

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549
FORM 10-Q**

(Mark One)

**Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
for the quarterly period ended June 30, 2023**

Or

**Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
for the transition period from _____ to _____**

Commission File Number: 000-10436

LB Foster[®]

L.B. Foster Company

(Exact name of registrant as specified in its charter)

Pennsylvania
(State of Incorporation)

25-1324733
(I. R. S. Employer Identification No.)

415 Holiday Drive, Suite 100, Pittsburgh, Pennsylvania
(Address of principal executive offices)

15220
(Zip Code)

(412) 928-3400

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.01	FSTR	NASDAQ Global Select Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

As of August 1, 2023, there were 11,091,020 shares of the registrant's common stock, par value \$0.01 per share, outstanding.

L.B. FOSTER COMPANY AND SUBSIDIARIES

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Part I. FINANCIAL INFORMATION
Item 1. Financial Statements

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share data)

	June 30, 2023 (Unaudited)	December 31, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 3,880	\$ 2,882
Accounts receivable - net (Note 5)	74,249	82,455
Contract assets - net (Note 3)	34,011	33,613
Inventories - net (Note 6)	79,451	75,721
Other current assets	12,182	11,061
Total current assets	203,773	205,732
Property, plant, and equipment - net	76,948	85,344
Operating lease right-of-use assets - net	15,770	17,291
Other assets:		
Goodwill (Note 4)	31,404	30,733
Other intangibles - net (Note 4)	21,256	23,831
Deferred tax assets (Note 9)	—	24
Other assets	2,417	2,355
TOTAL ASSETS	\$ 351,568	\$ 365,310
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 43,933	\$ 48,782
Deferred revenue	15,969	19,452
Accrued payroll and employee benefits	8,709	10,558
Current portion of accrued settlement (Note 13)	8,000	8,000
Current maturities of long-term debt (Note 7)	102	127
Other accrued liabilities	14,928	16,192
Total current liabilities	91,641	103,111
Long-term debt (Note 7)	89,403	91,752
Deferred tax liabilities (Note 9)	1,718	3,109
Long-term portion of accrued settlement (Note 13)	6,000	8,000
Long-term operating lease liabilities	12,669	14,163
Other long-term liabilities	7,545	7,577
Stockholders' equity:		
Common stock, par value \$0.01, authorized 20,000,000 shares; shares issued at June 30, 2023 and December 31, 2022, 11,115,779; shares outstanding at June 30, 2023 and December 31, 2022, 10,816,902 and 10,776,827, respectively	111	111
Paid-in capital	40,919	41,303
Retained earnings	124,548	123,169
Treasury stock - at cost, 298,877 and 338,952 common stock shares at June 30, 2023 and December 31, 2022, respectively	(4,846)	(6,240)
Accumulated other comprehensive loss	(18,536)	(21,165)
Total L.B. Foster Company stockholders' equity	142,196	137,178
Noncontrolling interest	396	420
Total stockholders' equity	142,592	137,598
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 351,568	\$ 365,310

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

(In thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Sales of goods	\$ 132,167	\$ 116,584	\$ 230,705	\$ 201,005
Sales of services	15,867	14,931	32,817	29,304
Total net sales	148,034	131,515	263,522	230,309
Cost of goods sold	101,069	95,331	179,134	165,176
Cost of services sold	14,713	12,891	28,845	25,393
Total cost of sales	115,782	108,222	207,979	190,569
Gross profit	32,252	23,293	55,543	39,740
Selling and administrative expenses	24,528	19,394	45,951	36,692
Amortization expense	1,375	1,419	2,740	2,855
Operating profit	6,349	2,480	6,852	193
Interest expense - net	1,574	384	2,962	754
Other expense (income) - net	719	(701)	2,546	(1,264)
Income before income taxes	4,056	2,797	1,344	703
Income tax expense	563	821	22	313
Net income	3,493	1,976	1,322	390
Net loss attributable to noncontrolling interest	(38)	(34)	(57)	(54)
Net income attributable to L.B. Foster Company	\$ 3,531	\$ 2,010	\$ 1,379	\$ 444
Basic earnings per common share	\$ 0.32	\$ 0.18	\$ 0.12	\$ 0.04
Diluted earnings per common share	\$ 0.32	\$ 0.18	\$ 0.12	\$ 0.04

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited)
(In thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net income	\$ 3,493	\$ 1,976	\$ 1,322	\$ 390
Other comprehensive income (loss), net of tax:				
Foreign currency translation adjustment	1,252	(3,688)	2,503	(4,568)
Unrealized gain on cash flow hedges, net of tax expense of \$0, \$50, \$0, and \$238, respectively	496	147	78	698
Cash flow hedges reclassified to earnings, net of tax expense of \$0, \$0, \$0, and \$66, respectively	—	—	—	93
Reclassification of pension liability adjustments to earnings, net of tax expense of \$2, \$16, \$4, and \$32, respectively*	41	50	81	99
Total comprehensive income (loss)	5,282	(1,515)	3,984	(3,288)
Less comprehensive (loss) income attributable to noncontrolling interest:				
Net loss attributable to noncontrolling interest	(38)	(34)	(57)	(54)
Foreign currency translation adjustment	29	(61)	33	24
Amounts attributable to noncontrolling interest	(9)	(95)	(24)	(30)
Comprehensive income (loss) attributable to L.B. Foster Company	<u>\$ 5,291</u>	<u>\$ (1,420)</u>	<u>\$ 4,008</u>	<u>\$ (3,258)</u>

* Reclassifications out of "Accumulated other comprehensive loss" for pension obligations are charged to "Selling and administrative expenses" within the Condensed Consolidated Statements of Operations.

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	Six Months Ended June 30,	
	2023	2022
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	\$ 1,322	\$ 390
Adjustments to reconcile net income to cash used in operating activities:		
Deferred income taxes	(1,710)	(173)
Depreciation	4,989	3,814
Amortization	2,740	2,855
Equity in income of nonconsolidated investments	(16)	(87)
Gain on sales and disposals of property, plant, and equipment	(366)	(214)
Stock-based compensation	1,829	1,183
Loss (gain) on asset divestitures	3,074	(491)
Change in operating assets and liabilities:		
Accounts receivable	6,584	(17,327)
Contract assets	(3,033)	2,190
Inventories	(13,068)	(10,695)
Other current assets	(1,251)	(3,573)
Other noncurrent assets	(865)	1,715
Accounts payable	465	9,347
Deferred revenue	627	5,301
Accrued payroll and employee benefits	(1,885)	(2,943)
Accrued settlement	(2,000)	(2,000)
Other current liabilities	(941)	(1,748)
Other long-term liabilities	172	(926)
Net cash used in operating activities	<u>(3,333)</u>	<u>(13,382)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Proceeds from the sale of property, plant, and equipment	539	237
Capital expenditures on property, plant, and equipment	(1,495)	(3,048)
Proceeds from business dispositions	7,706	1,195
Acquisitions, net of cash acquired	966	(5,712)
Net cash provided by (used in) investing activities	<u>7,716</u>	<u>(7,328)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Repayments of debt	(95,251)	(78,093)
Proceeds from debt	92,331	96,970
Treasury stock acquisitions	(977)	(401)
Investment of noncontrolling interest	334	—
Net cash (used in) provided by financing activities	<u>(3,563)</u>	<u>18,476</u>
Effect of exchange rate changes on cash and cash equivalents	178	(477)
Net increase (decrease) in cash and cash equivalents	998	(2,711)
Cash and cash equivalents at beginning of period	2,882	10,372
Cash and cash equivalents at end of period	<u>\$ 3,880</u>	<u>\$ 7,661</u>
Supplemental disclosure of cash flow information:		
Interest paid	<u>\$ 2,889</u>	<u>\$ 662</u>
Income taxes (received) paid	<u>\$ (331)</u>	<u>\$ 389</u>

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited)
(Dollars in thousands)

Three Months Ended June 30, 2023

	Common Stock	Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Stockholders' Equity
Balance, March 31, 2023	\$ 111	\$ 40,951	\$ 121,017	\$ (5,174)	\$ (20,296)	\$ 405	\$ 137,014
Net income (loss)	—	—	3,531	—	—	(38)	3,493
Other comprehensive income, net of tax:							
Pension liability adjustment	—	—	—	—	41	—	41
Foreign currency translation adjustment	—	—	—	—	1,223	29	1,252
Unrealized derivative gain on cash flow hedges	—	—	—	—	496	—	496
Purchase of 51,241 common shares for treasury	—	—	—	(662)	—	—	(662)
Issuance of 58,432 common shares, net of shares withheld for taxes	—	(977)	—	990	—	—	13
Stock-based compensation	—	945	—	—	—	—	945
Balance, June 30, 2023	\$ 111	\$ 40,919	\$ 124,548	\$ (4,846)	\$ (18,536)	\$ 396	\$ 142,592

Three Months Ended June 30, 2022

	Common Stock	Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Stockholders' Equity
Balance, March 31, 2022	\$ 111	\$ 42,153	\$ 167,167	\$ (9,200)	\$ (19,117)	\$ 583	\$ 181,697
Net income (loss)	—	—	2,010	—	—	(34)	1,976
Other comprehensive loss, net of tax:							
Pension liability adjustment	—	—	—	—	50	—	50
Foreign currency translation adjustment	—	—	—	—	(3,627)	(61)	(3,688)
Unrealized derivative gain on cash flow hedges	—	—	—	—	147	—	147
Issuance of 26,167 common shares, net of shares withheld for taxes	—	(877)	—	809	—	—	(68)
Stock-based compensation	—	925	—	—	—	—	925
Balance, June 30, 2022	\$ 111	\$ 42,201	\$ 169,177	\$ (8,391)	\$ (22,547)	\$ 488	\$ 181,039

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited)
(Dollars in thousands)

Six Months Ended June 30, 2023

	Common Stock	Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Stockholders' Equity
Balance, December 31, 2022	\$ 111	\$ 41,303	\$ 123,169	\$ (6,240)	\$ (21,165)	\$ 420	\$ 137,598
Net income (loss)	—	—	1,379	—	—	(57)	1,322
Other comprehensive income, net of tax:							
Pension liability adjustment	—	—	—	—	81	—	81
Foreign currency translation adjustment	—	—	—	—	2,470	33	2,503
Unrealized derivative gain on cash flow hedges	—	—	—	—	78	—	78
Purchase of 51,241 common shares for treasury	—	—	—	(662)	—	—	(662)
Issuance of 91,316 common shares, net of shares withheld for taxes	—	(2,213)	—	2,056	—	—	(157)
Stock-based compensation	—	1,829	—	—	—	—	1,829
Balance, June 30, 2023	\$ 111	\$ 40,919	\$ 124,548	\$ (4,846)	\$ (18,536)	\$ 396	\$ 142,592

Six Months Ended June 30, 2022

	Common Stock	Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Stockholders' Equity
Balance, December 31, 2021	\$ 111	\$ 43,272	\$ 168,733	\$ (10,179)	\$ (18,845)	\$ 518	\$ 183,610
Net income (loss)	—	—	444	—	—	(54)	390
Other comprehensive (loss) income, net of tax:							
Pension liability adjustment	—	—	—	—	99	—	99
Foreign currency translation adjustment	—	—	—	—	(4,592)	24	(4,568)
Unrealized derivative gain on cash flow hedges	—	—	—	—	698	—	698
Cash flow hedges reclassified to earnings	—	—	—	—	93	—	93
Issuance of 60,607 common shares, net of shares withheld for taxes	—	(2,254)	—	1,788	—	—	(466)
Stock-based compensation	—	1,183	—	—	—	—	1,183
Balance, June 30, 2022	\$ 111	\$ 42,201	\$ 169,177	\$ (8,391)	\$ (22,547)	\$ 488	\$ 181,039

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

L.B. FOSTER COMPANY AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)
(Dollars in thousands, except share data)

Note 1. Financial Statements*Basis of Presentation*

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 8 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. The year-end consolidated balance sheet data was derived from audited financial statements, but does not include all disclosures required by GAAP. In the opinion of management, all estimates and adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the three and six months ended June 30, 2023 are not necessarily indicative of the results that may be expected for the year ending December 31, 2023. This Quarterly Report on Form 10-Q should be read in conjunction with the consolidated financial statements and footnotes thereto included in L.B. Foster Company’s Annual Report on Form 10-K for the year ended December 31, 2022. In this Quarterly Report on Form 10-Q, references to “we,” “us,” “our,” and the “Company” refer collectively to L.B. Foster Company and its consolidated subsidiaries.

Note 2. Business Segments

The Company is a global technology solutions provider of engineered, manufactured products and services that builds and supports infrastructure. The Company’s innovative engineering and product development solutions address the safety, reliability, and performance needs of its customers’ most challenging requirements. The Company maintains locations in North America, South America, Europe, and Asia. The Company’s segments represent components of the Company (a) that engage in activities from which revenue is generated and expenses are incurred, (b) whose operating results are regularly reviewed by the Chief Operating Decision Maker, who uses such information to make decisions about resources to be allocated to the segments, and (c) for which discrete financial information is available. Operating segments are evaluated on their segment profit contribution to the Company’s consolidated results. Other income and expenses, interest, income taxes, and certain other items are managed on a consolidated basis. The Company’s segment accounting policies are described in Note 2 Business Segments of the Notes to the Company’s Consolidated Financial Statements contained in its Annual Report on Form 10-K for the year ended December 31, 2022.

The operating results of the Company’s reportable segments were as follows for the periods presented:

	Three Months Ended June 30, 2023		Three Months Ended June 30, 2022	
	Net Sales	Segment Operating Profit	Net Sales	Segment Operating Profit (Loss)
Rail, Technologies, and Services	\$ 91,616	\$ 6,627	\$ 81,797	\$ 3,998
Precast Concrete Products	33,865	1,296	23,611	(125)
Steel Products and Measurement	22,553	1,456	26,107	762
Total	<u>\$ 148,034</u>	<u>\$ 9,379</u>	<u>\$ 131,515</u>	<u>\$ 4,635</u>

	Six Months Ended June 30, 2023		Six Months Ended June 30, 2022	
	Net Sales	Segment Operating Profit	Net Sales	Segment Operating Profit (Loss)
Rail, Technologies, and Services	\$ 156,000	\$ 9,015	\$ 145,507	\$ 5,037
Precast Concrete Products	58,153	948	38,621	(916)
Steel Products and Measurement	49,369	1,448	46,181	(1,386)
Total	<u>\$ 263,522</u>	<u>\$ 11,411</u>	<u>\$ 230,309</u>	<u>\$ 2,735</u>

Segment profit (loss) from operations, as shown above, includes allocated corporate operating expenses. Operating expenses related to corporate headquarter functions that directly support the segment activity are allocated based on segment headcount, revenue contribution, or activity of the business units within the segments, based on the corporate activity type provided to the segment. The expense allocation excludes certain corporate costs that are separately managed from the segments.

A reconciliation of reportable segment net profit to the Company's consolidated total for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Operating profit for reportable segments	\$ 9,379	\$ 4,635	\$ 11,411	\$ 2,735
Interest expense - net	(1,574)	(384)	(2,962)	(754)
Other (expense) income - net	(719)	701	(2,546)	1,264
Unallocated corporate expenses and other unallocated charges	(3,030)	(2,155)	(4,559)	(2,542)
Income before income taxes	\$ 4,056	\$ 2,797	\$ 1,344	\$ 703

The following table illustrates assets of the Company by reportable segment for the periods presented:

	June 30, 2023	December 31, 2022
Rail, Technologies, and Services	\$ 177,515	\$ 172,111
Precast Concrete Products	104,892	108,598
Steel Products and Measurement	38,492	54,516
Unallocated corporate assets	30,669	30,085
Total	\$ 351,568	\$ 365,310

On June 30, 2023, the Company sold substantially all the operating assets of the prestressed concrete railroad tie business operated by its wholly-owned subsidiary, CXT Incorporated ("Ties"), located in Spokane, WA, for \$2,368 in proceeds, subject to final working capital adjustments, generating a \$1,009 loss on the sale, which was recorded in "Other expense (income) - net". The Ties business was reported in the Rail Products business unit within the Rail, Technologies, and Services segment.

On March 30, 2023, the Company sold substantially all the operating assets of its Chemtec Energy Services LLC business ("Chemtec") for \$5,344 in proceeds, subject to final working capital adjustments, generating a \$2,065 loss on the sale, which was recorded in "Other expense (income) - net." The Chemtec business was reported in the Coatings and Measurement business unit within the Steel Products and Measurement segment.

Note 3. Revenue

The following table summarizes the Company's net sales by major product and service category for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Rail Products and Global Friction Management	\$ 81,926	\$ 70,416	\$ 137,974	\$ 122,067
Technology Services and Solutions	9,690	11,381	18,026	23,440
Rail, Technologies, and Services	91,616	81,797	156,000	145,507
Precast Concrete Buildings	19,325	15,811	30,211	25,781
Precast Infrastructure Products	14,540	7,800	27,942	12,840
Precast Concrete Products	33,865	23,611	58,153	38,621
Fabricated Steel Products	14,854	17,967	25,371	30,571
Coatings and Measurement	7,699	8,140	23,998	15,610
Steel Products and Measurement	22,553	26,107	49,369	46,181
Total net sales	\$ 148,034	\$ 131,515	\$ 263,522	\$ 230,309

The majority of the Company's revenue is from products transferred and services rendered to customers at a point in time. The Company recognizes revenue at the point in time at which the customer obtains control of the product or service, which is generally when the product title passes to the customer upon shipment or the service has been rendered to the customer. In limited cases, title does not transfer and revenue is not recognized until the customer has received the products at a designated physical location.

Net sales by the timing of the transfer of goods and services was as follows for the periods presented:

	Three Months Ended June 30, 2023			
	Rail, Technologies, and Services	Precast Concrete Products	Steel Products and Measurement	Total
Point in time	\$ 75,923	\$ 14,540	\$ 20,407	\$ 110,870
Over time	15,693	19,325	2,146	37,164
Total net sales	\$ 91,616	\$ 33,865	\$ 22,553	\$ 148,034

	Three Months Ended June 30, 2022			
	Rail, Technologies, and Services	Precast Concrete Products	Steel Products and Measurement	Total
Point in time	\$ 65,872	\$ 8,577	\$ 20,964	\$ 95,413
Over time	15,925	15,034	5,143	36,102
Total net sales	\$ 81,797	\$ 23,611	\$ 26,107	\$ 131,515

	Six Months Ended June 30, 2023			
	Rail, Technologies, and Services	Precast Concrete Products	Steel Products and Measurement	Total
Point in time	\$ 129,757	\$ 27,942	\$ 36,133	\$ 193,832
Over time	26,243	30,211	13,236	69,690
Total net sales	\$ 156,000	\$ 58,153	\$ 49,369	\$ 263,522

	Six Months Ended June 30, 2022			
	Rail, Technologies, and Services	Precast Concrete Products	Steel Products and Measurement	Total
Point in time	\$ 115,038	\$ 12,840	\$ 36,026	\$ 163,904
Over time	30,469	25,781	10,155	66,405
Total net sales	\$ 145,507	\$ 38,621	\$ 46,181	\$ 230,309

The Company's performance obligations under long-term agreements with its customers are generally satisfied over time. Revenue under long-term agreements is at times recognized using an input measure based upon the proportion of actual costs incurred to estimated total project costs or an input measure based upon actual labor costs as a percentage of estimated total labor costs, depending upon which measure the Company believes best depicts its performance to date under the terms of the contract. The Company's revenue recognized over time under long-term agreements is also at times recognized using an output method, specifically units delivered, based upon certain customer acceptance and delivery requirements. The use of an input or an output measure to recognize revenue is determined based on what is most appropriate given the nature of the work performed and terms of the associated agreement.

Revenue recognized over time was as follows for the periods presented:

	Three Months Ended June 30,		Percentage of Total Net Sales Three Months Ended June 30,	
	2023	2022	2023	2022
	Over time input method	\$ 15,724	\$ 20,089	10.6 %
Over time output method	21,440	16,013	14.5	12.2
Total over time sales	\$ 37,164	\$ 36,102	25.1 %	27.5 %

	Six Months Ended June 30,		Percentage of Total Net Sales Six Months Ended June 30,	
	2023	2022	2023	2022
	Over time input method	\$ 31,935	\$ 39,411	12.1 %
Over time output method	37,755	26,994	14.3	11.7
Total over time sales	\$ 69,690	\$ 66,405	26.4 %	28.8 %

The timing of revenue recognition, billings, and cash collections results in billed receivables, costs in excess of billings (included in “Contract assets”), and billings in excess of costs (contract liabilities), included in “Deferred revenue” within the Condensed Consolidated Balance Sheets.

The following table sets forth the Company’s contract assets:

	Contract Assets
Balance as of December 31, 2022	\$ 33,613
Net additions to contract assets	4,797
Transfers from contract asset balance to accounts receivable	(4,399)
Balance as of June 30, 2023	<u>\$ 34,011</u>

The following table sets forth the Company’s contract liabilities:

	Contract Liabilities
Balance as of December 31, 2022	\$ 6,781
Revenue recognized from contract liabilities	(4,049)
Increase in billings in excess of cost, excluding revenue recognized	3,525
Other adjustments, including business divestiture	(1,938)
Balance as of June 30, 2023	<u>\$ 4,319</u>

The Company records provisions related to the allowance for credit losses associated with contract assets. Provisions are recorded based upon a specific review of individual contracts as necessary, and a standard provision over any remaining contract assets pooled together based on similar risk of credit loss. The development of these provisions is based on historical collection trends, accuracy of estimates within contract margin reporting, as well as the expectation that collection patterns and margin reporting will continue to adhere to patterns observed in recent years. These expectations are formed based on trends observed, as well as current and expected future conditions.

As of June 30, 2023, the Company had approximately \$290,076 of obligations under new contracts and remaining performance obligations, which is also referred to as backlog. Approximately 12.0% of the June 30, 2023 backlog was related to projects that are anticipated to extend beyond June 30, 2024.

Note 4. Goodwill and Other Intangible Assets

The following table presents the changes in goodwill balance by reportable segment for the period presented:

	Rail, Technologies, and Services	Precast Concrete Products	Steel Products and Measurement	Total
Balance as of December 31, 2022	\$ 19,948	\$ 10,785	\$ —	\$ 30,733
VanHooseCo acquisition	—	242	—	242
Foreign currency translation impact	429	—	—	429
Balance as of June 30, 2023	<u>\$ 20,377</u>	<u>\$ 11,027</u>	<u>\$ —</u>	<u>\$ 31,404</u>

The Company performs goodwill impairment tests annually during the fourth quarter, and also performs interim goodwill impairment tests if it is determined that it is more likely than not that the fair value of a reporting unit is less than the carrying amount. Qualitative factors are assessed to determine whether it is more likely than not that the fair value of a reporting unit is less than the carrying amount, which included the impacts of current economic conditions, including but not limited to labor markets, supply chains, and other inflationary costs. However, these factors can be unpredictable and are subject to change. No interim goodwill impairment test was required as a result of the evaluation of qualitative factors as of June 30, 2023. However, future impairment charges could result if future projections diverge unfavorably from current expectations in the Rail Technologies and Precast Concrete Products reporting units.

As of June 30, 2023 and December 31, 2022, the components of the Company’s intangible assets were as follows:

June 30, 2023				
	Weighted Average Amortization Period In Years	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount
Patents	10	\$ 338	\$ (197)	\$ 141
Customer relationships	16	27,656	(15,828)	11,828
Trademarks and trade names	16	7,983	(4,299)	3,684
Technology	14	32,306	(26,978)	5,328
Favorable lease	6	327	(52)	275
		<u>\$ 68,610</u>	<u>\$ (47,354)</u>	<u>\$ 21,256</u>

During the six months ended June 30, 2023, certain fully amortized intangible assets of \$28 related to non-compete agreements were eliminated from gross intangible assets and accumulated amortization.

December 31, 2022				
	Weighted Average Amortization Period In Years	Gross Carrying Value	Accumulated Amortization	Net Carrying Amount
Non-compete agreements	1	\$ 27	\$ (16)	\$ 11
Patents	10	330	(187)	143
Customer relationships	16	27,184	(14,129)	13,055
Trademarks and trade names	16	7,933	(3,989)	3,944
Technology	14	32,201	(25,827)	6,374
Favorable lease	6	327	(23)	304
		<u>\$ 68,002</u>	<u>\$ (44,171)</u>	<u>\$ 23,831</u>

On June 21, 2022, the Company acquired the stock of Skratch Enterprises Ltd. (“Skratch”). On August 12, 2022, the Company acquired the operating assets of VanHooseCo Precast LLC (“VanHooseCo”). As of June 30, 2023, the purchase accounting for these transactions is final.

Note 5. Accounts Receivable

Changes in reserves for uncollectible accounts, which are recorded as part of “Selling and administrative expenses” in the Condensed Consolidated Statements of Operations, were recorded as an expense of \$256 and \$150 for the three months ended June 30, 2023 and 2022, respectively, and an expense of \$411 and \$211 for the six months ended June 30, 2023 and 2022, respectively.

The Company establishes the allowance for credit losses based on historical collection patterns and other subjective conditions as necessary, including current and expected market conditions. Trade receivables are pooled based on age, which groups receivables of similar credit risk together. Management maintains stringent credit review practices and works to maintain positive customer relationships to further mitigate credit risk.

The following table sets forth the Company’s allowance for credit losses:

	Allowance for Credit Losses
Balance as of December 31, 2022	\$ 813
Current period provision	411
Write-off against allowance	(197)
Balance as of June 30, 2023	<u>\$ 1,027</u>

Note 6. Inventory

Inventory is valued at average cost or net realizable value, whichever is lower. The Company's components of inventory as of June 30, 2023 and December 31, 2022 are summarized in the following table:

	June 30, 2023	December 31, 2022
Finished goods	\$ 48,237	\$ 41,431
Work-in-process	5,304	9,693
Raw materials	25,910	24,597
Inventories - net	\$ 79,451	\$ 75,721

Note 7. Long-Term Debt and Related Matters

Long-term debt consisted of the following:

	June 30, 2023	December 31, 2022
Revolving credit facility	\$ 89,280	\$ 91,567
Finance leases and financing agreements	225	312
Total	89,505	91,879
Less current maturities	(102)	(127)
Long-term portion	\$ 89,403	\$ 91,752

On August 13, 2021, the Company, its domestic subsidiaries, and certain of its Canadian and United Kingdom subsidiaries (collectively, the "Borrowers"), entered into the Fourth Amended and Restated Credit Agreement (the "Credit Agreement") with PNC Bank, N.A., Citizens Bank, N.A., Wells Fargo Bank, National Association, Bank of America, N.A., and BMO Harris Bank, National Association. The Credit Agreement, as amended, modifies the prior revolving credit facility, as amended, on terms more favorable to the Company and extends the maturity from April 30, 2024 to August 13, 2026. The Credit Agreement provides for a five-year, revolving credit facility that permits aggregate borrowings of the Borrowers up to \$130,000 with a sublimit of the equivalent of \$25,000 U.S. dollars that is available to the Canadian and United Kingdom borrowers in the aggregate. The Credit Agreement's incremental loan feature permits the Company to increase the available commitments under the facility by up to an additional \$50,000 subject to the Company's receipt of increased commitments from existing or new lenders and the satisfaction of certain conditions.

Borrowings under the Credit Agreement as amended, will bear interest at rates based upon either the base rate or SOFR rate plus applicable margins. The Credit Agreement includes two financial covenants: (a) Maximum Gross Leverage Ratio, defined as the Company's consolidated Indebtedness (as defined in the Credit Agreement) divided by the Company's consolidated EBITDA, which must not exceed (i) 3.25 to 1.00 for all testing periods other than during an Acquisition Period (as defined in the Credit Agreement), and (ii) 3.50 to 1.00 for all testing periods occurring during an Acquisition Period, and (b) Minimum Consolidated Fixed Charge Coverage Ratio, defined as the Company's consolidated EBITDA divided by the Company's Fixed Charges (as defined in the Credit Agreement), which must be more than 1.05 to 1.00.

On August 12, 2022, the Company entered into a second amendment to its Credit Agreement ("Second Amendment") to obtain approval for the acquisition of VanHooseCo Precast, LLC ("VanHooseCo") and temporarily modify certain financial covenants to accommodate the transaction. The Second Amendment permitted the Company to acquire the operating assets of VanHooseCo and modified the Maximum Gross Leverage Ratio covenant to 3.50 through June 30, 2023 to accommodate the transaction.

As of June 30, 2023, the Company was in compliance with the covenants in the Credit Agreement, as amended, and had outstanding letters of credit of approximately \$1,173.

Note 8. Earnings Per Common Share

(Share amounts in thousands)

The following table sets forth the computation of basic and diluted earnings per common share for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Numerator for basic and diluted earnings per common share:				
Net income	\$ 3,493	\$ 1,976	\$ 1,322	\$ 390
Denominator:				
Weighted average shares outstanding	10,807	10,715	10,800	10,700
Denominator for basic earnings per common share	10,807	10,715	10,800	10,700
Effect of dilutive securities:				
Stock compensation plans	71	99	66	109
Dilutive potential common shares	71	99	66	109
Denominator for diluted earnings per common share - adjusted weighted average shares outstanding	10,878	10,814	10,866	10,809
Basic earnings per common share	\$ 0.32	\$ 0.18	\$ 0.12	\$ 0.04
Diluted earnings per common share	\$ 0.32	\$ 0.18	\$ 0.12	\$ 0.04

Note 9. Income Taxes

For the three months ended June 30, 2023 and 2022, the Company recorded an income tax expense of \$563 and \$821, respectively, on pre-tax income of \$4,056 and \$2,797, respectively, for an effective income tax rate of 13.9% and 29.4%, respectively. For the six months ended June 30, 2023 and 2022, the Company recorded an income tax expense of \$22 and \$313, respectively, on pre-tax income of \$1,344 and \$703, respectively, for an effective income tax rate of 1.6% and 44.5%, respectively. The Company's effective income tax rate for the three and six months ended June 30, 2023 differed from the federal statutory rate of 21% primarily due to the realization of a portion of its U.S. deferred tax assets previously offset by a valuation allowance. The Company continues to maintain a full valuation allowance against its U.S. deferred tax assets, which is likely to result in significant variability of the effective tax rate in the current year. Changes in pre-tax income projections, combined with the seasonal nature of our businesses, could also impact the effective income tax rate each quarter.

Note 10. Stock-Based Compensation

The Company recorded stock-based compensation expense of \$945 and \$925 for the three months ended June 30, 2023 and 2022, respectively, and \$1,829 and \$1,183 for the six months ended June 30, 2023 and 2022, respectively, related to restricted stock awards and performance unit awards. As of June 30, 2023, unrecognized compensation expense for awards that the Company expects to vest approximated \$7,026. The Company will recognize this unrecognized compensation expense over the upcoming 2.7 years through March 2026.

Shares issued as a result of vested stock-based compensation awards generally will be from previously issued shares that have been reacquired by the Company and held as treasury stock or authorized and previously unissued common stock.

Restricted Stock, Performance Share Units, and Performance-Based Stock Awards

Under the 2022 Equity and Incentive Compensation Plan, successor to the 2006 Omnibus Plan, the Company grants eligible employees restricted stock and performance share units. The forfeitable restricted stock awards granted generally time-vest ratably over a three-year period, unless indicated otherwise by the underlying restricted stock award agreement. Awards of restricted stock are subject to a minimum one-year vesting period, including those granted to non-employee directors. Performance share units are offered annually under separate three-year long-term incentive programs. Performance share units are subject to forfeiture and will be converted into common stock of the Company based upon the Company's performance relative to performance measures and conversion multiples, as defined in the underlying program. The Company has, on occasion, issued performance share units with longer performance periods as incentivization and retention tools. If the Company's estimate of the number of performance share units expected to vest changes in a subsequent accounting period, cumulative compensation expense could increase or decrease. The change will be recognized in the current period for the vested shares and would change future expense over the remaining vesting period.

Since 2017, non-employee directors have been permitted to defer receipt of annual stock awards and equity elected to be received in lieu of quarterly cash compensation. If so elected, these deferred stock units will be issued as common stock six months after

separation from their service on the Board of Directors. Since 2018, no non-employee directors have elected the option to receive deferred stock units of the Company's common stock in lieu of director cash compensation.

In February 2023, the Compensation Committee approved the 2023-2025 Long Term Incentive Plan which includes grants of performance share units and restricted stock. The following table summarizes the restricted stock, deferred stock units, and performance-based stock and share unit activity for the six months ended June 30, 2023:

	Restricted Stock	Deferred Stock Units	Performance-Based Stock and Share Units	Weighted Average Grant Date Fair Value
Outstanding as of December 31, 2022	174,173	46,268	108,478	\$ 17.77
Granted	181,914	—	367,558	11.78
Vested	(88,367)	(33,864)	—	15.97
Adjustment for incentive awards expected to vest	—	—	20,104	15.36
Outstanding as of June 30, 2023	267,720	12,404	496,140	\$ 14.44

Note 11. Fair Value Measurements

The Company determines the fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value hierarchy includes three levels of inputs that may be used to measure fair value as described below:

Level 1: Observable inputs that reflect unadjusted quoted market prices in active markets for identical assets or liabilities.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs that are not corroborated by market data.

The classification of a financial asset or liability within the hierarchy is determined based on the lowest level input that is significant to the fair value measurement.

Cash equivalents - Included in "Cash and cash equivalents" within the Condensed Consolidated Balance Sheets are investments in non-domestic term deposits. The carrying amounts approximate fair value because of the short maturity of the instruments.

SOFR-based interest rate swaps - To reduce the impact of interest rate changes on outstanding variable-rate debt, the Company amended and entered into forward-starting SOFR-based interest rate swaps with notional values totaling \$20,000 and \$20,000 effective August 12, 2022 and August 31, 2022, respectively. The fair value of the interest rate swaps are based on market-observable forward interest rates and represents the estimated amount that the Company would pay to terminate the agreements. As such, the swap agreements are classified as Level 2 within the fair value hierarchy. As of June 30, 2023 and December 31, 2022, the interest rate swaps were recorded in "Other current assets" when the interest rate swaps' fair market value are in an asset position, and "Other accrued liabilities" when in a liability position within our Condensed Consolidated Balance Sheets.

	Fair Value Measurements at Reporting Date				Fair Value Measurements at Reporting Date			
	June 30, 2023	Level 1	Level 2	Level 3	December 31, 2022	Level 1	Level 2	Level 3
Term deposits	\$ 17	\$ 17	\$ —	\$ —	\$ 17	\$ 17	\$ —	\$ —
Interest rate swaps	2,008	—	2,008	—	1,930	—	1,930	—
Total assets	\$ 2,025	\$ 17	\$ 2,008	\$ —	\$ 1,947	\$ 17	\$ 1,930	\$ —

The \$20,000 interest rate swap agreements that became effective August 2022 are accounted for as cash flow hedges and the objective of the hedges is to offset the expected interest variability on payments associated with the interest rate on our debt. The gains and losses related to the interest rate swaps are reclassified from "Accumulated other comprehensive loss" in our Condensed Consolidated Balance Sheets and included in "Interest expense - net" in our Condensed Consolidated Statements of Operations as the interest expense from our debt is recognized.

For the three months ended June 30, 2023 and 2022, the Company recognized interest income of \$295 and \$19, respectively, from interest rate swaps. For the six months ended June 30, 2023 and 2022, the Company recognized interest income and interest expense of \$540 and \$78, respectively, from interest rate swaps.

Note 12. Retirement Plans

Retirement Plans

The Company has three retirement plans that cover its hourly and salaried employees in the United States: one defined benefit plan, which is frozen, and two defined contribution plans. Employees are eligible to participate in the appropriate plan based on employment classification. The Company's contributions to the defined benefit and defined contribution plans are governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the Company's policy and investment guidelines applicable to each respective plan. The Company's policy is to contribute at least the minimum in accordance with the funding standards of ERISA.

The Company maintains one defined contribution plan for its employees in Canada. In the United Kingdom, the Company maintains two defined contribution plans and a defined benefit plan, which is frozen. These plans are discussed in further detail below.

United States Defined Benefit Plan

Net periodic pension costs for the United States defined benefit pension plan for the three and six months ended June 30, 2023 and 2022 were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Interest cost	\$ 71	\$ 49	\$ 143	\$ 97
Expected return on plan assets	(64)	(66)	(128)	(132)
Recognized net actuarial loss	16	18	31	35
Net periodic pension cost	\$ 23	\$ 1	\$ 46	\$ —

The Company has made contributions to its United States defined benefit plan of \$176 during the six months ended June 30, 2023 and expects to make total contributions of \$400 during 2023.

United Kingdom Defined Benefit Plan

Net periodic pension costs for the United Kingdom defined benefit pension plan for the three and six months ended June 30, 2023 and 2022 were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Interest cost	\$ 56	\$ 43	\$ 112	\$ 86
Expected return on plan assets	(84)	(76)	(168)	(152)
Amortization of prior service costs and transition amount	6	6	12	12
Recognized net actuarial loss	3	40	6	80
Net periodic pension (income) cost	\$ (19)	\$ 13	\$ (38)	\$ 26

United Kingdom regulations require trustees to adopt a prudent approach to funding required contributions to defined benefit pension plans. For the six months ended June 30, 2023, the Company contributed approximately \$170 to the plan. The Company anticipates total contributions of approximately \$340 to the United Kingdom pension plan during 2023.

Defined Contribution Plans

The Company sponsors five defined contribution plans for hourly and salaried employees across its domestic and international facilities. The following table summarizes the expense associated with the contributions made to these plans for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
United States	\$ 793	\$ 390	\$ 1,407	\$ 695
Canada	32	45	94	105
United Kingdom	315	379	576	379
	\$ 1,140	\$ 814	\$ 2,077	\$ 1,179

Note 13. Commitments and Contingent Liabilities

Product Liability Claims

The Company is subject to product warranty claims that arise in the ordinary course of its business. For certain manufactured products, the Company maintains a product warranty accrual, which is adjusted on a monthly basis as a percentage of cost of sales. In addition, the product warranty accrual is adjusted periodically based on the identification or resolution of known individual product warranty claims.

Union Pacific Railroad (“UPRR”) Concrete Tie Matter

On March 13, 2019, the Company and its subsidiary, CXT Incorporated (“CXT”), entered into a Settlement Agreement (the “Settlement Agreement”) with UPRR to resolve the then-pending litigation in the matter of *Union Pacific Railroad Company v. L.B. Foster Company and CXT Incorporated*, Case No. CI 15-564, in the District Court for Douglas County, Nebraska.

Under the Settlement Agreement, the Company and CXT will pay UPRR the aggregate amount of \$50,000 without pre-judgment interest, which began with a \$2,000 immediate payment, and with the remaining \$48,000 paid in installments over a six-year period commencing on the effective date of the Settlement Agreement through December 2024 pursuant to a Promissory Note. Additionally, commencing in January 2019 and through December 2024, UPRR agreed to purchase and has been purchasing from the Company and its subsidiaries and affiliates, a cumulative total amount of \$48,000 of products and services, targeting \$8,000 of annual purchases per year beginning March 13, 2019, per letters of intent under the Settlement Agreement. During the third quarter of 2021, in connection with the Company’s divestiture of its Piling Products division, the targeted annual purchases per year have been reduced to \$6,000 for 2021 through 2024. The Settlement Agreement also includes a mutual release of all claims and liability regarding or relating to all CXT pre-stressed concrete railroad ties with no admission of liability and dismissal of the litigation with prejudice.

The expected payments under the UPRR Settlement Agreement for the remainder of the year ending December 31, 2023 and thereafter are as follows:

Year Ending December 31,	
Remainder of 2023	\$ 6,000
2024	8,000
Total	<u>\$ 14,000</u>

Environmental and Legal Proceedings

The Company is subject to national, state, foreign, provincial, and/or local laws and regulations relating to the protection of the environment. The Company’s efforts to comply with environmental regulations may have an adverse effect on its future earnings.

On June 5, 2017, a General Notice Letter was received from the United States Environmental Protection Agency (“EPA”) indicating that the Company may be a potentially responsible party (“PRP”) regarding the Portland Harbor Superfund Site cleanup along with numerous other companies. More than 140 other companies received such a notice. The Company and a predecessor owned and operated a facility near the harbor site for a period prior to 1982. The net present value and undiscounted costs of the selected remedy throughout the harbor site are estimated by the EPA to be approximately \$1.1 billion and \$1.7 billion, respectively, and the remedial work is expected to take as long as 13 years to complete. These costs may increase given that the remedy will not be initiated or completed for several years. The Company is reviewing the basis for its identification by the EPA and the nature of the historic operations of a Company predecessor near the site. Additionally, the Company executed a PRP agreement which provides for a private allocation process among almost 100 PRPs in a working group whose work is ongoing and involves a process that will ultimately conclude a proposed allocation of liability for cleanup of the site and various sub-areas. The Company does not have any individual risk sharing agreements in place with respect to the site, and was only associated with the site from 1976 to when it purchased the stock of a company whose assets it sold in 1982 and which was dissolved in 1994. On March 26, 2020, the EPA issued a Unilateral Administrative Order to two parties requiring them to perform remedial design work for that portion of the Harbor Superfund Site that includes the area closest to the facility; the Company was not a recipient of this Unilateral Administrative Order. The Company cannot predict the ultimate impact of these proceedings because of the large number of PRPs involved throughout the harbor site, the size and extent of the site, the degree of contamination of various wastes, varying environmental impacts throughout the harbor site, the scarcity of data related to the facility once operated by the Company and a predecessor, potential comparative liability between the allocation parties and regarding non-participants, and the speculative nature of the remediation costs. Based upon information currently available, management does not believe that the Company’s alleged PRP status regarding the Portland Harbor Superfund Site or other compliance with the present environmental protection laws will have a material adverse effect on the financial condition, results of operations, cash flows, competitive position, or capital expenditures of the Company. As more information develops and the allocation process is completed, and given the resolution of factors like those described above, an unfavorable resolution could have a material adverse effect. As of June 30, 2023 and December 31, 2022, the Company maintained environmental reserves approximating \$2,447 and \$2,472, respectively.

The Company is also subject to other legal proceedings and claims that arise in the ordinary course of its business. Legal actions are subject to inherent uncertainties, and future events could change management's assessment of the probability or estimated amount of potential losses from pending or threatened legal actions. Based on available information, it is the opinion of management that the ultimate resolution of pending or threatened legal actions, both individually and in the aggregate, will not result in losses having a material adverse effect on the Company's financial position or liquidity as of June 30, 2023.

If management believes that, based on available information, it is at least reasonably possible that a material loss (or additional material loss in excess of any accrual) will be incurred in connection with any legal actions, the Company discloses an estimate of the possible loss or range of loss, either individually or in the aggregate, as appropriate, if such an estimate can be made, or discloses that an estimate cannot be made. Based on the Company's assessment as of June 30, 2023, no such disclosures were considered necessary.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**(Dollars in thousands, except share data)****Forward-Looking Statements**

This Quarterly Report on Form 10-Q contains “forward-looking” statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. Many of the forward-looking statements are located in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” (“MD&A”). Forward-looking statements provide management’s current expectations of future events based on certain assumptions and include any statement that does not directly relate to any historical or current fact. Sentences containing words such as “believe,” “intend,” “plan,” “may,” “expect,” “should,” “could,” “anticipate,” “estimate,” “predict,” “project,” or their negatives, or other similar expressions of a future or forward-looking nature generally should be considered forward-looking statements. Forward-looking statements in this Quarterly Report on Form 10-Q are based on management’s current expectations and assumptions about future events that involve inherent risks and uncertainties and may concern, among other things, the Company’s expectations relating to our strategy, goals, projections, and plans regarding our financial position, liquidity, capital resources, and results of operations and decisions regarding our strategic growth initiatives, market position, and product development. While the Company considers these expectations and assumptions to be reasonable, they are inherently subject to significant business, economic, competitive, regulatory, and other risks and uncertainties, most of which are difficult to predict and many of which are beyond the Company’s control. The Company cautions readers that various factors could cause the actual results of the Company to differ materially from those indicated by forward-looking statements. Accordingly, investors should not place undue reliance on forward-looking statements as a prediction of actual results. Among the factors that could cause the actual results to differ materially from those indicated in the forward-looking statements are risks and uncertainties related to: any future global health crises, and the related social, regulatory, and economic impacts and the response thereto by the Company, our employees, our customers, and national, state, or local governments; a continuation or worsening of the adverse economic conditions in the markets we serve, including recession, the continued volatility in the prices for oil and gas, governmental travel restrictions, project delays, and budget shortfalls, or otherwise; volatility in the global capital markets, including interest rate fluctuations, which could adversely affect our ability to access the capital markets on terms that are favorable to us; restrictions on our ability to draw on our credit agreement, including as a result of any future inability to comply with restrictive covenants contained therein; a decrease in freight or transit rail traffic; environmental matters, including any costs associated with any remediation and monitoring of such matters; the risk of doing business in international markets, including compliance with anti-corruption and bribery laws, foreign currency fluctuations and inflation, and trade restrictions or embargoes; our ability to effectuate our strategy, including cost reduction initiatives, and our ability to effectively integrate acquired businesses or to divest businesses, such as the recent dispositions of the Track Components, Chemtec, and Ties businesses, and acquisitions of the SkratcH Enterprises Ltd., Intelligent Video Ltd., and VanHooseCo Precast LLC businesses and to realize anticipated benefits; costs of and impacts associated with shareholder activism; the timeliness and availability of materials from our major suppliers, as well as the impact on our access to supplies of customer preferences as to the origin of such supplies, such as customers’ concerns about conflict minerals; labor disputes; cyber-security risks such as data security breaches, malware, ransomware, “hacking,” and identity theft, which could disrupt our business and may result in misuse or misappropriation of confidential or proprietary information, and could result in the disruption or damage to our systems, increased costs and losses, or an adverse effect to our reputation; the continuing effectiveness of our ongoing implementation of an enterprise resource planning system; changes in current accounting estimates and their ultimate outcomes; the adequacy of internal and external sources of funds to meet financing needs, including our ability to negotiate any additional necessary amendments to our credit agreement or the terms of any new credit agreement, and reforms regarding the use of SOFR as a benchmark for establishing applicable interest rates; the Company’s ability to manage its working capital requirements and indebtedness; domestic and international taxes, including estimates that may impact taxes; domestic and foreign government regulations, including tariffs; economic conditions and regulatory changes caused by the United Kingdom’s exit from the European Union; geopolitical conditions, including the conflict in Ukraine; a lack of state or federal funding for new infrastructure projects; an increase in manufacturing or material costs; the loss of future revenues from current customers; and risks inherent in litigation and the outcome of litigation and product warranty claims. Should one or more of these risks or uncertainties materialize, or should the assumptions underlying the forward-looking statements prove incorrect, actual outcomes could vary materially from those indicated. Significant risks and uncertainties that may affect the operations, performance, and results of the Company’s business and forward-looking statements include, but are not limited to, those set forth under Item 1A, “Risk Factors,” and elsewhere in our Annual Report on Form 10-K for the year ended December 31, 2022, or as updated and/or amended by our other current or periodic filings with the Securities and Exchange Commission.

The forward-looking statements in this report are made as of the date of this report and we assume no obligation to update or revise any forward-looking statement, whether as a result of new information, future developments, or otherwise, except as required by the federal securities laws.

General Overview and Business Update

Results of the Quarter

	Three Months Ended June 30,		Percent Change 2023 vs. 2022	Percent of Total Net Sales Three Months Ended June 30,	
	2023	2022		2023	2022
Net sales	\$ 148,034	\$ 131,515	12.6 %	100.0 %	100.0 %
Gross profit	32,252	23,293	38.5	21.8	17.7
Expenses:					
Selling and administrative expenses	24,528	19,394	26.5	16.6	14.7
Amortization expense	1,375	1,419	(3.1)	0.9	1.1
Operating profit	6,349	2,480	156.0	4.3	1.9
Interest expense - net	1,574	384	**	1.1	0.3
Other expense (income) - net	719	(701)	202.6	0.5	(0.5)
Income before income taxes	4,056	2,797	45.0	2.7	2.1
Income tax expense	563	821	(31.4)	0.4	0.6
Net income	3,493	1,976	76.8	2.4	1.5
Net loss attributable to noncontrolling interest	(38)	(34)	11.8	(0.0)	(0.0)
Net income attributable to L.B. Foster Company	\$ 3,531	\$ 2,010	75.7 %	2.4 %	1.5 %
Diluted earnings per common share	\$ 0.32	\$ 0.18			

** Results of the calculation are not considered meaningful for presentation purposes.

L.B. Foster Company is a global technology solutions provider of engineered, manufactured products and services that builds and supports infrastructure. The Company's innovative engineering and product development solutions address the safety, reliability, and performance needs of its customers' most challenging requirements. The Company maintains locations in North America, South America, Europe, and Asia. The Company is organized and operates in three reporting segments: Rail, Technologies, and Services, Precast Concrete Products, and Steel Products and Measurement.

Acquisition and Divestiture Summary

On June 21, 2022, the Company acquired the stock of Skratch Enterprises Ltd. ("Skratch") for \$7,402, which is inclusive of deferred payments withheld by the Company of \$1,228, to be paid over the next four years or utilized to satisfy post-closing working capital adjustments or indemnity claims under the purchase agreement. Skratch is an industry leader in digital system integration with expertise in advanced digital display technologies and capabilities currently serving retail markets in the U.K. Skratch is reported within the Technology Services and Solutions business unit in the Rail, Technologies, and Services segment.

On August 1, 2022, the Company sold substantially all the operating assets of its Track Components business. Cash proceeds from the transaction were \$7,795, subject to indemnification obligations and working capital adjustments and a loss on sale of \$467 was recorded in "Other expense (income) - net." The Track Components business was reported in the Rail Products business unit within the Rail, Technologies, and Services segment.

On August 12, 2022, the Company acquired the operating assets of VanHooseCo Precast, LLC ("VanHooseCo"), a business specializing in precast concrete walls, water management products, and forms for the commercial and residential infrastructure markets for \$52,146 net of cash acquired. VanHooseCo has been included in the Company's Precast Concrete Products segment.

On March 30, 2023, the Company sold substantially all the operating assets of its Chemtec Energy Services LLC ("Chemtec") business for \$5,344 in proceeds, subject to final working capital adjustments, generating a \$2,065 loss on sale, recorded in "Other expense (income) - net." The Chemtec business was reported in the Coatings and Measurement business unit within the Steel Products and Measurement segment.

On June 30, 2023, the Company sold substantially all the operating assets of the prestressed concrete railroad tie business operated by its wholly-owned subsidiary, CXT Incorporated ("Ties"), located in Spokane, WA, for \$2,368 in proceeds, subject to final working capital adjustments, generating a \$1,009 loss on the sale, which was recorded in "Other expense (income) - net". The Ties business was reported in the Rail Products business unit within the Rail, Technologies, and Services segment.

Results Summary

Net sales of \$148,034 for the three months ended June 30, 2023 increased by \$16,519, or 12.6%, over the prior year quarter. The change in sales is due in part to the acquisitions of Skcratch and VanHooseCo offset by the divestiture of the Track Components and Chemtec businesses. Organic growth and acquisitions drove a 13.3% and 6.0% increase in sales over the prior year quarter, respectively, with an offsetting 6.8% decline from divestitures.

Gross profit for the three months ended June 30, 2023, was \$32,252, an increase of \$8,959 over the prior year quarter, or 38.5%, and gross profit margins expanded by 410 basis points to 21.8%. The improvement in gross profit is due to the portfolio changes that are a part of the Company's strategic transformation plan along with increased sales volumes, product mix, and pricing.

Selling and administrative expenses for the three months ended June 30, 2023 increased by \$5,134, or 26.5%, from the prior year quarter, due primarily to increased personnel costs as well as the net impact from business portfolio actions. Selling and administrative expenses as a percent of net sales were 16.6% versus 14.7% in the prior year quarter.

Other expense - net for the three months ended June 30, 2023 was \$719 while other income - net was \$701 in the prior year quarter. Other expense - net for the three months ended June 30, 2023 was due to the \$1,041 loss on the divestitures of Ties and Chemtec, and other income - net for the three months ended June 30, 2022 was due to a \$489 divestiture gain and \$318 in insurance proceeds.

The Company's effective income tax rate for the three months ended June 30, 2023 was 13.9%, compared to 29.4% in the prior year quarter. The Company's effective income tax rate for the three months ended June 30, 2023 differed from the federal statutory of 21% primarily due to the realization of a portion of its U.S. deferred tax assets previously offset by a valuation allowance. The Company continues to maintain a full valuation allowance against its U.S. deferred tax assets, which is likely to result in significant variability of the effective tax rate in the current year.

Net income for the three months ended June 30, 2023 attributable to the Company was \$3,531, or \$0.32 per diluted share, favorable by \$1,521, or \$0.14 per diluted share, from the prior year quarter. Net income for the three months ended June 30, 2023 was primarily driven by stronger comparable operating profit stemming from margin expansion despite the \$1,041 loss on divestitures.

The Company continues to execute its strategic transformation into a technology-focused, high growth infrastructure solutions provider, as evidenced by the number of recent portfolio actions taken, including the sale of Ties, which further reduces the Company's commoditized offering to allow for increased focus on its core growth platforms, Rail Technologies and Precast Concrete, as well as organic growth initiatives, debt reduction, and improving shareholder value.

Results of Operations - Segment AnalysisSecond Quarter 2023 Compared to Second Quarter 2022**Rail, Technologies, and Services**

	Three Months Ended June 30,		Change 2023 vs. 2022	Percent Change 2023 vs. 2022
	2023	2022		
Net sales	\$ 91,616	\$ 81,797	\$ 9,819	12.0 %
Gross profit	\$ 19,847	\$ 15,661	\$ 4,186	26.7 %
Gross profit percentage	21.7 %	19.1 %	2.6 %	13.1 %
Segment operating profit	\$ 6,627	\$ 3,998	\$ 2,629	65.8 %
Segment operating profit percentage	7.2 %	4.9 %	2.3 %	46.9 %

The Rail, Technologies, and Services segment sales for the three months ended June 30, 2023 increased by \$9,819, or 12.0%, compared to the prior year quarter. Net sales increased by 17.0% organically and by 0.8% from the acquisition of Skcratch, offset by a 5.8% decrease from the divestiture of Track Components. The Rail Products and Global Friction Management business units increase in sales was offset by sales decreases in the Technology Services and Solutions business unit. The Rail Products and Global Friction Management sales increase was driven by strength in domestic markets served. The sales decrease in the Technology Services and Solutions business unit was driven by weak economic conditions in the Company's U.K. based businesses.

The Rail, Technologies, and Services segment gross profit increased by \$4,186, or 26.7% over the prior year quarter, and gross profit margins expanded 260 basis points to 21.7%. Gross profit increases in Rail Products and Global Friction Management were commensurate with higher sales levels, while weaker sales in Technology Services and Solutions partially offset the increased gross

profit. The improvement in gross profit is due to the portfolio changes that are a part of the Company's strategic transformation along with increased sales in the higher margin Global Friction Management business along with improved pricing. Operating profit was \$6,627, a \$2,629 increase over the prior year quarter, due primarily to higher gross profit levels.

During the current quarter, the Rail, Technologies, and Services segment had an increase in new orders of \$23,048, or 24.8%, compared to the prior year period. The increase is due to tailwinds from government infrastructure investment programs, despite a \$3,114 decrease due to the divested Track Components business. Backlog as of June 30, 2023 was \$132,451, an increase of \$434, or 0.3%, versus the prior year quarter, despite a \$6,960 and \$832 reduction due to the Ties and Track Components divestitures, respectively.

Precast Concrete Products

	Three Months Ended June 30,		Change 2023 vs. 2022	Percent Change 2023 vs. 2022
	2023	2022		
Net sales	\$ 33,865	\$ 23,611	\$ 10,254	43.4 %
Gross profit	\$ 7,676	\$ 3,347	\$ 4,329	129.3 %
Gross profit percentage	22.7 %	14.2 %	8.5 %	59.9 %
Segment operating profit (loss)	\$ 1,296	\$ (125)	\$ 1,421	**
Segment operating profit (loss) percentage	3.8 %	(0.5 %)	4.3 %	**

** Results of the calculation are not considered meaningful for presentation purposes.

The Precast Concrete Products segment sales for the three months ended June 30, 2023 increased by \$10,254, or 43.4%, compared to the prior year quarter. The VanHooseCo acquisition contributed \$7,230, or 30.6%, of the increase in sales over the prior year quarter. Organic sales increased by \$3,024, or 12.8%, which is a continued reflection of the strong demand environment in the southern and northeastern United States markets.

The Precast Concrete Products segment's gross profit for the three months ended June 30, 2023 increased by \$4,329, and gross profit margins expanded by 850 basis points to 22.7%. The improvement in gross profit is due to the VanHooseCo acquisition as well as overall sales volumes and stronger margins from the legacy precast business, including the impact of improved pricing. Operating profit for the second quarter of 2023 was \$1,296, a \$1,421 improvement over the prior year quarter, due to higher gross profit levels, which was partially offset by an increase in selling and administrative expenses from the VanHooseCo acquisition, as well as increased personnel expenses.

During the quarter, the Precast Concrete Products segment had an increase in new orders and backlog of 65.0% and 28.2%, respectively, compared to the prior year quarter. The increase in new orders and backlog is due primarily to the VanHooseCo acquisition.

Steel Products and Measurement

	Three Months Ended June 30,		Change 2023 vs. 2022	Percent Change 2023 vs. 2022
	2023	2022		
Net sales	\$ 22,553	\$ 26,107	\$ (3,554)	(13.6)%
Gross profit	\$ 4,729	\$ 4,285	\$ 444	10.4 %
Gross profit percentage	21.0 %	16.4 %	4.6 %	27.8 %
Segment operating profit	\$ 1,456	\$ 762	\$ 694	91.1 %
Segment operating profit percentage	6.5 %	2.9 %	3.6 %	124.1 %

The Steel Products and Measurement segment sales for the three months ended June 30, 2023 decreased by \$3,554, or 13.6%, compared to the prior year quarter. The decrease in sales for the second quarter of 2023 was attributable to the \$4,176 decrease due to the divestiture of the Chemtec business during the first quarter of 2023 and a decline in the Fabricated Steel Products business, driven by soft demand for bridge grid decking. This decline was offset by increased activity in both traditional and adjacent market applications in the Protective Coatings business unit within Coatings and Measurement.

Steel Products and Measurement gross profit for the three months ended June 30, 2023 increased by \$444, and gross profit margins increased 460 basis points to 21.0%. The increase in gross profit is primarily due to stronger margins in the Protective Coatings division attributable to higher volumes. The segment operating profit increased by \$694 from the prior year quarter, due to higher gross profit levels.

During the quarter, the Steel Products and Measurement segment had an increase in new orders and backlog of \$4,360, or 17.0%, and \$18,635, or 39.4%, respectively, compared to the prior year quarter. The increase is a result of improved order levels in the Protective Coatings division due to strong demand in both traditional and adjacent market applications which was offset by a \$6,023 decline from the Chemtec divestiture. The backlog increase was partially offset by a \$7,503 decrease due to the Chemtec divestiture.

Six Month Results

	Six Months Ended June 30,		Percent Change 2023 vs. 2022	Percent of Total Net Sales Six Months Ended June 30,	
	2023	2022		2023	2022
Net sales	\$ 263,522	\$ 230,309	14.4 %	100.0 %	100.0 %
Gross profit	55,543	39,740	39.8	21.1	17.3
Expenses:					
Selling and administrative expenses	45,951	36,692	25.2	17.4	15.9
Amortization expense	2,740	2,855	(4.0)	1.0	1.2
Operating profit	6,852	193	**	2.6	0.1
Interest expense - net	2,962	754	**	1.1	0.3
Other expense (income) - net	2,546	(1,264)	**	1.0	(0.5)
Income before income taxes	\$ 1,344	\$ 703	91.2 %	0.5 %	0.3 %
Income tax expense	22	313	(93.0)	—	0.1
Net income	1,322	390	239.0	0.5	0.2
Net loss attributable to noncontrolling interest	(57)	(54)	5.6	—	—
Net income attributable to L.B. Foster Company	1,379	444	210.6	0.5	0.2
Diluted earnings per common share	\$ 0.12	\$ 0.04			

** Results of the calculation are not considered meaningful for presentation purposes.

Results Summary

Net sales of \$263,522 for the six months ended June 30, 2023 increased by \$33,213, or 14.4%, over the prior year quarter. The change in sales is due in part to the acquisitions of Skcratch and VanHooseCo offset by the divestitures of the Track Components and Chemtec businesses. Organic growth and acquisitions drove a 10.8% and 7.4% increase in sales over the prior year quarter, respectively, with an offsetting 3.7% decline from divestitures.

Gross profit for the six months ended June 30, 2023 was \$55,543, an increase of \$15,803 over the prior year quarter, or 39.8%, and gross profit margins expanded by 380 basis points to 21.1%. The improvement in gross profit is due to the portfolio changes that are a part of the Company's strategic transformation plan along with higher sales volume, improved product mix, input costs, and pricing.

Selling and administrative expenses for the six months ended June 30, 2023 increased by \$9,259, or 25.2%, from the prior year quarter, due in part to the acquisitions of VanHooseCo and Skcratch, as well as higher personnel expenses. Selling and administrative expenses as a percent of net sales were 17.4% versus 15.9% in the prior year quarter, a 150 basis point increase.

Other expense - net for the six months ended June 30, 2023 was \$2,546 while other income - net was \$1,264 in the prior year quarter. Other expense - net for the six months ended June 30, 2023 was due primarily to the \$3,074 loss on the divestitures of Ties and Chemtec, and other income - net for the six months ended June 30, 2022 was due to a \$489 divestiture gain and \$790 in insurance proceeds.

The Company's effective income tax rate for the six months ended June 30, 2023 was 1.6%, compared to 44.5% in the prior year quarter. The Company's effective tax rate for the six months ended June 30, 2023 differed from the federal statutory rate of 21% primarily due to the realization of a portion of its U.S. deferred tax assets previously offset by a valuation allowance. The Company continues to maintain a full valuation allowance against its U.S. deferred tax assets, which is likely to result in significant variability of the effective tax rate in the current year.

Net income for the six months ended June 30, 2023 attributable to the Company was \$1,379, or \$0.12 per diluted share, favorable by \$935, or \$0.08 per diluted share, from the prior year quarter. Net income was primarily driven stronger operating profit stemming

from margin expansion during the six months ended June 30, 2023, which was offset by a \$3,074 loss on the divestitures of the Chemtec and Ties.

The Company continues to execute its strategic transformation into a technology-focused, high growth infrastructure solutions provider, as evidenced by the number of recent portfolio actions taken, including the sale of Ties, which further reduces the Company's commoditized offering to allow for increased focus on its core growth platforms, Rail Technologies and Precast Concrete, as well as organic growth initiatives, debt reduction, and improving shareholder value.

Results of Operations - Segment Analysis

First Six Months 2023 Compared to First Six Months 2022

Rail, Technologies, and Services

	Six Months Ended June 30,		Change	Percent Change
	2023	2022	2023 vs. 2022	2023 vs. 2022
Net sales	\$ 156,000	\$ 145,507	\$ 10,493	7.2 %
Gross profit	\$ 34,131	\$ 28,188	\$ 5,943	21.1 %
Gross profit percentage	21.9 %	19.4 %	2.5 %	12.9 %
Segment operating profit	\$ 9,015	\$ 5,037	\$ 3,978	79.0 %
Segment operating profit percentage	5.8 %	3.5 %	2.3 %	66.9 %

The Rail, Technologies, and Services segment sales for the six months ended June 30, 2023 increased by \$10,493, or 7.2%, compared to the prior year quarter. Net sales increased by 12.1% organically and by 1.0% from the acquisition of Skcratch, offset by a 5.9% decrease from the divestiture of Track Components. The Rail Products and Global Friction Management business unit increase in sales were offset by sales decreases in the Technology Services and Solutions business unit. The Rail Products and Global Friction Management sales increases were driven by strength in domestic markets served. The sales decrease in the Technology Services and Solutions business unit was driven by the completion of the multi-year Crossrail project in late 2022 and weak economic conditions in the United Kingdom.

The Rail, Technologies, and Services segment gross profit increased by \$5,943, or 21.1% over the prior year quarter, and gross profit margins expanded 250 basis points to 21.9%. Gross profit increases in Rail Products and Global Friction Management were commensurate with higher sales levels, while weaker sales in Technology Services and Solutions partially offset the gross profit. The improvement in gross profit is due to the portfolio changes that are a part of the Company's strategic transformation along with increased sales in the higher margin Global Friction Management business along with improved pricing. Operating profit was \$9,015, a \$3,978 increase over the prior year quarter, due primarily to higher gross profit levels.

During the current quarter, the Rail, Technologies, and Services segment had an increase in new orders of \$5,385, or 2.9%, compared to the prior year period. The increase is due primarily to increases in the Global Friction Management business unit, which was offset by an unfavorable impact of \$7,918 due to the Track Components divestiture. Backlog as of June 30, 2023 was \$132,451, an increase of \$434, or 0.3%, versus the prior year quarter, despite a \$6,960 and \$832 reduction due to the Ties and Track Components sales, respectively.

Precast Concrete Products

	Six Months Ended June 30,		Change	Percent Change
	2023	2022	2023 vs. 2022	2023 vs. 2022
Net sales	\$ 58,153	\$ 38,621	\$ 19,532	50.6 %
Gross profit	\$ 13,197	\$ 5,792	\$ 7,405	127.8 %
Gross profit percentage	22.7 %	15.0 %	7.7 %	51.3 %
Segment operating profit (loss)	\$ 948	\$ (916)	\$ 1,864	203.5 %
Segment operating profit (loss) percentage	1.6 %	(2.4)%	4.0 %	168.7 %

The Precast Concrete Products segment sales for the six months ended June 30, 2023 increased by \$19,532, or 50.6%, compared to the prior year quarter. The VanHooseCo acquisition contributed \$15,530, or 40.2% of the increase in sales over the prior year quarter.

Organic sales increased by \$4,002, or 10.4%, which is a continued reflection of the strong demand environment in the southern and northeastern United States markets.

The Precast Concrete Products segment's gross profit for the six months ended June 30, 2023 increased by \$7,405, and gross profit margins expanded by 770 basis points to 22.7%. The improvement in gross profit is due to the VanHooseCo acquisition as well as overall sales volumes and stronger margins from the legacy precast business, including the impact of improved pricing. Operating profit for the six months ended June 30, 2023 was \$948, a \$1,864 improvement over the prior year quarter, due to higher gross profit levels, which was partially offset by an increase in selling and administrative expenses from the VanHooseCo acquisition, as well as increased personnel expenses.

During the quarter, the Precast Concrete Products segment had an increase in new orders and backlog of 76.0% and 28.2%, respectively, compared to the prior year quarter. The increase in new orders and backlog is due to the VanHooseCo acquisition and strong demand in the legacy business.

Steel Products and Measurement

	Six Months Ended June 30,		Change 2023 vs. 2022	Percent Change 2023 vs. 2022
	2023	2022		
Net Sales	\$ 49,369	\$ 46,181	\$ 3,188	6.9 %
Gross profit	\$ 8,215	\$ 5,760	\$ 2,455	42.6 %
Gross profit percentage	16.6 %	12.5 %	4.1 %	33.4 %
Segment operating profit (loss)	\$ 1,448	\$ (1,386)	\$ 2,834	204.5 %
Segment operating profit (loss) percentage	2.9 %	(3.0)%	5.9 %	197.7 %

The Steel Products and Measurement segment sales for the six months ended June 30, 2023 increased by \$3,188, or 6.9%, compared to the prior year quarter. The increase in sales for the second quarter of 2023 was attributable to the increase in Coatings and Measurement sales over the prior year quarter, due to increased activity in both traditional and adjacent market applications. This increase was partially offset by a decrease in Fabricated Steel Products business unit sales, driven by soft demand for bridge grid decking.

Steel Products and Measurement gross profit for the six months ended June 30, 2023 increased by \$2,455, and gross profit margins increased 410 basis points to 16.6%. The increase in gross profit is primarily due to stronger margins in the Protective Coatings division attributable to higher volumes. The segment operating profit increased by \$2,834 from the prior year quarter, due to higher gross profit levels.

During the quarter, the Steel Products and Measurement segment had an increase in new orders and backlog of \$9,057, or 17.9%, and \$18,635, or 39.4%, respectively, compared to the prior year quarter. The increase is a result of improved order levels in the Fabricated Steel Products business unit and the Protective Coatings division due to strong demand in both traditional and adjacent market applications which was offset by a decrease of \$6,982 due to the divestiture of Chemtec. The backlog increase was partially offset by a \$7,503 decrease due to the Chemtec divestiture.

Liquidity and Capital Resources

The Company's principal sources of liquidity are its existing cash and cash equivalents, cash generated by operations, and the available capacity under the revolving credit facility, which provides for a total commitment of up to \$130,000, of which \$39,547 was available for borrowing as of June 30, 2023, subject to covenant restrictions. The Company's primary needs for liquidity relate to working capital requirements for operations, capital expenditures, debt service obligations, payments related to the Union Pacific Railroad Settlement, and acquisitions. The Company's total debt, including finance leases, was \$89,505 and \$91,879 as of June 30, 2023 and December 31, 2022, respectively, and was primarily comprised of borrowings under its revolving credit facility.

The following table reflects available funding capacity, subject to covenant restrictions, as of June 30, 2023:

	June 30, 2023	
Cash and cash equivalents	\$	3,880
Credit agreement:		
Total availability under the credit agreement		130,000
Outstanding borrowings on revolving credit facility		(89,280)
Letters of credit outstanding		(1,173)
Net availability under the revolving credit facility		39,547
Total available funding capacity	\$	43,427

The Company's cash flows are impacted from period to period by fluctuations in working capital, as well as its overall profitability. While the Company places an emphasis on working capital management in its operations, factors such as its contract mix, commercial terms, days sales outstanding ("DSO"), and market conditions as well as seasonality may impact its working capital. The Company regularly assesses its receivables and contract assets for collectability and realization, and provides allowances for credit losses where appropriate. The Company believes that its reserves for credit losses are appropriate as of June 30, 2023, but adverse changes in the economic environment and adverse financial conditions of its customers may impact certain of its customers' ability to access capital and pay the Company for its products and services, as well as impact demand for its products and services.

The changes in cash and cash equivalents for the six months ended June 30, 2023 and 2022 were as follows:

	Six Months Ended June 30,	
	2023	2022
Net cash used in operating activities	\$ (3,333)	\$ (13,382)
Net cash provided by (used in) investing activities	7,716	(7,328)
Net cash (used in) provided by financing activities	(3,563)	18,476
Effect of exchange rate changes on cash and cash equivalents	178	(477)
Net increase (decrease) in cash and cash equivalents	\$ 998	\$ (2,711)

Cash Flow from Operating Activities

During the six months ended June 30, 2023, net cash used by operating activities was \$3,333, compared to cash used by operating activities of \$13,382 during the prior year period. For the six months ended June 30, 2023, net income and adjustments to reconcile net income from operating activities provided \$11,862, compared to \$7,277 in the prior year period. Working capital and other assets and liabilities used \$15,195 in the current period, compared to using \$20,659 in the prior year period. The Company received \$2,973 during the six months ended June 30, 2023 associated with its federal income tax refund claims, which have now been collected in full.

Cash Flow from Investing Activities

Capital expenditures for the six months ended June 30, 2023 and 2022 were \$1,495 and \$3,048, respectively. The current period expenditures primarily relate to general plant and operational improvements throughout the Company, including corporate system and facility improvements and organic growth initiatives. Expenditures for the six months ended June 30, 2022 primarily related to general plant and operational improvements throughout the Company, as well as organic growth initiatives. During the six months ended June 30, 2023, the Company divested the assets of its Chemtec and Ties businesses, generating a cash inflow of \$7,706. During the six months ended June 30, 2023 the Company received proceeds of \$966 from final working capital adjustments related to prior year acquisitions. During the six months ended June 30, 2022 the Company had \$5,712 in cash outflows for the acquisition of Skcratch.

Cash Flow from Financing Activities

During the six months ended June 30, 2023 and 2022, the Company had a decrease in outstanding debt of \$2,920 and an increase of \$18,877, respectively. The decrease in debt for the six months ended June 30, 2023 was primarily due to the proceeds received from the Ties and Chemtec divestiture during the period, which were used to pay down debt, partially offset by increased working capital needs. The increase in debt for the 2022 period was the result of funding working capital and other assets and liabilities. Treasury stock acquisitions of \$977 and \$401 for the six months ended June 30, 2023 and 2022, respectively, represent stock repurchases from employees to satisfy their income tax withholdings in connection with the vesting of stock awards.

During the first quarter of 2023, the Company's Board of Directors authorized the repurchase of up to \$15,000 of the Company's common stock in open market transactions through February 2026. Repurchases are limited to up to \$5,000 in any trailing 12-month period, with unused amounts carrying forward to future periods through the end of the authorization. Any repurchases will be subject

to the Company's liquidity, including availability of borrowings and covenant compliance under its revolving credit facility, and other capital needs of the business. In connection with the stock repurchase program, 51,241 shares valued at \$662 were repurchased during the six months ended June 30, 2023.

Repurchases of shares of the Company's common stock may be made from time to time in the open market or in such other manner as determined by the Company. The timing of the repurchases and the actual amount repurchased will depend on a variety of factors, including the market price of the Company's shares, general market and economic conditions, and other factors. The stock repurchase program does not obligate the Company to acquire any particular amount of common stock and may be suspended or discontinued at any time.

Financial Condition

As of June 30, 2023, the Company had \$3,880 in cash and cash equivalents. The Company's cash management priority continues to be short-term maturities and the preservation of its principal balances. As of June 30, 2023, approximately \$2,418 of the Company's cash and cash equivalents were held in non-domestic bank accounts. The Company principally maintains its cash and cash equivalents in accounts held by major banks and financial institutions.

The Company's principal uses of cash have been to fund its operations, including capital expenditures, acquisitions, and to service its indebtedness. The Company views its liquidity as being dependent on its results of operations, changes in working capital needs, and its borrowing capacity. As of June 30, 2023, the Company's revolving credit facility had \$39,547 of net availability, while the Company had \$89,505 in total debt.

On August 13, 2021, the Company entered into the Credit Agreement, which increased the total commitments under the revolving credit facility to \$130,000, extended the maturity date from April 30, 2024 to August 13, 2026, and provided more favorable covenant terms. Borrowings under the Credit Agreement bear interest rates based upon either the base rate or SOFR rate plus applicable margins. The Company believes that the combination of its cash and cash equivalents, cash generated from operations, and the capacity under its revolving credit facility should provide the Company with sufficient liquidity to provide the flexibility to operate the business in a prudent manner and enable the Company to continue to service its outstanding debt. On August 12, 2022, the Company amended its Credit Agreement to obtain approval for the VanHooseCo acquisition and temporarily modify certain financial covenants to accommodate the transaction. The Second Amendment permitted the Company to acquire the operating assets of VanHooseCo and modified the maximum Gross Leverage Ratio covenant to 3.50 through June 30, 2023 to accommodate the transaction. The Second Amendment also added an additional tier to the pricing grid and provided for the conversion from LIBOR-based to SOFR-based borrowings. For a discussion of the terms and availability of the credit facilities, please refer to Note 7 of the Notes to Condensed Consolidated Financial Statements contained in this Quarterly Report on Form 10-Q.

To reduce the impact of interest rate changes on outstanding variable-rate debt, the Company amended and entered into SOFR-based interest rate swaps with notional values totaling \$20,000 and \$20,000, effective August 12, 2022 and August 31, 2022, respectively, at which point the agreements effectively converted a portion of the debt from variable to fixed-rate borrowings during the term of the swap contract.

Segment Backlog

Total Company backlog is summarized by business segment in the following table for the periods indicated:

	Backlog		
	June 30, 2023	December 31, 2022	June 30, 2022
Rail, Technologies, and Services	\$ 132,451	\$ 105,241	\$ 132,017
Precast Concrete Products	91,669	80,501	71,507
Steel Products and Measurement	65,956	86,509	47,321
Total backlog	<u>\$ 290,076</u>	<u>\$ 272,251</u>	<u>\$ 250,845</u>

The Company's backlog represents the sales price of received customer purchase orders and any contracts for which the performance obligations have not been met, and therefore are precluded from revenue recognition. Although the Company believes that the orders included in backlog are firm, customers may cancel or change their orders with limited advance notice; however, these instances have been rare. Backlog should not be considered a reliable indicator of the Company's ability to achieve any particular level of revenue or financial performance. While a considerable portion of the Company's business is backlog-driven, certain product lines within the Company are not driven by backlog as the orders are fulfilled shortly after they are received.

The Company defines new orders as a contractual agreement between the Company and a third-party in which the Company will, or has the ability to, satisfy the performance obligations of the promised products or services under the terms of the agreement.

Critical Accounting Estimates

The Condensed Consolidated Financial Statements have been prepared in conformity with accounting principles generally accepted in the United States. When more than one accounting principle, or method of its application, is generally accepted, management selects the principle or method that, in its opinion, is appropriate in the Company's specific circumstances. Application of these accounting principles requires management to reach opinions regarding estimates about the future resolution of existing uncertainties. As a result, actual results could differ from these estimates. In preparing these financial statements, management has reached its opinions regarding the best estimates and judgments of the amounts and disclosures included in the financial statements giving due regard to materiality. A summary of the Company's critical accounting policies and estimates is included in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Critical Accounting Policies and Estimates in the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

This item is not applicable to a smaller reporting company.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

L.B. Foster Company carried out an evaluation, under the supervision and with the participation of the Company's management, including the Chief Executive Officer and the Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of June 30, 2023. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective as of such date such that the information required to be disclosed by the Company in reports filed under the Exchange Act is (i) recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and (ii) accumulated and communicated to management, including the chief executive officer, chief financial officer, or person performing such functions, as appropriate to allow timely decisions regarding disclosure.

Changes in Internal Control Over Financial Reporting

There were no changes to our "internal control over financial reporting" (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the six months ended June 30, 2023, and that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on Effectiveness of Controls and Procedures

In designing and evaluating disclosure controls and procedures and internal control over financial reporting, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures and internal control over financial reporting must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

PART II. OTHER INFORMATION**(Dollars in thousands, except share data)****Item 1. Legal Proceedings**

See Note 13 of the Notes to Condensed Consolidated Financial Statements included in this Quarterly Report on Form 10-Q, which is incorporated herein by reference.

Item 1A. Risk Factors

This item is not applicable to a smaller reporting company.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The Company's purchases of equity securities for the three months ended June 30, 2023 were as follows:

	Total number of shares purchased (1)	Average price paid per share	Total number of shares purchased as part of publicly announced plans or programs (2)	Approximate dollar value of shares that may yet be purchased under the plans or programs
April 1, 2023 - April 30, 2023	—	\$ —	—	\$ 15,000
May 1, 2023 - May 31, 2023	—	—	30,035	14,632
June 1, 2023 - June 30, 2023	441	14.02	21,206	14,338
Total	441	\$ 14.02	51,241	\$ 14,338

1. Reflects shares withheld by the Company to pay taxes upon vesting of restricted stock.
2. On March 3, 2023, the Board of Directors authorized the repurchase of up to \$15,000 of the Company's common shares until February 2026.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

This item is not applicable to the Company.

Item 5. Other Information**Trading Arrangements**

None of the Company's directors or "officers," as defined in Rule 16a-1(f) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), adopted, modified, or terminated a "Rule 10b5-1 trading arrangement" or a "non-Rule 10b5-1 trading arrangement," as each term is defined in Item 408 of Regulation S-K, during the Company's fiscal quarter ended June 30, 2023.

Amended and Restated Bylaws

On August 7, 2023, the Company's Board of Directors (the "Board") approved the Amended and Restated Bylaws, effective as of such date (the "Amended and Restated Bylaws"). The Amended and Restated Bylaws include certain changes to the procedures by which shareholders may recommend nominees to the Board, among other updates, including to:

- implement certain revisions to the Amended and Restated Bylaws in line with Pennsylvania law, including (i) clarifying the requirements and procedures relating to virtual shareholder meetings and the notice procedures applicable to shareholder meetings, (ii) describing the role and authority of the presiding officer at any meeting of shareholders, (iii) specifying the procedures for a shareholder to authorize a proxy, (iv) clarifying who has the authority to fill vacancies on the Board, and (v) clarifying the indemnification rights of directors, officers and other persons under the Amended and Restated Bylaws;
- address matters relating to Rule 14a-19 (the "Universal Proxy Rule") under the Exchange Act, including (i) requiring that any shareholder submitting a nomination notice make a representation as to whether such shareholder intends to solicit proxies in support of director nominees other than the Company's nominees in accordance with the Universal Proxy Rule, and if so, agree in writing that such shareholder will comply with the requirements of the Universal Proxy Rule; (ii) providing the Company a remedy if a shareholder fails to satisfy the Universal Proxy Rule requirements; (iii) requiring that a shareholder inform the Company if such shareholder no longer plans to solicit proxies in accordance with the Universal Proxy Rule; and (iv) requiring shareholders intending to use the Universal Proxy Rule to provide reasonable evidence of the satisfaction of the requirements under the Universal Proxy Rule at least five business days before the meeting upon request by the Company;

- revise and enhance the procedures and disclosure requirements set forth in the advance notice bylaw provisions for director nominations made and business proposals submitted by shareholders (other than proposals submitted pursuant to Rule 14a-8 under the Exchange Act), including (i) requiring additional information, representations, and disclosures regarding proposing shareholders, proposed nominees, proposed business, and other persons related to, and acting in concert with, a shareholder and the shareholder's solicitation of proxies; (ii) requiring a shareholder to be present in person to present its nomination or proposal at a shareholder meeting; (iii) clarifying that shareholders are not entitled to make additional or substitute nominations or proposals after the submission deadline and may only nominate a number of candidates to the Board that does not exceed the number of directors to be elected at such meeting; (iv) requiring that if requested by the Secretary of the Company, the Board or any committee of the Board proposed nominees make themselves available for interviews by the Board and any committee of the Board within five business days following the date of such request; and (v) clarifying the authority of the Secretary of the Company, the Board, or any committee of the Board to request additional information or written verification to demonstrate the accuracy of previously-provided information with respect to proposing shareholders, proposed nominees, and proposed business;
- require any shareholders directly or indirectly soliciting proxies from other shareholders to use a proxy card color other than white, with the white proxy card being reserved for exclusive use by the Board;
- provide that, unless the Company consents in writing to the selection of an alternative forum, (i) the state and federal courts sitting in the judicial district of the Commonwealth of Pennsylvania in the county of the Company's registered office, will be the sole and exclusive forum for any (A) derivative action or proceeding brought on behalf of the Company, (B) action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or other employee of the Company to the Company or the Company's shareholders, (C) action asserting a claim arising pursuant to any provision of the Pennsylvania Business Corporation Law, the Company's articles of incorporation or the Amended and Restated Bylaws, or (D) action asserting a claim governed by the internal affairs doctrine; and (ii) the federal district courts of the United States of America will be the sole and exclusive forum for any action asserting a claim arising under the Securities Act of 1933, as amended; and
- incorporate certain administrative, modernizing, and conforming changes to provide clarification and consistency, including those regarding meetings of the Board and of the shareholders.

The foregoing description of the Amended and Restated Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws, which is filed as Exhibit 3.1 to this Quarterly Report on Form 10-Q and incorporated herein by reference.

Item 6. Exhibits

See Exhibit Index below.

Exhibit Index

<u>Exhibit Number</u>	<u>Description</u>
*3.1	Amended and Restated Bylaws of the Company.
*31.1	Certification of Chief Executive Officer under Section 302 of the Sarbanes-Oxley Act of 2002.
*31.2	Certification of Chief Financial Officer under Section 302 of the Sarbanes-Oxley Act of 2002.
*32.0	Certification of Chief Executive Officer and Chief Financial Officer under Section 906 of the Sarbanes-Oxley Act of 2002.
*101.INS	XBRL Instance Document-the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
*101.SCH	XBRL Taxonomy Extension Schema Document.
*101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
*101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.
*101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
*101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.
*104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

* Exhibits marked with an asterisk are filed herewith.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

L.B. FOSTER COMPANY
(Registrant)

Date: **August 8, 2023**

By: /s/ William M. Thalman
William M. Thalman
Executive Vice President
and Chief Financial Officer
(Duly Authorized Officer of Registrant)

**AMENDED AND RESTATED
BYLAWS
OF
L.B. Foster Company
(a Pennsylvania corporation)**

**ARTICLE I
Notice - Waivers - Meetings Generally**

Section 1.01 Manner of giving notice. -

(a) General rule. - Whenever notice in record form is required to be given to any person under the provisions of the Pennsylvania Business Corporation Law ("BCL") or by the Articles of Incorporation (the "Articles") of L.B. Foster Company, a Pennsylvania corporation (the "Corporation"), or these Bylaws, it may be given to the person either personally or by delivering a copy thereof (1) subject to Section 1.03, by first class or express mail, postage prepaid, or courier service, charges prepaid, to the address of the person appearing on the books of the Corporation or, in the case of directors, supplied by the director to the Corporation for the purpose of notice or (2) by facsimile transmission, e-mail or other electronic communication to the facsimile number or address for e-mail or other electronic communications supplied by the person to the Corporation for purposes of notice. If the notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a courier service for delivery to that person or, in the case of facsimile transmission, e-mail or other electronic communication, when sent. A notice of meeting shall specify the place, if any, day and hour of the meeting and any other information required by any provision of the BCL, the Articles or these Bylaws.

(b) Adjourned shareholder meetings. - When a meeting of shareholders is adjourned, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which the adjournment is taken, unless the Board of Directors of the Corporation (the "Board of Directors" or "Board") fixes a new record date for the adjourned meeting or the BCL, the Articles or these Bylaws require notice of the business to be transacted and such notice has not previously been given.

Section 1.02 Notice of meetings of the Board of Directors. - Notice of a regular meeting of the Board of Directors need not be given. Notice of every special meeting of the Board of Directors shall be given to each director at least 24 hours (in the case of notice by telephone, e-mail or other electronic communication) or 48 hours (in the case of notice by courier service or express mail) or 5 days (in the case of notice by first class mail) before the time at which the meeting is to be held. Every such notice shall state the time and place, if any, of the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in a notice of the meeting, except as otherwise required by the BCL, the Articles or these Bylaws.

Section 1.03 Notice of meetings of shareholders. - Notice in record form of every meeting of shareholders shall be given by, or at the direction of, the secretary or other authorized person to each shareholder of record entitled to vote at the meeting at least 20 days

prior to the day named for the meeting. If the secretary or other authorized person does not give notice of a meeting within a reasonable time, the person or persons calling the meeting may do so. In the case of a special meeting of shareholders, the notice shall specify the general nature of the business to be transacted. If the Corporation has given a shareholder notice of the internet availability of proxy materials in a manner conforming with the rules of the Securities and Exchange Commission, the Corporation may give notice of the meeting to the shareholder by posting the notice on the internet website to which the proxy materials are posted.

Section 1.04 Use of conference telephone or other electronic communication technology. - Any director may participate in a meeting of the Board of Directors by means of conference telephone or other electronic communication technology such that persons participating in the meeting can hear each other. One or more persons may participate in a meeting of shareholders by means of conference telephone or other electronic communication technology such that persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 1.04 shall constitute presence in person at the meeting.

Section 1.05 Waiver of notice. - Whenever any notice is required to be given under the provisions of the BCL, the Articles, these Bylaws or other applicable law, a waiver thereof filed with the secretary of the Corporation in record form, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of the notice. Except as otherwise required by the BCL, the Articles or these Bylaws, neither the business to be transacted at, nor the purpose of, a regular meeting need be specified in the waiver of notice of the meeting. Attendance of a person at any meeting shall constitute a waiver of notice of the meeting except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

ARTICLE II Shareholders

Section 2.01 Place of meeting. - Subject to Section 1.04, all meetings of shareholders of the Corporation shall be held at such place as designated by the Board of Directors in the notice of the meeting. Notwithstanding the foregoing sentence, a meeting of shareholders does not need to be held at a place if the meeting is held by means of electronic technology (as defined for purposes of the BCL) in a fashion pursuant to which the shareholders have a reasonable opportunity to participate in the meeting, read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the shareholders and, subject to such guidelines and procedures as the Board of Directors may adopt in accordance with the Articles, these Bylaws and applicable law, make appropriate motions and comment on the business of the meeting.

Section 2.02 Annual and special meetings. - Annual meetings of shareholders shall be held at a date, time and place, if any, fixed by the Board of Directors and stated in the notice of meeting, to elect the Board of Directors and to transact such other business as may properly come before the meeting. Special meetings of shareholders may be called by the president for any purpose and shall be called by the president or secretary if directed by the Board of Directors.

Section 2.03 Quorum, adjournment and postponement. -

(a) General rule. - A meeting of shareholders of the Corporation duly called shall not be organized for the transaction of business unless a quorum is present. The presence of shareholders entitled to cast at least a majority of the votes that all shareholders are entitled to cast on a particular matter to be acted upon at the meeting shall constitute a quorum for the purposes of consideration and action on the matter. Shares of the Corporation owned, directly or indirectly, by it and controlled, directly or indirectly, by the Board of Directors, as such, shall not be counted in determining the total number of outstanding shares for quorum purposes at any given time.

(b) Withdrawal of a quorum. - The shareholders present at a duly organized meeting can continue to do business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

(c) Adjournments generally. - Any regular or special meeting of the shareholders, including one at which directors are to be elected and one which cannot be organized because a quorum has not attended, may be adjourned for such period and to such place as the shareholders present and entitled to vote shall direct.

(d) Notice of adjourned virtual meeting. - Subject to applicable law, if notice of an adjourned meeting of shareholders held exclusively by means of electronic technology cannot be given by announcement at the meeting at which the adjournment is taken, notice may be given by means solely of a publicly available filing with the Securities and Exchange Commission.

(e) Electing directors at adjourned meeting. - Those shareholders entitled to vote who attend a meeting called for the election of directors that has been previously adjourned for lack of a quorum, although less than a quorum as fixed in this Section 2.03, shall nevertheless constitute a quorum for the purpose of electing directors.

(f) Other action in absence of quorum. - Those shareholders entitled to vote who attend a meeting of shareholders that has been previously adjourned for one or more periods aggregating at least 15 days because of an absence of a quorum, although less than a quorum as fixed in this Section 2.03, shall nevertheless constitute a quorum for the purpose of acting upon any matter set forth in the notice of the meeting if the notice states that those shareholders who attend the adjourned meeting shall nevertheless constitute a quorum for the purpose of acting upon the matter.

(g) Postponement of virtual meeting. - If a meeting of shareholders is to be held exclusively by means of electronic technology, as provided in Section 1708(c) of the BCL, and the presiding officer decides in his or her reasonable judgment on the day of the meeting that the meeting cannot be convened because of a reason outside the control of the Corporation, the presiding officer may postpone the meeting to a specified time later that day or the following day. Notice of the postponed meeting may be given by means solely of a publicly available filing with the Securities and Exchange Commission.

Section 2.04 Action by shareholders. - Except as otherwise provided in the BCL or the Articles or these Bylaws, whenever any corporate action is to be taken by vote of the shareholders of the Corporation, it shall be authorized upon receiving the affirmative vote of a majority of the votes cast by all shareholders entitled to vote thereon and, if any shareholders

are entitled to vote thereon as a class, upon receiving the affirmative vote of a majority of the votes cast by the shareholders entitled to vote as a class.

Section 2.05 Advance notice of nominations and proposals. -

(a) Annual meetings of shareholders. -

(1) Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the shareholders may be made at an annual meeting of shareholders (A) by or at the direction of the Board of Directors, including pursuant to the Corporation's notice of meeting or any supplement thereto, or (B) by any shareholder of the Corporation present in person (as defined below) who was a shareholder of record at the time of giving of notice provided for in this Section 2.05, on the record date(s) for the determination of shareholders entitled to notice of and to vote at the annual meeting and at the time of the annual meeting, who is entitled to vote at the meeting, who nominates (in the case of a nomination) a number of candidates that does not exceed the number of directors to be elected at the meeting and who complies with the notice procedures set forth in this Section 2.05(a). Section 2.05(a)(1)(B) shall be the exclusive means for a shareholder to make nominations or submit other business before an annual meeting of shareholders (other than matters properly brought under Rule 14a-8 promulgated under the Exchange Act and included in the Corporation's notice of meeting). If a shareholder is not present in person to present its nomination or proposal, such proposal will be disregarded (notwithstanding that proxies in respect of such proposal may have been solicited, obtained or delivered). A shareholder is not entitled to have its nomination or proposal included in the Corporation's proxy materials as a result of such shareholder's compliance with the provisions of this Section 2.05, except if such nominees are also submitted in accordance and in compliance with Rule 14a-19 promulgated under the Exchange Act and other applicable requirements of state and federal law. For purposes of these Bylaws, "present in person" shall mean that the shareholder proposing that the business or nomination be brought before the meeting, or, if the proposing shareholder is not an individual, a qualified representative of such proposing shareholder, is in attendance at such meeting. For purposes of these Bylaws, to be a "qualified representative" of a shareholder, a person must be a duly authorized officer, manager or partner of such shareholder or authorized by a writing executed by such shareholder (or a reliable reproduction or electronic transmission of the writing) delivered to the Corporation prior to the meeting stating that such person is authorized to act for such shareholder as proxy at the meeting of shareholders.

(2) Subject to Section 2.05(d)(3) of these Bylaws, for nominations or other business to be properly brought before an annual meeting by a shareholder pursuant to Section 2.05(a)(1)(B), the shareholder must have given timely notice thereof in proper written form to the secretary and such other business must be a proper matter for shareholder action under the Articles, these Bylaws and applicable law and must not be expressly reserved for action by the Board of Directors under the Articles, these Bylaws or applicable law. To be timely, a shareholder's notice shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the shareholder to be timely must be so delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the 7th day following the day on which public announcement of the date of such meeting is first made. In no event shall an adjournment, recess or postponement of an

annual meeting (or the public announcement thereof) commence a new time period (or extend any time period) for the giving of a shareholder's notice as described above. For the avoidance of doubt, a shareholder shall not be entitled to make additional or substitute nominations or proposals following the expiration of the time periods set forth in this Section 2.05(a)(2). To be in proper written form, such shareholder's notice shall set forth:

(A) as to each person whom the shareholder proposes to nominate for election or reelection as a director (i) all information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the election of directors in an election contest, or is otherwise required, in each case pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such person's written consent to being named in proxy materials as a nominee and to serving as a director if elected), (ii) a reasonably detailed description of all direct and indirect compensation, reimbursement, indemnification, benefits and other agreements, arrangements and understandings (written or oral and formal or informal and whether monetary or non-monetary) during the past 3 years, and any other relationships, between or among any Proposing Person (as defined in Section 2.05(d)(2)), on the one hand, and each proposed nominee, and his or her respective affiliates and associates or any other participants in such solicitation, or others acting in concert (as defined in Section 2.05(d)(2)) therewith, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K if the Proposing Person were the "registrant" for purposes of such Item and the nominee were a director or executive officer of such registrant, (iii) with respect to each nominee for election or reelection to the Board of Directors, a completed and signed questionnaire, representation and agreement required by Section 2.05(c), and (iv) such other information as may reasonably be required by the Corporation to determine the eligibility and qualifications of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such nominee;

(B) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these Bylaws, the language of the proposed amendment), the reasons for conducting such business at the meeting, the reasons why such shareholder or any other Proposing Person believes that the taking of the action or actions proposed to be taken would be in the best interests of the Corporation, any material interest in such business of each Proposing Person, including any anticipated benefit to the shareholder or any other Proposing Person therefrom and a description of all agreements, arrangements and understandings between any Proposing Person and any other person or persons (including their names) in connection with the proposal of such business by such shareholder and any other information relating to such business that would be required to be disclosed in a proxy statement or other filing required pursuant to Section 14(a) of the Exchange Act to be made in connection with the

solicitations of proxies in support of the business proposed to be brought before the meeting; and

(C) as to each Proposing Person, (i) the name and address of such Proposing Person (including, if applicable, the name and address as they appear on the Corporation's books), (ii) the class and number of shares of the Corporation which are, directly or indirectly, owned beneficially and of record by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future, (iii) any "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) that constitutes a "call equivalent position" (as such term is defined in Rule 16a-1(b) under the Exchange Act) and that is, directly or indirectly, held or maintained by such shareholder with respect to any shares of any class or series of shares of the Corporation, including, without limitation, any option, warrant, convertible security, stock appreciation right or similar right or interest (including any derivative securities, as defined under Rule 16a-1 under the Exchange Act or other synthetic arrangement having characteristics of a long position) which, assuming for purposes of these Bylaws, are presently exercisable, with an exercise or conversion privilege or a settlement or payment mechanism at a price related to any class or series of securities of the Corporation or with a value derived in whole or in part from the price, value, dividend or amount of dividend or volatility of any class or series of securities of the Corporation, whether or not such instrument or right is subject to settlement in whole or in part in the underlying class or series of securities of the Corporation or otherwise, directly or indirectly held of record or owned beneficially by such Proposing Person and whether or not such Proposing Person may have entered into transactions that hedge or mitigate the economic effects of such security or instrument and other direct or indirect right or interest that may enable such Proposing Person to profit or share in any profit derived from, or to manage the risk or benefit from, any increase or decrease in the price, value, dividend or amount of dividend or volatility of the Corporation's securities, in each case regardless of whether (x) such right or interest conveys any voting rights in such security to such Proposing Person, (y) such right or interest is required to be, or is capable of being, settled through delivery of such security, or (z) such Proposing Person may have entered into other transactions that hedge the economic effect of any such right or interest (any such right or interest referred to in this clause (iii) being a "Derivative Interest"); provided, however, that for the purpose of the term "Derivative Interest," the term "derivative security" shall also include any security or instrument that would not otherwise constitute a "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) as a result of any feature that would make any conversion, exercise or similar right or privilege of such security or instrument becoming determinable only at some future date or upon the happening of a future occurrence, in which case the determination of the amount of securities into which such security or instrument would be convertible or exercisable shall be made assuming that such security or instrument is immediately convertible or exercisable at the time of such determination, or otherwise include rights with an exercise or conversion privilege that is not fixed; and, provided, further, that any shareholder satisfying the requirements of Rule 13d-1(b)(1) under the Exchange Act (other than a shareholder that so satisfies Rule 13d-1(b)(1) under the

Exchange Act solely by reason of Rule 13d-1(b)(1)(ii)(E)) shall not be required to disclose a Derivative Interest held by such shareholder as a hedge with respect to a bona fide derivatives trade or position of such shareholder arising in the ordinary course of such shareholder's business as a derivatives dealer, (iv) any proxy, contract, arrangement, understanding, or relationship pursuant to which any Proposing Person has a right to vote any shares of any security of the Corporation, (v) any contract, agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement (including any short position or any borrowing or lending of shares of stock), the purpose or effect of which is to mitigate loss, reduce economic risk (of ownership or otherwise) or increase or decrease voting power with respect to any capital stock of the Corporation or which provides any party, directly or indirectly, the opportunity to profit from any decrease in the price or value of the capital stock of the Corporation, including, without limitation, any "put equivalent position" (as such term is defined in Rule 16a-1(h) under the Exchange Act) related to any shares of any class or series of shares of the Corporation (any of the foregoing, a "Short Interest"), (vi) any rights to dividends on the shares of the Corporation owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, (vii) any proportionate interest in shares of the Corporation or Derivative Interests held, directly or indirectly, by a general or limited partnership in which such Proposing Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (viii) any performance-related fees (other than an asset-based fee) that such shareholder is entitled to, based on any increase or decrease in the value of shares of the Corporation, Derivative Interests, or Short Interests, if any, as of the date of such notice, including, without limitation, any such interests held by members of such Proposing Person's immediate family sharing the same household, (ix) any material pending or threatened legal proceeding in which such Proposing Person is a party, material participant or has an interest (other than an interest that is substantially the same as all shareholders) involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (x) any direct or indirect interest (including a Derivative Interest or Short Interest, provided that, solely for purposes of this clause (x), references to the words "Corporation" within the definitions of "Derivative Interest" or "Short Interests" shall be replaced with the words "such affiliate" or "such competitor," as applicable) of such Proposing Person in any contract or agreement with the Corporation, any affiliate of the Corporation or any significant competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (xi) any other material relationship between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any significant competitor of the Corporation, on the other hand, (xii) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (xiii) any other information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such Proposing Person, (xiv) a

representation whether the shareholder intends to be present in person at the meeting to propose such business or nomination, (xv) a representation whether the Proposing Person intends or is part of a group which intends (y) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (z) otherwise to engage in or be a participant in a solicitation (within the meaning of Rule 14a-1(l) under the Exchange Act) of proxies in support of such proposal or nomination, and (xvi) a representation regarding whether a Proposing Person or any other person with whom the Proposing Person is acting in concert intends to or will submit, or is part of a group that intends to or will submit, any other proposal at the meeting, and (xvii) a representation regarding whether the Proposing Person intends, or is part of a group that intends, to solicit proxies in support of director nominees other than the Corporation's nominees in accordance with Rule 14a-19 promulgated under the Exchange Act, and, in the event that a Proposing Person so intends, or is part of a group that so intends, a written agreement (in the form provided by the secretary upon written request), on behalf of such Proposing Person and any group of which it is a member, in which such Proposing Person acknowledges and agrees (w) that it, or the group of which it is a part, intends to solicit the holders of shares representing at least 67% of the voting power of the Corporation's shares entitled to vote on the election of directors in support of such director nominees other than the Corporation's nominees in accordance with Rule 14a-19(a)(3) promulgated under the Exchange Act, (x) that it shall notify the secretary promptly if any change occurs with respect to the intent of such Proposing Person or the group of which such Proposing Person is a part to solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of director nominees other than the Corporation's nominees or with respect to the names of such Proposing Person's nominees, (y) that if such Proposing Person or the group of which it is a part (1) provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act and (2) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act (including with respect to special meetings, if applicable), then the Corporation shall disregard any proxies or votes solicited for such Proposing Person's nominees, and (z) that, upon request by the Corporation, if such Proposing Person or the group of which it is a part provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act, such Proposing Person shall deliver to the Corporation, no later than 5 business days prior to the applicable meeting, reasonable documentary evidence (as determined by the Corporation or one of its representatives, acting in good faith) that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.¹

(3) In addition, to be timely, a shareholder shall update and supplement its notice to the Corporation, if necessary, so that the information provided or required to be provided in such notice (including any information regarding any Proposing Person or candidate whom a Proposing Person proposes to nominate for election as a director) shall be true and correct as of (i) the record date(s) for the determination of persons entitled to receive notice of and to vote at the meeting and (ii) the date that is 5 business days prior to the meeting and, in

¹ NTD: Reflects market practice; this update relates to the universal proxy rule and requires the nominating shareholder to make representations about its solicitation plans.

the event of any adjournment or postponement thereof, 5 business days prior to such adjourned or postponed meeting. In the case of an update and supplement pursuant to clause (i) above, such update and supplement shall be delivered to the secretary at the principal executive offices of the Corporation no later than 2 business days after the record date. In the case of the update and supplement pursuant to clause (ii) above, such update and supplement shall be delivered to the secretary at the principal executive offices of the Corporation no later than 2 business days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, 2 business days prior to such adjourned or postponed meeting. For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other section of these Bylaws shall not cure or limit the Corporation's rights with respect to any deficiencies in any notice provided by a shareholder, extend any applicable deadlines hereunder or under any other provision of these Bylaws or enable or be deemed to permit a shareholder who has previously submitted notice hereunder, or under any other provision of these Bylaws, to amend or update any proposal or nomination or to submit any new proposal or nomination, including, without limitation, by changing or adding nominees, matters, business and/or resolutions proposed to be brought before a meeting of shareholders.

(4) Upon written request by the secretary, the Board of Directors or any duly authorized committee thereof, a shareholder submitting a notice pursuant to this Section 2.05 proposing business or a nomination to be brought before a meeting shall provide, within 5 business days of delivery of such request (or such other period as may be specified in such request), (A) written verification, satisfactory in the reasonable discretion of the Board of Directors, to any duly authorized committee thereof or any duly authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the shareholder (including any information submitted regarding any Proposing Person or any candidate whom a Proposing Person proposes to nominate for election as a director) in the notice delivered pursuant to the requirements of these Bylaws (including, if requested, written confirmation by such shareholder that it continues to intend to bring the business or nomination proposed in the notice before the meeting) and (B) such other information reasonably required by the secretary, the Board of Directors or any duly authorized committee thereof, acting in good faith, to determine compliance with these Bylaws by each Proposing Person or candidate whom a Proposing Person proposes to nominate for election as a director or the accuracy and completeness of any notice or solicitation given or made on behalf of a Proposing Person. If a shareholder fails to provide such written verification or other information within such period, the information as to which written verification or other information was requested may be deemed not to have been provided in accordance with the requirements of these Bylaws.

(5) Upon written request by the secretary, the Board of Directors or any duly authorized committee thereof, a shareholder submitting a notice pursuant to this Section 2.05 proposing business or a nomination to be brought before a meeting shall provide, within 5 business days of delivery of such request (or such other period as may be specified in such request), a written supplement, satisfactory in the reasonable discretion of the Board of Directors, to any duly authorized committee thereof or any duly authorized officer of the Corporation, to update the information (including any information submitted regarding any Proposing Person) contained in any previously submitted shareholder notice and provide the disclosures required by Section 2.05 such that they are current and true, correct and complete as of the date that such supplement is submitted to the secretary. If a shareholder fails to provide such written supplement within such period, the information as to which a written supplement was requested may be deemed not to have been provided in accordance with the requirements of these Bylaws.

(6) Upon written request by the secretary, the Board of Directors or any duly authorized committee thereof, each candidate whom a shareholder proposes to nominate for election as a director shall, and such shareholder shall cause such nominee to, make himself or herself available for interviews with the Board of Directors and any duly authorized committee thereof within 5 business days of delivery of such request (or such other period as may be specified in such request).

(7) For a notice pursuant to this Section 2.05 to comply with the requirements of this Section 2.05, each of the requirements of this Section 2.05 shall be directly and expressly responded to in a manner that clearly indicates and expressly references to which provisions of this Section 2.05 the information disclosed is intended to be responsive. Information disclosed in one section of the notice in response to one provision of this Section 2.05 shall not be deemed responsive to any other provision of this Section 2.05 unless it is expressly cross-referenced to such other provision and it is clearly apparent how the information included in one section of the notice is directly and expressly responsive to the information required to be included in another section of the notice pursuant to this Section 2.05. For the avoidance of doubt, statements purporting to provide global cross-references that purport to provide that all information provided shall be deemed to be responsive to all requirements of this Section 2.05 shall be disregarded and shall not satisfy the requirements of this Section 2.05.

(8) For a notice pursuant to this Section 2.05 to comply with the requirements of this Section 2.05, it must set forth in writing directly within the body of the notice (as opposed to being incorporated by reference from any other document or writing not prepared solely in response to the requirements of these Bylaws) all the information required to be included therein as set forth in this Section 2.05. A notice shall not be deemed to be in compliance with this Section 2.05 if it attempts to include the required information by incorporating by reference into the body of the notice any other document, writing or part thereof, including, but not limited to, any documents publicly filed with the Securities and Exchange Commission not prepared solely in response to the requirements of these Bylaws. For the further avoidance of doubt, the body of the notice shall not include any documents that are not prepared solely in response to the requirements of these Bylaws.

(9) A shareholder submitting a notice pursuant to this Section 2.05, by its delivery to the Corporation, represents and warrants that all information contained therein (including any information regarding any Proposing Person or candidate whom a Proposing Person proposes to nominate for election as a director), as of the deadline for submitting the notice, is true, correct and complete in all respects, contains no false or misleading statements and such shareholder acknowledges that it intends for the Corporation and the Board of Directors to rely on such information as (A) being true, correct and complete in all respects and (B) not containing any false or misleading statements. If the information submitted pursuant to this Section 2.05 by any shareholder proposing business or a nomination to be brought before a meeting shall not be true, correct and complete in all respects prior to the deadline for submitting the notice, such information may be deemed not to have been provided in accordance with this Section 2.05.

(10) Notwithstanding anything in the second sentence of paragraph Section 2.05(a)(2) to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least 100 days prior to the first anniversary of the preceding year's annual meeting, a shareholder's notice required by this Section 2.05 shall also be considered timely, but only with

respect to nominees for any new positions created by such increase, and only with respect to a shareholder who had, prior to such increase in the size of the Board of Directors, previously submitted, on a timely basis and in proper written form, a shareholder notice relating to nominees for such meeting, if it shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the 7th day following the day on which such public announcement is first made by the Corporation.

(b) Special meetings of shareholders. - Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of shareholders at which directors are to be elected (1) by or at the direction of the Board of Directors, including pursuant to the Corporation's notice of meeting or any supplement thereto or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any shareholder of the Corporation present in person who is a shareholder of record at the time of giving of notice provided for in this Section 2.05(b), on the record date(s) for the determination of shareholders entitled to notice of and to vote at the special meeting and at the time of the special meeting, who is entitled to vote at the meeting, who nominates a number of candidates that does not exceed the number of directors to be elected at the meeting and who complies with the notice procedures set forth in this Section 2.05(b). In the event the Corporation calls a special meeting of shareholders for the purpose of electing one or more directors to the Board of Directors, any such shareholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if the shareholder's notice provided pursuant to this Section 2.05(b) includes the information required by Section 2.05(a) with respect to any nomination (including the completed and signed questionnaire, representation and agreement referenced in Section 2.05(c)) and such notice is delivered to the secretary at the principal executive offices of the Corporation not earlier than the close of business on the 7th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. For the avoidance of doubt, a shareholder shall not be entitled to make additional or substitute nominations or proposals following the expiration of the time periods set forth in this Section 2.05(b). In no event shall the adjournment, recess or postponement of a special meeting (or the public announcement thereof) commence a new time period (or extend any time period) for the giving of a shareholder's notice as described above. This Section 2.05(b) shall be the exclusive means for a shareholder to make nominations or submit other business before a special meeting of shareholders. If a shareholder is not present in person to present its nomination, such nomination will be disregarded (notwithstanding that proxies in respect of such nomination may have been solicited, obtained or delivered). A shareholder is not entitled to have its nomination included in the Corporation's proxy materials as a result of such shareholder's compliance with the provisions of this Section 2.05(b), except if such nominees are also submitted in accordance and in compliance with Rule 14a-19 promulgated under the Exchange Act and other applicable requirements of state and federal law.

(c) Submission of questionnaire, representation and agreement. - To be eligible to be a nominee for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under this Section 2.05) to the secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualifications of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the secretary upon written request) and a written representation and agreement (in the form provided by the secretary upon written request) that such person (1) is not and will not

become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (2) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed therein, (3) has disclosed to the Corporation any and all potential and actual conflicts of interest of such nominee with the Corporation and (4) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

(d) General. -

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 2.05 shall be eligible to be elected at an annual meeting of shareholders or special meeting of shareholders, as applicable, to serve as directors and only such business shall be conducted at a meeting of shareholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 2.05. Except as otherwise provided by law, the Articles or these Bylaws, the presiding officer of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in this Section 2.05 and, if any proposed nomination or business is not in compliance with this Section 2.05, to declare that such defective proposal or nomination shall be disregarded. In addition, a nomination or business proposed to be brought by a shareholder pursuant to Section 2.05 may not be brought before a meeting if such shareholder or any Proposing Person takes action contrary to the representations made in the shareholder notice applicable to such nomination or business or if such shareholder notice contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading, or if after being submitted to the Corporation, the shareholder notice was not updated in accordance with these Bylaws to cause the information provided therein to be true, correct and complete in all respects.

(2) For purposes of this Section 2.05, (A) "public announcement" shall mean disclosure in a press release reported by the *Dow Jones News Service*, *Associated Press* or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act; (B) "Proposing Person" shall mean (i) the shareholder providing the notice of the nomination or business proposed to be brought before the meeting, (ii) the beneficial owner or beneficial owners, if any, on whose behalf such notice is made, (iii) any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A of the Exchange Act, or any successor instructions) with such shareholder or beneficial owner in such solicitation of proxies in respect of any such proposed nomination or business, (iv) any Affiliate (within the meaning of Rule 12b-2 under the Exchange Act) of such shareholder or beneficial owner, (v) any person controlling, controlled by or under common control with such shareholder or beneficial owner and (vi) any person acting in concert with such shareholder or beneficial owner; and (C) a person shall be deemed to be "acting in concert" with another person if such person knowingly

acts (whether or not pursuant to an express agreement, arrangement or understanding) in concert with, or towards a common goal relating to the management, governance or control of the Corporation in parallel with, such other person where (i) each person is conscious of the other person's conduct or intent and this awareness is an element in their decision-making processes and (ii) at least one additional factor suggests that such persons intend to act in concert or in parallel, which such additional factors may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions or making or soliciting invitations to act in concert or in parallel; provided, however, that a person shall not be deemed to be "acting in concert" with any other person solely as a result of the solicitation or receipt of revocable proxies, from such other person in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a proxy statement filed on Schedule 14A, and a person deemed to be "acting in concert" with another person shall be deemed to be "acting in concert" with any third party who is also "acting in concert" with such other person.

(3) Notwithstanding the foregoing provisions of this Section 2.05, a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder (including Rule 14a-19) and the BCL with respect to the matters set forth in this Section 2.05. Nothing in this Section 2.05 shall be deemed to affect any rights of a shareholder to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act. Subject to Rule 14a-8 under the Exchange Act, nothing in these Bylaws shall be construed to permit any shareholder, or give any shareholder the right, to include or have disseminated or described in the Corporation's proxy statement any nomination of director or directors or any other business proposal.

(4) Without limiting the other provisions and requirements of this Section 2.05, unless otherwise required by applicable law, if any shareholder (A) provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act and (B) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act (including with respect to special meetings, if applicable), then the Corporation shall disregard any proxies or votes solicited for such shareholder's nominees. Upon request by the Corporation, if any shareholder provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act, such shareholder shall deliver to the Corporation, no later than 5 business days prior to the applicable meeting, reasonable documentary evidence (as determined by the Corporation or one of its representatives, acting in good faith) that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

Section 2.06 Organization. - At every meeting of shareholders, the chairman of the Board, if there be one, or, in the case of a vacancy in office or absence of the chairman of the Board, one of the following officers present in the order stated: the president, the vice presidents in their order of rank and seniority, or a person chosen by majority vote of the Board of Directors, shall act as presiding officer of the meeting. Unless otherwise determined by the Board prior to the meeting and subject to applicable law, the presiding officer of any meeting of shareholders will determine the order of business and have the authority in his or her sole discretion to determine the rules of procedure and regulate the conduct of the meeting, including, without limitation, by: (a) imposing restrictions on the persons (other than shareholders of the Corporation, their duly appointed proxy holders and their qualified representatives) that may attend the meeting; (b) ascertaining whether any shareholder, proxy holder or qualified representative may be excluded from the meeting based upon any determination by the presiding officer of the meeting, in his or her sole discretion, that any such

person has disrupted the proceedings thereat; (c) determining the circumstances in which any person may make a statement or ask questions at the meeting; (d) ruling on all procedural questions that may arise during or in connection with the meeting; (e) determining whether any nomination or business proposed to be brought before the meeting has been properly brought before the meeting; and (f) determining the date and times at which the polls for voting at the meeting will be opened and closed. The secretary or, in the absence of the secretary, an assistant secretary, or, in the absence of the secretary and assistant secretaries, a person appointed by the presiding officer of the meeting, shall act as secretary.

Section 2.07 Proxies. -

(a) General rule. -

(1) Every shareholder entitled to vote at a meeting of shareholders may authorize another person to act for the shareholder by proxy.

(2) The presence of, or vote or other action on behalf of, a shareholder at a meeting of shareholders by a proxy of a shareholder shall constitute the presence of, or vote or action by, the shareholder.

(3) Where two or more proxies of a shareholder are present, the Corporation shall, unless otherwise expressly provided in the proxy, accept as the vote or other action of all shares represented thereby the vote cast or other action taken by a majority of them and, if a majority of the proxies cannot agree whether the shares represented shall be voted, or upon the manner of voting the shares or taking the other action, the voting of the shares or right to take other action shall be divided equally among those persons.

(b) Execution and Process. - Every proxy shall be executed or authenticated by the shareholder or by his duly authorized attorney-in-fact and filed with or transmitted to the secretary of the Corporation or its designated agent. A shareholder or his duly authorized attorney-in-fact may execute or authenticate a writing or transmit an electronic message authorizing another person to act for him by proxy. A telegram, telex, cablegram, datagram, email, Internet communication or other means of electronic transmission from a shareholder or attorney-in-fact, or a photographic, facsimile or similar reproduction of a writing executed by a shareholder or attorney-in-fact (1) may be treated as properly executed or authenticated for purposes of this subsection; and (2) shall be so treated if it sets forth or utilizes a confidential and unique identification number or other mark furnished by the corporation to the shareholder for the purposes of a particular meeting or transaction.

(c) Revocation. - A proxy, unless coupled with an interest (as defined in Section 1759(d) of the BCL), shall be revocable at will, notwithstanding any other agreement or any provision in the proxy to the contrary, but the revocation of a proxy shall not be effective until notice thereof has been given to the secretary or his or her designated agent in writing or by electronic transmission. An unrevoked proxy shall not be valid after 3 years from the date of its execution unless a longer time is expressly provided therein. A proxy shall not be revoked by the death or incapacity of the maker unless, before the vote is counted or the authority is exercised, notice of the death or incapacity is given to the secretary or his or her designated agent in writing or by electronic transmission.

(d) Proxy expenses. - The Corporation shall pay the reasonable expenses of solicitation of votes, proxies or consents of shareholders by or on behalf of the Board of

Directors or its nominees for election to the Board, including solicitation by professional proxy solicitors and otherwise.

(e) Proxy card. - Any shareholder directly or indirectly soliciting proxies from other shareholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 2.08 Voting list. - The officer or agent having charge of the transfer books for shares of the Corporation shall make a complete list of the shareholders entitled to vote at any meeting of shareholders, arranged in alphabetical order, with the address of and the number of shares held by each shareholder; provided, however, that this Section 2.08 does not require the Corporation to include electronic mail addresses or other electronic contact information of the shareholders on such list. The list shall be produced and kept open at the date, time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof except that the Corporation shall not be required to produce the list at a meeting of shareholders for which a judge or judges of election are appointed but instead shall furnish the list to the judge or judges of election. A shareholder and any agent or attorney who inspects this list may use the information on the list only for purposes related to the meeting and must keep the information on the list confidential in accordance with Section 1764 of the BCL.

Section 2.09 Consent of shareholders in lieu of meeting. - Any action required or permitted to be taken at a meeting of shareholders or of a class of shareholders may be taken without a meeting only upon the unanimous written consent of all shareholders who would have been entitled to vote thereon at a meeting of shareholders called to consider the matter.

ARTICLE III Board of Directors

Section 3.01 Personal liability of directors. -

(a) General rule. - A director shall not be personally liable, as such, for monetary damages for any action taken, or any failure to take any action, unless:

(1) the director has breached or failed to perform the duties of his or her office under 15 Pa.C.S. Subch. 17B (or any successor statute);

(2) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(b) Exceptions. - Subsection (a) shall not apply to:

(1) the responsibility or liability of a director pursuant to any criminal statute, or

(2) the liability of a director for the payment of taxes pursuant to federal, state or local law.

Section 3.02 Qualifications and selection of directors. -

(a) Qualifications. - Each director of the Corporation shall be a natural person of full age who need not be a resident of Pennsylvania or a shareholder of the Corporation.

(b) Election of directors. - Except as otherwise provided in these Bylaws or Pennsylvania law, directors of the Corporation shall be elected by the shareholders. In elections for directors, voting need not be by ballot unless required by vote of the shareholders before the voting for election of directors begins. The candidates receiving the highest number of votes from each class or group of classes, if any, entitled to elect directors separately up to the number of directors to be elected by the class or group of classes shall be elected. If at any meeting of shareholders, directors of more than one class are to be elected, each class of directors shall be elected in a separate election.

Section 3.03 Number and term of office. -

(a) Number. - The Board of Directors shall consist of such number of directors, not less than 1 nor more than 15, as may be determined from time to time by action of the Board of Directors.

(b) Term of office. - Each director shall hold office until the expiration of the term for which he or she was elected and until a successor has been elected and qualified or until his or her earlier death, resignation or removal. A decrease in the number of directors shall not have the effect of shortening the term of any incumbent director.

(c) Resignation. - Any director may resign at any time upon notice in record form to the Corporation. The resignation shall be effective upon receipt thereof by the Corporation or at such subsequent time as shall be specified in the notice of resignation.

(d) Vacancies. - Vacancies in the Board of Directors, including vacancies resulting from an increase in the number of directors, shall be filled only by a majority vote of the remaining directors then in office, though less than a quorum, or by a sole remaining director, except that vacancies resulting from removal from office by a vote of the shareholders may be filled by the shareholders at the same meeting at which such removal occurs. All directors elected to fill vacancies shall hold office for the balance of the unexpired term and until a successor has been selected and qualified or until his or her earlier death, resignation or removal. When one or more directors resign from the Board of Directors effective at a future date, the directors then in office, including those who have so resigned, shall have power by the applicable vote to fill the vacancies, the vote thereon to take effect when the resignations become effective.

Section 3.04 Place of meetings. - Subject to Section 1.04, all meetings of the Board of Directors may be held at such place within or without Pennsylvania as the Board of Directors may from time to time appoint or as may be designated in the notice of the meeting.

Section 3.05 Organization of meetings. - At every meeting of the Board of Directors, the chairman of the Board, if there be one, or, in the case of a vacancy in the office or absence of the chairman of the Board, one of the following officers present in the order stated: the president, the vice presidents in their order of rank and seniority, or a person chosen by a majority of the directors present, shall act as chairman of the meeting. The secretary or, in the absence of the secretary, an assistant secretary, or, in the absence of the secretary and the

assistant secretaries, any person appointed by the chairman of the meeting, shall act as secretary of the meeting.

Section 3.06 Regular meetings. - Subject to Section 1.04, regular meetings of the Board of Directors shall be held at such time and place as shall be designated from time to time by action of the Board of Directors.

Section 3.07 Special meetings. - Special meetings of the Board of Directors shall be held whenever called by the chairman or by two or more of the directors.

Section 3.08 Quorum of and action by directors. -

(a) General rule. - A majority of the directors in office of the Corporation shall be necessary to constitute a quorum for the transaction of business and the acts of a majority of the directors present and voting at a meeting at which a quorum is present shall be the acts of the Board of Directors.

(b) Action by written consent. - Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting by a consent or consents thereto in record form signed before, on or after the effective time by all of the directors in office at the effective time. A consent may provide, or a person signing a consent, whether or not then a director, may instruct in record form that the consent will be effective at a future time, including a time determined upon the happening of an event. In the case of a consent signed by a person not a director at the time of signing, the consent is effective at the stated effective time if the person who signed the consent is a director at the effective time and did not revoke the consent in record form prior to the effective time. A consent is effective at the stated effective time even if one or more signers are no longer directors at the effective time unless the consent has been revoked by a signer who is a director at the effective time. A signer of a consent may revoke the signer's consent in record form until the consent becomes effective.

Section 3.09 Executive and other committees. -

(a) Establishment and powers. - The Board of Directors may, by action adopted by a majority of the directors in office, establish one or more committees to consist of one or more directors of the Corporation. Any committee, to the extent provided in the action of the Board of Directors, shall have and may exercise all of the powers and authority of the Board of Directors except that a committee shall not have any power or authority as to the following:

- (1) The submission to shareholders of any action or matter, other than the election or removal of directors, requiring approval of shareholders under the BCL.
- (2) The creation or filling of vacancies in the Board of Directors.
- (3) The adoption, amendment or repeal of these Bylaws.
- (4) The amendment or repeal of any action of the Board that by its terms is amendable or repealable only by the Board.
- (5) Action on matters committed by these Bylaws or an action of the Board of Directors to another committee of the Board.

(b) **Alternate committee members.** - The Board of Directors may designate one or more directors as alternate members of any committee who may replace any absent or disqualified member at any meeting of the committee or for the purposes of any action in record form by the committee. In the absence or disqualification of a member and alternate member or members of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another director to act at the meeting in the place of the absent or disqualified member.

(c) **Term.** - Each committee of the Board of Directors shall serve at the pleasure of the Board of Directors.

(d) **Committee procedures.** - The term "Board of Directors" or "Board," when used in any provision of these Bylaws relating to the organization or procedures of or the manner of taking action by the Board of Directors, shall be construed to include and refer to any executive or other committee of the Board.

Section 3.10 Compensation. - The Board of Directors has the authority to fix the compensation of directors for their services as directors, regardless of the personal interest of the directors, and if the Board of Directors establishes the compensation of directors in accordance with this Section 3.10, that action is presumed to be fair to the Corporation. A director may be a salaried officer of the Corporation. Directors shall be reimbursed for their expenses of attendance at any meeting of the Board of Directors or any committee thereof.

ARTICLE IV Officers

Section 4.01 Officers generally. -

(a) **Number, qualifications and designation.** - The officers of the Corporation shall be a president, a secretary and a treasurer, and such other officers as may be elected in accordance with the provisions of Section 4.03. Officers may but need not be directors or shareholders of the Corporation. Each officer shall be a natural person of full age. The Board of Directors may elect from among the members of the Board a chairman of the Board. Any number of offices may be held by the same person.

(b) **Resignations.** - Any officer may resign at any time upon notice in record form to the Corporation. The resignation shall be effective upon receipt thereof by the Corporation or at such subsequent time as may be specified in the notice of resignation.

(c) **Bonding.** - The Corporation may secure the fidelity of any or all of its officers by bond or otherwise.

Section 4.02 Election and term of office. - The officers of the Corporation, except those elected by delegated authority pursuant to Section 4.03, shall be elected annually by the Board of Directors, and each such officer shall hold office until a successor has been selected and qualified or until his or her earlier death, resignation or removal.

Section 4.03 Subordinate officers, committees and agents. - The Board of Directors may from time to time elect such other officers and appoint such committees, employees or other agents as the business of the Corporation may require, including one or more assistant secretaries, and one or more assistant treasurers, each of whom shall hold office for such

period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine. The Board of Directors may delegate to any officer or committee the power to elect subordinate officers and to retain or appoint employees or other agents, or committees thereof and to prescribe the authority and duties of such subordinate officers, committees, employees or other agents.

Section 4.04 Removal of officers and agents. - Any officer or agent of the Corporation may be removed by the Board of Directors with or without cause. The removal shall be without prejudice to the contract rights, if any, of any person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4.05 Vacancies. - A vacancy in any office because of death, resignation, removal, disqualification or any other cause, shall be filled by the Board of Directors or by the officer or committee to which the power to fill such office has been delegated pursuant to Section 4.03, as the case may be, and if the office is one for which these Bylaws prescribe a term, shall be filled for the unexpired portion of the term.

Section 4.06 Authority. - All officers of the Corporation, as between themselves and the Corporation, shall have such authority and perform such duties in the management of the Corporation as may be provided by or pursuant to actions or orders of the Board of Directors or in the absence of controlling provisions in the actions or orders of the Board of Directors, as may be determined by or pursuant to these Bylaws.

Section 4.07 The chairman of the Board. – Subject to Section 2.06, the chairman of the Board shall preside at all meetings of shareholders and of the Board of Directors and shall perform such other duties as may from time to time be requested by the Board of Directors.

Section 4.08 The president. - The president shall be the chief executive officer of the Corporation and shall have general supervision over the business and operations of the Corporation, subject however, to the control of the Board of Directors. The president shall sign, execute and acknowledge, in the name of the Corporation, deeds, mortgages, bonds, contracts or other instruments authorized by the Board of Directors, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors, or by these Bylaws, to some other officer or agent of the Corporation; and, in general, shall perform all duties incident to the office of president and such other duties as from time to time may be assigned by the Board of Directors.

Section 4.09 The vice presidents. - The vice presidents, if any, shall perform the duties of the president in the absence of the president and such other duties as may from time to time be assigned to them by the Board of Directors or the president.

Section 4.10 The secretary. - The secretary or an assistant secretary shall attend all meetings of shareholders and of the Board of Directors and shall record all the votes of shareholders and of the directors and the minutes of the meetings of shareholders and of the Board of Directors and of committees of the Board in a book or books to be kept for that purpose; shall see that notices are given and records and reports properly kept and filed by the Corporation as required by law; shall be the custodian of the seal of the Corporation and see that it is affixed to documents executed on behalf of the Corporation under its seal; and, in general, shall perform all duties incident to the office of secretary, and such other duties as may from time to time be assigned by the Board of Directors or the president.

Section 4.11 The treasurer. - The treasurer or an assistant treasurer shall have or provide for the custody of the funds or other property of the Corporation; shall collect and receive or provide for the collection and receipt of moneys earned by or in any manner due to or received by the Corporation; shall deposit all funds in his or her custody as treasurer in such banks or other places of deposit as the Board of Directors may from time to time designate; shall, whenever so required by the Board of Directors, render an account showing all transactions as treasurer and the financial condition of the Corporation; and, in general, shall discharge such other duties as may from time to time be assigned by the Board of Directors or the president.

Section 4.12 Salaries. - The salaries of the officers elected by the Board of Directors shall be fixed from time to time by the Board of Directors or by such officer as may be designated by action of the Board of Directors. The salaries or other compensation of any other officers, employees and other agents shall be fixed from time to time by the officer or committee to which the power to elect such officers or to retain or appoint such employees or other agents has been delegated pursuant to Section 4.03. No officer shall be prevented from receiving such salary or other compensation by reason of the fact that the officer is also a director of the Corporation.

ARTICLE V Shares

Section 5.01 Certificated and uncertificated shares. - The interest of each shareholder of the Corporation may be uncertificated or may be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe.

Section 5.02 Record holder of shares. - The Corporation shall be entitled to treat the person in whose name any share or shares of the Corporation stand on the books of the Corporation as the absolute owner thereof and shall not be bound to recognize any equitable or other claim to, or interest in, such share or shares on the part of any other person.

Section 5.03 Lost, destroyed or mutilated certificates. - The holder of any shares of the Corporation shall immediately notify the Corporation of any loss, destruction or mutilation of the certificate therefor, and the Board of Directors may, in its discretion, cause a new certificate or certificates to be issued to the holder, in case of mutilation of the certificate, upon the surrender of the mutilated certificate or, in case of loss or destruction of the certificate, upon satisfactory proof of the loss or destruction and, if the Board of Directors shall so determine, the deposit of a bond in such form and in such sum, and with such surety or sureties, as it may direct.

ARTICLE VI Indemnification of Directors, Officers and Other Authorized Representatives

Section 6.01 Indemnification and insurance. -

(a) Indemnification of directors and officers. -

(1) Each Indemnitee (as defined below) shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Pennsylvania law against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, taxes,

penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by the Indemnitee in connection with any Proceeding (as defined below) arising out of or related to Indemnitee's service at any time in a Covered Capacity (as defined below). No indemnification pursuant to this Section 6.01 shall be made, however: (A) in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness; or (B) in connection with a Proceeding (or part thereof) initiated by an Indemnitee (except in connection with a Proceeding to enforce a right to indemnification or advancement of expenses under this Article VI), unless the Proceeding (or part thereof) was authorized by the Board of Directors.

(2) The right to indemnification provided in this Section 6.01 shall include the right to have the expenses incurred by the Indemnitee in participating in any Proceeding paid by the Corporation in advance of the final disposition of the Proceeding arising out of or related to Indemnitee's service at any time in a Covered Capacity automatically and without any action or approval required by the Board of Directors; provided that, if Pennsylvania law continues so to require, the payment of such expenses incurred by the Indemnitee in advance of the final disposition of a Proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of the Indemnitee, to repay all amounts so advanced without interest if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified under this Section 6.01 or otherwise.

(3) For purposes of this Article VI, (A) "Indemnitee" shall mean each director and each officer of the Corporation (including directors and officers who have ceased serving in any such capacity) who was or is a party to, or is threatened to be made a party to, or is a witness or other participant in, any Proceeding, by reason of the fact that he or she is or was a director or officer of the Corporation or is or was serving in any capacity at the request or for the benefit of the Corporation as a director, officer, employee, agent, partner, or fiduciary of, or in any other capacity for, another corporation or any limited liability company, partnership, joint venture, trust, employee benefit plan or other entity; (B) "Proceeding" shall mean any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether civil, criminal, administrative or investigative, including any appeal therefrom, and whether instituted by or on behalf of the Corporation or any other party; and (C) "Covered Capacity" shall mean service as a director or officer of the Corporation or in any other capacity of the type referred to in Section 6.01(a)(3).

(4) The provisions of this Article VI shall inure to the benefit of and be enforceable by an Indemnitee's heirs, executors, administrators and legal representatives.

(b) Indemnification of employees and other persons. - The Corporation may, by action of its Board of Directors and to the extent provided in such action, indemnify employees and other persons, and provide for advancement of expenses to such persons in the manner set forth in Section 6.01(a)(2), above, as though they were Indemnitees, except that, if Pennsylvania law continues to so require, to the extent that an employee or agent of the Corporation has been successful on the merits or otherwise in defense of any Proceeding or in defense of any claim, issue or matter therein, the Corporation shall indemnify such person against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith. Directors and officers of entities that have merged into, or have been consolidated with, or have been liquidated into, the Corporation shall not be Indemnitees with respect to Proceedings involving any action or failure to act of such director or officer prior to the

date of such merger, consolidation or liquidation, but such persons may be indemnified by the Board of Directors pursuant to the first sentence of this Section 6.01(b).

(c) Non-exclusivity of rights. - The rights to indemnification and to the advancement of expenses provided in or pursuant to this Section 6.01 shall not be exclusive of any other rights that any person may have or hereafter acquire under any statute, provision of the Articles, these Bylaws, agreement, vote of shareholders or directors or otherwise.

(d) Insurance. - The Corporation may purchase and maintain insurance, at its expense, for the benefit of any person on behalf of whom insurance is permitted to be purchased by Pennsylvania law against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person under Pennsylvania or other law. The Corporation may also purchase and maintain insurance to insure its indemnification obligations whether arising hereunder or otherwise.

(e) Fund for payment of expenses. - The Corporation may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise may secure in any manner its indemnification obligations, whether arising hereunder, under the, by agreement, vote of shareholders or directors or otherwise.

Section 6.02 Interpretation. - The provisions of this Article VI are intended to constitute Bylaws authorized by Section 1746 of the BCL.

ARTICLE VII Miscellaneous

Section 7.01 Fiscal year. - The fiscal year of the Corporation shall be fixed by the Board of Directors.

Section 7.02 Amendment of Bylaws. -

(a) General rule. - Except as provided in this Section 7.02 with respect to this Section 7.02 and Section 2.05, these Bylaws may be amended either (1) by vote of the shareholders at any duly organized annual or special meeting of shareholders, or (2) regardless of whether the shareholders have previously adopted or approved the bylaw being amended, by action of the Board of Directors; provided, however, that the Board of Directors shall not have the power to amend these Bylaws on any subject that is expressly committed to the shareholders by the express terms hereof, by the BCL or otherwise. The shareholders may amend Section 2.05 or this Section 7.02 only by the affirmative vote of not less than two-thirds of the votes that all shareholders, voting as a single class, are entitled to cast thereon. The authority, powers and functions of the Board of Directors may not be varied, and a committee of the Board of Directors may not be established, by a bylaw adopted by the shareholders unless such bylaw has been adopted with the approval of the Board of Directors.

(b) Notification by shareholders. - The notice of a meeting of shareholders that will act on an amendment to these Bylaws shall state that the purpose, or one of the purposes, of the meeting is to consider an amendment of these Bylaws and there shall be included in, or enclosed with, the notice a copy of the proposed amendment or a summary of the changes to be effected thereby.

Section 7.03 Forum Provision.

(a) Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the Corporation to the Corporation or the Corporation's shareholders, (iii) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the BCL or the Corporation's Articles or these Bylaws (as either may be amended from time to time), or (iv) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine shall be the state and federal courts sitting in the judicial district of the Commonwealth of Pennsylvania embracing the county in which the registered office of the Corporation is located.

(b) Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be, to the fullest extent permitted by law, the sole and exclusive forum for any action asserting a claim arising under the Securities Act of 1933.

**Certification under Section 302 of the
Sarbanes-Oxley Act of 2002**

I, John F. Kasel, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of L.B. Foster Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2023

/s/ John F. Kasel

Name: John F. Kasel

Title: President and Chief Executive Officer

**Certification under Section 302 of the
Sarbanes-Oxley Act of 2002**

I, William M. Thalman, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of L.B. Foster Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: **August 8, 2023**

/s/ William M. Thalman

Name: William M. Thalman
Title: Executive Vice President
and Chief Financial Officer

CERTIFICATE PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of L.B. Foster Company (the "Company") on Form 10-Q for the period ended June 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned certify pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in this Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 8, 2023

/s/ John F. Kasel

Name: John F. Kasel

Title: President and Chief Executive Officer

Date: August 8, 2023

/s/ William M. Thalman

Name: William M. Thalman

Title: Executive Vice President
and Chief Financial Officer