Form of Underwriting Agreement (Debt Securities).(1)
Exhibit 1.2	Form of Underwriting Agreement (Common Stock).(1)
Exhibit 3.1	Restated Certificate of Incorporation of Masco Corporation.
Exhibit 3.2	Bylaws of Masco Corporation, as amended.(2)
Exhibit 4.1	Rights Agreement dated as of December 6, 1995, between Masco Corporation and The Bank of New York, as Rights Agent, as amended by Amendment No. 1 dated as of September 23, 1998.(3)
Exhibit 4.2	Senior Debt Indenture dated as of February 12, 2001 between Masco Corporation and Bank One Trust Company, National Association, as Trustee.(4)
Exhibit 4.3	Form of Subordinated Debt Indenture between Masco Corporation and The Bank of New York, as Trustee.(5)
Exhibit 4.4	Form of Deposit Agreement (including form of depository receipt).
Exhibit 5	Opinion of John R. Leekley.
Exhibit 12	Statement of Computation of Ratio of Earnings to Fixed Charges.(6)
Exhibit 23.1	Consent of PricewaterhouseCoopers LLP relating to the consolidated financial statements and financial statement schedule of Masco Corporation.
Exhibit 23.2	Consent of John R. Leekley, which is included as part of Exhibit 5.
Exhibit 24	Powers of Attorney, which appear on the signature pages of this Registration Statement.
Exhibit 25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of Bank One Trust Company, National Association.
Exhibit 25.2	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of The Bank of New York.

- 
- (1) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 33-53330), dated October 15, 1992.
- (2) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Annual Report on Form 10-K for the year ended December 31, 1998.
- (3) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Annual Report on Form 10-K for the year ended December 31, 2000.
- (4) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 333-58034), dated April 24, 2001.
- (5) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 333-40122), dated November 1, 2000.
- (6) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.

## ITEM 17. UNDERTAKINGS

1. The Company 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) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

(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;

provided, however, that paragraphs (1) (i) and (1)(ii) do not apply if the information required to be included in a post-effective amendment by these paragraphs is contained in periodic reports filed with the SEC by the Company pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference 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.

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

2. The Company hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Company's annual report pursuant to Section 13(a) or 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.

3. Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Company pursuant to the provisions referred to in Item 15 above, or otherwise (other than the insurance policies referred to in Item 15), the Company has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company 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, the Company 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 whether such indemnification by it is against public policy as expressed in that Act and will be governed by the final adjudication of such issue.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement amendment to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Taylor, State of Michigan, on the 20th day of November, 2001.

### MASCO CORPORATION

By: /s/ TIMOTHY WADHAMS

-----  
Timothy Wadhams  
Vice President and Chief Financial  
Officer

### POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Richard A. Manoogian and Timothy Wadhams and each of them, as his true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign (i) any and all amendments, including post-effective amendments, to this Registration Statement and (ii) a registration statement, and any and all amendments thereto, relating to the offering covered hereby filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he might or would do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents or any of them or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

SIGNATURE -----	TITLE -----	DATE ----
PRINCIPAL EXECUTIVE OFFICER:		
/s/ RICHARD A. MANOOGIAN ----- Richard A. Manoogian	Chairman and Chief Executive Officer and Director	November 20, 2001
PRINCIPAL FINANCIAL OFFICER:		
/s/ TIMOTHY WADHAMS ----- Timothy Wadhams	Vice President and Chief Financial Officer	November 20, 2001
PRINCIPAL ACCOUNTING OFFICER:		
/s/ ROBERT B. ROSOWSKI ----- Robert B. Rosowski	Vice President and Treasurer	November 20, 2001

SIGNATURE -----	TITLE -----	DATE ----
/s/ THOMAS G. DENOMME ----- Thomas G. Denomme	Director	November 20, 2001
/s/ PETER A. DOW ----- Peter A. Dow	Director	November 20, 2001
/s/ ANTHONY F. EARLEY, JR. ----- Anthony F. Earley, Jr.	Director	November 20, 2001
/s/ JOSEPH L. HUDSON, JR. ----- Joseph L. Hudson, Jr.	Director	November 20, 2001
/s/ VERNE G. ISTOCK ----- Verne G. Istock	Director	November 20, 2001
/s/ RAYMOND F. KENNEDY ----- Raymond F. Kennedy	President and Chief Operating Officer and Director	November 20, 2001
/s/ WAYNE B. LYON ----- Wayne B. Lyon	Director	November 20, 2001
/s/ JOHN A. MORGAN ----- John A. Morgan	Director	November 20, 2001
/s/ MARY ANN VAN LOKEREN ----- Mary Ann Van Lokeren	Director	November 20, 2001

## EXHIBIT INDEX

EXHIBIT NO. -----	DESCRIPTION -----
Exhibit 1.1	Form of Underwriting Agreement (Debt Securities).(1)
Exhibit 1.2	Form of Underwriting Agreement (Common Stock).(1)
Exhibit 3.1	Restated Certificate of Incorporation of Masco Corporation.
Exhibit 3.2	Bylaws of Masco Corporation, as amended.(2)
Exhibit 4.1	Rights Agreement dated as of December 6, 1995, between Masco Corporation and The Bank of New York, as Rights Agent, as amended by Amendment No. 1 dated as of September 23, 1998.(3)
Exhibit 4.2	Senior Debt Indenture dated as of February 12, 2001 between Masco Corporation and Bank One Trust Company, National Association, as Trustee.(4)
Exhibit 4.3	Form of Subordinated Debt Indenture between Masco Corporation and The Bank of New York, as Trustee.(5)
Exhibit 4.4	Form of Deposit Agreement (including form of depository receipt).
Exhibit 5	Opinion of John R. Leekley.
Exhibit 12	Statement of Computation of Ratio of Earnings to Fixed Charges.(6)
Exhibit 23.1	Consent of PricewaterhouseCoopers LLP relating to the consolidated financial statements and financial statement schedule of Masco Corporation.
Exhibit 23.2	Consent of John R. Leekley, which is included as part of Exhibit 5.
Exhibit 24	Powers of Attorney, which appear on the signature pages of this Registration Statement.
Exhibit 25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of Bank One Trust Company, National Association.
Exhibit 25.2	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of The Bank of New York.

---

(1) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 33-53330), dated October 15, 1992.

(2) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Annual Report on Form 10-K for the year ended December 31, 1998.

(3) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Annual Report on Form 10-K for the year ended December 31, 2000.

(4) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 333-58034), dated April 24, 2001.

(5) Incorporated by reference to the Exhibits filed with Masco Corporation's Registration Statement on Form S-3 (File No. 333-40122), dated November 1, 2000.

(6) Incorporated herein by reference to the Exhibits filed with Masco Corporation's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.



**EXHIBIT 3.1**

**RESTATED CERTIFICATE OF INCORPORATION  
OF  
MASCO CORPORATION**

MASCO CORPORATION, a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is MASCO CORPORATION. The date of filing of its original Certificate of Incorporation with the Secretary of State of the state of Delaware was June 15, 1962.
2. This Restated Certificate of Incorporation was duly adopted by the Board of Directors in accordance with Section 245 of the General Corporation Law of Delaware.
3. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Certificate of Incorporation of this corporation as heretofore amended or supplemented and there is no discrepancy between those provisions and the provisions of this Restated Certificate of Incorporation.
4. The text of the Certificate of Incorporation as amended or supplemented heretofore is hereby restated without further amendments or changes to read as herein set forth in full:

FIRST: The name of the corporation is MASCO CORPORATION.

SECOND: Its registered office in the State of Delaware is located at the Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name and address of its registered agent is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

THIRD: The nature of the business or objects or purposes to be transacted, promoted or carried on are: To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of stock the Corporation shall have authority to issue is one billion, four hundred one million (1,401,000,000) shares.

One billion, four hundred million (1,400,000,000) of such shares shall consist of common shares, par value one dollar (\$1.00) per share, and one million (1,000,000) of such shares shall consist of preferred shares, par value one dollar (\$1.00) per share.

The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof are as follows:

A. Each share of common stock shall be equal in all respects to all other shares of such stock, and each share of outstanding common stock is entitled to one vote.

B. Each share of preferred stock shall have or not have voting rights as determined by the Board of Directors prior to issuance.

Dividends on all outstanding shares of preferred stock must be declared and paid, or set aside for payment, before any dividends can be declared and paid, or set aside for payment, on the shares of common stock with respect to the same dividend period.

In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the holders of the preferred stock shall be entitled, before any assets of the Corporation shall be distributed among or paid over to the holders of the common stock, to an amount per share to be determined before issuance by the Board of Directors, together with a sum of money equivalent to the amount of any dividends declared thereon and remaining unpaid at the date of such liquidation, dissolution or winding up of the Corporation. After the making of such payments to the holders of the preferred stock, the remaining assets of the Corporation shall be distributed among the holders of the common stock alone, according to the number of shares held by each. If, upon such liquidation, dissolution or winding up, the assets of the Corporation distributable as aforesaid among the holders of the preferred stock shall be insufficient to permit the payment to them of said amount, the entire assets shall be distributed ratably among the holders of the preferred stock.

The Board of Directors shall have authority to divide the shares of preferred stock into series and fix, from time to time, before issuance, the number of shares to be included in any series and the designation, relative rights, preferences and limitations of all shares of such series. The authority of the Board of Directors with respect to each series shall include the determination of any or all of the following, and the shares of

each series may vary from the shares of any other in the following respects: (a) the number of shares constituting such series and the designation thereof to distinguish the shares of such series from the shares of all other series; (b) the rate of dividend, cumulative or noncumulative, and the extent of further participation in dividend distribution, if any; (c) the prices at which issued (at not less than par) and the terms and conditions upon which the shares may be redeemable by the Corporation; (d) sinking fund provisions for the redemption or purchase of shares; (e) the voting rights; and (f) the terms and conditions upon which the shares are convertible into other classes of stock of the Corporation, if such shares are to be convertible.

Pursuant to the authority conferred by this Article Fourth upon the Board of Directors of the Corporation, the Board of Directors created a series of 175,106 shares of Preferred Stock designated as Series A Participating Cumulative Preferred Stock by filing a Certificate of Designation of the Corporation with the Secretary of State of the State of Delaware on December 13, 1995 and the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions of the Corporation's Series A Participating Cumulative Preferred Stock are set forth in Appendix A hereto and are incorporated herein by reference.

In addition, pursuant to such authority conferred by this Article Fourth, the Board of Directors created a series of 16,666.666 shares of Preferred Stock designated as Series B Participating Preferred Stock by filing a Certificate of Designation of the Corporation with the Secretary of State of the State of Delaware on July 30, 2001 and the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions of the Corporation's Series B Participating Preferred Stock are set forth in Appendix B hereto and are incorporated herein by reference.

C. No holder of any class of stock issued by this Corporation shall be entitled to pre-emptive rights.

FIFTH: The Corporation is to have perpetual existence.

SIXTH: The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

SEVENTH: (a) The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors consisting of not less than five nor more than twelve directors, the exact number of directors to be determined from time to time by resolution adopted by affirmative vote of a majority of the entire Board of Directors. The directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. At the 1988 Annual Meeting of stockholders, Class I directors shall be elected for a one-year term, Class II directors for a two-year term and Class III directors for a three-year term.

At each succeeding Annual Meeting of stockholders beginning in 1989, successors to the class of directors whose term expires at that annual meeting shall be elected for a three-year term. If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a vacancy resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of directors shorten the term of any incumbent director. A director shall hold office until the annual meeting for the year in which his term expires and until his successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement or removal from office. Except as otherwise required by law, any vacancy on the Board of Directors that results from an increase in the number of directors shall be filled only by a majority of the Board of Directors then in office, provided that a quorum is present, and any other vacancy occurring in the Board of Directors shall be filled only by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall serve for the remaining term of his predecessor.

Notwithstanding the foregoing, whenever the holders of any one or more classes or series of preferred stock or any other class of stock issued by the Corporation shall have the right, voting separately by class or series, to elect directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of the Certificate of Designation with respect to such stock, such directors so elected shall not be divided into classes pursuant to this Article SEVENTH, and the number of such directors shall not be counted in determining the maximum number of directors permitted under the foregoing provisions of this Article SEVENTH, in each case unless expressly provided by such terms.

(b) Nominations for the election of directors may be made by the Board of Directors or by any stockholder entitled to vote in the election of directors. Any stockholder entitled to vote in the election of directors, however, may nominate one or more persons for election as director only if written notice of such stockholder's intent to make such nomination or nominations has been given either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Corporation not later than (i) with respect to an election to be held at an Annual Meeting of stockholders, 45 days in advance of the date on which the Corporation's proxy statement was released to stockholders in connection with the previous year's Annual Meeting of stockholders and (ii) with respect to an election to be held at a special meeting of stockholders for the election of directors, the close of business on the seventh day following the day on which notice of such meeting is first given to stockholders. Each such notice shall include: (A) the name and address of the stockholder who intends to make the nomination or nominations and of the person or persons to be nominated; (B) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (C) a description of all arrangements or understandings between such stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or

nominations is or are to be made by the stockholder; (D) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission if the nominee had been nominated by the Board of Directors; and (E) the written consent of each nominee to serve as a director of the Corporation if elected. The chairman of any meeting of stockholders may refuse to acknowledge the nomination of any person if not made in compliance with the foregoing procedure.

(c) Notwithstanding any other provision of this Certificate of Incorporation or the by-laws (and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the by-laws), and in addition to any affirmative vote required by law, the affirmative vote of the holders of at least 80% of the voting power of the outstanding capital stock of the Corporation entitled to vote, voting together as a single class, shall be required to amend, adopt in this Certificate of Incorporation or in the by-laws any provision inconsistent with, or repeal this Article SEVENTH.

EIGHTH: Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by any such holders. Except as otherwise required by law, special meetings of stockholders of the Corporation may be called only by the Chairman of the Board, the President or a majority of the Board of Directors, subject to the rights of holders of any one or more classes or series of preferred stock or any other class of stock issued by the Corporation which shall have the right, voting separately by class or series, to elect directors. Notwithstanding any other provision of this Certificate of Incorporation or the by-laws (and notwithstanding that a lesser percentage may be specified by law, this Certificate of Incorporation or the by-laws), and in addition to any affirmative vote required by law, the affirmative vote of the holders of at least 80% of the voting power of the outstanding capital stock of the Corporation entitled to vote, voting together as a single class, shall be required to amend, adopt in this Certificate of Incorporation or in the by-laws any provision inconsistent with, or repeal this Article EIGHTH.

NINTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

To make, alter or repeal the by-laws of the Corporation.

To authorize and cause to be executed mortgages and liens upon the real and personal property of the Corporation.

To set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and to abolish any such reserve in the manner in which it was created.

By resolution passed by a majority of the whole board, to designate one or more committees, each committee to consist of two or more of the Directors of the Corporation, which, to the extent provided in the resolution or in the by-laws of the Corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the Corporation or as may be determined from time to time by resolution adopted by the Board of Directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, to sell, lease or exchange all of the property and assets of the Corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporations, as its Board of Directors shall deem expedient and for the best interests of the Corporation.

TENTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

ELEVENTH: Meetings of stockholders may be held outside the State of Delaware, if the by-laws so provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the by-laws of the Corporation. Elections of Directors need not be by ballot unless the by-laws of the Corporation shall so provide.

TWELFTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

THIRTEENTH: 1. The affirmative vote of the holders of 95% of all shares of stock of the Corporation entitled to vote in elections of directors, considered for the purposes of this Article THIRTEENTH as one class, shall be required for the adoption or authorization of a business combination (as hereinafter defined) with any other entity (as hereinafter defined) if, as of the record date for the determination of stockholders entitled to notice thereof and to vote thereon, such other entity is the beneficial owner, directly or indirectly, of 30% or more of the outstanding shares of stock of the Corporation entitled to vote in elections of directors considered for the purposes of this Article THIRTEENTH as one class; provided that such 95% voting requirement shall not be applicable if:

(a) The cash, or fair market value of other consideration, to be received per share by common stockholders of the Corporation in such business combination bears the same or a greater percentage relationship to the market price of the Corporation's common stock immediately prior to the announcement of such business combination as the highest per share price (including brokerage commissions and soliciting dealers' fees) which such other entity has theretofore paid for any of the shares of the Corporation's common stock already owned by it bears to the market price of the common stock of the Corporation immediately prior to the commencement of acquisition of the Corporation's common stock by such other entity;

(b) The cash, or fair market value of other consideration, to be received per share by common stockholders of the Corporation in such business combination (i) is not less than the highest per share price (including brokerage commissions and soliciting dealers' fees) paid by such other entity in acquiring any of its holdings of the Corporation's common stock, and (ii) is not less than the earnings per share of common stock of the Corporation for the four full consecutive fiscal quarters immediately preceding the record date for solicitation of votes on such business combination, multiplied by the then price/earnings multiple (if any) of such other entity as customarily computed and reported in the financial community;

(c) After such other entity has acquired a 30% interest and prior to the consummation of such business combination: (i) such other entity shall have taken steps to ensure that the Corporation's Board of Directors included at all times representation by continuing director(s) (as hereinafter defined) proportionate to the stockholdings of the Corporation's public common stockholders not affiliated with such other entity (with a continuing director to occupy any resulting fractional board position); (ii) there shall have been no reduction in the rate of dividends payable on the Corporation's common stock except as necessary to insure that a quarterly dividend payment does not exceed 5% of the net income of the Corporation for the four full consecutive fiscal quarters immediately preceding the declaration date of such dividend, or except as may have been approved by a unanimous vote of the directors; (iii) such other entity shall not have acquired any newly issued shares of stock, directly or indirectly, from the Corporation (except upon conversion of convertible securities acquired by it prior to obtaining a 30% interest or as a result of a pro rata stock dividend or stock split); and (iv) such other entity shall not have acquired any additional shares of the Corporation's outstanding common stock or

securities convertible into common stock except as a part of the transaction which results in such other entity acquiring its 30% interest;

(d) Such other entity shall not have (i) received the benefit, directly or indirectly (except proportionately as a stockholder) of any loans, advances, guarantees, pledges or other financial assistance or tax credits of or provided by the Corporation, or (ii) made any major change in the Corporation's business or equity capital structure without the unanimous approval of the directors, in either case prior to the consummation of such business combination; and

(e) A proxy statement responsive to the requirements of the United States securities laws shall be mailed to all common stockholders of the Corporation for the purpose of soliciting stockholder approval of such business combination and shall contain on its first page thereof, in a prominent place, any recommendations as to the advisability (or inadvisability) of the business combination which the continuing directors, or any of them, may choose to state and, if deemed advisable by a majority of the continuing directors, an opinion of a reputable investment banking firm as to the fairness (or not) of the terms of such business combination, from the point of view of the remaining public stockholders of the Corporation (such investment banking firm to be selected by a majority of the continuing directors and to be paid a reasonable fee for their services by the Corporation upon receipt of such opinion).

The provisions of this Article THIRTEENTH shall also apply to a business combination with any other entity which at any time has been the beneficial owner, directly or indirectly, of 30% or more of the outstanding shares of stock of the Corporation entitled to vote in elections of directors considered for the purposes of this Article THIRTEENTH as one class, notwithstanding the fact that such other entity has reduced its shareholdings below 30% if, as of the record date for the determination of stockholders entitled to notice of and to vote on to the business combination, such other entity is an "affiliate" of the Corporation (as hereinafter defined).

2. As used in this Article THIRTEENTH, (a) the term "other entity" shall include any corporation, person or other entity and any other entity with which it or its "affiliate" or "associate" (as defined below) has any agreement, arrangement or understanding, directly or indirectly, for the purpose of acquiring, holding, voting or disposing of stock of the Corporation, or which is its "affiliate" or "associate" as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect on March 31, 1981, together with the successors and assigns of such persons in any transaction or series of transactions not involving a public offering of the Corporation's stock within the meaning of the Securities Act of 1933; (b) an other entity shall be deemed to be the beneficial owner of any shares of stock of the Corporation which the other entity (as defined above) has the right to acquire pursuant to any agreement, arrangement or understanding or upon exercise of conversion rights, warrants or options, or otherwise; (c) the outstanding shares of any class of stock of the Corporation shall include shares deemed owned through application of clause (b) above but shall not include any other shares which may be issuable pursuant to any agreement, or upon exercise of conversion rights, warrants or options, or otherwise; (d) the term "business combination" shall include any merger or consolidation of the Corporation with or into any other entity, or the sale



or lease of all or any substantial part of the assets of the Corporation to, or any sale or lease to the Corporation or any subsidiary thereof in exchange for securities of the Corporation of any assets (except assets having an aggregate fair market value of less than \$5,000,000) of any other entity; (e) the term "continuing director" shall mean a person who was a member of the Board of Directors of the Corporation elected by stockholders prior to the time that such other entity acquired in excess of 10% of the stock of the Corporation entitled to vote in the election of directors, or a person recommended to succeed a continuing director by a majority of continuing directors; and (f) for the purposes of subparagraphs l(a) and (b) of this Article THIRTEENTH the term "other consideration to be received" shall mean, in addition to other consideration received, if any, capital stock of the Corporation retained by its existing public stockholders in the event of a business combination with such other entity in which the Corporation is the surviving corporation.

3. A majority of the continuing directors shall have the power and duty to determine for the purposes of this Article THIRTEENTH on the basis of information known to them whether (a) such other entity beneficially owns 30% or more of the outstanding shares of stock of the Corporation entitled to vote in elections of directors; (b) an other entity is an "affiliate" or "associate" (as defined above) of another; (c) an other entity has an agreement, arrangement or understanding with another; or (d) the assets being acquired by the Corporation, or any subsidiary thereof, have an aggregate fair market value of less than \$5,000,000.

4. No amendment to the Certificate of Incorporation of the Corporation shall amend or repeal any of the provisions of this Article THIRTEENTH, unless the amendment effecting such amendment or repeal shall receive the affirmative vote of the holders of 95% of all shares of stock of the corporation entitled to vote in elections of directors, considered for the purposes of this Article THIRTEENTH as one class; provided that this paragraph 4 shall not apply to, and such 95% vote shall not be required for, any amendment or repeal unanimously recommended to the stockholders by the Board of Directors of the Corporation if all of such directors are persons who would be eligible to serve as "continuing directors" within the meaning of paragraph 2 of this Article THIRTEENTH.

5. Nothing contained in this Article THIRTEENTH shall be construed to relieve any other entity from any fiduciary obligation imposed by law.

FOURTEENTH: A director of this Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the Delaware General Corporation Law, or (d) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law hereafter is amended to authorize the further limitation or elimination of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on liability provided herein, shall be limited to the fullest extent permitted by the Delaware General Corporation Law, as amended. Any repeal or modification of this Article FOURTEENTH shall not increase the liability of any director of this Corporation

for any act or occurrence taking place prior to such repeal or modification, or otherwise adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

FIFTEENTH: 1. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer or employee of the Corporation, whether the basis of such proceeding is alleged action in an official capacity as a director, officer or employee or in any other capacity while serving as a director, officer, or employee, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines and amounts paid in settlement) reasonably incurred or suffered by such person in connection therewith, and such indemnification shall continue as to a person who has ceased to be a director, officer or employee and shall inure to the benefit of such person's heirs, executors and administrators. The Corporation shall indemnify a director, officer or employee in connection with an action, suit or proceeding (other than an action, suit or proceeding to enforce indemnification rights provided for herein or elsewhere) initiated by such director, officer or employee only if such action, suit or proceeding was authorized by the Board of Directors. The right to indemnification conferred in this Paragraph 1 shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any action, suit or proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in such person's capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person) in advance of the final disposition of an action, suit or proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such director or officer is not entitled to be indemnified for such expenses under this Article FIFTEENTH or otherwise.

2. The Corporation may, to the extent authorized from time to time by the Board of Directors, provide indemnification and the advancement of expenses, to any agent of the Corporation and to any person (other than directors, officers and employees of the Corporation, who shall be entitled to indemnification under Paragraph 1 above) who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, to such extent and to such effect as the Board of Directors shall determine to be appropriate and permitted by applicable law, as the same exists or may hereafter be amended.

3. The rights to indemnification and to the advancement of expenses conferred in this Article FIFTEENTH shall not be exclusive of any other right which any person may have or

hereafter acquire under any statute, provision of the Certificate of Incorporation or by-laws of the Corporation, agreement, vote of stockholders or disinterested directors or otherwise.

IN WITNESS WHEREOF, said MASCO CORPORATION has caused this Certificate to be signed by Richard A. Manoogian, its Chairman of the Board and Chief Executive Officer this 9th day of October, 2001.  
MASCO CORPORATION

By: /s/ Richard A. Manoogian

---

*Richard A. Manoogian  
Chairman of the Board and  
Chief Executive Officer*

## Appendix A

### SERIES A PARTICIPATING CUMULATIVE PREFERRED STOCK

OF

### MASCO CORPORATION

Pursuant to the authority conferred upon the Board of Directors by the Certificate of Incorporation of the Corporation, the Board of Directors on December 6, 1995, adopted a resolution creating a series of Preferred Stock in the amount and having the designation, voting powers, preferences and relative, participating, optional and other special rights and qualifications, limitations and restrictions set forth below:

Section 1. Designation and Number of Shares. The shares of such series shall be designated as "Series A Participating Cumulative Preferred Stock" (the "Series A Preferred Stock"), and the number of shares constituting such series shall be 175,106. Such number of shares of the Series A Preferred Stock may be increased or decreased by resolution of the Board of Directors; provided that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares then outstanding plus the number of shares issuable upon exercise or conversion of outstanding rights, options or other securities issued by the Corporation.

Section 2. Dividends and Distributions.

(A) The holders of shares of Series A Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable on February 15, May 15, August 15 and November 15 of each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of any share or fraction of a share of Series A Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) \$1.00 and (b) subject to the provision for adjustment hereinafter set forth, 1,000 times the aggregate per share amount of all cash dividends or other distributions and 1,000 times the aggregate per share amount of all non-cash dividends or other distributions (other than (i) a dividend payable in shares of Common Stock, par value \$1.00 per share, of the Corporation (the "Common Stock") or (ii) a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise)), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Preferred Stock. If the Corporation shall at any time after December 6, 1995 (the "Rights Declaration Date") pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or

combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under clause (b) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) The Corporation shall declare a dividend or distribution on the Series A Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the Common Stock (other than as described in clauses (i) and (ii) of the first sentence of paragraph (A)); provided that if no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date (or, with respect to the first Quarterly Dividend Payment Date, the period between the first issuance of any share or fraction of a share of Series A Preferred Stock and such first Quarterly Dividend Payment Date), a dividend of \$1.00 per share on the Series A Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(C) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series A Preferred Stock, unless the date of issue of such shares is on or before the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue and be cumulative from the date of issue of such shares, or unless the date of issue is a date after the record date for the determination of holders of shares of Series A Preferred Stock entitled to receive a quarterly dividend and on or before such Quarterly Dividend Payment Date, in which case dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall not be more than 60 days prior to the date fixed for the payment thereof.

**Section 3. Voting Rights.** In addition to any other voting rights required by law, the holders of shares of Series A Preferred Stock shall have the following voting rights:

(A) Subject to the provision for adjustment hereinafter set forth, each share of Series A Preferred Stock shall entitle the holder thereof to 1,000 votes on all matters submitted to a vote of stockholders of the Corporation. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in

each such case the number of votes per share to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein or by law, the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock shall vote together as a single class on all matters submitted to a vote of stockholders of the Corporation.

(C) (i) If at any time dividends on any Series A Preferred Stock shall be in arrears in an amount equal to six quarterly dividends thereon, the occurrence of such contingency shall mark the beginning of a period (herein called a "default period") which shall extend until such time when all accrued and unpaid dividends for all previous quarterly dividend periods and for the current quarterly dividend period on all shares of Series A Preferred Stock then outstanding shall have been declared and paid or set apart for payment. During each default period, all holders of Preferred Stock and any other series of Preferred Stock then entitled as a class to elect directors, voting together as a single class, irrespective of series, shall have the right to elect two Directors.

(ii) During any default period, such voting right of the holders of Series A Preferred Stock may be exercised initially at a special meeting called pursuant to subparagraph (iii) of this Section 3(C) or at any annual meeting of stockholders, and thereafter at annual meetings of stockholders, provided that neither such voting right nor the right of the holders of any other series of Preferred Stock, if any, to increase, in certain cases, the authorized number of Directors shall be exercised unless the holders of 10% in number of shares of Preferred Stock outstanding shall be present in person or by proxy. The absence of a quorum of holders of Common Stock shall not affect the exercise by holders of Preferred Stock of such voting right. At any meeting at which holders of Preferred Stock shall exercise such voting right initially during an existing default period, they shall have the right, voting as a class, to elect Directors to fill such vacancies, if any, in the Board of Directors as may then exist up to two Directors or, if such right is exercised at an annual meeting, to elect two Directors. If the number which may be so elected at any special meeting does not amount to the required number, the holders of the Preferred Stock shall have the right to make such increase in the number of Directors as shall be necessary to permit the election by them of the required number. After the holders of the Preferred Stock shall have exercised their right to elect Directors in any default period and during the continuance of such period, the number of Directors shall not be increased or decreased except by vote of the holders of Preferred Stock as herein provided or pursuant to the rights of any equity securities ranking senior to or pari passu with the Series A Preferred Stock.

(iii) Unless the holders of Preferred Stock shall, during an existing default period, have previously exercised their right to elect Directors, the Board of Directors may order, or any stockholder or stockholders owning in the aggregate not less than 10% of the total number of shares of Preferred Stock outstanding, irrespective of series, may request, the calling of special

meeting of holders of Preferred Stock, which meeting shall thereupon be called by the President, a Vice President or the Secretary of the Corporation. Notice of such meeting and of any annual meeting at which holders of Preferred Stock are entitled to vote pursuant to this paragraph (C)(iii) shall be given to each holder of record of Preferred Stock by mailing a copy of such notice to him at his last address as the same appears on the books of the Corporation. Such meeting shall be called for a time not earlier than 20 days and not later than 60 days after such order or request or in default of the calling of such meeting within 60 days after such order or request, such meeting may be called on similar notice by any stockholder or stockholders owning in the aggregate not less than 10% of the total number of shares of Preferred Stock outstanding, irrespective of series. Notwithstanding the provisions of this paragraph (C)(iii), no such special meeting shall be called during the period within 60 days immediately preceding the date fixed for the next annual meeting of stockholders.

(iv) In any default period, the holders of Common Stock, and other classes of stock of the Corporation if applicable, shall continue to be entitled to elect the whole number of Directors until the holders of Preferred Stock shall have exercised their right to elect two Directors voting as a class, after the exercise of which right (x) the Directors so elected by the holders of Preferred Stock shall continue in office until their successors shall have been elected by such holders or until the expiration of the default period, and (y) any vacancy in the Board of Directors may (except as provided in paragraph (C)(ii) of this Section 3) be filled by vote of a majority of the remaining Directors theretofore elected by the holders of the class of stock which elected the Director whose office shall have become vacant. References in this paragraph (C) to Directors elected by the holders of a particular class of stock shall include Directors elected by such Directors to fill vacancies as provided in clause (y) of the foregoing sentence.

(v) Immediately upon the expiration of a default period, (x) the right of the holders of Preferred Stock as a class to elect Directors shall cease, (y) the term of any Directors elected by the holders of Preferred Stock as a class shall terminate, and (z) the number of Directors shall be such number as may be provided for in the certificate of incorporation or bylaws irrespective of any increase made pursuant to the provisions of paragraph (C)(ii) of this Section 3 (such number being subject, however, to change thereafter in any manner provided by law or in the certificate of incorporation or bylaws). Any vacancies in the Board of Directors effected by the provisions of clauses (y) and (z) in the preceding sentence may be filled by a majority of the remaining Directors.

(D) The Certificate of Incorporation of the Corporation shall not be amended in any manner (whether by merger or otherwise) so as to adversely affect the powers, preferences or special rights of the Series A Preferred Stock without the affirmative vote of the holders of a majority of the outstanding shares of Series A Preferred Stock, voting separately as a class.

(E) Except as otherwise provided herein, holders of Series A Preferred Stock shall have no special voting rights, and their consent shall not be required for taking any corporate action.

#### Section 4. Certain Restrictions.

(A) Whenever quarterly dividends or other dividends or distributions payable on the Series A Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on outstanding shares of Series A Preferred Stock shall have been paid in full, the Corporation shall not:

- (i) declare or pay dividends on, or make any other distributions on, any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock;
- (ii) declare or pay dividends on, or make any other distributions on, any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except dividends paid ratably on the Series A Preferred Stock and all such other parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;
- (iii) redeem, purchase or otherwise acquire for value any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock; provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of stock of the Corporation ranking junior (as to dividends and upon dissolution, liquidation or winding up) to the Series A Preferred Stock; or
- (iv) redeem, purchase or otherwise acquire for value any shares of Series A Preferred Stock, or any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of Series A Preferred Stock and all such other parity stock upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for value any shares of stock of the Corporation unless the Corporation could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

Section 5. Reacquired Shares. Any shares of Series A Preferred Stock redeemed, purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation



become authorized but unissued shares of Preferred Stock without designation as to series and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors as permitted by the Certificate of Incorporation or as otherwise permitted under Delaware Law.

Section 6. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made (1) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock unless, prior thereto, the holders of shares of Series A Preferred Stock shall have received \$1.00 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment; provided that the holders of shares of Series A Preferred Stock shall be entitled to receive an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1,000 times the aggregate amount to be distributed per share to holders of Common Stock, or (2) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except distributions made ratably on the Series A Preferred Stock and all such other parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under the proviso in clause (1) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

Section 7. Consolidation, Merger, etc. If the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash or any other property, then in any such case the shares of Series A Preferred Stock shall at the same time be similarly exchanged for or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 1,000 times the aggregate amount of stock, securities, cash or any other property, as the case may be, into which or for which each share of Common Stock is changed or exchanged. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series A Preferred Stock shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

Section 8. No Redemption. The Series A Preferred Stock shall not be redeemable.

Section 9. Rank. The Series A Preferred Stock shall rank junior (as to dividends and upon liquidation, dissolution and winding up) to all other series of the Corporation's preferred stock except any series that specifically provides that such series shall rank junior to the Series A Preferred Stock.

Section 10. Fractional Shares. Series A Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Preferred Stock.

## Appendix B

### SERIES B PARTICIPATING PREFERRED STOCK

OF

### MASCO CORPORATION

Pursuant to the authority conferred upon the Board of Directors by the Certificate of Incorporation of the Corporation, the Board of Directors on June 6, 2001, adopted a resolution creating a series of Preferred Stock in the amount and having the designation, voting powers, preferences and relative, participating, optional and other special rights and qualifications, limitations and restrictions set forth below and in Section 7.13 of the Agreement and Plan of Reorganization (the "REORGANIZATION AGREEMENT") dated as of June 12, 2001, as amended from time to time, by and among the Corporation, Manufacturing Acquisition Corp., a Washington corporation, Tempering Acquisition Corp, a Washington corporation, Milgard Manufacturing Incorporated, a Washington corporation, Milgard Tempering Incorporated, a Washington corporation and, for the purposes set forth in the Reorganization Agreement, the Principal Shareholders parties thereto, the provisions of which are incorporated by reference into this Certificate of Designation:

Section 1. Designation and Number of Shares. The shares of such series shall be designated as "Series B Participating Preferred Stock" (the "SERIES B PREFERRED STOCK"), and the number of shares constituting such series shall be 16,666.666. Such number of shares of the Series B Preferred Stock may be decreased by resolution of the Board of Directors; provided that no decrease shall reduce the number of shares of the Series B Preferred Stock to a number less than the number of shares then outstanding.

Section 2. Dividends and Distributions. Except as provided in

Section 5 below, the holders of shares of Series B Preferred Stock shall be entitled to receive out of funds legally available for the purpose, immediately prior to the time paid to the holders of Common Stock, dividends (whether payable in cash, securities or assets, but excluding (x) any dividend payable in shares of Common Stock, par value \$1.00 per share, of the Corporation ("COMMON STOCK") and (y) any subdivision of the outstanding shares of Common Stock (by reclassification or otherwise) in which event the number of shares of Common Stock into which each share of Series B Preferred Stock shall be adjusted pursuant to Section 7(A)-(C) of this Certificate of Designation) in an aggregate amount per share equal to the product of (i) the aggregate amount to be declared and distributed (immediately after the distribution of dividends to holders of shares of Series B Preferred Stock in accordance with this Section 2) per share to holders of Common Stock, and (ii) the number of shares of Common Stock into which such share of Series B Preferred Stock would then be convertible for purposes of transfer as determined under

Section 6(E) of this Certificate of Designation. Accrued but unpaid dividends shall not bear interest. The Board of Directors may fix a record date for the determination of holders of shares of Series B Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be the same as the record date for the Common Stock and shall not be more than 60 days prior to the date fixed for the payment thereof.

Notwithstanding the foregoing, the holders of shares of Series B Preferred Stock shall not be entitled to receive any dividends in connection with the dividends declared on June 29, 2001 and payable on August 13, 2001 to holders of record of Common Stock as of July 13, 2001.

Section 3. Voting Rights. Except as required by law, the holders of shares of Series B Preferred Stock shall have the following voting rights and shall have no other voting rights:

(A) Each share of Series B Preferred Stock shall entitle the holder thereof to a number votes on all matters submitted to a vote of stockholders of the Corporation equal to the number of votes of the shares of Common Stock into which such share of Series B Preferred Stock would then be convertible for purposes of transfer as determined under Section 6(E) of this Certificate of Designation.

(B) Except as otherwise provided herein or required by law, the holders of shares of Series B Preferred Stock and the holders of shares of Common Stock shall vote together as a single class on all matters submitted to a vote of stockholders of the Corporation.

(C) Without the written consent of holders of a majority of the outstanding shares of Series B Preferred Stock or the vote of holders of a majority of the outstanding shares of Series B Preferred Stock at a meeting of the holders of the Series B Preferred Stock called for such purpose, the Corporation shall not have the right to amend, alter or repeal any provision of this Certificate of Designation so as to materially adversely affect the preferences, rights or powers of the Series B Preferred Stock.

Section 4. Reacquired Shares. Any shares of Series B Preferred Stock redeemed, purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock without designation as to series and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors as permitted by the Certificate of Incorporation or as otherwise permitted under Delaware Law.

Section 5. Liquidation, Dissolution or Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made to the holders of shares of Common Stock unless prior thereto, the holders of Series B Preferred Stock shall have received an aggregate amount per share equal to declared but unpaid dividends and distributions thereon plus an amount per share equal to the product of (i) the aggregate amount to be distributed per share to holders of Common Stock (taking into account the assumed conversion

of the Series B Preferred Stock into Common Stock) and (ii) the number of shares of Common Stock into which such share of Series B Preferred Stock would then be convertible for purposes of transfer, as determined pursuant to Section 6(E) of this Certificate of Designation.

#### Section 6. Ownership; Transfer; Conversion.

(A) Holders of shares of Series B Preferred Stock may (i) sell or otherwise dispose of or transfer any or all of the shares of such Series B Preferred Stock held by them only to persons who at the time of transfer are Permitted Transferees (as defined herein), and to no other persons, or (ii) convert any or all of such shares into shares of Common Stock for the purpose of effecting the sale or disposition of such shares of Common Stock to any person as provided in subparagraph (C) below. No one other than those persons in whose names shares of Series B Preferred Stock become registered on the stock ledger of the Corporation upon original issuance by the Corporation ("INITIAL HOLDERS"), or transferees or successive transferees who at the time of transfer are Permitted Transferees, shall by virtue of the acquisition of a certificate for shares of Series B Preferred Stock have the status of an owner or holder of shares of Series B Preferred Stock or be recognized as such by the Corporation or be otherwise entitled to enjoy for such person's benefit the rights and powers of a holder of shares of Series B Preferred Stock. "PERMITTED TRANSFEREE" shall mean, any Initial Holder, any Initial Holder's spouse, siblings or lineal descendants, any estate of any of the foregoing but only to the extent that the beneficiaries thereof are another Initial Holder or an Initial Holder's spouse or siblings or lineal descendants of an Initial Holder, any trust for the exclusive benefit of an Initial Holder or an Initial Holder's spouse, siblings or lineal descendants (or any combination of the foregoing) and any "private foundation" within the meaning of Sections 509 and 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "CODE") with respect to which an Initial Holder is a "disqualified person" within the meaning of Section 4946(a)(1)(A) of the Code (provided, however, that "50%" shall be substituted for "2%" where the latter figure appears in the definition of "substantial contributor" set forth in Section 507(d)(2) of the Code) or Section 4946(a)(1)(B) of the Code (provided, however, that for purposes of defining "foundation manager," Section 4946(b)(2) of the Code shall be disregarded). For purposes of determining whether an Initial Holder is a "substantial contributor" pursuant to the preceding sentence, (x) contributions made by all of the Initial Holder's Permitted Transferees (other than private foundations) shall be taken into account and (y) an Initial Holder will be considered a "substantial contributor" only if during the five-year period ending with the year in question, such Initial Holder has contributed (taking into account the contributions attributed to such person under clause (x) above) more than 50% of the total contributions received by the foundation since the foundation's inception.

(B) Every certificate for shares of Series B Preferred Stock shall bear a legend reading as follows: "The shares of Series B Preferred Stock represented by this certificate may not be transferred to any person who is not a "Permitted Transferee" as defined in Section 6(A) of the Certificate of Designation of Series B Participating Preferred Stock of Masco Corporation as amended, and no person who does not qualify as a Permitted Transferee is entitled to own or to be registered as the record holder of such shares of Series B Preferred Stock, but the record holder may at any time convert such shares of Series B Preferred Stock into a number of shares

of Common Stock as determined pursuant to Section 6(E) of the Certificate of Designation of Series B Participating Preferred Stock of Masco Corporation for the purpose of effecting the sale or other disposition of such shares of Common Stock to any person. Each holder of this certificate, by accepting the same, accepts and agrees to all of the foregoing. The shares of Series B Preferred Stock represented by this certificate are subject to certain other restrictions on transfer set forth in the Certificate of Designation of Series B Participating Preferred Stock of Masco Corporation, including certain provisions of the Agreement and Plan of Reorganization (the "REORGANIZATION AGREEMENT") dated as of June 12, 2001, as amended from time to time, by and among Masco Corporation, Manufacturing Acquisition Corp., a Washington corporation, Tempering Acquisition Corp, a Washington corporation, Milgard Manufacturing Incorporated, a Washington corporation, Milgard Tempering Incorporated, a Washington corporation and, for the purposes set forth in the Reorganization Agreement, the Principal Shareholders parties thereto, that are incorporated by reference therein, a copy of which Reorganization Agreement may be obtained at the principal office of Masco Corporation."

(C) Upon the sale or disposition (including deemed sales and dispositions as provided in Section 7.13 of the Reorganization Agreement) of any shares of Series B Preferred Stock to any person who is not a Permitted Transferee, such shares of Series B Preferred Stock shall be automatically converted into a number of shares of Common Stock determined pursuant to Section 6(E)(1) of this Certificate of Designation. All certificates evidencing shares of Series B Preferred Stock that have been automatically converted in accordance with the provisions hereof shall, from and after the date of such conversion, be deemed to have been retired and canceled and the shares of Series B Preferred Stock represented thereby converted at the time of such sale or disposition into Common Stock in accordance with this Section 6 for all purposes, notwithstanding the failure of the holder or holders thereof to surrender such certificates. Upon request for transfer of any Series B Preferred Stock certificate and upon delivery to the Corporation of the certificates evidencing the shares of Series B Preferred Stock to be converted upon such transfer, the Corporation shall issue certificates for the shares of Common Stock into which such shares of Series B Preferred Stock are convertible as determined pursuant to Section 6(E) of this Certificate of Designation.

(D) The Corporation may elect, by written notice (the "CORPORATION CONVERSION NOTICE") delivered to each holder of record of shares of Series B Preferred Stock by first class mail, postage prepaid at such holder's address as the same appears on the stock register of the Corporation, to cause all of the shares of Series B Preferred Stock to be converted into a number of shares of Common Stock determined pursuant to Section 6(E) of this Certificate of Designation. Such conversion shall be deemed to have been effected immediately prior to the close of business on the date the Corporation Conversion Notice shall have been mailed, and the person in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder of record of the shares of Common Stock determined pursuant to Section 6(E) of this Certificate of Designation represented thereby at such time on such date. All certificates evidencing shares of Series B Preferred Stock that have been converted in accordance with this Section 6(D) shall, from and after the date of such conversion, be deemed to have been retired and canceled and the shares of

Series B Preferred Stock represented thereby converted into Common Stock in accordance with this Section 6(D) for all purposes, notwithstanding the failure of the holder of the shares or holders thereof to surrender certificates for such shares. Upon delivery to the Corporation of the certificates evidencing the shares of Series B Preferred Stock so converted by the Corporation, the Corporation shall issue certificates for the shares of Common Stock into which such shares of Series B Preferred Stock have been converted as determined pursuant to Section 6(E) of this Certificate of Designation.

(E) (1) Upon a conversion in accordance with subparagraph (C) or (D) above, each share of Series B Preferred Stock shall be converted into 1,000 shares of Common Stock (the "INITIAL CONVERSION RATE"). The Initial Conversion Rate shall be subject to adjustment as provided in Section 7(A)-(C) below.

(2) If (x) the Corporation exercises its right to give a Corporation Conversion Notice (as provided in Section 6(D) of this Certificate of Designation) and (y) on the date of such Corporation Conversion Notice the Market Value Trigger has not been achieved, then, notwithstanding Section 6(E)(1) of this Certificate of Designation, each share of Series B Preferred Stock so converted shall be converted into a number of shares of Common Stock equal to the product obtained by multiplying (a) the Initial Conversion Rate (adjusted as provided pursuant to Section 7(A)-(C) of this Certificate of Designation) by (b) a fraction (which shall in no event be less than 1.00) of which the numerator is the Price Target (adjusted as provided pursuant to Section 7(D) of this Certificate Designation), and of which the denominator is the Adjustment Price on the date of such Corporation Conversion Notice (the "DELIVERABLE COMMON STOCK AMOUNT"). If the Corporation desires to give a Corporation Conversion Notice on a date when the Adjustment Price is equal to or greater than the Dollar Price, then the Corporation shall have the option either to (x) give a Corporation Conversion Notice on that date, in which event the Adjustment Price will be deemed to be the Dollar Price or (y) give notice (the "DOLLAR CONVERSION NOTICE") to the holders that it will give a Corporation Conversion Notice on a date no later than 60 days after the Dollar Conversion Notice. If the Corporation gives a Dollar Conversion Notice, then the Corporation will be required to give a Corporation Conversion Notice on a date selected by the Corporation in its sole discretion, which date must be on or after the 10th trading day and on or before the 60th day after the date of the Dollar Conversion Notice, it being understood that, for purposes of that Corporation Conversion Notice, the Adjustment Price shall be the greater of the average of the Daily Per Share Prices of the Common Stock for the 10 trading days ending on the trading day immediately preceding the date of the Corporation Conversion Notice and the Dollar Price; provided, however, that if a Market Value Trigger is achieved after the Corporation gives a Dollar Conversion Notice but before a Corporation Conversion Notice is given pursuant to this sentence, the Dollar Conversion should be null and void and such Corporation Conversion Notice shall not be required. Notwithstanding Section 6(D) of this Certificate of Designation, the Corporation shall not have the right without the prior consent of holders of at least a majority of the Series B Preferred Stock to give a Corporation Conversion Notice on any date on or prior to the first anniversary of the Effective Time if the applicable Adjustment Price on that date is less than the Minimum Price.

Notwithstanding Section 6(D) of this Certificate of Designation, if the Corporation gives a Corporation Conversion Notice on a date on or prior to the earlier of the Adjustment Date and the date on which a Market Value Trigger has been achieved, such notice shall apply only to shares of Series B Preferred Stock which, on the date of such Corporation Conversion Notice, are convertible into shares of Common Stock that are Freely Tradeable, it being understood that

(x) the Corporation shall be entitled to give a Corporation Conversion Notice which shall apply to all shares of Series B Preferred Stock that are convertible into Freely Tradeable Common Stock on the date of the Corporation Conversion Notice and (y) the Corporation shall be entitled to give a Corporation Conversion Notice from time to time with respect to any remaining shares of Series B Preferred Stock at such time as the shares of Common Stock into which such shares of Series B Preferred Stock are convertible are Freely Tradeable, it being understood that the Corporation shall use all reasonable efforts to assure that there will be no more than two Corporation Conversion Notices given.

The "ADJUSTMENT PRICE" shall mean on any date the average of the Daily Per Share Prices of the Common Stock for the 10 trading days ending on the trading day immediately preceding such date, provided that if such date is after the third anniversary of the Effective Time (such third anniversary being referred to herein as the "ADJUSTMENT DATE"), the Adjustment Price shall mean the average of the Daily Per Share Prices of the Common Stock for the 10 trading days ending on the trading day immediately preceding the Adjustment Date (the "THIRD ANNIVERSARY ADJUSTMENT PRICE").

The "DAILY PER SHARE PRICE" of Common Stock on any date shall mean the average of the high and low prices of a share of Common Stock on the New York Stock Exchange or such other securities exchange on which the Common Stock is listed or quoted on such date.

The "DOLLAR PRICE" shall have the meaning set forth in Section 7.13(a) of the Reorganization Agreement, subject to adjustment as provided below in Section 7(D) of this Certificate of Designation.

The "EFFECTIVE TIME" shall have the meaning set forth in Section 2.1 of the Reorganization Agreement.

The "PRICE TARGET" shall have the meaning set forth in Section 7.13(b) of the Reorganization Agreement, subject to adjustment as provided in Section 7(D) of this Certificate of Designation.

The "MINIMUM PRICE" shall have the meaning set forth in Section 7.13(c) of the Reorganization Agreement, subject to adjustment as provided below in Section 7(D).

The "MARKET VALUE TRIGGER" shall have the meaning set forth in Section 7.13(d) of the Reorganization Agreement. The Corporation shall give written notice (which notice may, but is not required to, be given in a Corporation Conversion Notice) to the holders of shares of the Series B Preferred Stock as soon as practicable upon the achievement of the Market Value Trigger, it being understood that any failure to deliver such notice shall be irrelevant in determining whether the Market Value Trigger has been achieved.



Series B Preferred Stock shall be deemed to be "FREELY TRADEABLE" to the extent that

(a) a registration statement on Form S-3 (or other applicable form) is effective with respect to the shares of Common Stock into which the outstanding shares of Series B Preferred Stock are convertible, and will remain effective until the earlier of the date 90 days after such effective date or the date on which all registered shares have been sold or holders request withdrawal of registration; or

(b) the holder of the Series B Preferred Stock can freely sell the Common Stock into which such Series B Preferred Stock is convertible within 90 days pursuant to Rule 144. It is understood and agreed that, if the Corporation is relying on this clause (b) to satisfy the Market Value Trigger, then, for any holder of shares of Series B Preferred Stock who, after converting such holder's shares into Common Stock, would not be permitted to sell all of such shares of Common Stock within 90 days because of the volume limitations set forth in Rule 144, the Market Value Trigger shall be achieved only with respect to the shares of Series B Preferred Stock that, upon conversion into Common Stock, could be sold within such 90 day period, and shall not be achieved with respect to the remaining shares of Series B Preferred Stock held by such holder (such remaining shares being referred to as the "VOLUME LIMITED SHARES"). The Market Value Trigger shall be deemed to be achieved with respect to any such Volume Limited Shares if the average of the Daily Per Share Prices of Common Stock for any five trading days (whether or not consecutive) during any period of 20 consecutive trading days beginning on or after the ninety-first day following the achievement of a Market Value Trigger with respect to non-Volume Limited Shares, is equal to or greater than the Price Target. Notwithstanding the foregoing, if any Series B Preferred Stock would have been Freely Tradeable if still held by the Initial Holder of such Series B Preferred Stock, then such Series B Preferred Stock shall be deemed Freely Tradeable even if such Series B Preferred Stock has been or later is transferred to a Permitted Transferee. The holders of Series B Preferred Stock will cooperate with the Corporation in any of the Corporation's efforts to register the shares of Common Stock into which the Series B Preferred Stock is convertible.

(3) If on or after the Adjustment Date (x) any holder of Series B Preferred Stock causes, after the earlier of the 30th day after the Adjustment Date and the 10th day after written notice to the Corporation by such holder of Series B Preferred Stock, the conversion of such Series B Preferred Stock into Common Stock pursuant to Section 6(C) of this Certificate of Designation, (y) the Market Value Trigger has not been achieved and (z) the Corporation has not given a Corporate Conversion Notice, then, notwithstanding Section 6(E)(1) of this Certificate of Designation, each share of Series B Preferred Stock so converted shall be converted into a number of shares of Common Stock equal to the product obtained by multiplying (a) the Initial Conversion Rate (as adjusted pursuant to Section 7(A)-(C) of this Certificate of Designation) by (b) a fraction (which shall in no event be less than 1.00) of which the numerator is the Price Target, and of which the denominator is the Third Anniversary Adjustment Price.

(4) If the Corporation gives a Corporation Conversion Notice on any date (a) after the first anniversary of the Effective Time, (b) prior to the first date subsequent to such first anniversary on which a Market Value Trigger is achieved and (c) prior to the end of the 60th day following the Adjustment Date, and if, at such time the Adjustment Price is less than the Price Target, then the Corporation shall have the option (by notice given in the Corporation Conversion Notice) to require a portion of the Deliverable Common Stock Amount to be delivered into an escrow account established with Chase Manhattan or another nationally recognized escrow agent selected by the Corporation (the "CONVERSION ESCROW ACCOUNT"), which portion may not exceed the quotient obtained by dividing (i) the difference equal to (x) the Price Target minus (y) the Adjustment Price by (ii) the Price Target. The Corporation shall be required to repurchase the shares of Common Stock so delivered into the Conversion Escrow Account on the third day (or, if such day is not a business day, then on the next succeeding business day) for an amount per share in cash equal to the Adjustment Price. Notwithstanding anything to the contrary herein, the Corporation shall not be permitted to make the election described in this Section 6(E)(4) unless it has delivered an Officers' Certificate to the effect that, at the time that the applicable Corporation Conversion Notice is given, there has been no Actual Repurchase nor is there a Planned Repurchase that individually or in the aggregate would result in the Actual Ownership being equal to or greater than the Original Ownership. The cash delivered by the Corporation into the Conversion Escrow Account shall be promptly delivered by the escrow agent to the appropriate holders. "OFFICERS' CERTIFICATE" means a certificate signed by the Chairman of the Board of Directors or the President or any Vice President (whether or not designated by a number or numbers or a word or words added before or after the title "Vice President") and by the Treasurer or the Secretary or any Assistant Secretary of the Corporation.

"ACTUAL OWNERSHIP" means a fraction (x) the numerator of which is the difference equal to the Deliverable Common Stock Amount minus the number of shares of Common Stock to be repurchased by the Corporation pursuant to, as applicable, Section 6(E)(4) or 6(E)(7) and (y) the denominator of which is the total outstanding shares of Common Stock immediately after the applicable repurchase (taking into account any Actual Repurchase and Planned Repurchase).

"ORIGINAL OWNERSHIP" means a fraction (x) the numerator of which is the Deliverable Common Stock Amount and (y) the denominator of which is the sum of (I) the total outstanding shares of Common Stock immediately before the applicable conversion and (II) the Deliverable Common Stock Amount (without taking into account any Actual Repurchase and Planned Repurchase).

"PLANNED REPURCHASE" means any purchase of Common Stock by the Corporation or any affiliate from stockholders (other than holders of Series B Preferred Stock) made within six (6) months after the applicable Corporation Conversion Notice is given and pursuant to a plan which exists at the time such notice is given.

"ACTUAL REPURCHASE" means any purchase of Common Stock by the Corporation or any affiliate from stockholders (other than holders of Series B Preferred Stock) made within six (6) months prior to the date that the applicable Corporation Conversion Notice is given but only if such purchase is made pursuant to a plan that (i) exists at the time of such purchase and continues through the date of the applicable Corporation Conversion Notice and (ii) that includes the applicable repurchase of shares in the Conversion Escrow Account.

(5) If the Corporation has not given a Corporation Conversion Notice on or after the Adjustment Date with respect to any shares of Series B Preferred Stock then outstanding, then, prior to the end of the sixtieth (60th) day following the Adjustment Date, the holders of a majority of the shares of Series B Preferred Stock then outstanding may require, by written notice, the Corporation to deliver as soon as practicable a Corporation Conversion Notice with respect to the conversion of all outstanding shares of the Series B Preferred Stock, it being understood that if the Corporation gives a Corporation Conversion Notice within 10 days after receipt by the Corporation of a written notice from a majority of the shares of Series B Preferred Stock then outstanding, then the Corporation shall have the option (by notice given in such Corporation Conversion Notice) to require a portion of the shares of Common Stock that would otherwise be delivered upon conversion of such shares to be delivered into a Conversion Escrow Account in accordance with Section 6(E)(4) of this Certificate of Designation.

(6) The Corporation shall give a Corporation Conversion Notice immediately prior to the consummation of any Significant Business Transaction.

A "SIGNIFICANT BUSINESS TRANSACTION" shall mean the sale of all or substantially all of the Corporation's assets to another corporation in a single transaction or series of related transactions or a merger, consolidation or other business combination in which, following such transaction, Common Stock (or, if in such transaction, the holders of the Common Stock receive stock of another corporation, the stock of such other corporation) is not listed on the New York Stock Exchange, NASDAQ or another national securities exchange.

(7) If the Corporation gives a Corporation Conversion Notice at any time after the first anniversary of the Effective Time and before the end of the 60th day after the Adjustment Date, and if, at such time the Adjustment Price is less than the Minimum Price, then, without limiting the Corporation's rights under Section 6(E)(4) above and notwithstanding Sections 6(D) and 6(E)(1) of this Certificate of Designation, if a majority of the outstanding shares of Series B Preferred Stock subject to such Corporation Conversion Notice elect, the Corporation shall be required to deliver into the Conversion Escrow Account a portion of the Deliverable Common Stock Amount. Such portion shall be equal to a fraction of which the numerator is the Minimum Price minus the Adjustment Price and of which the denominator is the Minimum Price. In determining whether to make the election set forth in the first sentence of this Section 6(E)(7), each holder of such Series B Preferred Stock subject to such Corporation Conversion Notice shall be entitled to request and rely upon an Officers' Certificate to the effect that, at the time that the applicable Corporation Conversion Notice is given, there has been no Actual Repurchase nor is there a Planned Repurchase that would result in the holder's Actual Ownership being

equal to or greater than such holder's Original Ownership. The Corporation shall be required to repurchase the shares of Common Stock so delivered into the Conversion Escrow Account as determined above in this Section 6(E)(7) on the third day after such delivery (or, if such day is not a business day, then on the next succeeding business day) for an amount per share (in cash) or a principal amount per share (in 3-year notes of the Corporation (bearing a market rate of interest to be agreed between the Corporation and the Principal Shareholders and without financial covenants)) equal to the Adjustment Price. The cash or notes delivered by the Corporation into the Conversion Escrow Account shall be promptly delivered by the escrow agent to the appropriate holders.

(F) The Corporation shall at all times reserve and keep available, out of its authorized but unissued Common Stock, such number of shares of Common Stock as would become issuable upon the conversion of all shares of Series B Preferred Stock then outstanding.

#### Section 7. Anti-Dilution and Adjustment Provisions.

(A) In case the Corporation shall (i) pay a dividend or make a distribution in shares of Common Stock, (ii) subdivide its outstanding shares of Common Stock into a greater number of shares or (iii) combine its outstanding shares of Common Stock into a smaller number of shares, the Initial Conversion Rate in effect immediately prior to such action shall be adjusted so that the holder of any shares of the Series B Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock which such holder would have owned or have been entitled to receive immediately following such action had such shares been converted immediately prior thereto. An adjustment made pursuant to this Section 7(A) shall become effective immediately after the record date in the case of a dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision or combination.

(B) In case the Corporation shall consolidate with or merge into any other Person (other than in a transaction constituting a Significant Business Transaction as set forth in Section 6(E)(6) of this Certificate of Designation), then the Initial Conversion Rate in effect at the time of consolidation or merger shall be adjusted so that the holder of any shares of the Series B Preferred Stock thereafter surrendered for conversion shall be entitled to receive the number of shares of Common Stock or other securities of the Corporation (or shares or other securities of any person into which such shares of Common Stock have been converted in such consolidation or merger) and the amount of cash or other property which such holder would have owned or have been entitled to receive immediately following such action had such shares been converted immediately prior to such consolidation or merger, assuming such holder of Common Stock failed to exercise any rights of election as to the kind or amount of securities, cash and other property receivable upon such consolidation or merger (provided, that if the kind or amount of securities, cash and other property receivable upon such consolidation or merger is not the same for each share of Common Stock held immediately prior to such consolidation or merger by other than a constituent person or an affiliate thereof and in respect of which such rights of election shall not have been exercised ("NON-ELECTING SHARE")), then for the purpose of this subparagraph the kind and amount of securities, cash and other property receivable upon such

consolidation or merger by each non-electing share shall be deemed to be the kind and amount so receivable per share by a plurality of the non-electing shares). Such adjustment shall be made successively whenever any event listed above shall occur.

(C) Notwithstanding the foregoing, the Corporation will not be required to make any adjustment to the Initial Conversion Rate unless such adjustment would result in an increase or decrease of at least 1% in such rate; provided, however, that all smaller adjustments will be carried forward and taken into account in any subsequent adjustment. All adjustments to the Initial Conversion Rate will be calculated to the nearest 1/100 of a share of Common Stock (with 5/1000 of a share being rounded down to the next lower 1/100 of a share).

(D) The Price Target, Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price as set forth in Section 7.13 of the Reorganization Agreement and for purposes of Section 6(C) and 6(E) of this Certificate of Designation, as the case may be, shall be subject to adjustment from time to time as follows:

(1) In case the Initial Conversion Rate shall be adjusted pursuant to Section 7(A)-(C) of this Certificate of Designation, the Price Target, Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price shall each be adjusted to a price, computed to the nearest cent, so that the same shall equal the price determined by multiplying the Price Target, Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price, respectively, by a fraction the numerator of which is the Initial Conversion Rate in effect immediately preceding such adjustment and the denominator of which is the Initial Conversion Rate in effect immediately following such adjustment.

(2) In case the Corporation shall issue rights or warrants to all holders of Common Stock entitling them (for a period not exceeding 45 days from the date of such issuance) to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (as determined pursuant to Section 8(C) of this Certificate of Designation) of the Common Stock on the record date mentioned below, the Price Target, Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price shall each be adjusted so that the same shall equal the number determined by multiplying such prices as in effect immediately prior to the date of issuance of such rights or warrants by a fraction, of which

(x) the numerator shall be (A) the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants, immediately prior to such issuance, plus (B) the number of shares of Common Stock which the aggregate offering price of the total number of shares so offered for subscription or purchase would purchase at such current market price (determined by multiplying such total number of shares by the exercise price of such rights or warrants and dividing the product so obtained by such current market price), and of which

(y) the denominator shall be (A) the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants, immediately prior to such issuance, plus (B) the number of additional shares of Common Stock which are so offered for subscription or purchase.

Such adjustment shall become effective immediately after the record date for the determination of holders entitled to receive such rights and warrants.

(3) In case the Corporation shall distribute to substantially all holders of Common Stock evidences of indebtedness, equity securities (including equity interests in the Corporation's Subsidiaries (as hereinafter defined)) other than the Common Stock, or other assets (other than cash dividends in an amount not in excess of 200% of the Corporation's regular quarterly cash dividends for the last 4 quarters preceding the date of the Reorganization Agreement, as adjusted for any stock splits, dividends or combinations or other similar events after the date of the Reorganization Agreement), or shall distribute to substantially all holders of Common Stock rights or warrants to subscribe for securities (other than those referred to in Section 7(D)(2) of this Certificate of Designation), then in each such case the Price Target shall be adjusted so that the same shall equal the Price Target in effect on the record date for the determination of holders of shares of Series B Preferred Stock entitled to receive such distribution less the then fair market value (as determined in good faith by the Board of Directors, whose determination thereof shall be conclusive) of the portion of the assets, evidences of indebtedness and equity securities so distributed or of such subscription rights or warrants applicable to one share of Common Stock. As used herein, the term "Subsidiary" means (x) any corporation or other entity of which securities or other ownership interest having ordinary voting power to elect a majority of the board of directors or other person performing similar functions are at the time directly or indirectly owned by the Corporation or (y) any partnership of which more than 50% of the partnership interests are owned by the Corporation or any Subsidiary. Upon such Price Target adjustment, the Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price shall each be adjusted to a price, computed to the nearest cent, so that the same shall equal the price determined by multiplying the Minimum Price, Dollar Price, Permitted Hedging Lower Price and Permitted Hedging Higher Price respectively, by a fraction of which the numerator is the Price Target immediately following such adjustment and of which the denominator is the Price Target immediately prior to such adjustment.

#### Section 8. Fractional Shares.

(A) Series B Preferred Stock may be issued in fractions of a share which shall

entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series B Preferred Stock.

(B) No fractional shares of Common Stock will be issued upon conversion of the Series B Preferred Stock. In lieu of any fractional share otherwise issuable in respect of all Series B Preferred Stock of any holder which is converted on any conversion date, such holder shall be entitled to receive an amount in cash equal to the same fraction of the current market price per share (as determined pursuant to Section 8(C) below) of the Common Stock on the second trading day immediately preceding the conversion.

(C) For purposes of any computation under Section 7(D) of this Certificate of Designation and this Section 8, the current market price per share of Common Stock on any date shall be deemed to be the average of the high and low prices of a share of Common Stock on the New York Stock Exchange or such other securities exchange on which the Common Stock is listed or quoted on such day for the 10 trading days ending on the trading day prior to such date.

#### Section 9. Waiver.

(A) To the fullest extent permitted by law, any provision of this Certificate of Designation may be waived as to the Corporation or any holder or holders of Series B Preferred Stock without the consent of the holders of Common Stock or the other holders of Series B Preferred Stock if, but only if, that waiver is in writing and is signed, in the case of a waiver, by the party or parties against whom the waiver is to be effective; provided that any waiver that would materially adversely affect the preferences, rights or powers of the other holders of Series B Preferred Stock shall also require the prior written consent of the holders of a majority of the Series B Preferred Stock.

(B) No failure or delay on the part of the Corporation in exercising any right, power or privilege under this Certificate of Designation shall operate as a waiver, nor shall any single or partial exercise preclude any other or further exercise of any other right, power or privilege.

**EXHIBIT 4.4**

---

**MASCO CORPORATION**

and

---

**As Depositary**

and

**HOLDERS OF DEPOSITARY RECEIPTS**

---

**DEPOSIT AGREEMENT**

---

**Dated as of**

---



**TABLE OF CONTENTS**

	Page
Parties.....	1
Recitals .....	1

ARTICLE I  
DEFINITIONS

"Certificate of Designation".....	1
"Certificate of Incorporation".....	1
"Company".....	1
"Corporate Office" .....	1
"Deposit Agreement".....	2
"Depository" .....	2
"Depository Share" .....	2
"Depository's Agent" .....	2
"Receipt".....	2
"record holder".....	2
"Registrar".....	2
"Securities Act" .....	2
"Stock".....	2

ARTICLE II

FORM OF RECEIPTS, DEPOSIT OF STOCK,  
EXECUTION AND DELIVERY, TRANSFER, SURRENDER  
AND REDEMPTION AND REPURCHASE OF RECEIPTS

SECTION 2.01	Form and Transfer of Receipts .....	3
SECTION 2.02	Deposit of Stock; Execution and Delivery of Receipts in Respect Thereof .....	4
SECTION 2.03	Redemption and Repurchase of Stock.....	5
SECTION 2.04	Register of Transfer of Receipts.....	7
SECTION 2.05	Combination and Split-ups of Receipts .....	7
SECTION 2.06	Surrender of Receipts and Withdrawal of Stock .....	7

SECTION 2.07	Limitations on Execution and Delivery, Transfer, Split-up, Combination and Surrender of Receipts and Withdrawal or Deposit of Stock.....	8
SECTION 2.08	Lost Receipts, etc.....	8
SECTION 2.09	Cancellation and Destruction of Surrendered Receipts.....	9

ARTICLE III

CERTAIN OBLIGATIONS OF HOLDERS OF RECEIPTS AND THE COMPANY

SECTION 3.01	Filing Proofs, Certificates and Other Information .....	9
SECTION 3.02	Payment of Taxes or Other Governmental Charges.....	9
SECTION 3.03	Withholding .....	9
SECTION 3.04	Representations and Warranties as to Stock .....	10

ARTICLE IV

THE STOCK, NOTICES

SECTION 4.01	Cash Distributions.....	10
SECTION 4.02	Distributions Other Than Cash .....	10
SECTION 4.03	Subscription Rights, Preferences or Privileges .....	11
SECTION 4.04	Notice of Dividends, Fixing of Record Date for Holders of Receipts.....	12
SECTION 4.05	Voting Rights .....	12
SECTION 4.06	Changes Affecting Stock and Reclassifications, Recapitalizations, etc. ....	12
SECTION 4.07	Reports .....	13
SECTION 4.08	Lists of Receipt Holders.....	13

ARTICLE V

THE DEPOSITARY, THE DEPOSITARY'S AGENTS,  
THE REGISTRAR AND THE COMPANY

SECTION 5.01	Maintenance of Offices, Agencies, Transfer Books by the Depositary; the Registrar .....	13
SECTION 5.02	Prevention or Delay in Performance by the Depositary, the Depositary's Agents, the Registrar or the Company .....	14
SECTION 5.03	Obligations of the Depositary, the Depositary's Agents, the Registrar and the Company .....	14
SECTION 5.04	Resignation and Removal of the Depositary, Appointment of Successor Depositary.....	16
SECTION 5.05	Corporate Notices and Reports .....	17
SECTION 5.06	Deposit of Stock by the Company .....	17
SECTION 5.07	Indemnification by the Company.....	17
SECTION 5.08	Fees, Charges and Expenses.....	17

ARTICLE VI

AMENDMENT AND TERMINATION

SECTION 6.01	Amendment .....	18
SECTION 6.02	Termination .....	18

ARTICLE VII

MISCELLANEOUS

SECTION 7.01	Counterparts.....	18
SECTION 7.02	Exclusive Benefits of Parties .....	19
SECTION 7.03	Invalidity of Provisions.....	19
SECTION 7.04	Notices .....	19
SECTION 7.05	Depositary's Agents .....	20
SECTION 7.06	Holder of Receipts Are Parties .....	20

SECTION 7.07	Governing Law .....	20
SECTION 7.08	Headings.....	20
TESTIMONIUM.....		21
SIGNATURES.....		21
EXHIBIT A.....		1

**DEPOSIT AGREEMENT**

DEPOSIT AGREEMENT, dated as of \_\_\_\_\_ among Masco Corporation, a Delaware corporation, \_\_\_\_\_, a \_\_\_\_\_ existing under the laws of the State of \_\_\_\_\_, as Depositary, and all holders from time to time of Receipts issued hereunder.

**WITNESSETH:**

WHEREAS, the Company desires to provide as hereinafter set forth in this Deposit Agreement, for the deposit of shares of the Stock with the Depositary, as agent for the beneficial owners of the Stock, for the purposes set forth in this Deposit Agreement and for the issuance hereunder of the Receipts evidencing Depositary Shares representing an interest in the Stock so deposited; and

WHEREAS, the Receipts are to be substantially in the form annexed as Exhibit A to this Deposit Agreement, with appropriate insertions, modifications and omissions, as hereinafter provided in this Deposit Agreement.

NOW, THEREFORE, in consideration of the premises contained herein, it is agreed by and among the parties hereto as follows:

**ARTICLE I**

**DEFINITIONS**

The following definitions shall apply to the respective terms (in the singular and plural forms of such terms) used in this Deposit Agreement and the Receipts:

"Certificate of Designation" shall mean the Certificate of Designation establishing and setting forth the rights, preferences, privileges and limitations of the Stock, as filed with the Secretary of State of the State of Delaware.

"Certificate of Incorporation" shall mean the Restated Certificate of Incorporation, as amended and restated from time to time, of the Company.

"Company" shall mean Masco Corporation, a Delaware corporation, and its successors.

"Corporate Office" shall mean the office of the Depositary in \_\_\_\_\_, at which at any particular time its business in respect of matters governed by this Deposit Agreement shall be administered, which at the date of this Deposit Agreement is located at \_\_\_\_\_.

"Deposit Agreement" shall mean this agreement, as the same may be amended, modified or supplemented from time to time.

"Depository" shall mean , as Depository hereunder, and any successor as Depository hereunder.

"Depository Share" shall mean the rights evidenced by the Receipts executed and delivered hereunder, including the interests in Stock granted to holders of Receipts pursuant to the terms and conditions of the Deposit Agreement. Each Depository Share shall represent an interest in \_\_\_\_\_ of one share of Stock deposited with the Depository hereunder and the same proportionate interest in any and all other property received by the Depository in respect of such share of Stock and held under this Deposit Agreement. Subject to the terms of this Deposit Agreement, each record holder of a Receipt evidencing a Depository Share or Shares is entitled, proportionately, to all the rights, preferences and privileges of the Stock represented by such Depository Share or Shares, including the dividend, redemption, voting and liquidation rights contained in the Certificate of Designation, and to the benefits of all obligations and duties of the Company in respect of the Stock under the Certificate of Designation and the Certificate of Incorporation.

"Depository's Agent" shall mean an agent appointed by the Depository as provided, and for the purposes specified, in Section 7.05.

"Receipt" shall mean a Depository Receipt executed and delivered hereunder, in substantially the form of Exhibit A hereto, evidencing a Depository Share or Shares, as the same may be amended from time to time in accordance with the provisions hereof.

"record holder" or "holder" as applied to a Receipt shall mean the person in whose name a Receipt is registered on the books maintained by or on behalf of the Depository for such purpose.

"Registrar" shall mean any company appointed to register ownership and transfers of Receipts as herein provided.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Stock" shall mean shares of the Company's Preferred Stock, Series , par value \$1.00 per share.

## **ARTICLE II**

### **FORM OF RECEIPTS, DEPOSIT OF STOCK, EXECUTION AND DELIVERY, TRANSFER, SURRENDER AND REDEMPTION AND REPURCHASE OF RECEIPTS**

SECTION 2.01. Form and Transfer of Receipts. Receipts shall be engraved or printed or lithographed on steel-engraved borders unless they are evidenced by a global receipt held by a depository for a clearing system and shall be substantially in the form set forth in Exhibit A annexed to this Deposit Agreement, with appropriate insertions, modifications and omissions, as hereinafter provided. Receipts shall be executed by the Depository by the manual signature of a duly authorized officer of the Depository; provided, however, that such signature may be a facsimile if a Registrar (other than the Depository) shall have countersigned the Receipts by manual signature of a duly authorized officer of the Registrar. Pending the preparation of definitive Receipts, the Depository, upon the written order of the Company delivered in accordance with Section 2.02, shall execute and deliver temporary Receipts which shall be printed, lithographed, typewritten, or otherwise reproduced substantially of the tenor of the definitive Receipts in lieu of which they are issued and with appropriate insertions, omissions, substitutions and other variations as the persons executing such Receipts may determine are necessary for such temporary Receipts, as evidenced by their execution of such temporary Receipts. If temporary Receipts are issued, the Company and the Depository will cause definitive Receipts to be prepared without unreasonable delay; provided that if such temporary Receipts are global Receipts definitive Receipts need not be prepared until the Receipts cease to be held in global form. After the preparation of definitive Receipts, the temporary Receipts shall be exchangeable for definitive Receipts upon surrender of the temporary Receipts at the Corporate Office or such other office as the Depository may designate, without charge to the holder. Upon surrender for cancellation of any one or more temporary Receipts, the Depository shall execute and deliver in exchange therefor definitive Receipts representing the same number of Depository Shares as represented by the surrendered temporary Receipt or Receipts. Such exchange shall be made at the Company's expense and without any charge therefor. Until so exchanged, the temporary Receipts shall in all respects be entitled to the same benefits under this Agreement, and with respect to the Stock, as definitive Receipts.

No Receipt shall be entitled to any benefits under this Deposit Agreement or be valid or obligatory for any purpose unless it shall have been executed as provided in the preceding paragraph. The Depository shall record on its books each Receipt executed as provided above and delivered as hereinafter provided. Receipts bearing the facsimile signature of anyone who was at any time a duly authorized officer of the Depository shall bind the Depository, notwithstanding that such officer has ceased to hold such office prior to the delivery of such Receipts.

Receipts may be issued in denominations of any number of whole Depository Shares. All Receipts shall be dated the date of their execution.

Receipts may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Deposit Agreement as may be required by the Depository or required to comply with any applicable law or regulation or with

the rules and regulations of any securities exchange upon which the Stock or the Depositary Shares may be listed or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Receipts are subject by reason of the date of issuance of the Stock or otherwise.

Title to any Receipt (and to the Depositary Shares evidenced by such Receipt) that is properly endorsed or accompanied by a properly executed instrument of transfer shall be transferable by delivery with the same effect as in the case of investment securities in general; provided, however, that the Depositary may, notwithstanding any notice to the contrary, treat the record holder thereof at such time as the absolute owner thereof for the purpose of determining the person entitled to distributions of dividends or other distributions or to any notice provided for in this Deposit Agreement and for all other purposes.

**SECTION 2.02. Deposit of Stock; Execution and Delivery of Receipts in Respect Thereof.** Subject to the terms and conditions of this Deposit Agreement, the Company or any holder of Stock may deposit such Stock under this Deposit Agreement by delivery to the Depositary of a certificate or certificates for the Stock to be deposited, properly endorsed or accompanied, if required by the Depositary, by a properly executed instrument of transfer in form satisfactory to the Depositary, together with (i) all such certifications as may be required by the Depositary in accordance with the provisions of this Deposit Agreement and (ii) a written order of the Company or such holder, as the case may be, directing the Depositary to execute and deliver to or upon the written order of the person or persons stated in such order a Receipt or Receipts for the number of Depositary Shares representing such deposited Stock.

Upon receipt by the Depositary of a certificate or certificates for Stock to be deposited hereunder, together with the other documents specified above, the Depositary shall, as soon as transfer and registration can be accomplished, present such certificate or certificates to the registrar and transfer agent of the Stock for transfer and registration in the name of the Depositary or its nominee of the Stock being deposited. Deposited Stock shall be held by the Depositary in an account to be established by the Depositary at the Corporate Office.

Upon receipt by the Depositary of a certificate or certificates for Stock to be deposited hereunder, together with the other documents specified above, the Depositary, subject to the terms and conditions of this Deposit Agreement, shall execute and deliver, to or upon the order of the person or persons named in the written order delivered to the Depositary referred to in the first paragraph of this Section 2.02, a Receipt or Receipts for the number of whole Depositary Shares representing the Stock so deposited and registered in such name or names as may be requested by such person or persons. The Depositary shall execute and deliver such Receipt or Receipts at the Corporate Office, except that, at the request, risk and expense of any person requesting such delivery and for the account of such person, such delivery may be made at such other place as may be designated by such person. In each case, delivery will be made only upon payment by such person to the Depositary of all taxes and other governmental charges and any



fees payable in connection with such deposit and the transfer of the deposited Stock.

The Company shall deliver to the Depositary from time to time such quantities of Receipts as the Depositary may request to enable the Depositary to perform its obligations under this Deposit Agreement.

SECTION 2.03. Redemption and Repurchase of Stock. Whenever the Company shall redeem shares of Stock in accordance with the Certificate of Designation, it shall (unless otherwise agreed in writing with the Depositary) give the Depositary in its capacity as Depositary not less than 3 business days' prior notice of the proposed date of the mailing of a notice of redemption of Stock and the simultaneous redemption of the Depositary Shares representing the Stock to be redeemed and of the number of such shares of Stock held by the Depositary to be redeemed. The Depositary shall, as directed by the Company in writing, mail, first class postage prepaid, notice of the redemption of Stock and the proposed simultaneous redemption of the Depositary Shares representing the Stock to be redeemed not less than 30 and not more than 60 days prior to the date fixed for redemption of such Stock and Depositary Shares, to the record holders of the Receipts evidencing the Depositary Shares to be so redeemed at the addresses of such holders as the same appear on the records of the Depositary. Notwithstanding the foregoing, neither failure to mail or publish any such notice to one or more such holders nor any defect in any notice shall affect the sufficiency of the proceedings for redemption. The Company shall provide the Depositary with such notice, and each such notice shall state the method for determining the amount payable per Depositary Share, the redemption date, and the number of Depositary Shares to be redeemed, and such notice shall call upon each holder of Depositary Shares to surrender, on the redemption date and at the place or places designated by the Company, the Receipts evidencing Depositary Shares to be redeemed. On the date of any such redemption the Depositary shall surrender the certificate or certificates held by the Depositary evidencing the number of shares of Stock to be redeemed in the manner specified in the notice of redemption of Stock provided by the Company pursuant to the Certificate of Designation. The Depositary shall, thereafter, redeem the number of Depositary Shares representing such redeemed Stock upon the surrender of Receipts evidencing such Depositary Shares in the manner provided in the notice sent to record holders of Receipts.

Notice having been mailed by the Depositary as aforesaid, from and after the redemption date (unless the Company shall have failed to redeem the shares of Stock to be redeemed by it upon the surrender of the certificate or certificates therefor by the Depositary as described in the preceding paragraph), the Depositary Shares called for redemption shall be deemed no longer to be outstanding and all rights of the holders of Receipts evidencing such Depositary Shares (except the right to receive the cash, securities or other property payable upon redemption upon surrender of such Receipts) shall, to the extent of such Depositary Shares, cease and terminate. The foregoing shall be subject further to the terms and conditions of the Certificate of Designation.

If fewer than all the Depositary Shares are to be redeemed, the Depositary Shares to be redeemed will be selected by lot or proportionately, as may be determined by the Depositary. If fewer than all of the Depositary Shares evidenced by a Receipt are called for redemption, the Depositary will deliver to the holder of such Receipt upon its surrender to the Depositary, securities or other property payable upon redemption in respect of the Depositary shares called for redemption and a new Receipt evidencing the Depositary Shares evidenced by such prior Receipt and not called for redemption.

The Depositary shall not be required to transfer or exchange for another Receipt any Receipt evidencing Depositary Shares called or being called for redemption, in whole or in part except as provided in the immediately preceding paragraph of this Section 2.03.

Whenever the Company shall be required to make an offer to repurchase Depositary Shares representing Stock in accordance with the Certificate of Designation, it shall give the Depositary in its capacity as Depositary not less than 3 business days' prior notice of the required date of the mailing of a notice of the repurchase offer. The Depositary shall, as directed by the Company in writing, mail, first class postage prepaid, notice of the relevant terms of the repurchase offer, as provided by the Company, including: (i) that such notice is being given pursuant to a repurchase offer, (ii) the number of Depositary Shares and Stock for which the offer is being made, (iii) the method for determining the amount payable per Depositary Share, (iv) the last date, which shall not be less than 30 nor more than 60 days after the date of such notice, by which a holder must elect to accept the repurchase offer, (v) the procedures that such holder must follow to exercise its rights, and (vi) the procedures for withdrawing an election.

The Depositary shall, thereafter, receive from each holder electing to have Depositary Shares repurchased pursuant to the repurchase offer in accordance with the instructions in the notice, the holder's Receipts, with an appropriate form duly completed prior to the repurchase date. Holders will be entitled to withdraw an election by a written notice of withdrawal delivered to the Depositary prior to the close of business on the repurchase date. The notice of withdrawal shall state the number of Depositary Shares and the Receipt numbers to which the notice of withdrawal relates and the number of Depositary Shares and Receipt numbers, if any, which remain subject to election. In case the aggregate number of Depositary Shares offered for repurchase by the holders exceeds the amount of Depositary Shares which the Company has offered to repurchase pursuant to the repurchase offer, the Depositary Shares to be repurchased shall be selected by the Depositary by lot or proportionately, as may be determined by the Depositary. The Depositary shall, at the direction of the Company, cause payment to be mailed or delivered to each tendering holder as promptly as reasonably practicable after the repurchase date, in the amount of the repurchase price, and any unpurchased Depositary Shares to be returned to the holder thereof. The foregoing is subject further to the terms and conditions of the Certificate of Designation.

SECTION 2.04. Register of Transfer of Receipts. Subject to the terms and conditions of this Deposit Agreement, the Depository shall register on its books from time to time transfers of Receipts upon any surrender thereof at the Corporate Office, or such other office as the Depository may designate for such purpose, by the record holder in person or by a duly authorized attorney, properly endorsed or accompanied by a properly executed instrument of transfer, together with evidence of the payment of any transfer taxes as may be required by law. Upon such surrender, the Depository shall execute a new Receipt or Receipts and deliver the same to or upon the order of the person entitled thereto evidencing the same aggregate number of Depository Shares evidenced by the Receipt or Receipts surrendered.

SECTION 2.05. Combination and Split-ups of Receipts. Upon surrender of a Receipt or Receipts at the Corporate Office, or such other office as the Depository may designate for the purpose of effecting a split-up or combination of Receipts, subject to the terms and conditions of this Deposit Agreement, the Depository shall execute and deliver a new Receipt or Receipts in the authorized denominations requested evidencing the same aggregate number of Depository Shares evidenced by the Receipt or Receipts surrendered; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

SECTION 2.06. Surrender of Receipts and Withdrawal of Stock. Any holder of a Receipt, including the Company, shall have the right, upon payment of any amount due to the Depository with respect to the Receipt, to withdraw any or all of the Stock (but only in whole shares of Stock) represented by the Depository Shares and all money and other property, if any, represented by such Depository Shares by surrendering the Receipt or Receipts evidencing such Depository Shares at the Corporate Office, or at such other office as the Depository may designate for such withdrawals (and cancellation of the surrendered Receipts as provided in Section 2.09). After such surrender, without unreasonable delay, the Depository shall deliver to the holder the whole number of shares of Stock and all such money and other property, if any, represented by the Depository Shares evidenced by the Receipt or Receipts so surrendered for withdrawal. If the Receipt or Receipts delivered by the holder to the Depository in connection with such withdrawal shall evidence a number of Depository Shares in excess of the number of whole Depository Shares representing the whole number of shares of Stock to be withdrawn, the Depository shall at the same time, in addition to such whole number of shares of Stock and such money and other property, if any, to be withdrawn, deliver to the holder, or (subject to Section 2.04) upon its order, a new Receipt or Receipts evidencing such excess number of whole Depository Shares.

Delivery of the Stock and such money and other property being withdrawn may be made by the delivery of such certificates, documents of title and other instruments as the Depository may deem appropriate, which, if required by the Depository, shall be properly endorsed or accompanied by proper instruments of transfer.

The Depository shall deliver the Stock and the money and other property, if any,

represented by the Depositary Shares evidenced by Receipts surrendered for withdrawal, without unreasonable delay, at the office at which such Receipts were surrendered, except that, at the request, risk and expense of the Company such delivery may be made, without unreasonable delay, at such other place as may be designated by the Company.

For purposes of determining the number of Depositary Shares outstanding on any dividend payment date, the Receipts representing Depositary Shares acquired by the Company on or prior to such dividend payment date and not theretofore delivered to the Depositary for withdrawal and cancellation shall be deemed to be outstanding.

**SECTION 2.07. Limitations on Execution and Delivery, Transfer, Split-up, Combination and Surrender of Receipts and Withdrawal or Deposit of Stock.** As a condition precedent to the execution and delivery, registration of transfer, split-up, combination, or surrender of any Receipt, the delivery of any distribution thereon or deposit of Stock, the Depositary, any of the Depositary's Agents or the Company may require any or all of the following: (i) payment to it of a sum sufficient for the payment (or, in the event that the Depositary or the Company shall have made such payment, the reimbursement to it) of any tax or other governmental charge with respect thereto (including any such tax or charge with respect to the Stock being deposited or withdrawn or with respect to property of the Company being issued upon redemption); (ii) production of proof satisfactory to it as to the identity and genuineness of any signature; and (iii) compliance with such reasonable regulations, if any, as the Depositary or the Company may establish not inconsistent with the provisions of this Deposit Agreement.

The deposit of Stock may be refused, or the registration of transfer, split-up, combination or surrender of outstanding Receipts and the withdrawal of deposited Stock may be suspended (i) during any period when the register of stockholders of the Company is closed, (ii) if any such action is deemed necessary or advisable by the Depositary, any of the Depositary's Agents or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission, or under any provision of this Deposit Agreement, or (iii) with the approval of the Company, for any other reason. Without limitation of the foregoing, the Depositary shall not knowingly accept for deposit under this Deposit Agreement any shares of Stock that are required to be registered under the Securities Act unless a registration statement under the Securities Act is in effect as to such shares of Stock.

**SECTION 2.08. Lost Receipts, etc.** In case any Receipt shall be mutilated or destroyed or lost or stolen, the Depositary shall execute and deliver a Receipt of like form and tenor in exchange and substitution for such mutilated Receipt or in lieu of and in substitution for such destroyed, lost or stolen Receipt unless the Depositary has notice that such Receipt has been acquired by a bona fide purchaser; provided, however, that the holder thereof provides the Depositary with (i) evidence satisfactory to the Depositary of such destruction, loss or theft of such Receipt, of the authenticity thereof and of his ownership thereof, (ii) reasonable indemnification satisfactory to the Depositary or the payment of any charges incurred by the

Depository in obtaining insurance in lieu of such indemnification and (iii) payment of any expense (including fees, charges and expenses of the Depository) in connection with such execution and delivery.

SECTION 2.09. Cancellation and Destruction of Surrendered Receipts. All Receipts surrendered to the Depository or any Depository's Agent shall be cancelled by the Depository. Except as prohibited by applicable law or regulation, the Depository is authorized to destroy such Receipts so canceled.

### **ARTICLE III**

#### **CERTAIN OBLIGATIONS OF HOLDERS OF RECEIPTS AND THE COMPANY**

SECTION 3.01. Filing Proofs, Certificates and Other Information. Any person presenting Stock for deposit or any holder of a Receipt may be required from time to time to file such proof of residence or other information, to execute such certificates and to make such representations and warranties as the Depository or the Company may reasonably deem necessary or proper. The Depository or the Company may withhold or delay the delivery of any Receipt, the registration of transfer or redemption of any Receipt, the withdrawal of the Stock represented by the Depository Shares evidenced by any Receipt or the distribution of any dividend or other distribution until such proof or other information is filed, such certificates are executed or such representations and warranties are made.

SECTION 3.02. Payment of Taxes or Other Governmental Charges. If any tax or other governmental charge shall become payable by or on behalf of the Depository with respect to (i) any Receipt, (ii) the Depository Shares evidenced by such Receipt, (iii) the Stock (or fractional interest therein) or other property represented by such Depository Shares, or (iv) any transaction referred to in Section 4.06, such tax (including transfer, issuance or acquisition taxes, if any) or governmental charge shall be payable by the holder of such Receipt, who shall pay the amount thereof to the Depository. Until such payment is made, registration or transfer of any Receipt or any split-up or combination thereof or any withdrawal of the Stock or money or other property, if any, represented by the Depository Shares evidenced by such Receipt may be refused, any dividend or other distribution may be withheld and any part or all of the Stock or other property represented by the Depository Shares evidenced by such Receipt may be sold for the account of the holder thereof (after attempting by reasonable means to notify such holder prior to such sale). Any dividend or other distribution so withheld and the proceeds of any such sale may be applied to any payment of such tax or other governmental charge, the holder of such Receipt remaining liable for any deficiency.

SECTION 3.03. Withholding. The Depository shall act as the tax withholding agent for any payments, distributions made with respect to the Depository Shares and Receipts, and the

Stock. The Depositary shall be responsible with respect to the Depositary Shares, Receipts and Stock for the timely (i) collection and deposit of any required withholding or backup withholding tax, and (ii) filing of any information returns or other documents with federal (and other applicable) taxing authorities.

SECTION 3.04. Representations and Warranties as to Stock. In the case of the initial deposit of the Stock, the Company and, in the case of subsequent deposits thereof, each person so depositing Stock under this Deposit Agreement shall be deemed thereby to represent and warrant that such Stock and each certificate therefor are valid and that the person making such deposit is duly authorized to do so. Such representations and warranties shall survive the deposit of the Stock and the issuance of Receipts therefor.

## **ARTICLE IV**

### **THE STOCK, NOTICES**

SECTION 4.01. Cash Distributions. Whenever the Depositary shall receive any cash dividend or other cash distribution on the Stock, the Depositary shall, subject to Section 3.02, distribute to record holders of Receipts on the record date fixed pursuant to Section 4.04 such amounts of such sum as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such holders; provided, however, that in case the Company or the Depositary shall be required by law to withhold and does withhold from any cash dividend or other cash distribution in respect of the Stock an amount on account of taxes, the amount made available for distribution or distributed in respect of Depositary Shares shall be reduced accordingly. The Depositary shall distribute or make available for distribution, as the case may be, only such amount, however, as can be distributed without attributing to any owner of Depositary Shares a fraction of one cent and any balance not so distributable shall be held by the Depositary (without liability for interest thereon) and shall be added to and be treated as part of the next sum received by the Depositary for distribution to record holders of Receipts then outstanding.

SECTION 4.02. Distributions Other Than Cash. Whenever the Depositary shall receive any distribution other than cash, rights, preferences or privileges upon the Stock, the Depositary shall, subject to Section 3.02, distribute to record holders of Receipts on the record date fixed pursuant to Section 4.04 such amounts of the securities or property received by it as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such holders, in any manner that the Depositary and the Company may deem equitable and practicable for accomplishing such distribution. If, in the opinion of the Company after consultation with the Depositary, such distribution cannot be made proportionately among such record holders, or if for any other reason (including any tax withholding or securities law requirement), the Depositary deems, after consultation with the Company, such distribution not to be feasible, the Depositary may, with the approval of the Company which approval shall not

be unreasonably withheld, adopt such method as it deems equitable and practicable for the purpose of effecting such distribution, including the sale (at public or private sale) of the securities or property thus received, or any part thereof, at such place or places and upon such terms as it may deem proper. The net proceeds of any such sale shall, subject to Section 3.02, be distributed or made available for distribution, as the case may be, by the Depositary to record holders of Receipts as provided by Section 4.01 in the case of a distribution received in cash.

**SECTION 4.03. Subscription Rights, Preferences or Privileges.** If the Company shall at any time offer or cause to be offered to the persons in whose names Stock is registered on the books of the Company any rights, preferences or privileges to subscribe for or to purchase any securities or any rights, preferences or privileges of any other nature, such rights, preferences or privileges shall in each such instance be made available by the Depositary to the record holders of Receipts in such manner as the Company shall instruct (including by the issue to such record holders of warrants representing such rights, preferences or privileges); provided, however, that (a) if at the time of issue or offer of any such rights, preferences or privileges the Company determines and instructs the Depositary that it is not lawful or feasible to make such rights, preferences or privileges available to some or all holders of Receipts (by the issue of warrants or otherwise) or (b) if and to the extent instructed by holders of Receipts who do not desire to exercise such rights, preferences or privileges, the Depositary shall then, in each case, and if applicable laws or the terms of such rights, preferences or privileges so permit, sell such rights, preferences or privileges of such holders at public or private sale, at such place or places and upon such terms as it may deem proper. The net proceeds of any such sale shall be distributed by the Depositary to the record holders of Receipts entitled thereto as provided by Section 4.01 in the case of a distribution received in cash.

If registration under the Securities Act of the securities to which any rights, preferences or privileges relate is required in order for holders of Receipts to be offered or sold such securities, the Company shall promptly file a registration statement pursuant to the Securities Act with respect to such rights, preferences or privileges and securities and use its best efforts and take all steps available to it to cause such registration statement to become effective sufficiently in advance of the expiration of such rights, preferences or privileges to enable such holders to exercise such rights, preferences or privileges. In no event shall the Depositary make available to the holders of Receipts any right, preference or privilege to subscribe for or to purchase any securities unless and until such registration statement shall have become effective or unless the offering and sale of such securities to such holders are exempt from registration under the provisions of the Securities Act.

If any other action under the law of any jurisdiction or any governmental or administrative authorization, consent or permit is required in order for such rights, preferences or privileges to be made available to holders of Receipts, the Company agrees with the Depositary that the Company will use its reasonable best efforts to take such action or obtain such authorization, consent or permit sufficiently in advance of the expiration of such rights,

preferences or privileges to enable such holders to exercise such rights, preferences or privileges.

SECTION 4.04. Notice of Dividends, Fixing of Record Date for Holders of Receipts. Whenever (i) any cash dividend or other cash distribution shall become payable, or any distribution other than cash shall be made, or any rights, preferences or privileges shall at any time be offered, with respect to the Stock, or (ii) the Depository shall receive notice of any meeting at which holders of Stock are entitled to vote or of which holders of Stock are entitled to notice, or of any mandatory conversion of, or any election on the part of the Company to call for the redemption or exchange of, any shares of Stock, the Depository shall in each such instance fix a record date (which shall be the same date as the record date fixed by the Company with respect to the Stock) for the determination of the holders of Receipts (x) who shall be entitled to receive such dividend, distribution, rights, preferences or privileges or the net proceeds of the sale thereof, or (y) who shall be entitled to give instructions for the exercise of voting rights at any such meeting or to receive notice of such meeting or of such conversion, exchange or redemption.

SECTION 4.05. Voting Rights. Upon receipt of notice of any meeting at which the holders of Stock are entitled to vote, the Depository shall, as soon as practicable thereafter, mail to the record holders of Receipts a notice, which shall be provided by the Company and which shall contain (i) such information as is contained in such notice of meeting, (ii) a statement that the holders of Receipts at the close of business on a specified record date fixed pursuant to Section 4.04 will be entitled, subject to any applicable provision of law, the Certificate of Incorporation or the Certificate of Designation, to instruct the Depository as to the exercise of the voting rights pertaining to the Stock represented by their respective Depository Shares and (iii) a brief statement as to the manner in which such instructions may be given. Upon the written request of a holder of a Receipt on such record date, the Depository shall endeavor insofar as practicable to vote or cause to be voted the Stock represented by the Depository Shares evidenced by such Receipt in accordance with the instructions set forth in such request. The Company hereby agrees to take all reasonable action that may be deemed necessary by the Depository in order to enable the Depository to vote such Stock or cause such Stock to be voted. In the absence of specific instructions from the holder of a Receipt, the Depository will abstain from voting to the extent of the Stock represented by the Depository Shares evidenced by such Receipt.

SECTION 4.06. Changes Affecting Stock and Reclassifications, Recapitalizations, etc. Upon any split-up, consolidation or any other reclassification of Stock, or upon any recapitalization, reorganization, merger, amalgamation or consolidation affecting the Company or to which it is a party or sale of all or substantially all of the Company's assets, the Depository shall treat any shares of stock or other securities or property (including cash) that shall be received by the Depository in exchange for or in respect of the Stock as new deposited property under this Deposit Agreement, and Receipts then outstanding shall thenceforth represent the proportionate interests of holders thereof in the new deposited property so received in exchange for or in respect of such Stock. In any such case the Depository may, in its discretion, with the



approval of the Company, execute and deliver additional Receipts, or may call for the surrender of all outstanding Receipts to be exchanged for new Receipts specifically describing such new deposited property.

SECTION 4.07. Reports. The Company or, at the option of the Company, the Depositary shall forward to the holders of Receipts any reports and communications received from the Company that are received by the Depositary as the holder of Stock.

SECTION 4.08. Lists of Receipt Holders. Promptly upon request from time to time by the Company, the Depositary shall furnish to it a list, as of a recent date, of the names, addresses and holdings of Depositary Shares of all persons in whose names Receipts are registered on the books of the Depositary. At the expense of the Company, the Company shall have the right to inspect transfer and registration records of the Depositary, any Depositary's Agent or the Registrar, take copies thereof and require the Depositary, any Depositary's Agent or the Registrar to supply copies of such portions of such records as the Company may request.

## **ARTICLE V**

### **THE DEPOSITARY, THE DEPOSITARY'S AGENTS, THE REGISTRAR AND THE COMPANY**

SECTION 5.01. Maintenance of Offices, Agencies, Transfer Books by the Depositary; the Registrar. Upon execution of this Deposit Agreement in accordance with its terms, the Depositary shall maintain (i) at the Corporate Office facilities for the execution and delivery, registration, registration of transfer, surrender, split-up, combination and redemption of Receipts and deposit and withdrawal of Stock, and (ii) at the offices of the Depositary's Agents, if any, facilities for the delivery, registration, registration of transfer, surrender, split-up, combination, and redemption of Receipts and deposit and withdrawal of Stock, all in accordance with the provisions of this Deposit Agreement.

The Depositary, acting as transfer agent and Registrar, shall keep books at the Corporate Office for the registration and transfer of Receipts, which books at all reasonable times shall be open for inspection by the record holders of Receipts; provided that any such holder requesting to exercise such right shall certify to the Depositary that such inspection shall be for a proper purpose reasonably related to such person's interest as an owner of Depositary Shares. The Depositary shall consult with the Company upon receipt of any request for inspection. The Depositary may close such books, at any time or from time to time, when deemed expedient by it in connection with the performance of its duties hereunder.

If the Receipts or the Depositary Shares evidenced thereby or the Stock represented by such Depositary Shares shall be listed on one or more stock exchanges, the Depositary shall, with the approval of the Company, appoint a Registrar for registry of such Receipts or Depositary

Shares in accordance with the requirements of such exchange or exchanges. Such Registrar (which may be the Depositary if so permitted by the requirements of such exchange or exchanges) may be removed and a substitute registrar appointed by the Depositary upon the request or with the approval of the Company. In addition, if the Receipts, such Depositary Shares or such Stock are listed on one or more stock exchanges, the Depositary will, at the request of the Company, arrange such facilities for the delivery, registration, registration of transfer, surrender, split-up, combination or redemption of such Receipts, such Depositary Shares or such Stock as may be required by law or applicable stock exchange regulations.

SECTION 5.02. Prevention or Delay in Performance by the Depositary, the Depositary's Agents, the Registrar or the Company. Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall incur any liability to any holder of any Receipt, if by reason of any provision of any present or future law or regulation thereunder of the United States of America or of any other governmental authority or, in the case of the Depositary, the Registrar or any Depositary's Agent, by reason of any provision, present or future, of the Certificate of Incorporation or the Certificate of Designation or, in the case of the Company, the Depositary, the Registrar or any Depositary's Agent, by reason of any act of God or war or other circumstances beyond the control of the relevant party, the Depositary, any Depositary's Agent, the Registrar or the Company shall be prevented or forbidden from doing or performing any act or thing that the terms of this Deposit Agreement provide shall be done or performed; nor shall the Depositary, any Depositary's Agent, the Registrar or the Company incur any liability to any holder of a Receipt (i) by reason of any nonperformance or delay, caused as aforesaid, in the performance of any act or thing that the terms of this Deposit Agreement provide shall or may be done or performed, or (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in this Deposit Agreement except, in the case of the Depositary, any Depositary's Agent or the Registrar, if any such exercise or failure to exercise discretion is caused by its gross negligence or willful misconduct.

SECTION 5.03. Obligations of the Depositary, the Depositary's Agents, the Registrar and the Company. The Company assumes no obligation and shall be subject to no liability under this Deposit Agreement or the Receipts to holders or other persons, except to perform in good faith such obligations as are specifically set forth and undertaken by it to perform in this Deposit Agreement. Each of the Depositary, the Depositary's Agents and the Registrar assumes no obligation and shall be subject to no liability under this Deposit Agreement or the Receipts to holders or other persons, except to perform such obligations as are specifically set forth and undertaken by it to perform in this Deposit Agreement without gross negligence or willful misconduct.

Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding with respect to Stock, Depositary Shares or Receipts that in its opinion may involve it in expense or liability, unless indemnity satisfactory to it against all expense and liability be

furnished as often as may be required.

Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall be liable for any action or any failure to act by it in reliance upon the advice of or information from legal counsel, accountants, any person presenting Stock for deposit, any holder of a Receipt or any other person believed by it in good faith to be competent to give such advice or information. The Depositary, any Depositary's Agent, the Registrar and the Company may each rely and shall each be protected in acting upon any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Depositary, the Registrar and any Depositary's Agent may own and deal in any class of securities of the Company and its affiliates and in Receipts or Depositary Shares. The Depositary may also act as transfer agent or registrar of any of the securities of the Company and its affiliates.

It is intended that neither the Depositary nor any Depositary's Agent nor the Registrar shall be deemed to be an "issuer" of the Stock, the Depositary Shares, or the Receipts or other securities issued upon exchange or redemption of the Stock under the federal securities laws or applicable state securities laws, it being expressly understood and agreed that the Depositary and any Depositary's Agent and the Registrar are acting only in a ministerial capacity; provided, however, that the Depositary agrees to comply with all information reporting and withholding requirements applicable to it under law or this Deposit Agreement in its capacity as Depositary.

Neither the Depositary (or its officers, directors, employees or agents) nor any Depositary's Agent nor the Registrar makes any representation or has any responsibility as to the validity of the Registration Statement pursuant to which the Depositary Shares are registered under the Securities Act, the Stock, the Depositary Shares or any instruments referred to therein or herein, or as to the correctness of any statement made therein or herein; provided, however, that the Depositary is responsible for its representations in this Deposit Agreement.

The Depositary assumes no responsibility for the correctness of the description that appears in the Receipts, which can be taken as a statement of the Company summarizing certain provisions of this Deposit Agreement. Notwithstanding any other provision herein or in the Receipts, the Depositary makes no warranties or representations as to the validity, genuineness or sufficiency of any Stock at any time deposited with the Depositary hereunder or of the Depositary Shares, as to the validity or sufficiency of this Deposit Agreement, as to the value of the Depositary Shares or as to any right, title or interest of the record holders of Receipts in and to the Depositary Shares except that the Depositary hereby represents and warrants as follows: (i) the Depositary has been duly organized and is validly existing and in good standing under the laws of the State of , with full power, authority and legal right under such law to execute, deliver and carry out the terms of this Deposit Agreement; (ii) this Deposit Agreement

has been duly authorized, executed and delivered by the Depositary; and (iii) this Deposit Agreement constitutes, and when executed and delivered, each Receipt will constitute, a valid and binding obligation of the Depositary, enforceable against the Depositary in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law). The Depositary shall not be accountable for the use or application by the Company of the Depositary Shares or the Receipts or the proceeds thereof.

**SECTION 5.04. Resignation and Removal of the Depositary, Appointment of Successor Depositary.** The Depositary may at any time resign as Depositary hereunder by written notice to the Company of its election to do so, such resignation to take effect upon the appointment of a successor depositary and its acceptance of such appointment as hereinafter provided.

The Depositary may at any time be removed by the Company by written notice to the Depositary of such removal, such removal to take effect upon the appointment of a successor depositary and its acceptance of such appointment as hereinafter provided.

In case at any time the Depositary acting hereunder shall resign or be removed, the Company shall, within 60 days after the delivery of the notice of resignation or removal, as the case may be, appoint a successor depositary, which shall be a bank or trust company, or an affiliate of a bank or trust company, having its principal office in the United States of America and having a combined capital and surplus of at least \$50,000,000. If a successor depositary shall not have been appointed in 60 days, the resigning or removed Depositary may petition a court of competent jurisdiction to appoint a successor depositary. Every successor depositary shall execute and deliver to its predecessor and to the Company an instrument in writing accepting its appointment hereunder, and thereupon such successor depositary, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor and for all purposes shall be the Depositary under this Deposit Agreement, and such predecessor, upon payment of all sums due it and on the written request of the Company, shall promptly execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder, shall duly assign, transfer and deliver all rights, title and interest in the Stock and any moneys or property held hereunder to such successor and shall deliver to such successor a list of the record holders of all outstanding Receipts. Any successor depositary shall promptly mail notice of its appointment to the record holders of Receipts.

Any corporation into or with which the Depositary may be merged, consolidated or converted shall be the successor of such Depositary without the execution or filing of any document or any further act. Such successor depositary may execute the Receipts either in the name of the predecessor depositary or in the name of the successor depositary.

SECTION 5.05. Corporate Notices and Reports. The Company agrees that it will deliver to the Depository, and the Depository will, promptly after receipt thereof, transmit to the record holders of Receipts, in each case at the address recorded in the Depository's books, copies of all notices and reports (including financial statements) required by law, by the rules of any national securities exchange upon which the Stock, the Depository Shares or the Receipts are listed or by the Certificate of Incorporation and the Certificate of Designation to be furnished by the Company to holders of Stock. Such transmission will be at the Company's expense and the Company will provide the Depository with such number of copies of such documents as the Depository may reasonably request. In addition, the Depository will transmit to the record holders of Receipts at the Company's expense such other documents as may be requested by the Company.

SECTION 5.06. Deposit of Stock by the Company. The Company agrees with the Depository that neither the Company nor any company controlled by the Company will at any time deposit any Stock if such Stock is required to be registered under the provisions of the Securities Act and no registration statement is at such time in effect as to such Stock.

SECTION 5.07. Indemnification by the Company. The Company shall indemnify the Depository for, and hold it harmless against, any loss, liability, claim or expense ("Loss") arising out of or in connection with its duties under this Agreement, including the reasonable costs and expenses of defending itself against Loss, unless such Loss shall have been determined by a court of competent jurisdiction to be a result of the Depository's gross negligence or willful misconduct. Anything to the contrary notwithstanding, in no event shall the Depository be liable for special, indirect, consequential or incidental loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Depository has been advised of the likelihood of such damages.

SECTION 5.08. Fees, Charges and Expenses. No fees, charges and expenses of the Depository or any Depository's Agent hereunder or of any Registrar shall be payable by any person other than the Company, except for any taxes and other governmental charges and except as provided in this Deposit Agreement. If, at the request of a holder of a Receipt, the Depository incurs fees, charges or expenses for which it is not otherwise liable hereunder, such holder or other person will be liable for such fees, charges and expenses. All other fees, charges and expenses of the Depository and any Depository's Agent hereunder and of any Registrar (including, in each case, reasonable fees and expenses of counsel) incident to the performance of their respective obligations hereunder will be paid from time to time upon consultation and agreement between the Depository and the Company as to the amount and nature of such fees, charges and expenses.

## **ARTICLE VI**

### **AMENDMENT AND TERMINATION**

SECTION 6.01. Amendment. The form of the Receipts and any provision of this Deposit Agreement may at any time and from time to time be amended by agreement between the Company and the Depositary in any respect that they may deem necessary or desirable; provided, however, that no such amendment that shall materially and adversely alter the rights of the holders of Receipts shall be effective as to outstanding Receipts until the expiration of 90 days after notice of such amendment shall have been given to the record holders of outstanding Receipts and unless such amendment shall have been approved by the holders of at least a majority of the Depositary Shares outstanding. In no event shall any amendment impair the right, subject to the provisions of Sections 2.03, 2.06 and 2.07 and Article III, of any owner of any Depositary Shares to surrender the Receipt evidencing such Depositary Shares with instructions to the Depositary to deliver to the holder the Stock and all money and other property, if any, represented thereby, except in order to comply with mandatory provisions of applicable law.

SECTION 6.02. Termination. This Deposit Agreement may be terminated by either the Company or the Depositary, upon notice to the other, only if (i) all of the outstanding Depositary Shares have been redeemed or converted for any other securities into which the Stock is convertible, or (ii) there has been a final distribution of the Stock to the holders of Receipts in connection with the Company's liquidation, dissolution or winding up. The Depositary will mail notice of such termination to the record holders of all Receipts then outstanding at least 30 days prior to the date fixed in such notice for such termination. If any Receipts shall remain outstanding after the date of termination of this Deposit Agreement, the Depositary thereafter shall discontinue the transfer of Receipts, and shall not give any further notices or perform any further acts under this Deposit Agreement, except that the Depositary shall continue to deliver the Stock and any money and other property represented by Receipts, without liability for interest thereon, upon surrender thereof by the holders thereof, and the Depositary shall be discharged from all obligations under this Deposit Agreement except to account for such stock, money and other property. Upon the termination of this Deposit Agreement, the Company shall be discharged from all obligations under this Deposit Agreement except for its obligations to the Depositary, any Depositary's Agent and any Registrar under Sections 5.07 and 5.08.

## **ARTICLE VII MISCELLANEOUS**

SECTION 7.01. Counterparts. This Deposit Agreement may be executed by the Company and the Depositary in separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Deposit Agreement by telecopier shall be effective as delivery of a manually

executed counterpart of this Deposit Agreement. Copies of this Deposit Agreement shall be filed with the Depository and the Depository's Agents and shall be open to inspection during business hours at the Corporate Office and the respective offices of the Depository's Agents, if any, by any holder of a Receipt.

SECTION 7.02. Exclusive Benefits of Parties. This Deposit Agreement is for the exclusive benefit of the parties hereto, and their respective successors hereunder, and shall not be deemed to give any legal or equitable right, remedy or claim to any other person whatsoever.

SECTION 7.03. Invalidity of Provisions. In case any one or more of the provisions contained in this Deposit Agreement or in the Receipts should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall in no way be affected, prejudiced or disturbed thereby.

SECTION 7.04. Notices. Any notices to be given to the Company hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail (first class postage prepaid), by a nationally recognized overnight courier service, or by telecopier confirmed by letter, addressed to the Company at 21001 Van Born Road, Taylor, Michigan 48180, Attention: Secretary, or at any other place to which the Company may have transferred its principal executive office.

Any notices to be given to the Depository hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail (first class postage), by a nationally recognized overnight courier service, or by telecopier confirmed by letter, addressed to the Depository at the Corporate Office.

Except as provided in the next paragraph, any notices given to any record holder of a Receipt hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail (first class postage), by a nationally recognized overnight courier service or by telecopier confirmed by letter, addressed to such record holder at the address of such record holder as it appears on the books of the Depository or, if such holder shall have filed with the Depository a written request that notices intended for such holder be mailed to some other address, at the address designated in such request.

In addition, whenever the Certificate of Designation requires any notice to be published, the Depository will, if requested by the Company, cause such notice to be published in the manner directed by the Company.

Delivery of a notice sent by mail, by overnight courier or by telecopier shall be deemed to be effected at the time when a duly addressed letter containing the same (or a duly addressed letter confirming an earlier notice in the case of a telecopier message) is deposited, postage prepaid, in a post office letter box or with the overnight courier service. The Depository or the

Company may, however, act upon any telecopier message received by it from the other or from any holder of a Receipt, notwithstanding that such telecopier message shall not subsequently be confirmed by letter as aforesaid.

SECTION 7.05. Depository's Agents. The Depository may, with the approval of the Company which approval shall not be unreasonably withheld, from time to time appoint one or more Depository's Agents to act in any respect for the Depository for the purposes of this Deposit Agreement and may vary or terminate the appointment of such Depository's Agents.

SECTION 7.06. Holders of Receipts Are Parties. Notwithstanding that holders of Receipts have not executed and delivered this Deposit Agreement or any counterpart thereof, the holders of Receipts from time to time shall be deemed to be parties to this Deposit Agreement and shall be bound by all of the terms and conditions, and be entitled to all of the benefits, hereof and of the Receipts by acceptance of delivery of Receipts.

SECTION 7.07. Governing Law. This Deposit Agreement and the Receipts and all rights hereunder and thereunder and provisions hereof and thereof shall be governed by, and construed in accordance with, the law of the State of New York without giving effect to principles of conflict of laws.

SECTION 7.08. Headings. The headings of articles and sections in this Deposit Agreement and in the form of the Receipt set forth in Exhibit A hereto have been inserted for convenience only and are not to be regarded as a part of this Deposit Agreement or to have any bearing upon the meaning or interpretation of any provision contained herein or in the Receipts.



IN WITNESS WHEREOF, Masco Corporation and have duly executed this Deposit Agreement as of the day and year first above set forth and all holders of Receipts shall become parties hereto by and upon acceptance by them of delivery of Receipts issued in accordance with the terms hereof.

**MASCO CORPORATION**

**Attest:**

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

By: \_\_\_\_\_  
Authorized Officer



**Attest:**

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

By: \_\_\_\_\_  
Authorized Officer

**[FORM OF DEPOSITARY RECEIPT]**

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Company or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL in as much as the registered owner hereof, Cede & Co., has an interest herein.]

**DEPOSITARY RECEIPT  
FOR  
DEPOSITARY SHARES  
EACH REPRESENTING \_\_\_\_\_ OF A SHARE OF  
\_\_\_\_\_ PREFERRED STOCK, SERIES \_\_\_\_**

**OF**

**MASCO CORPORATION**

No. \_\_\_\_

CUSIP: 574599

(the "Depository") hereby certifies that [Cede & Co.] is the registered owner of \_\_\_\_\_ Depository Shares (the "Depository Shares"), each Depository Share representing \_\_\_\_\_ of a share of

Preferred Stock, Series , \$1.00 par value (the "Stock"), of Masco Corporation, a corporation duly organized and existing under the laws of the State of Delaware (the "Company"), deposited with the Depository and the same proportionate interest in any and all other property received by the Depository in respect of such shares of Stock and held by the Depository under the Deposit Agreement (as defined below). Subject to the terms of the Deposit Agreement, each owner of a Depository Share is entitled, proportionately, to all the rights, preferences and privileges of the Stock represented thereby, including the dividend, conversion, exchange, voting, liquidation and other rights contained in the Certificate of Designation establishing the rights, preferences, privileges and limitations of the Stock (the "Certificate of Designation"), copies of which are on file at the office of the Depository in [The City of New York, Borough of Manhattan] at which at any particular time its business in respect of matters governed by the Deposit Agreement shall be administered, which at the time of the execution of the Deposit Agreement is located at (the "Corporate Office").

This Depositary Receipt ("Receipt") shall not be entitled to any benefits under the Deposit Agreement or be valid or obligatory for any purpose unless this Receipt shall have been executed manually or, if a Registrar for the Receipts (other than the Depositary) shall have been appointed, by facsimile by the Depositary by the signature of a duly authorized officer and, if executed by facsimile signature of the Depositary, shall have been countersigned manually by such Registrar by the signature of a duly authorized officer.

THE DEPOSITARY IS NOT RESPONSIBLE FOR THE VALIDITY OF ANY DEPOSITED STOCK. THE DEPOSITARY ASSUMES NO RESPONSIBILITY FOR THE CORRECTNESS OF THE DESCRIPTION SET FORTH IN THIS RECEIPT, WHICH CAN BE TAKEN AS A STATEMENT OF THE COMPANY SUMMARIZING CERTAIN PROVISIONS OF THE DEPOSIT AGREEMENT. UNLESS EXPRESSLY SET FORTH IN THE DEPOSIT AGREEMENT, THE DEPOSITARY MAKES NO WARRANTIES OR REPRESENTATIONS AS TO THE VALIDITY, GENUINENESS OR SUFFICIENCY OF ANY STOCK AT ANY TIME DEPOSITED WITH THE DEPOSITARY UNDER THE DEPOSIT AGREEMENT OR OF THE DEPOSITARY SHARES, AS TO THE VALIDITY OR SUFFICIENCY OF THE DEPOSIT AGREEMENT, AS TO THE VALUE OF THE DEPOSITARY SHARES OR AS TO ANY RIGHT, TITLE OR INTEREST OF THE RECORD HOLDERS OF THE DEPOSITARY RECEIPTS IN AND TO THE DEPOSITARY SHARES.

The Company will furnish to any holder of this Receipt without charge, upon request addressed to its executive office, a full statement of the designation, relative rights, preferences and limitations of the shares of each authorized class, and of each class of preferred stock authorized to be issued, so far as the same may have been fixed, and a statement of the authority of the Board of Directors of the Company to designate and fix the relative rights, preferences and limitations of other classes.

This Receipt is continued on the reverse hereof and the additional provisions therein set forth for all purposes have the same effect as if set forth at this place.

Dated:

-----,  
as Depositary and Registrar

By:

**Authorized Officer**

Further Conditions and Agreements Forming Part of this Receipt Appear on the Reverse Side.

[REVERSE OF DEPOSITARY RECEIPT]

1. The Deposit Agreement. Depositary Receipts (the "Receipts"), of which this Receipt is one, are made available upon the terms and conditions set forth in the Deposit Agreement, dated as of (the "Deposit Agreement"), among the Company, the Depositary and all holders from time to time of Receipts. The Deposit Agreement (copies of which are on file at the Corporate Office and at the office of any agent of the Depositary) sets forth the rights of holders of Receipts and the rights and duties of the Depositary. The statements made on the face and the reverse of this Receipt are summaries of certain provisions of the Deposit Agreement and are subject to the detailed provisions thereof, to which reference is hereby made. In the event of any conflict between the provisions of this Receipt and the provisions of the Deposit Agreement, the provisions of the Deposit Agreement will govern.

2. Definitions. Unless otherwise expressly herein provided, all defined terms used herein shall have the meanings ascribed thereto in the Deposit Agreement.

3. Redemption by the Company; Repurchase by the Company. Whenever the Company shall redeem shares of Stock in accordance with the Certificate of Designation, it shall (unless otherwise agreed in writing with the Depositary) give the Depositary in its capacity as Depositary not less than 5 business days' prior notice of the proposed date of the mailing of a notice of redemption and of the number of such shares of Stock held by the Depositary to be redeemed. The Depositary shall, as directed by the Company in writing, mail, first class postage prepaid, notice of the redemption not less than 30 and not more than 60 days prior to the date fixed for redemption of such Stock and Depositary Shares, to the record holders of the Receipts evidencing the Depositary Shares to be so redeemed, at the addresses of such holders as the same appear on the records of such holders as the same appear on the records of the Depositary. On the date of any such redemption, the Depositary shall surrender the certificate or certificates held by the Depositary evidencing the number of shares of Stock to be redeemed in the manner specified in the notice of redemption. The Depositary shall, thereafter, redeem the number of Depositary Shares representing such redeemed Stock upon the surrender of Receipts evidencing such Depositary Shares in the manner provided in the notice sent to record holders of Receipts. Notice having been mailed and published as aforesaid, from and after the redemption date (unless the Company shall have failed to redeem the shares of Stock to be redeemed by it upon the surrender of the certificate or certificates therefor by the Depositary as described above), the Depositary Shares called for redemption shall be deemed no longer to be outstanding and all rights of the holders of Receipts evidencing such Depositary Shares shall, to the extent of such Depositary Shares, cease and terminate.

Whenever the Company shall be required to make a repurchase of Depositary Shares in accordance with the Certificate of Designation, it shall give the Depositary in its capacity as

Depository not less than 5 business days' prior notice of the required date of the mailing of a notice of the repurchase offer. The Depository shall, as directed by the Company in writing, mail, first class postage prepaid, notice of the relevant terms and conditions of the repurchase offer, as provided by the Company, to the record holders of the Receipts evidencing the Depository Shares to be repurchased by the Company, at the addresses of such holders as the same appear on the records of the Depository. The Depository shall, thereafter, collect any notices, guarantees and Receipts evidencing the Depository Shares from the holders in the manner provided for in the notice sent to the holders from the Company. In case the aggregate number of Depository Shares exceeds the amount the Company is required to repurchase, the Depository Shares to be repurchased shall be selected by the Depository on a pro rata basis at the direction of the Company. The foregoing is subject further to the terms and conditions of the Certificate of Designation.

4. **Withdrawal of Stock.** Holders of Receipts shall have the right, upon payment of any amount due to the Depository with respect to the Receipts, to withdraw any or all of the Stock (but only in whole shares of Stock) represented by the Depository Shares and all money and other property, if any, represented by such Depository Shares by surrendering the Receipt or Receipts evidencing such Depository Shares at the Corporate Office, or at such other offices as the Depository may designate for such withdrawal (and cancellation of the surrendered Receipts as provided in the Deposit Agreement).

5. **Transfers, Split-ups, Combinations.** Subject to Paragraphs 6, 7 and 8 below, this Receipt is transferable on the books of the Depository upon surrender of this Receipt to the Depository at the Corporate Office or at such other offices as the Depository may designate, properly endorsed or accompanied by a properly executed instrument of transfer, and upon such transfer the Depository shall sign and deliver a Receipt or Receipts to or upon the order of the person entitled thereto, all as provided in and subject to the Deposit Agreement. This Receipt may be split into other Receipts or combined with other Receipts into one Receipt evidencing the same aggregate number of Depository Shares evidenced by the Receipt or Receipts surrendered; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

6. **Conditions to Signing and Delivery, Transfer, etc., of Receipts.** Prior to the execution and delivery, registration of transfer, split-up, combination, surrender or exchange of this Receipt, the delivery of any distribution hereon, the Depository, any of the Depository's Agents or the Company may require any or all of the following: (i) payment to it of a sum sufficient for the payment (or, in the event that the Depository or the Company shall have made such payment, the reimbursement to it) of any tax or other governmental charge with respect thereto (including any such tax or charge with respect to Stock being deposited or withdrawn or with respect to other securities or property of the Company being issued upon redemption); (ii) production of proof satisfactory to it as to the identity and genuineness of any signature; and (iii) compliance with

such reasonable regulations, if any, as the Depositary or the Company may establish not inconsistent with the Deposit Agreement. Any person presenting Stock for deposit, or any holder of this Receipt, may be required to file such proof of information, to execute such certificates and to make such representations and warranties as the Depositary or the Company may reasonably deem necessary or proper. The Depositary or the Company may withhold or delay the delivery of this Receipt, the registration of transfer, redemption, or exchange of this Receipt, the withdrawal of the Stock represented by the Depositary Shares evidenced by this Receipt or the distribution of any dividend or other distribution until such proof or other information is filed, such certificates are executed or such representations and warranties are made.

7. Suspension of Delivery, Transfer, etc. The registration of transfer, split-up, combination, surrender or exchange of this Receipt may be suspended

(i) during any period when the register of stockholders of the Company is closed, (ii) if any such action is deemed necessary or advisable by the Depositary, any of the Depositary's Agents or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission, or under any provision of the Deposit Agreement, or (iii) with the approval of the Company, for any other reason. The Depositary shall not be required to issue, transfer or exchange any Receipts for a period beginning at the opening of business 15 days next preceding any selection of Depositary Shares and Stock to be redeemed and ending at the close of business on the day of the mailing of notice of redemption of Depositary Shares.

8. Payment of Taxes or Other Governmental Charges. If any tax or other governmental charge shall become payable by or on behalf of the Depositary with respect to (i) this Receipt, (ii) the Depositary Shares evidenced by this Receipt, (iii) the Stock (or fractional interest therein) or other property represented by such Depositary Shares, or (iv) any transaction referred to in

Section 4.06, of the Deposit Agreement, such tax (including transfer, issuance or acquisition taxes, if any) or governmental charge shall be payable by the holder of this Receipt, who shall pay the amount thereof to the Depositary. Until such payment is made, registration of transfer of this Receipt or any split-up or combination hereof or any withdrawal of the Stock or money or other property, if any, represented by the Depositary Shares evidenced by this Receipt may be refused, any dividend or other distribution may be withheld and any part or all of the Stock or other property represented by the Depositary Shares evidenced by this Receipt may be sold for the account of the holder hereof (after attempting by reasonable means to notify such holder prior to such sale). Any dividend or other distribution so withheld and the proceeds of any such sale may be applied to any payment of such tax or other governmental charge, the holder of this Receipt remaining liable for any deficiency.

9. Amendment. The form of the Receipts and any provision of the Deposit Agreement may at any time and from time to time be amended by agreement between the Company and the Depositary in any respect that they may deem necessary or desirable; provided, however, that no such amendment that shall materially and adversely alter the rights of the holders of Receipt shall

be effective as to outstanding Receipts until the expiration of 90 days after notice of such amendment shall have been given to the record holders of outstanding Receipts and unless such amendment shall have been approved by the holders of at least a majority of the Depositary Shares outstanding. Every holder of an outstanding Receipt at the time 90 days after such notice of amendment shall have been given shall be deemed, by continuing to hold such Receipt, to consent and agree to such amendment and to be bound by the Deposit Agreement as amended thereby. In no event shall any amendment impair the right, subject to the provisions of Paragraphs 3, 4, 6, 7, and 8 hereof and of Sections 2.03, 2.06 and 2.07 and Article III of the Deposit Agreement, of the owner of the Depositary Shares evidenced by this Receipt to surrender this Receipt with instructions to the Depositary to deliver to the holder the Stock and all money and other property, if any, represented thereby, except in order to comply with mandatory provisions of applicable law.

10. Fees, Charges and Expenses. The Company will pay all fees, charges and expenses of the Depositary, except for taxes (including transfer taxes, if any) and other governmental charges and such charges as are expressly provided in the Deposit Agreement to be at the expense of persons depositing Stock, holders of Receipts or other persons.

11. Title to Receipts. It is a condition of this Receipt, and every successive holder hereof by accepting or holding the same consents and agrees, that title to this Receipt (and to the Depositary Shares evidenced hereby), when properly endorsed or accompanied by a properly executed instrument of transfer, is transferable by delivery with the same effect as in the case of investment securities in general; provided, however, that the Depositary may, notwithstanding any notice to the contrary, treat the record holder hereof at such time as the absolute owner hereof for the purpose of determining the person entitled to distribution of dividends or other distributions or to any notice provided for in the Deposit Agreement and for all other purposes.

12. Dividends and Distributions. Whenever the Depositary shall receive any cash dividend or other cash distribution on the Stock, the Depositary shall, subject to the provisions of the Deposit Agreement, distribute to record holders of Receipts such amounts of such sums as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such holders; provided, however, that in case the Company or the Depositary shall be required by law to withhold and does withhold from any cash dividend or other cash distribution in respect of the Stock an amount on account of taxes, the amount made available for distribution or distributed in respect of Depositary Shares shall be reduced accordingly. The Depositary shall distribute or make available for distribution, as the case may be, only such amount, however, as can be distributed without attributing to any owner of Depositary Shares a fraction of one cent and any balance not so distributable shall be held by the Depositary (without liability for interest thereon) and shall be added to and be treated as part of the next sum received by the Depositary for distribution to record holders of Receipts then outstanding.

13. Subscription Rights, Preferences or Privileges. If the Company shall at any time offer or cause to be offered to the persons in whose name Stock is registered on the books of the Company any rights, preferences or privileges to subscribe for or to purchase any securities or any rights, preferences or privileges of any other nature, such rights, preferences or privileges shall in each such instance, subject to the provisions of the Deposit Agreement, be made available by the Depository to the record holders of Receipts in such manner as the Company shall instruct.

14. Notice of Dividends, Fixing of Record Date. Whenever (i) any cash dividend or other cash distribution shall become payable, or any distribution other than cash shall be made, or any rights, preferences or privileges shall at any time be offered, with respect to the Stock, or (ii) the Depository shall receive notice of any meeting at which holders of Stock are entitled to vote or of which holders of Stock are entitled to notice, or of the mandatory conversion of, or any election on the part of the Company to call for redemption or exchange of, any shares of Stock, the Depository shall in each such instance fix a record date (which shall be the same date as the record date fixed by the Company with respect to the Stock) for the determination of the holders of Receipts (x) who shall be entitled to receive such dividend, distribution, rights, preferences or privileges or the net proceeds of the sale thereof, or (y) who shall be entitled to give instructions for the exercise of voting rights at any such meeting or of such meeting or to receive notice of such conversion, exchange or redemption.

15. Voting Rights. Upon receipt of notice of any meeting at which the holders of Stock are entitled to vote, the Depository shall, as soon as practicable thereafter, mail to the record holders of Receipts a notice, which shall contain (i) such information as is contained in such notice of meeting, (ii) a statement that the holders of Receipts at the close of business on a specified record date determined as provided in Paragraph 14 will be entitled, subject to any applicable provision of law, the Certificate of Incorporation or the Certificate of Designation, to instruct the Depository as to the exercise of the voting rights pertaining to the Stock represented by their respective Depository Shares, and (iii) a brief statement as to the manner in which such instructions may be given. Upon the written request of a holder of this Receipt on such record date, the Depository shall endeavor insofar as practicable to vote or cause to be voted the Stock represented by the Depository Shares evidenced by this Receipt in accordance with the instructions set forth in such request. The Company hereby agrees to take all reasonable action that may be deemed necessary by the Depository in order to enable the Depository to vote such Stock or cause such Stock to be voted. In the absence of specific instructions from the holder of this Receipt, the Depository will abstain from voting to the extent of the Stock represented by the Depository Shares evidenced by this Receipt.

16. Reports, Inspection of Transfer Books. The Depository shall make available for inspection by holders of Receipts at the Corporate Office and at such other places as it may from



time to time deem advisable during normal business hours any reports and communications received from the Company that are received by the Depository as the holder of Stock. The Depository, acting as transfer agent and Registrar, shall keep books at the Corporate Office for the registration and transfer of Receipts, which books at all reasonable times will be open for inspection by the record holders of Receipts; provided that any such holder requesting to exercise such right shall certify to the Depository that such inspection shall be for a proper purpose reasonably related to such person's interest as an owner of Depository Shares.

17. Liability of the Depository, the Depository's Agents, the Registrar and the Company. Neither the Depository nor any Depository's Agent nor the Registrar nor the Company shall incur any liability to any holder of this Receipt, if by reason of any provision of any present or future law or regulation thereunder of any governmental authority or, in the case of the Depository, the Registrar or any Depository's Agent, by reason of any provision present or future, of the Certificate of Incorporation or the Certificate of Designation or, in the case of the Company, the Depository, the Registrar or any Depository's Agent, by reason of any act of God or war or other circumstances beyond the control of the relevant party, the Depository, any Depository's Agent, the Registrar or the Company shall be prevented or forbidden from doing or performing any act or thing that the terms of the Deposit Agreement provide shall be done or performed; nor shall the Depository, any Depository's Agent, the Registrar or the Company incur any liability to any holder of this Receipt

(i) by reason of any nonperformance or delay, caused as aforesaid, in the performance of any act or thing that the terms of the Deposit Agreement provide shall or may be done or performed or (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in the Deposit Agreement except, in the case of the Depository, any Depository's Agent or the Registrar, if such exercise or failure to exercise discretion is caused by its gross negligence or willful misconduct.

18. Obligations of the Depository, the Depository's Agent, the Registrar and the Company. The Company assumes no obligation and shall be subject to no liability under the Deposit Agreement or this Receipt to the holder hereof or other persons, except to perform in good faith such obligations as are specifically set forth and undertaken by it to perform in the Deposit Agreement. Each of the Depository, the Depository's Agents and the Registrar assumes no obligation and shall be subject to no liability under the Deposit Agreement or this Receipt to the holder hereof or other persons, except to perform such obligations as are specifically set forth and undertaken by it to perform in the Deposit Agreement without gross negligence or willful misconduct.

Neither the Depository nor any Depository's Agent nor the Registrar nor the Company shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding with respect to Stock, Depository Shares or Receipts that in its opinion may involve it in expense or liability, unless indemnity satisfactory to it against all expense and liability be furnished as often as may be required.

Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company will be liable for any action or failure to act by it in reliance upon the advice of or information from legal counsel, accountants, any person presenting Stock for deposit, any holder of this Receipt or any other person believed by it in good faith to be competent to give such advice or information.

19. Termination of Deposit Agreement. The Deposit Agreement may be terminated only if (i) all of the outstanding Depositary Shares have been redeemed or converted for any other securities into which the Stock is convertible or (ii) there has been a final distribution of the Stock to the holders of Receipts in connection with the Company's liquidation, dissolution or winding up. The Depositary will mail notice of such termination to the record holders of all Receipts then outstanding at least 30 days prior to the date fixed in such notice for such termination. Upon the termination of the Deposit Agreement, the Company shall be discharged from all obligations thereunder except for its obligations to the Depositary, any Depositary's Agent and any Registrar under Sections 5.07 and 5.08 of the Deposit Agreement.

If any Receipts remain outstanding after the date of termination of the Deposit Agreement, the Depositary thereafter shall discontinue all functions and be discharged from all obligations as provided in the Deposit Agreement, except as specifically provided therein.

20. Governing Law. The Deposit Agreement and this Receipt and all rights thereunder and hereunder and provisions thereof and hereof shall be governed by, and construed in accordance with, the law of the State of New York without giving effect to principles of conflict of laws.

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto the within Receipt and all rights and interests represented by the Depositary Shares evidenced thereby, and hereby irrevocably constitutes and appoints attorney, to transfer the same on the books of the within-named Depositary, with full power of substitution in the premises.

Dated:

Signature:

-----  
NOTE: The signature to this assignment must correspond with the name as written upon the face of the Receipt in every particular, without alteration or enlargement, or any change whatever.

**EXHIBIT 5**

**[MASCO CORPORATION LETTERHEAD]**

November 20, 2001

Masco Corporation  
21001 Van Born Road  
Taylor, Michigan 48180

**RE: MASCO CORPORATION  
REGISTRATION STATEMENT ON FORM S-3**

Dear Sirs:

I am acting as your counsel in connection with the Registration Statement on Form S-3 (the "Registration Statement") under the Securities Act of 1933, as amended, in which this opinion is included as Exhibit 5, registering securities of Masco Corporation (the "Company"), including senior debt securities (the "Senior Securities"), subordinated debt securities (the "Subordinated Securities"), shares of Preferred Stock, \$1.00 par value (the "Preferred Stock"), depositary shares representing Preferred Stock ("Depositary Shares") evidenced by depositary receipts (the "Receipts") and shares of Common Stock, \$1.00 par value (the "Common Stock") and related preferred stock purchase rights (the "Rights"). The Senior Securities are to be issued under an Indenture dated as of February 12, 2001 between the Company and Bank One Trust Company, National Association, as Trustee (the "Senior Indenture"), and the Subordinated Securities are to be issued under an Indenture between the Company and The Bank of New York, as Trustee (the "Subordinated Indenture"). The Senior Securities and Subordinated Securities are herein referred to as the "Securities," and the Senior Indenture and the Subordinated Indenture are herein referred to as the "Indentures." The Depositary Shares will be issued pursuant to a deposit agreement (the "Deposit Agreement") between the Company and a depositary agent. The Preferred Stock, the Depositary Shares and the Common Stock are herein referred to as the "Shares."

In addition to the Shares and the related Rights, the Registration Statement also registers an indeterminate number of shares of Common Stock of the Company (the "Conversion Shares") and related Rights (the "Conversion Rights") that may be issued upon conversion of convertible Securities or Preferred Stock.

I or attorneys under my supervision upon whom I am relying, have examined originals or copies, certified or otherwise identified to my satisfaction, of such documents and corporate records, as I have deemed necessary or advisable for the purpose of this opinion. Based upon the foregoing, I am of the opinion that:

(1) The Company has been duly incorporated and is a validly existing corporation in good standing under the laws of the State of Delaware;

- (2) The Senior Indenture has been duly authorized, executed and delivered by the Company and is a valid and binding obligation of the Company;
- (3) The Subordinated Indenture has been duly authorized, and when executed and delivered by the Company will be a valid and binding obligation of the Company;
- (4) When the Subordinated Indenture has been duly executed and delivered by the Company and when the issuance of the Securities has been duly authorized by appropriate corporate action and such Securities have been duly executed, authenticated and delivered in accordance with the Indentures and sold as described in the Registration Statement, including the Prospectus and Prospectus Supplements relating to such Securities, subject to the final terms of the Securities being in compliance with then applicable law, the Securities will be valid and binding obligations of the Company entitled to the benefits of the Indentures;
- (5) When the issuance of the Common Stock and any related Rights has been duly authorized by appropriate corporate action and the Common Stock and any related Rights have been duly issued and sold as described in the Registration Statement, including the Prospectus and Prospectus Supplements relating to the Common Stock and any related Rights, the Common Stock and will be legally issued, fully paid and non-assessable and any related Rights will be valid and binding obligations of the Company;
- (6) When the issuance of the Preferred Stock has been duly authorized by appropriate corporate action and the Preferred Stock has been duly issued and sold as described in the Registration Statement, including the Prospectus and Prospectus Supplements relating to the Preferred Stock, the Preferred Stock will be legally issued, fully paid and non-assessable;
- (7) The Deposit Agreement has been duly authorized by the Company, and when executed and delivered by the Company will be a valid and binding obligation of the Company;
- (8) When the issuance of the Depositary Shares and the underlying Preferred Stock has been duly authorized by appropriate corporate action and the Receipts have been duly issued in accordance with the Deposit Agreement and sold as described in the Registration Statement, including the Prospectus and Prospectus Supplements relating to the Depositary Shares, the Depositary Shares will be legally issued, fully paid and non-assessable and the Receipts will be valid and binding obligations of the Company; and

(9) When the issuance of the Conversion Shares and related Conversion Rights issuable upon conversion of convertible Securities or Preferred Stock have been duly authorized by appropriate corporate action and when the Conversion Shares and related Conversion Rights have been issued upon conversion as described in the Registration Statement, including the Prospectus and Prospectus Supplements relating to such convertible Securities or Preferred Stock, the Conversion Shares will be legally issued, fully paid and non-assessable and the related Conversion Rights will be valid and binding obligations of the Company.

I hereby consent to the filing of this opinion as Exhibit 5 to the Company's Registration Statement on Form S-3. I also consent to the reference to me under the caption "Legal Opinions" in the Prospectus.

Very truly yours,

*/s/ John R. Leekley*

-----  
*John R. Leekley*  
*Senior Vice President and*  
*General Counsel*

**EXHIBIT 23.1**

**CONSENT OF INDEPENDENT ACCOUNTANTS**

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated February 14, 2001 relating to the consolidated financial statements and financial statement schedule, which appears in Masco Corporation's Annual Report on Form 10-K for the year ended December 31, 2000. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

**PRICEWATERHOUSECOOPERS LLP**

Detroit, Michigan  
November 20, 2001

**EXHIBIT 25.1**

**SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM T-1**

**STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939  
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE**

**CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY  
OF A TRUSTEE PURSUANT TO SECTION 305(B)(2)**

**BANK ONE TRUST COMPANY, NATIONAL ASSOCIATION**  
(EXACT NAME OF TRUSTEE AS SPECIFIED IN ITS CHARTER)

A NATIONAL BANKING ASSOCIATION

31-0838515  
(I.R.S. EMPLOYER  
IDENTIFICATION NUMBER)

100 EAST BROAD STREET, COLUMBUS, OHIO  
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

43271-0181  
(ZIP CODE)

**BANK ONE TRUST COMPANY, NATIONAL ASSOCIATION**  
**100 EAST BROAD STREET**  
**COLUMBUS, OHIO 43271-0181**  
**ATTN: STEVEN M. WAGNER, DIRECTOR, (312) 407-1819**  
(NAME, ADDRESS AND TELEPHONE NUMBER OF AGENT FOR SERVICE)

**MASCO CORPORATION**  
(EXACT NAME OF OBLIGOR AS SPECIFIED IN ITS CHARTER)

DELAWARE  
(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

38-1794485  
(I.R.S. EMPLOYER  
IDENTIFICATION NUMBER)

21001 VAN BORN ROAD  
TAYLOR, MICHIGAN  
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

48180  
(ZIP CODE)

**DEBT SECURITIES**  
(TITLE OF INDENTURE SECURITIES)



**ITEM 1. GENERAL INFORMATION. FURNISH THE FOLLOWING INFORMATION AS TO THE TRUSTEE:**

**(A) NAME AND ADDRESS OF EACH EXAMINING OR SUPERVISING AUTHORITY TO WHICH IT IS SUBJECT.**

Comptroller of Currency, Washington, D.C.;

Federal Deposit Insurance Corporation, Washington, D.C.; The Board of Governors of the Federal Reserve System, Washington D.C.

**(B) WHETHER IT IS AUTHORIZED TO EXERCISE CORPORATE TRUST POWERS.**

The trustee is authorized to exercise corporate trust powers.

**ITEM 2. AFFILIATIONS WITH THE OBLIGOR. IF THE OBLIGOR IS AN AFFILIATE OF THE TRUSTEE, DESCRIBE EACH SUCH AFFILIATION.**

No such affiliation exists with the trustee.

**ITEM 16. LIST OF EXHIBITS. LIST BELOW ALL EXHIBITS FILED AS A PART OF THIS STATEMENT OF ELIGIBILITY.**

1. A copy of the articles of association of the trustee now in effect.
2. A copy of the certificates of authority of the trustee to commence business.
3. A copy of the authorization of the trustee to exercise corporate trust powers.
4. A copy of the existing by-laws of the trustee.
5. Not Applicable.
6. The consent of the trustee required by Section 321(b) of the Act.

7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

8. Not Applicable.

9. Not Applicable.

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Bank One Trust Company, NA, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Chicago and State of Illinois, on the 16th day of November, 2001.

**BANK ONE TRUST COMPANY, NA,  
TRUSTEE**

**BY**

*/S/ CHRISTOPHER HOLLY  
ASSISTANT VICE PRESIDENT*

**EXHIBIT 1**

**A COPY OF THE ARTICLES OF ASSOCIATION OF THE  
TRUSTEE NOW IN EFFECT**

**AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION  
OF  
BANK ONE TRUST COMPANY, NA**

FIRST. The title of this Association shall be BANK ONE TRUST COMPANY, NA.

SECOND. The main office of the Association shall be in the City of Columbus, County of Franklin, State of Ohio.

The business of the Association will be limited to the fiduciary powers and the support of activities incidental to the exercise of those powers. The Association will not expand or alter its business beyond that stated in this article without the prior approval of the Comptroller of the Currency.

THIRD. The Board of Directors of this Association shall consist of not less than five nor more than twenty-five persons, the exact number to be fixed and determined from time to time by resolution of a majority of the full Board of Directors or by resolution of a majority of the shareholders at any annual or special meeting thereof. Each director shall own common or preferred stock of the Association, or of a holding company owning the Association, with an aggregate par, fair market or equity value of not less than \$1,000, as of either (i) the date of purchase, (ii) the date the person became a director, or (iii) the date of that person's most recent election to the Board of Directors, whichever is more recent. Any combination of common or preferred stock of the Association or holding company may be used.

Any vacancy in the Board of Directors may be filled by action of a majority of the remaining directors between meetings of shareholders. The Board of Directors may not increase the number of directors between meetings of shareholders to a number which: (1) exceeds by more than two the number of directors last elected by shareholders where the number was 15 or less; or (2) exceeds by more than four the number of directors last elected by shareholders where the number was 16 or more, but in no event shall the number of directors exceed 25.

Terms of directors, including directors selected to fill vacancies, shall expire at the next regular meeting of shareholders at which directors are elected, unless the directors resign or are removed from office.

Despite the expiration of a director's term, the director shall continue to serve until his or her successor is elected and qualifies or until there is a decrease in the number of directors and his or her position is eliminated.

Honorary or advisory members of the Board of Directors, without voting power or power of final decision in matters concerning the business of the Association, may be appointed by resolution of a majority of the full Board of Directors, or by resolution of shareholders at any annual or special meeting. Honorary or advisory directors shall not be counted to determine the number of directors of the Association or the presence of a quorum in connection with any board action, and shall not be required to own qualifying shares.

FOURTH. There shall be an annual meeting of the shareholders to elect directors and transact whatever other business may be brought before the meeting. It shall be held at the main office or any other convenient place the Board of Directors may designate, on the day of each year specified therefor in the Bylaws or, if that day falls on a legal holiday in the state in which the Association is located, on the next following banking day. If no election is held on the day fixed or in the event of a legal holiday on the following banking day, an election may be held on any subsequent day within 60 days of the day fixed, to be designated by the Board of Directors or, if the directors fail to fix the day, by shareholders representing two-thirds of the shares issued and outstanding. In all cases at least 10 days advance notice of the meeting shall be given to the shareholders by first class mail.

In all elections of directors, the number of votes each common shareholder may cast will be determined by multiplying the number of shares such shareholder owns by the number of directors to be elected. Those votes may be cumulated and cast for a single candidate or may be distributed among two or more candidates in the manner selected by the shareholder. On all other questions, each common shareholder shall be entitled to one vote for each share of stock held by such shareholder. If the issuance of preferred stock with voting rights has been authorized by a vote of shareholders owning a majority of the common stock of the association, preferred shareholders will have cumulative voting rights and will be included within the same class as common shareholders, for purposes of elections of directors.

A director may resign at any time by delivering written notice to the Board of Directors, its chairperson, or to the Association, which resignation shall be effective when the notice is delivered unless the notice specifies a later effective date.

A director may be removed by shareholders at a meeting called to remove him or her, when notice of the meeting stating that the purpose or one of the purposes is to remove him or her is provided, if there is a failure to fulfill one of the affirmative requirements for qualification, or for cause, provided, however, that a director may not be removed if the number of votes sufficient to elect him or her under cumulative voting is voted against his or her removal.

FIFTH. The authorized amount of capital stock of this Association shall be eighty thousand shares of common stock of the par value of ten dollars (\$10.00) each; but said capital stock may be increased or decreased from time to time, according to the provisions of the laws of the United States.

No holder of shares of the capital stock of any class of the Association shall have any preemptive or preferential right of subscription to any shares of any class of stock of the Association, whether now or hereafter authorized, or to any obligations convertible into stock of the Association, issued or sold, nor any right of subscription to any thereof other than such, if any, as the Board of Directors, in its discretion, may from time to time

determine and at such price as the Board of Directors may from time to time fix. Unless otherwise specified in the Articles of Association or required by law,

(1) all matters requiring shareholder action, including amendments to the Articles of Association, must be approved by shareholders owning a majority voting interest in the outstanding voting stock, and (2) each shareholder shall be entitled to one vote per share.

Unless otherwise specified in the Articles of Association or required by law, all shares of voting stock shall be voted together as a class on any matters requiring shareholder approval. If a proposed amendment would affect two or more classes or series in the same or a substantially similar way, all the classes or series so affected must vote together as a single voting group on the proposed amendment.

Shares of the same class or series may be issued as a dividend on a pro rata basis and without consideration. Shares of another class or series may be issued as share dividends in respect of a class or series of stock if approved by a majority of the votes entitled to be cast by the class or series to be issued unless there are no outstanding shares of the class or series to be issued. Unless otherwise provided by the Board of Directors, the record date for determining shareholders entitled to a share dividend shall be the date the Board of Directors authorizes the share dividend.

Unless otherwise provided in the Bylaws, the record date for determining shareholders entitled to notice of and to vote at any meeting is the close of business on the day before the first notice is mailed or otherwise sent to the shareholders, provided that in no event may a record date be more than 70 days before the meeting.

If a shareholder is entitled to fractional shares pursuant to preemptive rights, a stock dividend, consolidation or merger, reverse stock split or otherwise, the Association may: (a) issue fractional shares or; (b) in lieu of the issuance of fractional shares, issue script or warrants entitling the holder to receive a full share upon surrendering enough script or warrants to equal a full share; (c) if there is an established and active market in the Association's stock, make reasonable arrangements to provide the shareholder with an opportunity to realize a fair price through sale of the fraction, or purchase of the additional fraction required for a full share; (d) remit the cash equivalent of the fraction to the shareholder; or (e) sell full shares representing all the fractions at public auction or to the highest bidder after having solicited and received sealed bids from at least three licensed stock brokers, and distribute the proceeds pro rata to shareholders who otherwise would be entitled to the fractional shares. The holder of a fractional share is entitled to exercise the rights for shareholder, including the right to vote, to receive dividends, and to participate in the assets of the Association upon liquidation, in proportion to the fractional interest. The holder of script or warrants is not entitled to any of these rights unless the script or warrants explicitly provide for such rights. The script or warrants may be subject to such additional conditions as:

(1) that the script or warrants will become void if not exchanged for full shares before a specified date; and (2) that the shares for which the script or warrants are exchangeable may be sold at the option of the Association and the proceeds paid to scripsholders.

The Association, at any time and from time to time, may authorize and issue debt obligations, whether or not subordinated, without the approval of the shareholders. Obligations classified as debt, whether or not subordinated, which may be issued by the Association without the approval of shareholders, do not carry voting rights on any issue, including an increase or decrease in the aggregate number of the securities, or the exchange or reclassification of all or part of securities into securities of another class or series.

SIXTH. The Board of Directors shall appoint one of its members president of this Association, and one of its members chairperson of the board and shall have the power to appoint one or more vice presidents, a secretary who shall keep minutes of the directors' and shareholders' meetings and be responsible for authenticating the records of the Association, and such other officers and employees as may be required to transact the business of this Association. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the Board of Directors in accordance with the Bylaws. The Board of Directors shall have the power to:

- (1) Define the duties of the officers, employees, and agents of the Association.
- (2) Delegate the performance of its duties, but not the responsibility for its duties, to the officers, employees, and agents of the Association.
- (3) Fix the compensation and enter into employment contracts with its officers and employees upon reasonable terms and conditions consistent with applicable law.
- (4) Dismiss officers and employees.
- (5) Require bonds from officers and employees and to fix the penalty thereof.
- (6) Ratify written policies authorized by the Association's management or committees of the board.
- (7) Regulate the manner in which any increase or decrease of the capital of the Association shall be made, provided that nothing herein shall restrict the power of shareholders to increase or decrease the capital of the association in accordance with law, and nothing shall raise or lower from two-thirds the percentage for shareholder approval to increase or reduce the capital.
- (8) Manage and administer the business and affairs of the Association.
- (9) Adopt initial Bylaws, not inconsistent with law or the Articles of Association, for managing the business and regulating the affairs of the Association.
- (10) Amend or repeal Bylaws, except to the extent that the Articles of Association reserve this power in whole or in part to shareholders.
- (11) Make contracts.
- (12) Generally perform all acts that are legal for a Board of Directors to perform.

SEVENTH. The Board of Directors shall have the power to change the location of the main office of this Association to any other place within the limits of the City of Columbus, State of Ohio, without the approval of the shareholders; and shall have the power to change the location of the main office of this Association to any other place outside the limits of the City of Columbus, State of Ohio, but not more than thirty miles beyond such limits, with the affirmative vote of shareholders owning two-thirds of the stock of the Association, subject to receipt of a certificate of approval from the Comptroller of the Currency. The Board of Directors shall have the power to establish or change the location of any branch or branches of the Association to any other location permitted under applicable law without the approval of the shareholders, subject to approval by the Office of the Comptroller of the Currency. The Board of Directors shall have the power to establish or change the location of any nonbranch office or facility of the Association without the approval of the shareholders.

EIGHTH. The corporate existence of this Association shall continue until termination according to the laws of the United States.

NINTH. The Board of Directors of this Association, or any shareholders owning, in the aggregate, not less than 20 percent of the stock of this Association, may call a special meeting of shareholders at any time. Unless otherwise provided by the Bylaws or the laws of the United States, or waived by shareholders, a notice of the time, place, and purpose of every annual and special meeting of the shareholders shall be given by first-class mail, postage prepaid, mailed at least 10, and no more than 60, days prior to the date of the meeting to each shareholder of record at his/her address as shown upon the books of this Association. Unless otherwise provided by the Bylaws, any action requiring approval of shareholders must be effected at a duly called annual or special meeting.

TENTH. The Association shall provide indemnification as set forth below:

Every person who is or was a Director, officer or employee of the Association or of any other corporation which he served as a Director, officer or employee at the request of the Association as part of his regularly assigned duties may be indemnified by the Association in accordance with the provisions of this Article against all liability (including, without limitation, judgments, fines, penalties, and settlements) and all reasonable expenses (including, without limitation, attorneys' fees and investigative expenses) that may be incurred or paid by him in connection with any claim, action, suit or proceeding, whether civil, criminal or administrative (all referred to hereafter in this Article as "Claims") or in connection with any appeal relating thereto in which he may become involved as a party or otherwise or with which he may be threatened by reason of his being or having been a Director, officer or employee of the Association or such other corporation, or by reason of any action taken or omitted by him in his capacity as such Director, officer or employee, whether or not he continues to be such at the time such liability or expenses are incurred; provided that nothing contained in this Article shall be construed to permit indemnification of any such person who is adjudged guilty of, or liable for, willful misconduct, gross neglect of duty or criminal acts, unless, at the time such indemnification is sought, such indemnification in such instance is permissible under applicable law and regulations, including published rulings of the Comptroller of the Currency or other appropriate

supervisory or regulatory authority; and provided further that there shall be no indemnification of Directors, officers, or employees against expenses, penalties, or other payments incurred in an administrative proceeding or action instituted by an appropriate regulatory agency which proceeding or action results in a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to the Association.

Every person who may be indemnified under the provisions of this Article and who has been wholly successful on the merits with respect to any Claim shall be entitled to indemnification as of right. Except as provided in the preceding sentence, any indemnification under this Article shall be at the sole discretion of the Board of Directors and shall be made only if the Board of Directors or the Executive Committee acting by a quorum consisting of Directors who are not parties to such Claim shall find or if independent legal counsel (who may be the regular counsel of the Association) selected by the Board of Directors or Executive Committee whether or not a disinterested quorum exists shall render their opinion that in view of all of the circumstances then surrounding the Claim, such indemnification is equitable and in the best interests of the Association. Among the circumstances to be taken into consideration in arriving at such a finding or opinion is the existence or non-existence of a contract of insurance or indemnity under which the Association would be wholly or partially reimbursed for such indemnification, but the existence or non-existence of such insurance is not the sole circumstance to be considered nor shall it be wholly determinative of whether such indemnification shall be made. In addition to such finding or opinion, no indemnification under this Article shall be made unless the Board of Directors or the Executive Committee acting by a quorum consisting of Directors who are not parties to such Claim shall find or if independent legal counsel (who may be the regular counsel of the Association) selected by the Board of Directors or Executive Committee whether or not a disinterested quorum exists shall render their opinion that the Directors, officer or employee acted in good faith in what he reasonably believed to be the best interests of the Association or such other corporation and further in the case of any criminal action or proceeding, that the Director, officer or employee reasonably believed his conduct to be lawful. Determination of any Claim by judgment adverse to a Director, officer or employee by settlement with or without Court approval or conviction upon a plea of guilty or of nolo contendere or its equivalent shall not create a presumption that a Director, officer or employee failed to meet the standards of conduct set forth in this Article. Expenses incurred with respect to any Claim may be advanced by the Association prior to the final disposition thereof upon receipt of an undertaking satisfactory to the Association by or on behalf of the recipient to repay such amount unless it is ultimately determined that he is entitled to indemnification under this Article.

The rights of indemnification provided in this Article shall be in addition to any rights to which any Director, officer or employee may otherwise be entitled by contract or as a matter of law. Every person who shall act as a Director, officer or employee of this Association shall be conclusively presumed to be doing so in reliance upon the right of indemnification provided for in this Article.



ELEVENTH. These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the stock of this Association, unless the vote of the holders of a greater amount of stock is required by law, and in that case by the vote of the holders of such greater amount. The Association's Board of Directors may propose one or more amendments to the Articles of Association for submission to the shareholders.

**EXHIBIT 2**

**A COPY OF THE CERTIFICATE OF AUTHORITY OF THE  
TRUSTEE TO COMMENCE BUSINESS**

**CERTIFICATE**

I, John D. Hawke, Jr., Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq., as amended, 12 U.S.C. 1, et seq., as amended, has possession, custody and control of all records pertaining to the chartering of all National Banking Associations.
2. "Bank One Trust Company, National Association," Columbus, Ohio, (Charter No. 16235) is a National Banking Association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this Certificate.

IN TESTIMONY WHEREOF, I have hereunto

subscribed my name and caused my seal of

office to be affixed to these presents at the

**Treasury Department in the City of  
Washington and District of Columbia, this  
24th day of March, 1999.**

*/s/ John D. Hawke, Jr.*  
-----  
*Comptroller of the Currency*

**EXHIBIT 3**

**A COPY OF THE AUTHORIZATION OF THE TRUSTEE  
TO EXERCISE CORPORATE TRUST POWERS**

**CERTIFICATE**

I, John D. Hawke, Jr., Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq., as amended, 12 U.S.C. 1, et seq., as amended, has possession, custody and control of all records pertaining to the chartering of all National Banking Associations.
2. "Bank One Trust Company, National Association," Columbus, Ohio, (Charter No. 16235) was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 U.S.C. 92a, and that the authority so granted remains in full force and effect on the date of this Certificate.

IN TESTIMONY WHEREOF, I have hereunto

subscribed my name and caused my seal of

office to be affixed to these presents at the

**Treasury Department in the City of  
Washington and District of Columbia, this**

**24th day of March, 1999.**

*/s/ John D. Hawke, Jr.*  
-----  
*Comptroller of the Currency*

**EXHIBIT 4**

**A COPY OF THE EXISTING BY-LAWS OF THE TRUSTEE**

**BANK ONE TRUST COMPANY, N.A.  
BY-LAWS**

**ARTICLE I**

**MEETINGS OF SHAREHOLDERS**

**SECTION 1.01. ANNUAL MEETING.** The regular annual meeting of the shareholders of the Bank for the election of Directors and for the transaction of such business as may properly come before the meeting shall be held at its main office, or other convenient place duly authorized by the Board of Directors, on the same day upon which any regular or special Board meeting is held from and including the first Monday of January to, and including, the fourth Monday of February of each year, or on the next succeeding banking day, if the day fixed falls on a legal holiday. If from any cause, an election of Directors is not made on the day fixed for the regular meeting of the shareholders or, in the event of a legal holiday, on the next succeeding banking day, the Board of Directors shall order the election to be held on some subsequent day, as soon thereafter as practicable, according to the provisions of law; and notice thereof shall be given in the manner herein provided for the annual meeting. Notice of such annual meeting shall be given by or under the direction of the Secretary, or such other officer as may be designated by the Chief Executive Officer, by first-class mail, postage prepaid, to all shareholders of record of the Bank at their respective addresses as shown upon the books of the Bank mailed not less than ten days prior to the date fixed for such meeting.

**SECTION 1.02. SPECIAL MEETINGS.** A special meeting of the shareholders of the Bank may be called at any time by the Board of Directors or by any three or more shareholders owning, in the aggregate, not less than ten percent of the stock of the Bank. Notice of any special meeting of the shareholders called by the Board of Directors, stating the time, place and purpose of the meeting, shall be given by or under the direction of the Secretary, or such other officer as is designated by the Chief Executive Officer, by first-class mail, postage prepaid, to all shareholders of record of the Bank at their respective addresses as shown upon the books of the Bank mailed not less than ten days prior to the date fixed for such meeting. Any special meeting of shareholders shall be conducted and its proceedings recorded in the manner prescribed in these By-Laws for annual meetings of shareholders.

**SECTION 1.03. SECRETARY OF MEETING OF SHAREHOLDERS.** The Board of Directors may designate a person to be the secretary of the meeting of shareholders. In the absence of a presiding officer, as designated by these By-Laws, the Board of Directors may designate a person to act as the presiding officer. In the event the Board of Directors fails to designate a person to preside at a meeting of shareholders and a secretary of such meeting, the shareholders present or represented shall elect a person to preside and a person to serve as secretary of the meeting. The secretary of the meeting of shareholders shall cause the returns made by the judges of election and other proceedings to be recorded in the minute books of the Bank. The presiding officer shall notify the Directors-elect of their election and to meet forthwith for the organization of the new Board of Directors. The minutes of the meeting shall be signed by the presiding officer and the secretary designated for the meeting.

**SECTION 1.04. JUDGES OF ELECTION.** The Board of Directors may appoint as many as three shareholders to be judges of the election, who shall hold and conduct the same, and who shall, after the election has been held, notify, in writing over their signatures, the secretary of the meeting of shareholders of the result thereof and the names of the Directors elected; provided, however, that upon failure for any reason of any judge or judges of election, so appointed by the Directors, to serve, the presiding officer of the meeting shall appoint other shareholders or their proxies to fill the vacancies. The judges of election, at the request of the chairman of the meeting, shall act as tellers of any other vote by ballot taken at such meeting, and shall notify, in writing over their signature, the secretary of the Board of Directors of the result thereof.

**SECTION 1.05. PROXIES.** In all elections of Directors, each shareholder of record, who is qualified to vote under the provisions of Federal Law, shall have the right to vote the number of shares of record in such shareholder's name for as many persons as there are Directors to be elected, or to cumulate such shares as provided by Federal Law. In deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock of record in such shareholder's name. Shareholders may vote by proxy duly authorized in writing. All proxies used at the annual meeting shall be secured for that meeting only, or any adjournment thereof, and shall be dated, if not dated by the shareholder, as of the date of the receipt thereof. No officer or employee of this Bank may act as proxy.

**SECTION 1.06. QUORUM.** Holders of record of a majority of the shares of the capital stock of the Bank, eligible to be voted, present either in person or by proxy, shall constitute a quorum for the transaction of business at any meeting of shareholders, but shareholders present at any meeting and constituting less than a quorum may, without further notice, adjourn the meeting from time to time until a quorum is obtained. A majority of the votes cast shall decide every question or matter submitted to the shareholders at any meeting, unless otherwise provided by law or by the Articles of Association.

## **ARTICLE II DIRECTORS**

**SECTION 2.01. QUALIFICATIONS.** Each Director shall have the qualifications prescribed by law. No person elected as a Director may exercise any of the powers of office until such Director has taken the oath of such office.

**SECTION 2.02. VACANCIES.** Directors of the Bank shall hold office for one year or until their successors are elected and qualified. Any vacancy in the Board shall be filled by appointment of the remaining Directors, and any Director so appointed shall hold office until the next election.

**SECTION 2.03. ORGANIZATION MEETING.** The Directors elected by the shareholders shall meet for organization of the new Board of Directors at the time and place fixed by the presiding officer of the annual meeting. If at the time fixed for such meeting there is no quorum present, the Directors in attendance may adjourn from time to time until a quorum is obtained. A majority of the number of Directors elected by the shareholders shall constitute a quorum for the transaction of business.

**SECTION 2.04. REGULAR MEETINGS.** The regular meetings of the Board of Directors shall be held at such date, time and place as the Board may previously designate, or should the Board fail to so designate, at such date, time and place as the Chairman of the Board, Chief Executive Officer, or President may fix. Whenever a quorum is not present, the Directors in attendance shall adjourn the meeting to a time not later than the date fixed by the By-Laws for the next succeeding regular meeting of the Board. Members of the Board of Directors may participate in such meetings through use of conference telephone or similar communications equipment, so long as all members participating in such meetings can hear one another.

**SECTION 2.05. SPECIAL MEETINGS.** Special meetings of the Board of Directors shall be held at the call of the Chairman of the Board, Chief Executive Officer, or President, or at the request of two or more Directors. Any special meeting may be held at such place and at such time as may be fixed in the call. Written or oral notice shall be given to each Director not later than the day next preceding the day on which the special meeting is to be held, which notice may be waived in writing. The presence of a Director at any meeting of the Board of Directors shall be deemed a waiver of notice thereof by such Director. Whenever a quorum is not present, the Directors in attendance shall adjourn the special meeting from day to day until a quorum is obtained. Members of the Board of Directors may participate in such meetings through use of conference telephone or similar communications equipment, so long as all members participating in such meetings can hear one another.

**SECTION 2.06. QUORUM.** A majority of the Directors shall constitute a quorum at any meeting, except when otherwise provided by law; but a lesser number may adjourn any meeting, from time-to-time, and the meeting may be held, as adjourned, without further notice. When, however, less than a quorum as herein defined, but at least one-third and not less than two of the authorized number of Directors are present at a meeting of the Directors, business of the Bank may be transacted and matters before the Board approved or disapproved by the unanimous vote of the Directors present.

**SECTION 2.07. COMPENSATION.** Each member of the Board of Directors shall receive such fees for attendance at Board and Board committee meetings and such fees for service as a Director, irrespective of meeting attendance, as from time to time are fixed by resolution of the Board; provided, however, that payment hereunder shall not be made to a Director for meetings attended and/or Board service which are not for the Bank's sole benefit and which are concurrent and duplicative with meetings attended or Board service for an affiliate of the Bank for which the Director receives payment; and provided further that fees hereunder shall not be paid in the case of any Director in the regular employment of the Bank or of one of its affiliates. Each member of the Board of Directors, whether or not such Director is in the regular employment of the Bank or of one of its affiliates, shall be reimbursed for travel expenses incident to attendance at Board and Board committee meetings.

**SECTION 2.08. EXECUTIVE COMMITTEE.** There may be a standing committee of the Board of Directors known as the Executive Committee which shall possess and exercise, when the Board is not in session, all the powers of the Board that may lawfully be delegated. The Executive Committee shall consist of at least three Board members, one of whom shall be the Chairman of the Board, Chief Executive Officer or the President. The other members of the Executive Committee shall be appointed by the Chairman of the Board, the Chief Executive Officer, or the President, with the approval of the Board, and who shall continue as members of the Executive Committee until their successors are appointed,

provided, however, that any member of the Executive Committee may be removed by the Board upon a majority vote thereof at any regular or special meeting of the Board. The Chairman, Chief Executive Officer, or President shall fill any vacancy in the Executive Committee by the appointment of another Director, subject to the approval of the Board of Directors. The Executive Committee shall meet at the call of the Chairman, Chief Executive Officer, or President or any two members thereof at such time or times and place as may be designated. In the event of the absence of any member or members of the Executive Committee, the presiding member may appoint a member or members of the Board to fill the place or places of such absent member or members to serve during such absence. Two members of the Executive Committee shall constitute a quorum. When neither the Chairman of the Board, the Chief Executive Officer, nor President are present, the Executive Committee shall appoint a presiding officer. The Executive Committee shall report its proceedings and the action taken by it to the Board of Directors.

SECTION 2.09. OTHER COMMITTEES. The Board of Directors may appoint such special committees from time to time as are in its judgment necessary in the interest of the Bank.

### **ARTICLE III OFFICERS, MANAGEMENT STAFF AND EMPLOYEES**

#### SECTION 3.01. OFFICERS AND MANAGEMENT STAFF.

(a) The executive officers of the Bank shall include a Chairman of the Board, Chief Executive Officer, President, Chief Financial Officer, Secretary, Security Officer, and may include one or more Senior Managing Directors or Managing Directors. The Chairman of the Board, Chief Executive Officer, President, any Senior Managing Director, any Managing Director, Chief Financial Officer, Secretary, and Security Officer shall be elected by the Board. The Chairman of the Board, Chief Executive Officer, and the President shall be elected by the Board from their own number. Such officers as the Board shall elect from their own number shall hold office from the date of their election as officers until the organization meeting of the Board of Directors following the next annual meeting of shareholders, provided, however, that such officers may be relieved of their duties at any time by action of the Board of Directors, in which event all the powers incident to their office shall immediately terminate. The Chairman of the Board, Chief Executive Officer, or the President shall preside at all meetings of shareholders and meetings of the Board of Directors.

(b) The management staff of the Bank shall include officers elected by the Board, officers appointed by the Chairman of the Board, the Chief Executive Officer, the President, any Senior Managing Director, any Managing Director, the Chief Financial Officer, and such other persons in the employment of the Bank who, pursuant to authorization by a duly authorized officer of the Bank, perform management functions and have management responsibilities. Any two or more offices may be held by the same person except that no person shall hold the office of Chairman of the Board, Chief Executive Officer and/or President and at the same time also hold the office of Secretary.

(c) Except as provided in the case of the elected officers who are members of the Board, all officers and employees, whether elected or appointed, shall hold office at the pleasure of the Board. Except as otherwise limited by law or these By-Laws, the Board assigns to the Chairman of the Board, the Chief Executive Officer, the President, any Senior Managing Director, any Managing Director, the Chief Financial Officer, and/or each of their respective designees the authority to control all personnel, including elected and appointed officers and employees of the Bank, to employ or direct the employment of such officers and employees as he or she may deem necessary, including the fixing of salaries and the dismissal of such officers and employees at pleasure, and to define and prescribe the duties and responsibilities of all officers and employees of the Bank, subject to such further limitations and directions as he or she may from time to time deem appropriate.

(d) The Chairman of the Board, the Chief Executive Officer, the President, any Senior Managing Director, any Managing Director, the Chief Financial Officer, and any other officer of the Bank, to the extent that such officer is authorized in writing by the Chairman of the Board, the Chief Executive Officer, the President, any Senior Managing Director, any Managing Director, or the Chief Financial Officer may appoint persons other than officers who are in employment of the Bank to serve in management positions and in connection therewith, the appointing officer may assign such title, salary, responsibilities and functions as are deemed appropriate, provided, however, that nothing contained herein shall be construed as placing any limitation on the authority of the Chairman of the Board, the Chief Executive Officer, the President, any Senior Managing Director, any Managing Director, or the Chief Financial Officer as provided in this and other sections of these By-Laws.

(e) The Senior Managing Directors and the Managing Directors of the Bank shall have general and active authority over the management of the business of the Bank, shall see that all orders and resolutions of the Board of Directors are carried into effect, and shall do or cause to be done all things necessary or proper to carry on the business of the Bank in accordance with provisions of applicable law and regulations. Each Senior Managing Director and Managing Director shall perform all duties incident to his or her office and such other and further duties, as may from time to time be required by the Chief Executive Officer, the President, the Board of Directors, or the shareholders. The specification of authority in these By-Laws wherever and to whomever granted shall not be construed to limit in any manner the general powers of delegation granted to a Senior Managing Director or a Managing Director in conducting the business of the Bank. In the absence of a Senior Managing Director or a Managing Director, such officer as is designated by the Senior Managing Director or the Managing Director shall be vested with all the powers and perform all the duties of the Senior Managing Director or the Managing Director as defined by these By-Laws.

(f) Each Managing Director who is assigned oversight of one or more trust service offices shall appoint a management committee known as the Investment Management and Trust Committee consisting of the Managing Director of the trust service offices and at least three other members who shall be capable and experienced officers of the Bank appointed from time to time by the Managing Director and who shall continue as members of the Investment Management and Trust Committee until their successors are appointed, provided, however, that any member of the Investment Management and Trust Committee may be removed by the Managing Director as provided in this and other sections of these By-Laws. The Managing Director shall fill any vacancy in the Investment Management and Trust Committee by the appointment of another capable and experienced officer of the Bank. Each Investment Management and Trust Committee shall meet at such date, time and place as the Managing Director shall fix. In the event of the absence of any member or members of the Investment Management and Trust Committee, the Managing Director may, in his or her discretion, appoint another officer of the Bank to fill the place or places of such absent member or members to serve during such absence. A majority of each Investment Management and Trust Committee shall constitute a quorum. Each Investment Management and Trust Committee shall carry out the policies of the Bank, as adopted by the Board of Directors, which shall be formulated and executed in accordance with State and Federal Law, Regulations of the Comptroller of the Currency, and sound fiduciary principles. In carrying out the policies of the Bank, each Investment Management and Trust Committee is hereby authorized to establish management teams whose duties and responsibilities shall be specifically set forth in the policies of the Bank. Each such management team shall report such proceedings and the actions taken thereby to the Investment Management and Trust Committee. Each Managing Director shall then report such proceedings and the actions taken thereby to the Board of Directors.



**SECTION 3.02. POWERS AND DUTIES OF MANAGEMENT STAFF.** Pursuant to the fiduciary powers granted to this Bank under the provisions of Federal Law and Regulations of the Comptroller of the Currency, the Chairman of the Board, the Chief Executive Officer, the President, the Senior Managing Directors, the Managing Directors, the Chief Financial Officer, and those officers so designated and authorized by the Chairman of the Board, the Chief Executive Officer, the President, the Senior Managing Directors, the Managing Directors, or the Chief Financial Officer are authorized for and on behalf of the Bank, and to the extent permitted by law, to make loans and discounts; to purchase or acquire drafts, notes, stocks, bonds, and other securities for investment of funds held by the Bank; to execute and purchase acceptances; to appoint, empower and direct all necessary agents and attorneys; to sign and give any notice required to be given; to demand payment and/or to declare due for any default any debt or obligation due or payable to the Bank upon demand or authorized to be declared due; to foreclose any mortgages; to exercise any option, privilege or election to forfeit, terminate, extend or renew any lease; to authorize and direct any proceedings for the collection of any money or for the enforcement of any right or obligation; to adjust, settle and compromise all claims of every kind and description in favor of or against the Bank, and to give receipts, releases and discharges therefor; to borrow money and in connection therewith to make, execute and deliver notes, bonds or other evidences of indebtedness; to pledge or hypothecate any securities or any stocks, bonds, notes or any property real or personal held or owned by the Bank, or to rediscount any notes or other obligations held or owned by the Bank, whenever in his or her judgment it is reasonably necessary for the operation of the Bank; and in furtherance of and in addition to the powers hereinabove set forth to do all such acts and to take all such proceedings as in his or her judgment are necessary and incidental to the operation of the Bank.

**SECTION 3.03. SECRETARY.** The Secretary or such other officers as may be designated by the Chief Executive Officer shall have supervision and control of the records of the Bank and, subject to the direction of the Chief Executive Officer, shall undertake other duties and functions usually performed by a corporate secretary. Other officers may be designated by the Secretary as Assistant Secretary to perform the duties of the Secretary.

**SECTION 3.04. EXECUTION OF DOCUMENTS.** Any member of the Bank's management staff or any employee of the Bank designated as an officer on the Bank's payroll system is hereby authorized for and on behalf of the Bank to sell, assign, lease, mortgage, transfer, deliver and convey any real or personal property, including shares of stock, bonds, notes, certificates of indebtedness (including the assignment and redemption of registered United States obligations) and all other forms of intangible property now or hereafter owned by or standing in the name of the Bank, or its nominee, or held by the Bank as collateral security, or standing in the name of the Bank, or its nominee, in any fiduciary capacity or in the name of any principal for whom this Bank may now or hereafter be acting under a power of attorney or as agent, and to execute and deliver such partial releases from any discharges or assignments of mortgages and assignments or surrender of insurance policies, deeds, contracts, assignments or other papers or documents as may be appropriate in the circumstances now or hereafter held by the Bank in its own name, in a fiduciary capacity, or owned by any principal for whom this Bank may now or hereafter be acting under a power of attorney or as agent; provided, however, that, when necessary, the signature of any such person shall be attested or witnessed in each case by another officer of the Bank. Any member of the Bank's management staff or any employee of the Bank designated as an officer on the Bank's payroll system is hereby authorized for and on behalf of the Bank to execute any indemnity and fidelity bonds, trust agreements, proxies or other papers or documents of like or different character necessary, desirable or incidental to the appointment of the Bank in any fiduciary capacity, the conduct of its business in any fiduciary capacity, or the conduct of its other banking business; to sign and issue checks, drafts, orders for the payment of money and certificates of deposit; to sign and endorse bills of exchange, to sign and countersign foreign and domestic letters of credit, to receive and receipt for payments of principal, interest, dividends, rents, fees and payments of every kind and description paid to the Bank, to sign receipts for money or other property acquired by or entrusted to the Bank, to guarantee

the genuineness of signatures on assignments of stocks, bonds or other securities, to sign certifications of checks, to endorse and deliver checks, drafts, warrants, bills, notes, certificates of deposit and acceptances in all business transactions of the Bank; also to foreclose any mortgage, to execute and deliver receipts for any money or property; also to sign stock certificates for and on behalf of this Bank as transfer agent or registrar, and to authenticate bonds, debentures, land or lease trust certificates or other forms of security issued pursuant to any indenture under which this Bank now or hereafter is acting as trustee or in any other fiduciary capacity; to execute and deliver various forms of documents or agreements necessary to effectuate certain investment strategies for various fiduciary or custody customers of the Bank, including, without limitation, exchange funds, options, both listed and over-the-counter, commodities trading, futures trading, hedge funds, limited partnerships, venture capital funds, swap or collar transactions and other similar investment vehicles for which the Bank now or in the future may deem appropriate for investment of fiduciary customers or in which non-fiduciary customers may direct investment by the Bank.

Without limitation on the foregoing, the Chief Executive Officer, Chairman of the Board, or President of the Bank shall have the authority from time to time to appoint officers of the Bank as Vice President for the sole purpose of executing releases or other documents incidental to the conduct of the Bank's business in any fiduciary capacity where required by state law or the governing document. In addition, other persons in the employment of the Bank or its affiliates may be authorized by the Chief Executive Officer, Chairman of the Board, President, Senior Managing Directors, Managing Directors, or Chief Financial Officer to perform acts and to execute the documents described in the paragraph above, subject, however, to such limitations and conditions as are contained in the authorization given to such person.

**SECTION 3.05. PERFORMANCE BOND.** All officers and employees of the Bank shall be bonded for the honest and faithful performance of their duties for such amount as may be prescribed by the Board of Directors.

#### **ARTICLE IV STOCKS AND STOCK CERTIFICATES**

**SECTION 4.01. STOCK CERTIFICATES.** The shares of stock of the Bank shall be evidenced by certificates which shall bear the signature of the Chairman of the Board, the Chief Executive Officer, or the President (which signature may be engraved, printed or impressed), and shall be signed manually by the Secretary, or any other officer appointed by the Chief Executive Officer for that purpose. In case any such officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Bank with the same effect as if such officer had not ceased to be such at the time of its issue. Each such certificate shall bear the corporate seal of the Bank, shall recite on its face that stock represented thereby is transferable only upon the books of the Bank when properly endorsed and shall recite such other information as is required by law and deemed appropriate by the Board. The corporate seal may be facsimile engraved or printed.

**SECTION 4.02. STOCK ISSUE AND TRANSFER.** The shares of stock of the Bank shall be transferable only upon the stock transfer books of the Bank and, except as hereinafter provided, no transfer shall be made or new certificates issued except upon the surrender for cancellation of the certificate or certificates previously issued therefor. In the case of the loss, theft, or destruction of any certificate, a new certificate may be issued in place of such certificate upon the furnishing of an affidavit setting forth the circumstances of such loss, theft, or destruction and indemnity satisfactory to the Chairman of the Board, the Chief Executive Officer, or the President. The Board of Directors or the Chairman of the Board, Chief Executive Officer, or the President may authorize the issuance of a new

certificate therefor without the furnishing of indemnity. Stock transfer books, in which all transfers of stock shall be recorded, shall be provided. The stock transfer books may be closed for a reasonable period and under such conditions as the Board of Directors may at any time determine, for any meeting of shareholders, the payment of dividends or any other lawful purpose. In lieu of closing the transfer books, the Board of Directors may, in its discretion, fix a record date and hour constituting a reasonable period prior to the day designated for the holding of any meeting of the shareholders or the day appointed for the payment of any dividend, or for any other purpose at the time as of which shareholders entitled to notice of and to vote at any such meeting or to receive such dividend or to be treated as shareholders for such other purpose shall be determined, and only shareholders of record at such time shall be entitled to notice of or to vote at such meeting or to receive such dividends or to be treated as shareholders for such other purpose.

## **ARTICLE V MISCELLANEOUS PROVISIONS**

**SECTION 5.01. SEAL.** The seal of the Bank shall be circular in form with "SEAL" in the center, and the name "BANK ONE TRUST COMPANY, NA" located clockwise around the upper half of the seal.

**SECTION 5.02. MINUTE BOOK.** The organization papers of this Bank, the Articles of Association, the returns of judges of elections, the By-Laws and any amendments thereto, the proceedings of all regular and special meetings of the shareholders and of the Board of Directors, and reports of the committees of the Board of Directors shall be recorded in the minute books of the Bank. The minutes of each such meeting shall be signed by the presiding officer and attested by the secretary of the meeting.

**SECTION 5.03. CORPORATE POWERS.** The corporate existence of the Bank shall continue until terminated in accordance with the laws of the United States. The purpose of the Bank shall be to carry on the general business of a commercial bank trust department and to engage in such activities as are necessary, incident, or related to such business. The Articles of Association of the Bank shall not be amended, or any other provision added elsewhere in the Articles expanding the powers of the Bank, without the prior approval of the Comptroller of the Currency.

**SECTION 5.04. AMENDMENT OF BY-LAWS.** The By-Laws may be amended, altered or repealed, at any regular or special meeting of the Board of Directors, by a vote of a majority of the Directors.

As amended April 24, 1991      Section 3.01 (Officers and Management Staff)  
Section 3.02 (Chief Executive Officer)  
Section 3.03 (Powers and Duties of Officers and  
Management Staff)  
Section 3.05 (Execution of Documents)

As amended January 27, 1995      Section 2.04 (Regular Meetings)  
Section 2.05 (Special Meetings)  
Section 3.01(f) (Officers and Management Staff)  
Section 3.03(e) (Powers and Duties of Officers  
and Management Staff)  
Section 5.01 (Seal)

**Amended and restated in its entirety effective May 1, 1996**

As amended August 1, 1996      Section 2.09 (Trust Examining Committee)  
Section 2.10 (Other Committees)

As amended October 16, 1997      Section 3.01 (Officers and Management Staff)  
Section 3.02 (Powers and Duties of Officers and  
Management Staff)  
Section 3.04 (Execution of Documents)

As amended January 1, 1998      Section 1.01 (Annual Meeting)

**EXHIBIT 6**

**THE CONSENT OF THE TRUSTEE REQUIRED  
BY SECTION 321(b) OF THE ACT**

November 16, 2001

Securities and Exchange Commission  
Washington, D.C. 20549

Ladies and Gentlemen:

In connection with the qualification of an indenture between Masco Corporation and Bank One Trust Company, NA, as Trustee, the undersigned, in accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, hereby consents that the reports of examinations of the undersigned, made by Federal or State authorities authorized to make such examinations, may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Very truly yours,

**BANK ONE TRUST COMPANY, NA**

*BY: /S/ CHRISTOPHER HOLLY  
ASSISTANT VICE PRESIDENT*

**EXHIBIT 7**

Legal Title of Bank:	Bank One Trust Company, N.A.	Call Date:	3/31/01	State #:	391581	FFIEC 041
Address:	100 Broad Street	Vendor ID:	D	Cert #:	21377	Page RC-1
City, State Zip:	Columbus, OH 43271	Transit #:	04400003			

**CONSOLIDATED REPORT OF CONDITION FOR INSURED COMMERCIAL AND STATE-CHARTERED SAVINGS BANKS FOR MARCH 31, 2001**

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding of the last business day of the quarter.

**SCHEDULE RC--BALANCE SHEET**

C300	DOLLAR AMOUNTS IN THOUSANDS	C300
		----
<b>ASSETS</b>		
1. Cash and balances due from depository institutions (from Schedule RC-A):	RCON ----	
a. Noninterest-bearing balances and currency and coin(1).....	0081           57,409	1.a
b. Interest-bearing balances(2).....	0071           0	1.b
2. Securities		
a. Held-to-maturity securities(from Schedule RC-B, column A).....	1754           0	2.a
b. Available-for-sale securities (from Schedule RC-B, column D).....	1773           1,922	2.b
3. Federal funds sold and securities purchased under agreements to resell.....	1350           771,209	3.
4. Loans and lease financing receivables: (from Schedule RC-C):	RCON ----	
a. Loans and leases held for sale.....	5369           0	4.a
b. Loans and leases, net of unearned income.....	B528           84,428	4.b
c. LESS: Allowance for loan and lease losses.....	3123           387	4.c
d. Loans and leases, net of unearned income and allowance (item 4.b minus 4.c).....	B529           84,041	4.d
5. Trading assets (from Schedule RC-D).....	3545           0	5.
6. Premises and fixed assets (including capitalized leases).....	2145           21,125	6.
7. Other real estate owned (from Schedule RC-M).....	2150           0	7.
8. Investments in unconsolidated subsidiaries and associated companies (from Schedule RC-M).....	2130           0	8.
9. Customers' liability to this bank on acceptances outstanding.....	2155           0	9.
10. Intangible assets		
a. Goodwill.....	3163           0	10.a
b. Other intangible assets (from Schedule RC-M).....	0426           12,971	10.b
11. Other assets (from Schedule RC-F).....	2160           317,034	11.
12. Total assets (sum of items 1 through 11).....	2170           1,265,711	12.

- (1) Includes cash items in process of collection and unposted debits.
- (2) Includes time certificates of deposit not held for trading.

Legal Title of Bank: Bank One Trust Company, N.A.  
 Address: 100 East Broad Street  
 City, State Zip: Columbus, OH 43271

Call Date: 3/31/01  
 Vendor ID: D  
 Transit #: 04400003

State #: 391581  
 Cert #" 21377  
 FFIEC 041  
 Page RC-2

**SCHEDULE RC-CONTINUED**

		DOLLAR AMOUNTS IN THOUSANDS		
<b>LIABILITIES</b>				
13. Deposits:				
a. In domestic offices (sum of totals of columns A and C	RCON			
from Schedule RC-E).....	2200	995,556		13.a
(1) Noninterest-bearing(1).....	6631	558,282		13.a1
(2) Interest-bearing.....	6636	437,274		13.a2
b. Not applicable				
14. Federal funds purchased and securities sold under agreements				
to repurchase.....	RCFD 2800	0		14.
15. Trading Liabilities(from Schedule RC-D).....	RCFD 3548	0		15.
16. Other borrowed money (includes mortgage indebtedness and				
obligations under capitalized leases) (from Schedule RC-M).....	3190	0		16.
17. Not applicable				
18. Bank's liability on acceptances executed and outstanding.....	2920	0		18.
19. Subordinated notes and debentures (2).....	3200	0		19.
20. Other liabilities (from Schedule RC-G).....	2930	125,576		20.
21. Total liabilities (sum of items 13 through 20).....	2948	1,121,132		21.
22. Minority interest in consolidated subsidiaries.....	3000	0		22.
<b>EQUITY CAPITAL</b>				
23. Perpetual preferred stock and related surplus.....	3838	0		23.
24. Common stock.....	3230	800		24.
25. Surplus (exclude all surplus related to preferred stock .....	3839	45,157		25.
26. a. Retained earnings.....	3632	98,597		26.a
b. Accumulated other comprehensive income (3).....	B530	25		26.b
27. Other equity capital components (4).....	A130	0		27.
28. Total equity capital (sum of items 23 through 27).....	3210	144,579		28.
29. Total liabilities, minority interest, and equity				
capital (sum of items 21, 22, and 28).....	3300	1,265,711		29.

**Memorandum**

To be reported only with the March Report of Condition.

1. Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date during 1996.....RCFD 6724.....
- |  |     |                |
|--|-----|----------------|
|  | N/A | Number<br>M.1. |
|--|-----|----------------|

- 1 = Independent audit of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the bank
- 2 = Independent audit of the bank's parent holding company conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the consolidated holding company (but not on the bank separately)
- 3 = Directors' examination of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm (may be required by state chartering authority)
- 4 = Directors' examination of the bank performed by other external auditors (may be required by state chartering authority)
- 5 = Review of the bank's financial statements by external auditors
- 6 = Compilation of the bank's financial statements by external auditors
- 7 = Other audit procedures (excluding tax preparation work)
- 8 = No external audit work

(1) Includes total demand deposits and noninterest-bearing time and savings deposits.

FORM T-1

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE  
ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2) ||

**THE BANK OF NEW YORK**  
(Exact name of trustee as specified in its charter)

New York  
(State of incorporation  
if not a U.S. national bank)

13-5160382  
(I.R.S. employer  
identification no.)

One Wall Street, New York, N.Y.  
(Address of principal executive offices)

10286  
(Zip code)

-----

**MASCO CORPORATION**  
(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

38-1794485  
(I.R.S. employer  
identification no.)

21001 Van Born Road  
Taylor, Michigan  
(Address of principal executive offices)

48180  
(Zip code)

-----

**Debt Securities**  
(Title of the indenture securities)



1. GENERAL INFORMATION. FURNISH THE FOLLOWING INFORMATION AS TO THE TRUSTEE:

(A) NAME AND ADDRESS OF EACH EXAMINING OR SUPERVISING AUTHORITY TO WHICH IT IS SUBJECT.

Name	Address
Superintendent of Banks of the State of New York	2 Rector Street, New York, N.Y. 10006, and Albany, N.Y. 12203
Federal Reserve Bank of New York	33 Liberty Plaza, New York, N.Y. 10045
Federal Deposit Insurance Corporation	Washington, D.C. 20429
New York Clearing House Association	New York, New York 10005

(B) WHETHER IT IS AUTHORIZED TO EXERCISE CORPORATE TRUST POWERS.

Yes.

2. AFFILIATIONS WITH OBLIGOR.

**IF THE OBLIGOR IS AN AFFILIATE OF THE TRUSTEE, DESCRIBE EACH SUCH AFFILIATION.**

None.

16. LIST OF EXHIBITS.

EXHIBITS IDENTIFIED IN PARENTHESES BELOW, ON FILE WITH THE COMMISSION, ARE INCORPORATED HEREIN BY REFERENCE AS AN EXHIBIT HERETO, PURSUANT TO RULE 7A-29 UNDER THE TRUST INDENTURE ACT OF 1939 (THE "ACT") AND 17 C.F.R. 229.10(D).

1. A copy of the Organization Certificate of The Bank of New York (formerly Irving Trust Company) as now in effect, which contains the authority to commence business and a grant of powers to exercise corporate trust powers. (Exhibit 1 to Amendment No. 1 to Form T-1 filed with Registration Statement No. 33-6215, Exhibits 1a and 1b to Form T-1 filed with Registration Statement No. 33-21672 and Exhibit 1 to Form T-1 filed with Registration Statement No. 33-29637.)
4. A copy of the existing By-laws of the Trustee. (Exhibit 4 to Form T-1 filed with Registration Statement No. 33-31019.)
6. The consent of the Trustee required by Section 321(b) of the Act. (Exhibit 6 to Form T-1 filed with Registration Statement No. 33-44051.)
7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

**SIGNATURE**

Pursuant to the requirements of the Act, the Trustee, The Bank of New York, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on the 13th day of November, 2001.

**THE BANK OF NEW YORK**

By: /s/ MING SHIANG

-----  
Name: MING SHIANG

Title: VICE PRESIDENT

**Consolidated Report of Condition of**

**THE BANK OF NEW YORK**

of One Wall Street, New York, N.Y. 10286  
And Foreign and Domestic Subsidiaries,

a member of the Federal Reserve System, at the close of business March 31, 2001, published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act.

	Dollar Amounts In Thousands
<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin.....	\$2,811,275
Interest-bearing balances.....	3,133,222
Securities:	
Held-to-maturity securities.....	147,185
Available-for-sale securities.....	5,403,923
Federal funds sold and Securities purchased under agreements to resell.....	3,378,526
Loans and lease financing receivables:	
Loans and leases held for sale.....	74,702
Loans and leases, net of unearned income.....	37,471,621
LESS: Allowance for loan and lease losses.....	599,061
Loans and leases, net of unearned income and allowance.....	36,872,560
Trading Assets.....	11,757,036
Premises and fixed assets (including capitalized leases).....	768,795
Other real estate owned.....	1,078
Investments in unconsolidated subsidiaries and associated companies.....	193,126
Customers' liability to this bank on acceptances outstanding.....	592,118
Intangible assets.....	
Goodwill.....	1,300,295
Other intangible assets.....	122,143
Other assets.....	3,676,375
	-----
Total assets.....	\$70,232,359
	=====
<b>LIABILITIES</b>	
Deposits:	
In domestic offices.....	\$25,962,242
Noninterest-bearing.....	10,586,346
Interest-bearing.....	15,395,896
In foreign offices, Edge and Agreement subsidiaries, and IBFs.....	24,862,377
Noninterest-bearing.....	373,085
Interest-bearing.....	24,489,292
Federal funds purchased and securities sold under agreements to repurchase.....	1,446,874
Trading liabilities.....	2,373,361
Other borrowed money: (includes mortgage indebtedness and obligations under capitalized leases).....	1,381,512
Bank's liability on acceptances executed and outstanding.....	592,804
Subordinated notes and debentures.....	1,646,000

Other liabilities.....	5,373,065
	-----
Total liabilities.....	\$63,658,235
	=====
EQUITY CAPITAL	
Common stock.....	1,135,284
Surplus.....	1,008,773
Retained earnings.....	4,426,033
Accumulated other comprehensive income.....	4,034
Other equity capital components.....	0
	-----
Total equity capital.....	6,574,124
	-----
Total liabilities and equity capital.....	\$70,232,359
	=====

I, Thomas J. Mastro, Senior Vice President and Comptroller of the above-named bank do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the Board of Governors of the Federal Reserve System and is true to the best of my knowledge and belief.

Thomas J. Mastro, Senior Vice President and Comptroller

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the Board of Governors of the Federal Reserve System and is true and correct.

Thomas A. Renyi  
Gerald L. Hassell Directors  
Alan R. Griffith

---

**End of Filing**

Powered By  EDGAR Online

© 2005 | EDGAR Online, Inc.