



**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549****FORM S-8****REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933****THE SCOTTS MIRACLE-GRO COMPANY**

(Exact name of registrant as specified in its charter)

Ohio (State or other jurisdiction of incorporation or organization)	31-1414921 (I.R.S. Employer Identification No.)
14111 Scottslawn Road, Marysville, Ohio (Address of Principal Executive Offices)	43041 (Zip Code)

The Scotts Company LLC Executive Retirement Plan  
(Full title of the plan)

David C. Evans  
Executive Vice President  
and Chief Financial Officer  
The Scotts Miracle-Gro Company  
14111 Scottslawn Road  
Marysville, Ohio 43041  
(Name and address of agent for service)

(937) 644-0011  
(Telephone number, including area code, of agent for service)

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

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

**Calculation of Registration Fee**

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price (2)	Amount of registration fee
Deferred Compensation Obligations (1)	\$12,000,000	100%	\$12,000,000	\$471.60
Common Shares, without par value (1)	548,446	\$21.88 (3)	\$12,000,000	N/A
<b>Total Registration Fee</b>	N/A	N/A	N/A	\$471.60

- (1) The Deferred Compensation Obligations being registered are general unsecured obligations of The Scotts Company LLC ("Scotts LLC"), a wholly-owned subsidiary of The Scotts Miracle-Gro Company (the "Registrant" or "SMG"), and of affiliates of Scotts LLC including the Registrant (collectively, the "Company") under The Scotts Company LLC Executive Retirement Plan (the "Plan"). Participants in the Plan may direct that Deferred Compensation Obligations be treated as credited to one or more benchmarked investment funds, including an SMG stock fund (reflecting common shares of the Registrant). Distributions in respect of Deferred Compensation Obligations which are treated as credited to the SMG stock fund are made in common shares of the Registrant. Accordingly, reference is made in the above table to the maximum number of common shares of the Registrant that may be distributed in respect of such Deferred Compensation Obligations if they are all treated as credited to the SMG stock fund.
- (2) Estimated pursuant to Rule 457(h) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee.
- (3) Estimated pursuant to Rule 457(c) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee based upon the average of the high and low prices of the Registrant's common shares as reported on the New York Stock Exchange on October 7, 2008.

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Part I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of Form S-8 will be sent or given to participants in The Scotts Company LLC Executive Retirement Plan as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). In accordance with the instructions to Part I of Form S-8, such documents will not be filed with the Securities and Exchange Commission (the "Commission") either as part of this Registration Statement on Form S-8 (this "Registration Statement") or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

Part II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Commission allows the Registrant to "incorporate by reference" in this Registration Statement the information in the documents that the Registrant files with the Commission, which means that important information can be disclosed to you by referring you to those documents. The information incorporated by reference is considered to be a part of this Registration Statement. The following documents, filed by the Registrant with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof:

- the Annual Report on Form 10-K of the Registrant for the fiscal year ended September 30, 2007, filed with the Commission on November 29, 2007 (File No. 1-13292);
- the Quarterly Report on Form 10-Q of the Registrant for the quarterly period ended December 29, 2007, filed with the Commission on February 7, 2008 (File No. 1-13292);
- the Quarterly Report on Form 10-Q of the Registrant for the quarterly period ended March 29, 2008, filed with the Commission on May 8, 2008 (File No. 1-13292);
- the Quarterly Report on Form 10-Q of the Registrant for the quarterly period ended June 28, 2008, filed with the Commission on August 7, 2008 (File No. 1-13292);
- the Current Reports on Form 8-K filed by the Registrant with the Commission on November 1, 2007, December 7, 2007, December 17, 2007, December 20, 2007, December 21, 2007, January 29, 2008, February 6, 2008, April 15, 2008, April 24, 2008, April 25, 2008, May 5, 2008, May 22, 2008, June 4, 2008, July 1, 2008, July 3,

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2008, August 1, 2008, August 22, 2008, September 12, 2008, September 17, 2008, and September 18, 2008 (File No. 1-13292); and

- the description of the Registrant's common shares, without par value, contained in the Registrant's Current Report on Form 8-K filed with the Commission on March 24, 2005, together with any subsequent registration statement or report filed for the purpose of updating such description.

All documents which may be filed by the Registrant with the Commission pursuant to Section 13(a), Section 13(c), Section 14 or Section 15(d) of the Exchange Act subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered under The Scotts Company LLC Executive Retirement Plan pursuant to this Registration Statement have been sold or which deregisters all securities then remaining unsold, shall also be deemed to be incorporated by reference in this Registration Statement and to be made a part hereof from the date of filing of such documents. To the extent that any information contained in any Current Report on Form 8-K, or any exhibit thereto, was or is furnished to, rather than filed with, the Commission in accordance with the Commission's rules, such information or exhibit is specifically not incorporated by reference into this Registration Statement.

Any statement contained in a document incorporated or deemed to be incorporated in this Registration Statement by reference, or contained in this Registration Statement, shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed document which also is or is deemed to be incorporated by reference in this Registration Statement modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

### Item 4. Description of Securities.

#### **Common Shares**

The common shares, without par value, of the Registrant are registered under Section 12 of the Exchange Act. Accordingly, in accordance with the instructions to Item 4 of Part II of Form S-8, no description of such common shares is provided hereunder.

#### **Deferred Compensation Obligations**

The Deferred Compensation Obligations being registered are general unsecured obligations of The Scotts Company LLC ("Scotts LLC"), a wholly-owned subsidiary of the Registrant, and of affiliates of Scotts LLC including the Registrant (collectively, the "Company") under The Scotts Company LLC Executive Retirement Plan (the "ERP").

The ERP is a non-qualified deferred compensation plan which, among other things, provides eligible employees the opportunity to defer compensation above specified statutory limits applicable to The Scotts Company LLC Retirement Savings Plan (the "RSP") and with respect to Executive Incentive Pay (as defined in the ERP) awarded to such eligible employees.

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The amounts which may be deferred by participants, the contributions which may be made by the Company, details regarding the treatment of deferred compensation obligations as credited to one or more benchmarked investment funds, including an SMG stock fund (reflecting common shares of the Registrant), vesting requirements and distribution rules are set forth in the ERP.

The Company is also authorized to grant retention awards under the ERP to participants and in amounts, each as determined in the sole discretion of the Company. The retention awards will be governed by agreements between each participant and the participant's employer, which will specify, among other things, the vesting requirements and distribution rules that apply to each retention award.

The ERP is an unfunded plan and is subject to the claims of the Company's general creditors. Any and all payments made to any participant pursuant to the ERP will be made only from the general assets of the Company. All ERP accounts are bookkeeping accounts only and do not represent a claim against specific assets of the Company. As permitted by the terms of the ERP, the Company has established a rabbi trust to assist it in discharging its obligations under the ERP. The assets of the rabbi trust remain, at all times, the assets of the Company subject to the claims of its creditors.

The ERP contains no limitations on the rights of the Company to issue senior debt or other securities. No events of default exist under the ERP nor is any absence of default evidence required.

The ERP may, at any time, be amended, modified or terminated by the Compensation and Organization Committee of the Board of Directors of the Registrant. However, no amendment, modification or termination of the ERP may, without the consent of a participant, adversely affect such participant's rights with respect to amounts then credited to the participant's account under the ERP. The ERP will remain in effect until terminated.

The foregoing description of the ERP and the deferred compensation obligations registered pursuant to this Registration Statement is qualified in its entirety by reference to the full text of the ERP and the amendments thereto that are in effect as of the date of this Registration Statement, which are filed as Exhibits 4.4 through 4.10 to this Registration Statement. Each such exhibit is incorporated herein by reference in its entirety pursuant to Rule 411(b)(3) of the Securities Act.

### Item 5. Interests of Named Experts and Counsel.

Not Applicable.

### Item 6. Indemnification of Directors and Officers.

Article Five of the Code of Regulations of the Registrant governs the indemnification of officers and directors of the Registrant. Article Five provides:

Section 5.01. Mandatory Indemnification. The corporation shall indemnify any officer or director of the corporation who was or is a party or is

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threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including, without limitation, any action threatened or instituted by or in the right of the corporation), by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager or agent of another corporation (domestic or foreign, nonprofit or for profit), limited liability company, partnership, joint venture, trust or other enterprise, against expenses (including, without limitation, attorneys' fees, filing fees, court reporters' fees and transcript costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, he had no reasonable cause to believe his conduct was unlawful. A person claiming indemnification under this Section 5.01 shall be presumed, in respect of any act or omission giving rise to such claim for indemnification, to have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal matter, to have had no reasonable cause to believe his conduct was unlawful, and the termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, rebut such presumption.

Section 5.02. Court-Approved Indemnification. Anything contained in the Regulations or elsewhere to the contrary notwithstanding:

(A) the corporation shall not indemnify any officer or director of the corporation who was a party to any completed action or suit instituted by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager or agent of another corporation (domestic or foreign, nonprofit or for profit), limited liability company, partnership, joint venture, trust or other enterprise, in respect of any claim, issue or matter asserted in such action or suit as to which he shall have been adjudged to be liable for acting with reckless disregard for the best interests of the corporation or misconduct (other than negligence) in the performance of his duty to the corporation unless and only to the extent that the Court of Common Pleas of Union County, Ohio or the court in which such action or suit was brought shall determine upon application that, despite such adjudication of liability, and in view of all the circumstances of the case, he is fairly and reasonably entitled to such indemnity as such Court of Common Pleas or such other court shall deem proper; and

(B) the corporation shall promptly make any such unpaid indemnification as is determined by a court to be proper as contemplated by this Section 5.02.

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**Section 5.03. Indemnification for Expenses.** Anything contained in the Regulations or elsewhere to the contrary notwithstanding, to the extent that an officer or director of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 5.01, or in defense of any claim, issue or matter therein, he shall be promptly indemnified by the corporation against expenses (including, without limitation, attorneys' fees, filing fees, court reporters' fees and transcript costs) actually and reasonably incurred by him in connection therewith.

**Section 5.04. Determination Required.** Any indemnification required under Section 5.01 and not precluded under Section 5.02 shall be made by the corporation only upon a determination that such indemnification of the officer or director is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 5.01. Such determination may be made only (A) by a majority vote of a quorum consisting of directors of the corporation who were not and are not parties to, or threatened with, any such action, suit or proceeding, or (B) if such a quorum is not obtainable or if a majority of a quorum of disinterested directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the corporation, or any person to be indemnified, within the past five years, or (C) by the shareholders, or (D) by the Court of Common Pleas of Union County, Ohio or (if the corporation is a party thereto) the court in which such action, suit or proceeding was brought, if any; any such determination may be made by a court under division (D) of this Section 5.04 at any time [including, without limitation, any time before, during or after the time when any such determination may be requested of, be under consideration by or have been denied or disregarded by the disinterested directors under division (A) or by independent legal counsel under division (B) or by the shareholders under division (C) of this Section 5.04]; and no failure for any reason to make any such determination, and no decision for any reason to deny any such determination, by the disinterested directors under division (A) or by independent legal counsel under division (B) or by shareholders under division (C) of this Section 5.04 shall be evidence in rebuttal of the presumption recited in Section 5.01. Any determination made by the disinterested directors under division (A) or by independent legal counsel under division (B) of this Section 5.04 to make indemnification in respect of any claim, issue or matter asserted in an action or suit threatened or brought by or in the right of the corporation shall be promptly communicated to the person who threatened or brought such action or suit, and within ten days after receipt of such notification such person shall have the right to petition the Court of Common Pleas of Union County, Ohio or the court in which such action or suit was brought, if any, to review the reasonableness of such determination.

**Section 5.05. Advances for Expenses.** Expenses (including, without limitation, attorneys' fees, filing fees, court reporters' fees and transcript costs) incurred in defending any action, suit or proceeding referred to in Section 5.01 shall be paid by the corporation in advance of the final disposition of such action,

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suit or proceeding to or on behalf of the officer or director promptly as such expenses are incurred by him, but only if such officer or director shall first agree, in writing, to repay all amounts so paid in respect of any claim, issue or other matter asserted in such action, suit or proceeding in defense of which he shall not have been successful on the merits or otherwise:

(A) if it shall ultimately be determined as provided in Section 5.04 that he is not entitled to be indemnified by the corporation as provided under Section 5.01; or

(B) if, in respect of any claim, issue or other matter asserted by or in the right of the corporation in such action or suit, he shall have been adjudged to be liable for acting with reckless disregard for the best interests of the corporation or misconduct (other than negligence) in the performance of his duty to the corporation, unless and only to the extent that the Court of Common Pleas of Union County, Ohio or the court in which such action or suit was brought shall determine upon application that, despite such adjudication of liability, and in view of all the circumstances, he is fairly and reasonably entitled to all or part of such indemnification.

Section 5.06. Article FIVE Not Exclusive. The indemnification provided by this Article FIVE shall not be exclusive of, and shall be in addition to, any other rights to which any person seeking indemnification may be entitled under the Articles or the Regulations or any agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an officer or director of the corporation and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Section 5.07. Insurance. The corporation may purchase and maintain insurance or furnish similar protection, including but not limited to, trust funds, letters of credit, or self-insurance, on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager or agent of another corporation (domestic or foreign, nonprofit or for profit), limited liability company, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the obligation or the power to indemnify him against such liability under the provisions of this Article FIVE. Insurance may be purchased from or maintained with a person in which the corporation has a financial interest.

Section 5.08. Certain Definitions. For purposes of this Article FIVE, and as examples and not by way of limitation:

(A) A person claiming indemnification under this Article FIVE shall be deemed to have been successful on the merits or otherwise in defense of any

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action, suit or proceeding referred to in Section 5.01, or in defense of any claim, issue or other matter therein, if such action, suit or proceeding shall be terminated as to such person, with or without prejudice, without the entry of a judgment or order against him, without a conviction of him, without the imposition of a fine upon him and without his payment or agreement to pay any amount in settlement thereof (whether or not any such termination is based upon a judicial or other determination of the lack of merit of the claims made against him or otherwise results in a vindication of him); and

(B) References to an “other enterprise” shall include employee benefit plans; references to a “fine” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the corporation” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the corporation” within the meaning of that term as used in this Article FIVE.

Section 5.09. Venue. Any action, suit or proceeding to determine a claim for indemnification under this Article FIVE may be maintained by the person claiming such indemnification, or by the corporation, in the Court of Common Pleas of Union County, Ohio. The corporation and (by claiming such indemnification) each such person consent to the exercise of jurisdiction over its or his person by the Court of Common Pleas of Union County, Ohio in any such action, suit or proceeding.

Division (E) of Section 1701.13 of the Ohio Revised Code addresses indemnification by an Ohio corporation and provides as follows:

(E)(1) A corporation may indemnify or agree to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses, including attorney’s fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order,

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settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, he had reasonable cause to believe that his conduct was unlawful.

(2) A corporation may indemnify or agree to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor, by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses, including attorney's fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any of the following:

(a) Any claim, issue, or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless, and only to the extent that, the court of common pleas or the court in which such action or suit was brought determines, upon application, that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court shall deem proper;

(b) Any action or suit in which the only liability asserted against a director is pursuant to section 1701.95 of the Revised Code.

(3) To the extent that a director, trustee, officer, employee, member, manager, or agent has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in division (E)(1) or (2) of this section, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him in connection with the action, suit, or proceeding.

(4) Any indemnification under division (E)(1) or (2) of this section, unless ordered by a court, shall be made by the corporation only as authorized in the specific case, upon a determination that indemnification of the director, trustee, officer, employee, member, manager, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in division (E)(1) or (2) of this section. Such determination shall be made as follows:

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(a) By a majority vote of a quorum consisting of directors of the indemnifying corporation who were not and are not parties to or threatened with the action, suit, or proceeding referred to in division (E)(1) or (2) of this section;

(b) If the quorum described in division (E)(4)(a) of this section is not obtainable or if a majority vote of a quorum of disinterested directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the corporation or any person to be indemnified within the past five years;

(c) By the shareholders;

(d) By the court of common pleas or the court in which the action, suit, or proceeding referred to in division (E)(1) or (2) of this section was brought.

Any determination made by the disinterested directors under division (E)(4)(a) or by independent legal counsel under division (E)(4)(b) of this section shall be promptly communicated to the person who threatened or brought the action or suit by or in the right of the corporation under division (E)(2) of this section, and, within ten days after receipt of such notification, such person shall have the right to petition the court of common pleas or the court in which such action or suit was brought to review the reasonableness of such determination.

(5)(a) Unless at the time of a director's act or omission that is the subject of an action, suit, or proceeding referred to in division (E)(1) or (2) of this section, the articles or the regulations of a corporation state, by specific reference to this division, that the provisions of this division do not apply to the corporation and unless the only liability asserted against a director in an action, suit, or proceeding referred to in division (E)(1) or (2) of this section is pursuant to section 1701.95 of the Revised Code, expenses, including attorney's fees, incurred by a director in defending the action, suit, or proceeding shall be paid by the corporation as they are incurred, in advance of the final disposition of the action, suit, or proceeding, upon receipt of an undertaking by or on behalf of the director in which he agrees to do both of the following:

(i) Repay such amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the corporation or undertaken with reckless disregard for the best interests of the corporation;

(ii) Reasonably cooperate with the corporation concerning the action, suit, or proceeding.

(b) Expenses, including attorney's fees, incurred by a director, trustee, officer, employee, member, manager, or agent in defending any action, suit, or proceeding referred to in division (E)(1) or (2) of this section, may be paid by the

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corporation as they are incurred, in advance of the final disposition of the action, suit, or proceeding, as authorized by the directors in the specific case, upon receipt of an undertaking by or on behalf of the director, trustee, officer, employee, member, manager, or agent to repay such amount, if it ultimately is determined that he is not entitled to be indemnified by the corporation.

(6) The indemnification authorized by this section shall not be exclusive of, and shall be in addition to, any other rights granted to those seeking indemnification under the articles, the regulations, any agreement, a vote of shareholders or disinterested directors, or otherwise, both as to action in their official capacities and as to action in another capacity while holding their offices or positions, and shall continue as to a person who has ceased to be a director, trustee, officer, employee, member, manager, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(7) A corporation may purchase and maintain insurance or furnish similar protection, including, but not limited to, trust funds, letters of credit, or self-insurance, on behalf of or for any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under this section. Insurance may be purchased from or maintained with a person in which the corporation has a financial interest.

(8) The authority of a corporation to indemnify persons pursuant to division (E)(1) or (2) of this section does not limit the payment of expenses as they are incurred, indemnification, insurance, or other protection that may be provided pursuant to divisions (E)(5), (6), and (7) of this section. Divisions (E)(1) and (2) of this section do not create any obligation to repay or return payments made by the corporation pursuant to division (E)(5), (6), or (7).

(9) As used in division (E) of this section, "corporation" includes all constituent entities in a consolidation or merger and the new or surviving corporation, so that any person who is or was a director, officer, employee, trustee, member, manager, or agent of such a constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, shall stand in the same position under this section with respect to the new or surviving corporation as he would if he had served the new or surviving corporation in the same capacity.

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Article 13 of the Employment Agreement between The Scotts Company LLC and each of the following executive officers of the Registrant — Mark R. Baker, President and Chief Operating Officer; David C. Evans, Executive Vice President and Chief Financial Officer; Barry W. Sanders, Executive Vice President, North America; Denise S. Stump, Executive Vice President, Global Human Resources; and Vincent C. Brockman, Executive Vice President and General Counsel — addresses indemnification of such executive officers as follows:

### **Article 13. Indemnification**

The Company [The Scotts Company LLC] hereby covenants and agrees to indemnify and hold harmless the Executive against and in respect to any and all actions, suits, proceedings, claims, demands, judgments, costs, expenses, losses, and damages resulting from the Executive's performance of his [her] duties and obligations under the terms of this Agreement; provided however, the Executive acted in good faith and in a manner he [she] reasonably believed to be in or not opposed to the best interests of the Company or its shareholders, and with respect to a criminal action or proceeding, the Executive had no reasonable cause to believe his [her] conduct was unlawful.

The Registrant maintains insurance policies providing for indemnification of directors and officers and for reimbursement to the Registrant for monies which it may pay as indemnity to any director or officer, subject to the conditions and exclusions of the policies.

### Item 7. Exemption from Registration Claimed.

Not Applicable.

### Item 8. Exhibits.

The following exhibits are filed with or incorporated by reference into this Registration Statement:

<u>Exhibit No.</u>	<u>Description</u>
4.1	Initial Articles of Incorporation of The Scotts Miracle-Gro Company as filed with the Ohio Secretary of State on November 22, 2004, incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 24, 2005 [File No. 1-13292]
4.2	Certificate of Amendment by Shareholders to Articles of Incorporation of The Scotts Miracle-Gro Company as filed with the Ohio Secretary of State on March 18, 2005, incorporated herein by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed on March 24, 2005 [File No. 1-13292]

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<u>Exhibit No.</u>	<u>Description</u>
4.3	Code of Regulations of The Scotts Miracle-Gro Company, incorporated herein by reference to Exhibit 3.3 to the Registrant's Current Report on Form 8-K filed on March 24, 2005 [File No. 1-13292]
4.4	The Scotts Company Executive Retirement Plan (executed on November 19, 1998 and effective as of January 1, 1999)
4.5	First Amendment to The Scotts Company Executive Retirement Plan (executed as of December 23, 1998 and effective as of January 1, 1999)
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4.9	Fifth Amendment to The Scotts Company Executive Retirement Plan (executed on May 6, 2005 and effective as of March 18, 2005) [Amended the name of the plan to be The Scotts Company LLC Executive Retirement Plan]
4.10	Sixth Amendment to The Scotts Company LLC Executive Retirement Plan, executed and effective as of October 8, 2008
5.1	Opinion of Vorys, Sater, Seymour and Pease LLP regarding the legality of securities to be offered*
23.1	Consent of Vorys, Sater, Seymour and Pease LLP (included in Exhibit 5.1)
23.2	Consent of Deloitte & Touche LLP, independent registered public accounting firm
24.1	Powers of Attorney of Executive Officers and Directors of The Scotts Miracle-Gro Company

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\* The common shares, without par value, of The Scotts Miracle-Gro Company being registered pursuant to this Registration Statement will not be original issuance securities. Accordingly, in accordance with the instructions to Item 8(a) of Part II of Form S-8, no opinion of counsel as to the legality of such common shares is required or provided hereunder.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) 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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement;

(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 (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant 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.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and,

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where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions described in Item 6 of this Part II, or otherwise, the Registrant 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 Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant 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 Registrant 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 the Act and will be governed by the final adjudication of such issue.

[Remainder of page intentionally left blank;  
signatures on following page.]

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-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Marysville, State of Ohio, on the 9<sup>th</sup> day of October, 2008.

THE SCOTTS MIRACLE-GRO COMPANY

By: /s/ James Hagedorn  
James Hagedorn  
Chairman of the Board and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on October 9, 2008.

<u>Signature</u>	<u>Title</u>
<u>/s/ Mark R. Baker</u> Mark R. Baker	President, Chief Operating Officer and Director
<u>/s/ Arnold W. Donald*</u> Arnold W. Donald	Director
<u>/s/ David C. Evans</u> David C. Evans	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
<u>/s/ Joseph P. Flannery*</u> Joseph P. Flannery	Director
<u>/s/ James Hagedorn</u> James Hagedorn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer) and Director
<u>/s/ Thomas N. Kelly Jr.*</u> Thomas N. Kelly Jr.	Director
<u>/s/ Carl F. Kohrt, Ph.D.*</u> Carl F. Kohrt, Ph.D.	Director

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<u>Signature</u>	<u>Title</u>
<u>/s/ Katherine Hagedorn Littlefield*</u> Katherine Hagedorn Littlefield	Director
<u>/s/ Karen G. Mills*</u> Karen G. Mills	Director
<u>/s/ Nancy G. Mistretta*</u> Nancy G. Mistretta	Director
<u>/s/ Patrick J. Norton*</u> Patrick J. Norton	Director
<u>/s/ Stephanie M. Shern*</u> Stephanie M. Shern	Director
<u>/s/ John S. Shiely*</u> John S. Shiely	Director

\* The undersigned, by signing his name hereto, does hereby sign this Registration Statement on Form S-8 on behalf of each of the directors of the Registrant identified above pursuant to Powers of Attorney executed by the directors identified above, which Powers of Attorney are filed with this Registration Statement on Form S-8 as exhibits.

/s/ David C. Evans  
By: David C. Evans, Attorney-in-Fact  
Date: October 9, 2008

INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
4.1	Initial Articles of Incorporation of The Scotts Miracle-Gro Company as filed with the Ohio Secretary of State on November 22, 2004, incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K of The Scotts Miracle-Gro Company (the “Registrant”) filed on March 24, 2005 [File No. 1-13292]
4.2	Certificate of Amendment by Shareholders to Articles of Incorporation of The Scotts Miracle-Gro Company as filed with the Ohio Secretary of State on March 18, 2005, incorporated herein by reference to Exhibit 3.2 to the Registrant’s Current Report on Form 8-K filed on March 24, 2005 [File No. 1-13292]
4.3	Code of Regulations of The Scotts Miracle-Gro Company, incorporated herein by reference to Exhibit 3.3 to the Registrant’s Current Report on Form 8-K filed on March 24, 2005 [File No. 1-13292]
4.4	The Scotts Company Executive Retirement Plan (executed on November 19, 1998 and effective as of January 1, 1999)
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<u>Exhibit No.</u>	<u>Description</u>
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24.1	Powers of Attorney of Executive Officers and Directors of The Scotts Miracle-Gro Company

\* The common shares, without par value, of The Scotts Miracle-Gro Company being registered pursuant to this Registration Statement will not be original issuance securities. Accordingly, in accordance with the instructions to Item 8(a) of Part II of Form S-8, no opinion of counsel as to the legality of such common shares is required or provided hereunder.

THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN

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THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN  
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THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN

I. NAME AND PURPOSE

The Scotts Company Incentive Pay Deferral Plan is hereby amended and restated as The Scotts Company Executive Retirement Plan effective as of January 1, 1999. The Plan provides Eligible Employees with the opportunity to defer bonuses under the Executive Annual Incentive Plan and supplements the benefits of Eligible Employees under The Scotts Company Retirement Savings Plan. The benefits under the Plan are to be provided from the Plan on an unfunded basis. It is intended that the Plan be exempt from the funding, participation, vesting and fiduciary provisions of Title I of ERISA.

II. DEFINITIONS

The following terms will have the meanings provided below.

“Account” means the separate Account established for each Participant pursuant to Section IV of the Plan. A Participant’s Account shall consist of a Deferred Executive Incentive Pay Account, a Deferred Compensation Account, a Matching Account, a Retirement Account and a Transitional Contributions Account.

“Additions” means the credits applied to Accounts as provided in Section IV hereof.

“Administrative Committee” means the administrative committee appointed by the Board to administer the tax qualified retirement plans which are also sponsored by the Employer.

“Beneficiary” means the person or persons designated in writing as such and filed with the Administrative Committee at any time by a Participant. Any such designation may be withdrawn or changed in writing (without the consent of the Beneficiary), but only the last designation on file with the Administrative Committee shall be effective.

“Board” means the Board of Directors of The Scotts Company.

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

“Company Stock Fund” means a fund consisting of common shares of the Company and cash or cash equivalents needed to meet obligations of such fund or for the purchase of common shares of the Company.

“Compensation” has the meaning specified under the applicable provisions of the Qualified Plan, except that Compensation in excess of the Pay Cap shall be included. Executive Incentive Pay shall be: (a) included in Compensation for purposes of allocating Employer contributions to Participants’ Retirement Accounts and Transitional Contribution Accounts; and (b) shall be excluded from Compensation for purposes of allocating Employer contributions to Participants’ Matching Accounts and Participants’ Compensation Deferral Elections.

“Compensation Deferral Election” means an Eligible Employee’s election, on a form prescribed by the Administrative Committee, to defer Compensation.

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

“Effective Date” means January 1, 1999.

“Eligible Employee” has the meaning specified in Section III of the Plan.

“Employee” means an individual employed as a common law employee of the Employer.

“Employer” means The Scotts Company and affiliates of The Scotts Company.

“Executive Incentive Pay” means, with respect to each Participant, any bonus under the Executive Annual Incentive Plan.

“Executive Incentive Pay Deferral Election” means an Eligible Employee’s election, on a form prescribed by the Administrative Committee, to defer Executive Incentive Pay.

“Investment Fund” means the Company Stock Fund or one of the Outside Investment Funds.

“Outside Investment Fund” means an investment fund, other than the Company Stock Fund, which has been designated by the Administrative Committee as available to use as a measure of appreciation or depreciation of Participants’ Accounts.

“Participant” has the meaning specified in Section III of the Plan.

“Plan” means The Scotts Company Executive Retirement Plan, as reflected in this document, as the same may be amended from time to time after the Effective Date.

“Plan Year” means the calendar year.

“Qualified Plan” means The Scotts Company Retirement Savings Plan and any amendments made thereto.

“Statutory Limits” means the following:

- (a) the maximum recognizable annual compensation under Code Section 401(a)(17) — the “Pay Cap”;
- (b) the maximum annual additions under Code Section 415(c) — the “415 Limit”;
- (c) the exclusion of excess deferrals under Code Section 402(g)(1) — the “Deferral Limit”; and
- (d) the limits on contributions for highly compensated employees under Code Sections 401(k)(3) (the “ADP Test”) and 401(m)(2) (the “ACP Test”).

### III. PARTICIPANTS

Each Employee who is an executive in Band G or above shall be eligible to participate in the Plan and shall be treated as an “Eligible Employee.” Each Eligible Employee who elects to participate in the Plan or for whom Employer contributions are credited pursuant to Section IV shall be designated a “Participant” in the Plan. A Participant shall continue to participate in the Plan until his status as a Participant is terminated by: (a) a complete distribution of his Account pursuant to the terms of the Plan; (b) termination of the Plan; or (c) written directive of the Administrative Committee. Notwithstanding the foregoing, Joseph D. Dioguardi shall not be eligible to participate in the Plan.

#### IV. ACCOUNTS

A. Establishment of Accounts. The Administrative Committee will establish an Account for each Participant. A Participant's Account shall consist of a Deferred Executive Incentive Pay Account, a Deferred Compensation Account, a Matching Account, a Retirement Account and a Transitional Contributions Account.

##### B. Election of Participant to Defer Executive Incentive Pay.

(1) With respect to each Plan Year, an Eligible Employee may elect to have a percentage or a flat dollar amount of his Executive Incentive Pay which is to be awarded to him by the Employer for the Plan Year in question allocated to his Deferred Executive Incentive Pay Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such an election for any Plan Year, within thirty (30) days after the Executive Annual Incentive Plan is finalized for the Plan Year, the Eligible Employee must advise the Employer of his election, in writing, on an Executive Incentive Pay Deferral Election. Such Executive Incentive Pay Deferral Election shall apply only to Executive Incentive Pay payable to the Participant after the date on which the Executive Incentive Pay Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Executive Incentive Pay shall terminate and no additional amounts shall be deferred.

(2) Notwithstanding the preceding paragraph, for the Plan Year in which an Employee first becomes an Eligible Employee, the Eligible Employee may complete a Executive Incentive Pay Deferral Election at any time within thirty (30) days following the date on which he became an Eligible Employee. Such Executive Incentive Pay Deferral Election shall apply only to Executive Incentive Pay declared by the Employer and payable to the Eligible Employee after the date on which the Executive Incentive Pay Deferral Election is received by the Administrative Committee.

(3) If an Executive Incentive Pay Deferral Election is submitted to the Administrative Committee in accordance with this Section, the Employer will allocate to the Participant's Deferred Executive Incentive Pay Account the

percentage or dollar amount of Executive Incentive Pay specified in the Executive Incentive Pay Deferral Election.

C. Election of Participant to Defer Compensation.

(1) With respect to each pay period, subject to the maximum percentage deferral permitted under the terms of the Qualified Plan, an Eligible Employee may elect to have a percentage or a flat dollar amount of his Compensation which is to be paid to him by the Employer for the pay period in question allocated to his Deferred Compensation Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such election for any Plan Year, within thirty (30) days prior to the beginning of such Plan Year, the Eligible Employee must advise the Employer of his election, in writing, on a Compensation Deferral Election. Such Compensation Deferral Election shall apply only to Compensation payable to the Participant after the date on which the Compensation Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Compensation shall terminate and no additional amounts shall be deferred. A Participant shall be permitted, pursuant to this Section IV.C. to defer amounts of his Compensation that could otherwise have been contributed to the Qualified Plan, for such Plan Year, were it not for the application of any of the Statutory Limits. If, during the Plan Year, in the sole discretion of the Administrative Committee and the administrator of the Qualified Plan, contribution percentages under the Qualified Plan must be further reduced to insure passage of the ADP Test and/or the ACP Test, or Participants' contributions to the Qualified Plan must be reduced to satisfy the Deferral Limit, any reduced contribution attributable to Participants of this Plan shall be deferred automatically under this Plan. However, if it is determined after the end of the Plan Year that the ADP and/or the ACP Test would be failed, any and all corrective action will be taken in accordance with the rules of the Qualified Plan and no additional amounts may be deferred under this Plan for that Plan Year.

(2) Notwithstanding the preceding paragraph, for the Plan Year in which an Employee first becomes an Eligible Employee, the Eligible Employee may complete a Compensation Deferral Election at any time within thirty (30) days following the date on which he became an Eligible Employee. Such Compensation Deferral Election shall apply only to Compensation earned by and payable to the Eligible Employee after the date on

which the Compensation Deferral Election is received by the Administrative Committee.

(3) If a Compensation Deferral Election is submitted to the Administrative Committee in accordance with this Section, the Employer will allocate to the Participant's Deferred Compensation Account the amount of the Employer contributions that would have been made pursuant to the Qualified Plan had all deferrals under the Compensation Deferral Election been made to the Qualified Plan without application of any of the Statutory Limits, reduced by the amount of Employer contributions actually allocated to the Qualified Plan on behalf of such Participant.

D. Employer Contributions.

(1) Retirement Contribution. For the Plan Year ending December 31, 1998 and each Plan Year thereafter, the Employer will allocate to each Eligible Employee's Retirement Account an amount equal to 4% of the Eligible Employee's Compensation for such Plan Year in excess of the Pay Cap.

(2) Matching Contributions. For each pay period, the Employer shall make matching contributions to the Matching Account of each Participant who elects to defer Compensation in accordance with Section IV.C. For each pay period, the amount of such matching contribution will be 100% of the first 3% of Compensation deferred and 50% of the next 2% of Compensation deferred, less any matching contributions made on behalf of the Participant under the Qualified Plan.

(3) Transitional Contributions. For the Plan Years ending December 31, 1998, 1999, 2000, 2001, and 2002, the Employer will allocate, to the Transitional Contributions Account of each Eligible Employee receiving transitional contributions under the Qualified Plan, an amount equal to: (a) the transitional contribution the Eligible Employee would have been entitled to receive under the Qualified Plan without regard to the Pay Cap and the 415 Limit; minus (b) the transitional contribution allocated to the Eligible Employee under the Qualified Plan.

(4) Right to Amend or Terminate. Employer contributions under this Section may be amended or terminated at any time under Section XI.

E. Investment Funds. The Administrative Committee may change or discontinue the availability of any of the Investment Funds, except that the Company Stock Fund shall continue to be available for the measure of appreciation or depreciation of previously credited amounts.

F. Outside Investment Funds. Each Participant shall direct the portion of future contributions to, and the existing balance in, the Participant's Account to be treated as credited to one or more of the Outside Investment Funds. A Participant may change his or her direction among the Outside Investment Funds as of any business day by providing instructions in such manner as may be prescribed by the Administrative Committee, subject to any applicable restrictions under an Outside Investment Fund.

G. Company Stock Fund. Unless the Administrative Committee discontinues the availability of the Company Stock Fund, a Participant may direct that all or a portion of future contributions to the Participant's Account be treated as credited to the Company Stock Fund. A Participant's direction to have amounts credited to the Company Stock Fund shall be irrevocable as to amounts previously credited. Notwithstanding the foregoing, if a Participant directed that an amount be credited to the Company Stock Fund before July 1, 1998, he may elect by October 1, 1998 to change such direction. After October 1, 1998, the direction into the Company Stock Fund shall be irrevocable as provided herein.

H. Adjustment of Account Balances. As of each business day, the Administrative Committee shall credit or debit the balance in the Participant's Account with Additions which shall mirror the appreciation or depreciation experienced by those Investment Funds to which the Participant's Account is credited. The crediting or debiting of Additions shall occur so long as there is a balance in the Participant's Account regardless of whether the Participant has terminated employment with the Employer or has died. The Administrative Committee may prescribe any reasonable method or procedure for the accounting of Additions.

I. FICA. Deferrals and Additions shall be taken into account as "wages" for purposes of the employment taxes imposed by the Federal Insurance Contributions Act in accordance with regulations promulgated by the Internal Revenue Service.

## V. METHOD OF DISTRIBUTION OF DEFERRED COMPENSATION

A. Time of Payment. Amounts credited to a Participant's Account shall be distributed to the Participant when administratively practicable after termination of employment or a date specified by the Participant. The time of distribution shall be elected by the Participant in the Executive Incentive Pay Deferral Election and Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made.

B. Method of Distribution. Amounts credited to a Participant's Account shall be distributed to the Participant either in a single lump sum payment or in equal annual installments over a period less than ten (10) years. To the extent that an Account is distributed in installment payments, the undisbursed portions of such Account shall continue to be credited with Additions in accordance with the applicable provisions of Section IV.H. In addition, if, as of any business day after the date described in Section V.A., the amount allocated to a Participant's Account is less than \$5,000, the Administrative Committee shall pay such amount to the Participant and reduce the balance of his Account to zero. The method of distribution shall be elected by the Participant in the Executive Incentive Pay Deferral Election and Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made. Distributions of amounts credited to Investment Funds other than the Company Stock Fund shall be made in cash. Distributions of amounts credited to the Company Stock Fund shall be distributed in the greatest whole number of common shares of the Company which can be distributed based on the amount credited to the Company Stock Fund (after any applicable withholding), plus cash for any fractional share.

C. Death Benefit. If a Participant dies (either before or after payment of benefits have commenced under this Section V), his Account shall be paid to the Beneficiary designated by the Participant. If there is no designated Beneficiary or no designated Beneficiary surviving at a Participant's death, payment of the Participant's Account shall be made to the Participant's estate in a single lump sum payment when administratively practicable after the Participant's death. In the event of a Participant's death after distribution of his Account has begun, to the extent that there is a surviving Beneficiary, payment of such Account shall continue in the form of distribution in effect prior to the Participant's death. If

a Participant dies prior to the commencement of distribution of his Account, his Beneficiary, if any, shall receive distribution of such Account in the form of distribution previously elected by the Participant in his Executive Incentive Pay Deferral Election and Compensation Deferral Election. If a Beneficiary begins to receive any payment pursuant to this Section V.C. and dies prior to the time that all amounts have been distributed, any remaining amount shall be paid in a single lump sum payment to the estate of the Beneficiary.

D. Taxes. In the event any taxes are required by law to be withheld or paid from any payments made pursuant to the Plan, the Administrative Committee shall deduct such amounts from such payments and shall transmit the withheld amounts to the appropriate taxing authority.

E. Hardship Distributions. Prior to the date a Participant's Account becomes payable, the Administrative Committee, in its sole discretion, may elect to distribute all or a portion of such Account in the event such Participant requests a distribution due to severe financial hardship. For purposes of this Plan, severe financial hardship shall be deemed to exist in the event the Administrative Committee determines that a Participant needs a distribution to meet immediate and heavy financial needs resulting from a sudden or unexpected illness or accident of the Participant or a member of the Participant's family, loss of the Participant's property due to casualty or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. A distribution based on financial hardship shall not exceed the amount required to meet the immediate financial need created by the hardship.

## VI. BENEFIT PLANS

The amount of each Participant's Executive Incentive Pay or Compensation that he elects to defer under the Plan shall not be deemed to be compensation for the purpose of calculating the amount of such Participant's benefits or contributions under any employee benefit plan maintained by the Employer, including, but not limited to, any pension plan or retirement plan (qualified under Section 401(a) of the Code), the amount of life insurance payable under any life insurance plan or the amount of any disability benefit payments payable under any disability plan, except to the extent specifically provided in any such plan.

## VII. PARTICIPANT'S RIGHTS

Establishment of the Plan shall not be construed as giving any Participant the right to be retained in the Employer's service or employ or the right to receive any benefits not specifically provided by the Plan. A Participant shall not have any interest in the Executive Incentive Pay or Compensation deferred, Employer contributions or Additions credited to his Account until such Account is distributed in accordance with the Plan. All Executive Incentive Pay and Compensation deferred and all amounts held for the Account of a Participant under the Plan shall remain the sole property of the Employer, subject to the claims of its general creditors and available for its use for whatever purposes are desired. With respect to amounts deferred or otherwise held for the Account of a Participant, the Participant is merely a general creditor of the Employer; and the obligation of the Employer hereunder is purely contractual and shall not be funded or secured in any way.

## VIII. NON-ALIENABILITY AND NONTRANSFERABILITY

The rights of a Participant to the payment of deferred compensation as provided in the Plan shall not be assigned, transferred, pledged or encumbered or be subject in any manner to alienation or anticipation. No Participant may borrow against his Account. No Account shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, whether voluntary or involuntary, including, but not limited to, any liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of any Participant.

## IX. ADMINISTRATION

The Plan shall be administered by the Administrative Committee. The Administrative Committee shall have authority to adopt rules and regulations for carrying out the Plan and, in its sole and absolute discretion, to interpret, construe and implement the provisions hereof. Subject to the provisions of Section X below, any decision or interpretation of any provision of the Plan adopted by the Administrative Committee shall be final and conclusive. A Participant who is also a member of the Administrative Committee shall not participate in any decision involving any request made by him or relating in any way solely

to his rights, duties and obligations as a Participant under the Plan.

#### X. CLAIMS PROCEDURE

A. Filing Claims. Any Participant or Beneficiary entitled to benefits under the Plan may file a claim request with the Administrative Committee.

B. Notification to Claimant. If a claim request is wholly or partially denied, the Administrative Committee will furnish to the claimant a notice of the decision within ninety (90) days in writing and in a manner calculated to be understood by the claimant, which notice will contain the following information:

- (1) the specific reason or reasons for the denial;
- (2) specific reference to pertinent Plan provisions upon which the denial is based;
- (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (4) an explanation of the Plan's claims review procedure describing the steps to be taken by a claimant who wishes to submit his claims for review.

C. Review Procedure. A claimant or his authorized representative may, with respect to any denied claim:

- (1) request a review upon a written application filed within sixty (60) days after receipt by the claimant of written notice of the denial of his claim;
- (2) review pertinent documents; and
- (3) submit issues and comments in writing.

Any request or submission will be in writing and will be directed to the Administrative Committee (or its designee). The Administrative Committee (or its designee) will have the sole responsibility for the review of any denied claim and will take all steps appropriate in the light of its findings.

D. Decision on Review. The Administrative Committee (or its designee) will render a decision upon review. If special circumstances (such as the need to hold a hearing on any matter pertaining to the denied claim) warrant additional time, the decision will be rendered as soon as possible, but not later than one hundred twenty (120) days after receipt of the request for review. Written notice of any such extension will be furnished to the claimant prior to the commencement of the extension. The decision on review will be in writing and will include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent provisions of the Plan on which the decision is based. If the decision on review is not furnished to the claimant within the time limits prescribed above, the claim will be deemed denied on review.

#### XI. AMENDMENT AND TERMINATION

The Plan may, at any time or from time to time, be amended, modified or terminated by the Administrative Committee. However, no amendment, modification or termination of the Plan shall, without the consent of the Participant, adversely affect such Participant's rights with respect to amounts then credited to his Account.

#### XII. GENERAL PROVISIONS

(A) Controlling Law. Except to the extent superseded by federal law, the laws of the State of Ohio shall be controlling in all matters relating to the Plan, including construction and performance hereof.

(B) Captions. The captions of Sections and paragraphs of this Plan are for convenience of reference only and shall not control or affect the meaning or construction of any of its provisions.

C. Facility of Payment. Any amounts payable hereunder to any person who is under legal disability or who, in the judgment of the Administrative Committee, is unable to properly manage his financial affairs, may be paid to the legal representative of such person or may be applied for the benefit of such person in any manner which the Administrative Committee may select, and any such payment shall be deemed to be payment for such person's

Account and shall be a complete discharge of all liability of the Employer with respect to the amount so paid.

D. Administrative Expenses. All expenses of administering the Plan shall be borne by the Employer and no part thereof shall be charged against any Participant's Account or any amounts distributable hereunder.

E. Severability. Any provision of this Plan prohibited by the law of any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.

F. Personal Liability. Except as otherwise expressly provided herein, no member of the Administrative Committee and no officer, employee or agent of the Employer shall have any liability to any person, firm or corporation based on or arising out of the Plan except in the case of willful misconduct or fraud.

### XIII. UNFUNDED STATUS OF THE PLAN

Any and all payments made to any Participant pursuant to the Plan shall be made only from the general assets of the Employer. All Accounts under the Plan shall be for bookkeeping purposes only and shall not represent a claim against specific assets of the Employer. Nothing contained in this Plan shall be deemed to create a trust of any kind or create any fiduciary relationship. Notwithstanding the foregoing, the Employer may, in its discretion, establish a trust to pay all or a portion of the benefits payable under this Plan, provided that the assets of such trust shall remain, at all times, the assets of the Employer subject to the claims of its creditors.

IN WITNESS WHEREOF, The Scotts Company, through its duly authorized officer, has caused this Plan to be executed this 19th day of November, 1998.

THE SCOTTS COMPANY

By: /s/ Rosemary L. Smith

Rosemary L. Smith,  
Vice President — Human Resources

THE SCOTTS COMPANY EXECUTIVE RETIREMENT PLAN  
EXECUTIVE INCENTIVE PAY DEFERRAL ELECTION

1. ELECTION TO DEFER.

In accordance with the provisions of The Scotts Company Executive Retirement Plan (the "Plan"), I hereby elect to defer \_\_\_\_\_ percent or \$\_\_\_\_ of bonuses payable to me under the Executive Annual Incentive Plan. This election supersedes any prior Executive Incentive Pay Deferral Election made by me and shall remain in effect until terminated or otherwise amended.

2. DISTRIBUTION ELECTION.

I hereby elect to commence distribution of deferrals credited to my Deferred Executive Incentive Pay Account after this Election (and additions thereto) when administratively practicable after:

- my termination of employment.
- the following date:\_\_\_\_\_

Earlier deferrals and additions thereto will be distributed in accordance with the election in effect at the time of such earlier deferral.

3. METHOD OF PAYMENT.

I hereby elect to receive the distribution of deferrals credited to my Deferred Executive Incentive Pay Account after this Election (and additions thereto) in the following form of payment:

- a single lump sum payment; or
- substantially equal annual installments over a period of \_\_\_\_\_ (less than 10) years.

Earlier deferrals and additions thereto will be distributed in accordance with the election in effect at the time of such earlier deferral.

4. ACKNOWLEDGMENT.

I hereby acknowledge that my election to defer Executive Incentive Pay under the Plan is irrevocable with respect to amounts which are deferred under the Plan and shall remain

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in effect until terminated or modified. I understand that my Account is the sole property of the Employer, subject to the claims of its general creditors.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

Received on behalf of the Administrative Committee.

\_\_\_\_\_  
Date:

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

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THE SCOTTS COMPANY EXECUTIVE RETIREMENT PLAN  
COMPENSATION DEFERRAL ELECTION

1. ELECTION TO DEFER. In accordance with the provisions of The Scotts Company Executive Retirement Plan (the "Plan"), I hereby elect to defer \_\_\_\_ percent or \$\_\_\_\_\_ of my Compensation (as defined in the Plan) otherwise payable to me. This election supersedes any prior Compensation Deferral Election made by me and shall remain in effect until terminated or otherwise amended.
  2. DISTRIBUTION ELECTION. I hereby elect to commence distribution of deferrals credited to my Deferred Compensation Account, Matching Account, Retirement Account and Transitional Contributions Account after this Election (and additions thereto) when administratively practicable after:
    - o my termination of employment.
    - o the following date: \_\_\_\_\_Earlier deferrals and additions thereto will be distributed in accordance with the election in effect at the time of such earlier deferral.
  3. METHOD OF PAYMENT. I hereby elect to receive the distribution of deferrals credited to my Deferred Compensation Account, Matching Account, Retirement Account and Transitional Contributions Account after this Election (and additions thereto) in the following form of payment:
    - o a single lump sum payment; or
    - o substantially equal annual installments over a period of \_\_\_\_\_ (less than 10) years.Earlier deferrals and additions thereto will be distributed in accordance with the election in effect at the time of such earlier deferral.
  4. DESIGNATION OF BENEFICIARY. I hereby designate:  
\_\_\_\_\_ as my primary Beneficiary; and  
\_\_\_\_\_ as my contingent Beneficiary(ies), to receive any amounts payable under the Plan in the event of my death. This designation supersedes
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any prior designation made by me and shall apply to my entire Account (Executive Incentive Pay Deferral Account, Deferred Compensation Account, Matching Account, Retirement Account and Transitional Contributions Account) until terminated or otherwise amended.

5. ACKNOWLEDGMENT. I hereby acknowledge that my election to defer Compensation under the Plan is irrevocable with respect to amounts which are deferred under the Plan and shall remain in effect until terminated or modified. I understand that my Account is the sole property of the Employer, subject to the claims of its general creditors.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

Received on behalf of the Administrative Committee.

\_\_\_\_\_  
Date:

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

**FIRST AMENDMENT  
TO THE  
THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN**

WHEREAS, The Scotts Company (the "Company") sponsors The Scotts Company Executive Retirement Plan (the "Plan"); and

WHEREAS, the Plan provides that executives in Band G and above, other than Joseph D. Dioguardi, are eligible to participate in the Plan; and

WHEREAS, the Company wants to permit Mr. Dioguardi to defer incentive pay and compensation under the Plan;

NOW, THEREFORE, effective as of January 1, 1999:

1. The definition of "Executive Incentive Pay" in Section II of the Plan shall be revised to provide:

"Executive Incentive Pay" means, with respect to each Participant, any bonus under the Executive Annual Incentive Plan or any incentive pay pursuant to an employment agreement.

2. The last sentence of Section III of the Plan shall be deleted.

3. Paragraph (1) of Section IV.B. shall be revised to provide:

(1) With respect to each Plan Year, an Eligible Employee may elect to have a percentage or a flat dollar amount of his Executive Incentive Pay which is to be awarded to him by the Employer for the Plan Year in question allocated to his Deferred Executive Incentive Pay Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such an election for any Plan Year, within thirty (30) days after the Executive Annual Incentive Plan is finalized for the Plan Year (or, in the case of Executive Incentive Pay under an employment agreement, within thirty (30) days prior to the beginning of the Plan Year), the Eligible Employee must advise the Employer of his election, in writing, on an Executive Incentive Pay Deferral Election. Such Executive Incentive Pay Deferral Election shall apply only to Executive Incentive Pay payable to the Participant after the date on which the Executive Incentive Pay Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Executive Incentive Pay shall terminate and no additional amounts shall be deferred.

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4. A new paragraph (5) shall be added to Section IV.D. of the Plan to provide:

(5) Ineligibility for Employer Contributions. Notwithstanding the foregoing, no contributions shall be made for or allocated to Joseph D. Dioguardi under this Section IV.D.

IN WITNESS WHEREOF, the Company has caused this Amendment to be executed as of the 23 day of December, 1998.

**THE SCOTTS COMPANY**

By: /s/ Rosemary L. Smith  
Rosemary L. Smith,  
Vice President — Human Resources and Member of  
the Administrative Committee

**SECOND AMENDMENT  
TO THE  
THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN**

WHEREAS, The Scotts Company (the "Company") sponsors The Scotts Company Executive Retirement Plan (the "Plan"); and

WHEREAS, the Company wants to the statement of the purpose of the Plan to reflect the current function of the Plan;

NOW, THEREFORE, effective as of January 1, 2000, Section I of the Plan is amended to provide:

**I. Name and Purpose**

The Scotts Company Executive Retirement Plan provides Eligible Employees with the opportunity to defer bonuses (under the Executive Annual Incentive Plan) and compensation, and supplements the benefits of Eligible Employees under The Scotts Company Retirement Savings Plan. The benefits under the Plan are to be provided from the Plan on an unfunded basis. It is intended that the Plan be exempt from the funding, participation, vesting and fiduciary provisions of Title I of ERISA.

IN WITNESS WHEREOF, the Company has caused this Amendment to be executed as of the 14 day of January, 2000.

**THE SCOTTS COMPANY**

By: /s/ Hadia Lefavre  
Hadia Lefavre, Senior Vice President Human  
Resources Worldwide

**THIRD AMENDMENT  
TO  
THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN**

WHEREAS, The Scotts Company (the "Company") sponsors The Scotts Company Executive Retirement Plan (the "Plan"); and

WHEREAS, the Company wants to amend the Plan to require that deferral elections be expressed as a percentage of compensation (and not as a flat dollar amount);

NOW, THEREFORE, effective as of January 1, 2003:

1. Paragraph (1) of Section IV.B of the Plan is amended to provide:

(1) With respect to each Plan Year, an Eligible Employee may elect to have a percentage of his Executive Incentive Pay which is to be awarded to him by the Employer for the Plan Year in question allocated to his Deferred Executive Incentive Pay Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such an election for any Plan Year, within thirty (30) days after the Executive Annual Incentive Plan is finalized for the Plan Year, the Eligible Employee must advise the Employer of his election, in writing, on an Executive Incentive Pay Deferral Election. Such Executive Incentive Pay Deferral Election shall apply only to Executive Incentive Pay payable to the Participant after the date on which the Executive Incentive Pay Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Executive Incentive Pay shall terminate and no additional amounts shall be deferred.

2. Paragraph (3) of Section IV.B of the Plan is amended to provide:

(3) If an Executive Incentive Pay Deferral Election is submitted to the Administrative Committee in accordance with this Section, the Employer will allocate to the Participant's Deferred Executive Incentive Pay Account the percentage of Executive Incentive Pay specified in the Executive Incentive Pay Deferral Election.

3. Paragraph (1) of Section IV.C of the Plan is amended to provide:

(1) With respect to each pay period, subject to the maximum percentage deferral permitted under the terms of the Qualified Plan, an Eligible

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Employee may elect to have a percentage of his Compensation which is to be paid to him by the Employer for the pay period in question allocated to his Deferred Compensation Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such election for any Plan Year, within thirty (30) days prior to the beginning of such Plan Year, the Eligible Employee must advise the Employer of his election, in writing, on a Compensation Deferral Election. Such Compensation Deferral Election shall apply only to Compensation payable to the Participant after the date on which the Compensation Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Compensation shall terminate and no additional amounts shall be deferred. A Participant shall be permitted, pursuant to this Section IV.C. to defer amounts of his Compensation that could otherwise have been contributed to the Qualified Plan, for such Plan Year, were it not for the application of any of the Statutory Limits. If, during the Plan Year, in the sole discretion of the Administrative Committee and the administrator of the Qualified Plan, contribution percentages under the Qualified Plan must be further reduced to insure passage of the ADP Test and/or the ACP Test, or Participants' contributions to the Qualified Plan must be reduced to satisfy the Deferral Limit, any reduced contribution attributable to Participants of this Plan shall be deferred automatically under this Plan. However, if it is determined after the end of the Plan Year that the ADP and/or the ACP Test would be failed, any and all corrective action will be taken in accordance with the rules of the Qualified Plan and no additional amounts may be deferred under this Plan for that Plan Year.

IN WITNESS WHEREOF, the Company has caused this Amendment to be executed as of the 1<sup>st</sup> day of December, 2002.

**THE SCOTTS COMPANY**

By: /s/ George A. Murphy  
George A. Murphy, Vice President — Global  
Compensation and Benefits

**FOURTH AMENDMENT**  
**TO**  
**THE SCOTTS COMPANY**  
**EXECUTIVE RETIREMENT PLAN**

**WHEREAS**, The Scotts Company (“Company”) sponsors The Scotts Company Executive Retirement Plan (“Plan”); and

**WHEREAS**, the Company wants to amend the Plan’s definition of “Compensation” and to make additional changes to the Plan

**NOW, THEREFORE**, effective as of January 1, 2004:

1. The definition of “Administrative Committee” in Section II of the Plan is amended, in its entirety, to read as follows:

“Administrative Committee” means (a) the administrative committee appointed by the Board to administer the tax-qualified retirement plans which are also sponsored by the Employer or (b) any person or entity to which the Administrative Committee delegates any of the administrative or ministerial duties assigned to it in this Plan.

2. The definition of “Compensation” in Section II of the Plan is amended, in its entirety, to read as follows:

“Compensation” has the meaning specified under the applicable provisions of the Qualified Plan, except that Compensation in excess of the Pay Cap and amounts deferred to this Plan shall be included. Executive Incentive Pay shall be: (a) in Compensation for purposes of allocating Employer contributions to Participants’ Retirement Accounts and (b) shall be excluded from Compensation for purposes of allocating Employer contributions to Participants’ Matching Accounts and Participants’ Compensation Deferral Elections.

3. Paragraph (1) of Section IV, B. of the Plan is amended, in its entirety, to read as follows:

(1) With respect to each Plan Year, an Eligible Employee may elect to have a percentage of his Executive Incentive Pay which is to be awarded to him by the Employer for the Plan Year in question allocated to his Deferred Executive Incentive Pay Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such an election for any Plan Year, within thirty (30) days after the Executive Annual Incentive Plan is finalized for the Plan Year, the Eligible Employee must advise the Employer of his election, in writing or by filing his election electronically using procedures prescribed by the Administrative Committee, on an Executive Incentive Pay Deferral Election. Such Executive Incentive Pay Deferral Election shall apply only to Executive Incentive Pay payable to the Participant after the date on which the Executive Incentive Pay Deferral Election is received by the Administrative Committee. If an Eligible

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Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Executive Incentive Pay shall terminate and no additional amounts shall be deferred.

4. Paragraph (1) of Section IV, C. of the Plan is amended, in its entirety, to read as follows:

(1) With respect to each pay period, subject to the maximum percentage deferral permitted under the terms of the Qualified Plan, an Eligible Employee may elect to have a percentage of his Compensation which is to be paid to him by the Employer for the pay period in question allocated to his Deferred Compensation Account and paid on a deferred basis pursuant to the terms of the Plan. To exercise such election for any Plan Year, within thirty (30) days prior to the beginning of such Plan Year, the Eligible Employee must advise the Employer of his election, in writing or by filing his election electronically using procedures prescribed by the Administrative Committee, on a Compensation Deferral Election. Such Compensation Deferral Election shall apply only to Compensation payable to the Participant after the date on which the Compensation Deferral Election is received by the Administrative Committee. If an Eligible Employee terminates employment or changes to an employment status other than an Eligible Employee, his election to defer Compensation shall terminate and no additional amounts shall be deferred. A Participant shall be permitted, pursuant to this Section IV.C. to defer amounts of his Compensation that could otherwise have been contributed to the Qualified Plan, for such Plan Year, were it not for the application of any of the Statutory Limits. If, during the Plan Year, in the sole discretion of the Administrative Committee and the administrator of the Qualified Plan, contribution percentages under the Qualified Plan must be further reduced to insure passage of the ADP Test and/or the ACP Test, or Participants' contributions to the Qualified Plan must be reduced to satisfy the Deferral Limit, any reduced contribution attributable to Participants of this Plan shall be deferred automatically under this Plan. However, if it is determined after the end of the Plan Year that the ADP and/or the ACP Test would be failed, any and all corrective action will be taken in accordance with the rules of the Qualified Plan and no additional amounts may be deferred under this Plan for that Plan Year.

5. Paragraph (1) of Section IV, D. of the Plan is amended, in its entirety, to read as follows:

(1) Retirement Contribution. For each pay period, the Employer will allocate to each Eligible Employee's Retirement Account an amount equal to the Retirement Contribution he would have received under the Qualified Plan with respect to his Compensation (as defined in Section II of this Plan) minus the Retirement Contribution actually allocated under the Qualified Plan.

6. Paragraph (2) of Section IV, D. of the Plan is amended, in its entirety, to read as follows:

(2) Matching Contributions. For each pay period, the Employer shall make matching contributions to the Matching Account of each Participant who elects to defer Compensation in accordance with Section IV.C. For each pay period, the amount of such

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matching contribution will be the matching contribution that would have been made under the Qualified Plan applied against the aggregate of deferrals to the Qualified Plan and this Plan less any matching contributions made on behalf of the Participant under the Qualified Plan.

7. Section IV, F. of the Plan is amended, in its entirety, to read as follows:

F. Outside Investment Funds. Each Participant shall direct the portion of future contributions to, and the existing balance in, the Participant's Account to be treated as credited to one or more of the Outside Investment Funds. A Participant may change his or her direction among the Outside Investment Funds as of any business day by providing instructions in such manner as may be prescribed by the Administrative Committee, subject to any applicable restrictions under an Outside Investment Fund. If a Participant does not designate one or more of the Outside Investment Funds, his Accounts will be credited to the Fidelity Retirement Money Market Portfolio Fund or to a successor fund identified by the Administrative Committee.

8. Section V, B. of the Plan is amended, in its entirety, to read as follows:

B. Method of Distribution. Amounts credited to a Participant's Account shall be distributed to the Participant either in a single lump sum payment or in substantially equal annual installments over a period less than ten (10) years. To the extent that an Account is distributed in installment payments, the undisbursed portions of such Account shall continue to be credited with Additions in accordance with the applicable provisions of Section IV.H. In addition, if, as of any business day after the date described in Section V.A., the amount allocated to a Participant's Account is less than \$5,000, the Administrative Committee shall pay such amount to the Participant and reduce the balance of his Account to zero. The method of distribution shall be elected by the Participant in the Executive Incentive Pay Deferral Election and Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made. Distributions of amounts credited to Investment Funds other than the Company Stock Fund shall be made in cash. Distributions of amounts credited to the Company Stock Fund shall be distributed in the greatest whole number of common shares of the Company which can be distributed based on the amount credited to the Company Stock Fund (after any applicable withholding), plus cash for any fractional share.

**IN WITNESS WHEREOF**, the Company has caused this amendment to be executed as of the 5th day of May, 2004.

**THE SCOTTS COMPANY**

By: /s/ George A. Murphy

**George A. Murphy, Vice President  
Global Compensation and Benefits**

**FIFTH AMENDMENT TO  
THE SCOTTS COMPANY  
EXECUTIVE RETIREMENT PLAN**

**WHEREAS**, The Scotts Company (“Scotts”) previously adopted The Scotts Company Incentive Pay Deferral Plan, subsequently amended and restated effective January 1, 1999 as The Scotts Company Executive Retirement Plan (the “Plan”); and

**WHEREAS**, on March 18, 2005 (the “Effective Time”), Scotts consummated the restructuring of Scotts’ corporate structure into a holding company structure by merging Scotts into a wholly-owned second-tier Ohio limited liability company subsidiary, The Scotts Company LLC (the “Company”), pursuant to the Agreement and Plan of Merger, dated as of December 13, 2004 (the “Merger Agreement”), by and among Scotts, The Scotts Miracle-Gro Company (“Scotts Miracle-Gro”) and the Company; and

**WHEREAS**, in connection with and as a result of the merger of Scotts into the Company, the Company assumed, as of the Effective Time, the Plan and all obligations and liabilities of Scotts thereunder; and

**WHEREAS**, Section XI of the Plan provides that the Administrative Committee for the Plan may amend, modify or terminate the Plan;

**NOW, THEREFORE**, effective as of March 18, 2005, the Plan is amended as follows to reflect the Company’s assumption of the Plan:

1. The title of the Plan is amended to be “The Scotts Company LLC Executive Retirement Plan.”

2. Section I of the Plan is amended and restated to read, in its entirety, as follows: The Scotts Company LLC Executive Retirement Plan provides Eligible Employees with the opportunity to defer bonuses (under the Executive Annual Incentive Plan) and compensation, and supplements the benefits of Eligible Employees under The Scotts Company LLC Retirement Savings Plan. The benefits under the Plan are to be provided from the Plan on an unfunded basis. It is intended that the Plan be exempt from the funding, participation, vesting and fiduciary provisions of Title I of ERISA.

3. The definition of “Administrative Committee” contained in Section II of the Plan is amended and restated to read, in its entirety, as follows: “Administrative Committee” means (a) the administrative committee appointed to administer the tax qualified retirement plans which are also sponsored by the Employer or (b) any person or entity to which the Administrative Committee delegates any of the administrative or ministerial duties assigned to it in this Plan.

4. The definition of “Board” contained in Section II of the Plan is deleted in its entirety.

5. The definition of “Company Stock Fund” contained in Section II of the Plan is amended and restated to read, in its entirety, as follows: “Company Stock Fund” means a fund consisting of common shares of The Scotts Miracle-Gro Company and cash or cash equivalents needed to meet obligations of such fund or for the purchase of common shares of The Scotts Miracle-Gro Company.

6. The definition of “Employer” contained in Section II of the Plan is amended and restated to read, in its entirety, as follows: “Employer” means The Scotts Company LLC and affiliates of The Scotts Company LLC.

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7. The definition of "Plan" contained in Section II of the Plan is amended and restated to read, in its entirety, as follows: "Plan" means The Scotts Company LLC Executive Retirement Plan, as reflected in this document, as the same may be amended from time to time after the Effective Date.

8. The definition of "Qualified Plan" contained in Section II of the Plan is amended and restated to read, in its entirety, as follows: "Qualified Plan" means The Scotts Company LLC Retirement Savings Plan and any amendments made thereto.

9. Section V, Part B – Method of Distribution is amended and restated to read, in its entirety, as follows:

Amounts credited to a Participant's Account shall be distributed to the Participant either in a single lump sum payment or in substantially equal annual installments over a period less than ten (10) years. To the extent that an Account is distributed in installment payments, the undisbursed portions of such Account shall continue to be credited with Additions in accordance with the applicable provisions of Section IV.H. In addition, if, as of any business day after the date described in Section V.A., the amount allocated to a Participant's Account is less than \$5,000, the Administrative Committee shall pay such amount to the Participant and reduce the balance of his Account to zero. The method of distribution shall be elected by the Participant in the Executive Incentive Pay Deferral Election and Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made. Distributions of amounts credited to Investment Funds other than the Company Stock Fund shall be made in cash. Distributions of amounts credited to the Company Stock Fund shall be distributed in the greatest whole number of common shares of The Scotts Miracle-Gro Company which can be distributed based on the amount credited to the Company Stock Fund (after any applicable withholding), plus cash for any fractional share.

**IN WITNESS WHEREOF**, the Administrative Committee, acting on behalf of the Company, has caused this Amendment to be executed on this 6th day of May, 2005, to be effective as of March 18, 2005.

**THE SCOTTS COMPANY LLC**

By: /s/ Christopher L. Nagel

Print Name: Christopher L. Nagel

Title: Member of the Administrative Committee

**SIXTH AMENDMENT**  
**TO**  
**THE SCOTTS COMPANY LLC**  
**EXECUTIVE RETIREMENT PLAN**

**WHEREAS**, The Scotts Company LLC (the “Company”) sponsors the Scotts Company LLC Executive Retirement Plan (the “Plan”); and

**WHEREAS**, the Company desires to amend the Plan to create a retention award account pursuant to which the Company can grant retention awards to Plan participants; and

**WHEREAS**, this Committee has been authorized to administer the Plan and to amend, modify or terminate the Plan.

**NOW THEREFORE**, effective as of October 8, 2008, the Plan is amended as follows:

**FIRST**: The second sentence of the definition of the term “Account” contained in Section II of the Plan is amended to read as follows:

A Participant’s Account shall consist, as applicable, of a Deferred Executive Incentive Pay Account, a Deferred Compensation Account, a Matching Account, a Retirement Account, a Transitional Contributions Account and a Retention Award Account.

**SECOND**: Section II of the Plan is amended by adding the following definition in its appropriate alphabetical location:

“Retention Award” means an award allocable to a Participant’s Retention Award Account in accordance with Section IV.D.(6). The designation of the Participants who receive a Retention Award and the amount of each Retention Award shall be determined by the Employer in its sole discretion. Each Retention Award shall be evidenced by a written agreement between the Employer and the Participant. The written agreement shall set forth the terms and conditions governing the Retention Award and shall be consistent with the applicable terms of the Plan.

**THIRD**: The second sentence of Section IV.A. of the Plan is amended to read as follows:

A Participant’s Account shall consist of a Deferred Executive Incentive Pay Account, a Deferred Compensation Account, a Matching Account, a Retirement Account, a Transitional Contributions Account and a Retention Award Account.

**FOURTH**: The following new paragraph (6) is added at the end of Section IV.D. of the Plan:

(6) Retention Awards. The Employer shall allocate an amount equal to the Participant’s Retention Award, if any, to the Participant’s Retention Award Account.

**FIFTH**: The first and second sentences of Section V.A. of the Plan are amended to read as follows:

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Amounts credited to a Participant's Account (other than the Retention Award Account) shall be distributed to the Participant when administratively practicable after termination of employment or a date specified by the Participant. The time of distribution (except with respect to the Retention Award Account) shall be elected by the Participant in the Executive Incentive Pay Deferral Election and Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made.

SIXTH: Section V.A. of the Plan is further amended by adding the following provision as the second paragraph thereof:

Amounts credited to a Participant's Retention Award Account shall be distributed to the Participant in accordance with the written agreement evidencing the Participant's Retention Award.

SEVENTH: Section V.B. of the Plan is amended to read as follows:

Method of Distribution. Amounts credited to a Participant's Account (other than the Retention Award Account) shall be distributed to the Participant either in a single lump sum payment or in substantially equal annual installments over a period less than ten (10) years. Amounts credited to a Participant's Retention Award Account shall be distributed to the Participant in accordance with the written agreement between the Employer and the Participant evidencing the Participant's Retention Award. To the extent that an Account is distributed in installment payments, the undisbursed portions of such Account shall continue to be credited with Additions in accordance with the applicable provisions of Section IV.H. In addition, if, as of any business day after the date described in Section V.A., the amount allocated to a Participant's Account (other than the Retention Award Account) is less than \$5,000, the Administrative Committee shall pay such amount to the Participant and reduce the balance of his Account (other than the Retention Award Account) to zero. The method of distribution shall be elected by the Participant in the Executive Incentive Pay Deferral Election or Compensation Deferral Election delivered to the Administrative Committee at the time the applicable deferral election is made or, in the case of distributions from the Retention Award Account, in accordance with the written agreement evidencing the Participant's Retention Award. Distributions of amounts credited to Investment Funds other than the Company Stock Fund shall be made in cash. Distributions of amounts credited to the Company Stock Fund shall be distributed in the greatest whole number of common shares of The Scotts Miracle-Gro Company which can be distributed based on the amount credited to the Company Stock Fund (after any applicable withholding), plus cash for any fractional share.

EIGHTH: Section V.E. of the Plan is amended by adding the following sentence at the end thereof:

This Section V.E. shall not apply to the Participant's Retention Award Account.

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**IN WITNESS WHEREOF**, the Administrative Committee, acting on behalf of the Company, has caused this Sixth Amendment to be executed on this 8th day of October, 2008, to be effective as of that same date.

**THE SCOTTS COMPANY LLC**

By: /s/ Arnold W. Donald

Print Name: Arnold W. Donald

Title: Member of the Administrative Committee

October 9, 2008

The Scotts Miracle-Gro Company  
14111 Scottslawn Road  
Marysville, Ohio 43041

Re: The Scotts Company LLC Executive Retirement Plan

Ladies and Gentlemen:

We have acted as counsel for The Scotts Miracle-Gro Company, an Ohio corporation ("SMG"), and The Scotts Company LLC, an Ohio limited liability company ("Scotts LLC"), in connection with the proposed filing with the Securities and Exchange Commission expected to be made on or about October 9, 2008 under the Securities Act of 1933, as amended (the "1933 Act"), of a Registration Statement on Form S-8 (the "Registration Statement") for the purpose of registering \$12,000,000 of Deferred Compensation Obligations (the "Deferred Compensation Obligations"), which represent general unsecured obligations of Scotts LLC and of affiliates of Scotts LLC including SMG (collectively, the "Company") under The Scotts Company LLC Executive Retirement Plan (the "Plan"). Participants in the Plan may direct that Deferred Compensation Obligations be treated as credited to one or more benchmarked investment funds, including an SMG stock fund (reflecting common shares, without par value ("Common Shares"), of SMG). Distributions in respect of Deferred Compensation Obligations which are treated as credited to the SMG stock fund are made in SMG Common Shares. Accordingly, 548,446 SMG Common Shares are being registered pursuant to the Registration Statement and represent the maximum number of SMG Common Shares that may be distributed in respect of the Deferred Compensation Obligations being registered pursuant to the Registration Statement, if all such Deferred Compensation Obligations are treated as credited to the SMG stock fund.

The SMG Common Shares being registered pursuant to the Registration Statement will not be original issuance securities. Accordingly, in accordance with the instructions to Item 8(a) of Part II of Form S-8, no opinion as to the legality of such SMG Common Shares is required or provided herein.

WASHINGTON 1828 L St. NW Eleventh Floor Washington, DC 20036-5109  202.467.8800	CLEVELAND 1375 East Ninth St. 2100 One Cleveland Center Cleveland, OH 44114-1724  216.479.6100	CINCINNATI 221 East Fourth St. Suite 2000, Atrium Two PO Box 0236 Cincinnati, OH 45201-0236  512.723.4000	ALEXANDRIA 277 South Washington St. Suite 310 Alexandria, VA 22314  703.837.6999	AKRON 106 South Main St. Suite 1100 Akron, OH 44308  330.208.1000
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Legal Counsel

October 9, 2008

Page 2

In connection with rendering this opinion, we have examined, to the extent deemed necessary, originals or copies, the authenticity of which has been established to our satisfaction, of: (a) the Registration Statement; (b) the Plan; (c) SMG's Initial Articles of Incorporation, as amended to date; (d) SMG's Code of Regulations, as currently in effect; and (e) certain corporate records of SMG, including resolutions adopted by the Board of Directors of SMG and the Compensation and Organization Committee of such Board. We have also examined such other documents and records and such authorities of law as we have deemed necessary or appropriate for the purposes of the opinion expressed herein.

Based upon the foregoing, we advise you that, in our opinion, when established in accordance with the terms of the Plan, the Deferred Compensation Obligations will be valid and binding obligations of the Company, enforceable against the Company in accordance with the terms of the Plan. Our opinion is subject to the limitations, if any, of Title 11 U.S.C., as amended, and of the applicable insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and by principles of equity.

Members of our firm are admitted to the Bar in the State of Ohio and we express no opinion as to the laws of any jurisdiction other than the laws of the State of Ohio, including applicable provisions of the Ohio constitution and the reported judicial decisions interpreting those laws, and the federal laws of the United States of America.

We consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement and to the reference to us therein. By giving such consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the 1933 Act or the rules and regulations promulgated thereunder.

Very truly yours,

/s/ Vorys, Sater, Seymour and Pease LLP

Vorys, Sater, Seymour and Pease LLP

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated November 29, 2007, relating to the consolidated financial statements (which report expresses an unqualified opinion and includes an explanatory paragraph relating to The Scotts Miracle-Gro Company's adoption of Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans* on September 30, 2007) and consolidated financial statement schedule of The Scotts Miracle-Gro Company, and the effectiveness of The Scotts Miracle-Gro Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of The Scotts Miracle-Gro Company for the year ended September 30, 2007.

/s/ Deloitte & Touche LLP

Columbus, Ohio  
October 9, 2008

EXHIBIT 24.1

POWERS OF ATTORNEY  
OF  
EXECUTIVE OFFICERS AND DIRECTORS  
OF  
THE SCOTTS MIRACLE-GRO COMPANY

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned officer and director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent general unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 6<sup>th</sup> day of October, 2008.

\_\_\_\_\_  
/s/ Mark R. Baker  
Mark R. Baker

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ Arnold W. Donald  
\_\_\_\_\_  
Arnold W. Donald

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned officer of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

\_\_\_\_\_  
/s/ David C. Evans  
David C. Evans

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ Joseph P. Flannery  
\_\_\_\_\_  
Joseph P. Flannery

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**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned officer and director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **Mark R. Baker, David C. Evans and Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ James Hagedorn  
\_\_\_\_\_  
James Hagedorn

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ Thomas N. Kelly Jr.  
\_\_\_\_\_  
Thomas N. Kelly Jr.

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ Carl F. Kohrt, Ph.D.  
\_\_\_\_\_  
Carl F. Kohrt, Ph.D.

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as her true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for her and in her name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as she might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set her hand this 8<sup>th</sup> day of October, 2008.

\_\_\_\_\_  
/s/ Katherine Hagedorn Littlefield  
Katherine Hagedorn Littlefield

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as her true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for her and in her name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as she might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set her hand this 8<sup>th</sup> day of October, 2008.

/s/ Karen G. Mills  
\_\_\_\_\_  
Karen G. Mills

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as her true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for her and in her name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as she might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set her hand this 7<sup>th</sup> day of October, 2008.

/s/ Nancy G. Mistretta  
\_\_\_\_\_  
Nancy G. Mistretta

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ Patrick J. Norton  
\_\_\_\_\_  
Patrick J. Norton

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as her true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for her and in her name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as she might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set her hand this 8<sup>th</sup> day of October, 2008.

/s/ Stephanie M. Shern  
\_\_\_\_\_  
Stephanie M. Shern

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**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned director of **THE SCOTTS MIRACLE-GRO COMPANY**, an Ohio corporation, which is about to file with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Act of 1933, as amended, a **Registration Statement on Form S-8** for the registration of its common shares for offering and sale or delivery pursuant to **The Scotts Company LLC Executive Retirement Plan**, together with deferred compensation obligations, which represent unsecured obligations of The Scotts Company LLC and of affiliates of The Scotts Company LLC, including The Scotts Miracle-Gro Company, to make distributions in respect of deferred compensation in the future in accordance with the terms of **The Scotts Company LLC Executive Retirement Plan**, hereby constitutes and appoints **James Hagedorn, Mark R. Baker, David C. Evans** and **Vincent C. Brockman**, and each of them, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign such Registration Statement and any and all amendments and documents related thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission and the New York Stock Exchange, granting unto each of said attorneys-in-fact and agents, and substitute or substitutes, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all things that each of said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand this 8<sup>th</sup> day of October, 2008.

/s/ John S. Shiely  
\_\_\_\_\_  
John S. Shiely