

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 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 March 31, 2024

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: 001-36127

**COOPER-STANDARD HOLDINGS INC.**

(Exact name of registrant as specified in its charter)

Delaware

20-1945088

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

40300 Traditions Drive

Northville, Michigan 48168

(Address of principal executive offices) (Zip Code)

(248) 596-5900

(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 \$0.001 per share	CPS	New York Stock Exchange
Preferred Stock Purchase Rights	-	New York Stock Exchange

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 (\$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 emerging growth company. See 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	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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 April 30, 2024, there were 17,290,145 shares of the registrant's common stock, \$0.001 par value, outstanding.

COOPER-STANDARD HOLDINGS INC.

Form 10-Q

For the period ended March 31, 2024

Page

**PART I. FINANCIAL INFORMATION**

Item 1.	<a href="#"><u>Financial Statements (unaudited)</u></a>	
	<a href="#"><u>Condensed Consolidated Statements of Operations</u></a>	<u>3</u>
	<a href="#"><u>Condensed Consolidated Statements of Comprehensive Loss</u></a>	<u>4</u>
	<a href="#"><u>Condensed Consolidated Balance Sheets</u></a>	<u>5</u>
	<a href="#"><u>Condensed Consolidated Statements of Changes in Equity</u></a>	<u>6</u>
	<a href="#"><u>Condensed Consolidated Statements of Cash Flows</u></a>	<u>7</u>
	<a href="#"><u>Notes to Condensed Consolidated Financial Statements</u></a>	<u>8</u>
Item 2.	<a href="#"><u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u></a>	<u>22</u>
Item 3.	<a href="#"><u>Quantitative and Qualitative Disclosures About Market Risk</u></a>	<u>29</u>
Item 4.	<a href="#"><u>Controls and Procedures</u></a>	<u>30</u>

**PART II. OTHER INFORMATION**

Item 2.	<a href="#"><u>Unregistered Sales of Equity Securities and Use of Proceeds</u></a>	<u>31</u>
Item 5.	<a href="#"><u>Other Information</u></a>	<u>32</u>
Item 6.	<a href="#"><u>Exhibits</u></a>	<u>33</u>
	<a href="#"><u>SIGNATURES</u></a>	<u>34</u>

**PART I — FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**COOPER-STANDARD HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share amounts)**

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Sales	\$ 676,425	\$ 682,458
Cost of products sold	614,782	640,630
Gross profit	61,643	41,828
Selling, administration & engineering expenses	55,366	52,089
Amortization of intangibles	1,661	1,807
Restructuring charges	1,133	2,379
Operating income (loss)	3,483	(14,447)
Interest expense, net of interest income	(29,281)	(30,220)
Equity in earnings (losses) of affiliates	2,270	(198)
Loss on refinancing and extinguishment of debt	—	(81,885)
Other expense, net	(3,649)	(4,004)
Loss before income taxes	(27,177)	(130,754)
Income tax expense	4,131	358
Net loss	(31,308)	(131,112)
Net (income) loss attributable to noncontrolling interests	(352)	745
Net loss attributable to Cooper-Standard Holdings Inc.	\$ (31,660)	\$ (130,367)
Loss per share:		
Basic	\$ (1.81)	\$ (7.57)
Diluted	\$ (1.81)	\$ (7.57)

The accompanying notes are an integral part of these financial statements.

**COOPER-STANDARD HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
**(Unaudited)**  
**(Dollar amounts in thousands)**

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Net loss	\$ (31,308)	\$ (131,112)
Other comprehensive (loss) income:		
Currency translation adjustment	(7,108)	(93)
Benefit plan liabilities adjustment, net of tax	153	100
Fair value change of derivatives, net of tax	3,541	2,343
Other comprehensive (loss) income, net of tax	(3,414)	2,350
Comprehensive loss	(34,722)	(128,762)
Comprehensive (income) loss attributable to noncontrolling interests	(489)	768
Comprehensive loss attributable to Cooper-Standard Holdings Inc.	<u>\$ (35,211)</u>	<u>\$ (127,994)</u>

The accompanying notes are an integral part of these financial statements.

**COOPER-STANDARD HOLDINGS INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Dollar amounts in thousands except share amounts)

	<u>March 31, 2024</u>	<u>December 31, 2023</u>
	(unaudited)	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 114,191	\$ 154,801
Accounts receivable, net	381,742	380,562
Tooling receivable, net	77,291	80,225
Inventories	172,522	146,846
Prepaid expenses	24,616	28,328
Value added tax receivable	62,061	69,684
Other current assets	60,414	40,140
Total current assets	892,837	900,586
Property, plant and equipment, net	588,131	608,431
Operating lease right-of-use assets, net	94,744	91,126
Goodwill	140,721	140,814
Intangible assets, net	38,756	40,568
Other assets	89,162	90,774
Total assets	<u>\$ 1,844,351</u>	<u>\$ 1,872,299</u>
<b>Liabilities and Equity</b>		
Current liabilities:		
Debt payable within one year	\$ 49,909	\$ 50,712
Accounts payable	356,024	334,578
Payroll liabilities	108,273	132,422
Accrued liabilities	125,839	116,954
Current operating lease liabilities	19,281	18,577
Total current liabilities	659,326	653,243
Long-term debt	1,051,600	1,044,736
Pension benefits	98,347	100,578
Postretirement benefits other than pensions	28,266	28,940
Long-term operating lease liabilities	79,362	76,482
Other liabilities	51,237	58,053
Total liabilities	1,968,138	1,962,032
Equity:		
Common stock, \$0.001 par value, 190,000,000 shares authorized; 19,355,954 shares issued and 17,290,145 shares outstanding as of March 31, 2024, and 19,263,288 shares issued and 17,197,479 shares outstanding as of December 31, 2023	17	17
Additional paid-in capital	512,832	512,164
Retained deficit	(423,476)	(391,816)
Accumulated other comprehensive loss	(205,216)	(201,665)
Total Cooper-Standard Holdings Inc. equity	(115,843)	(81,300)
Noncontrolling interests	(7,944)	(8,433)
Total equity	(123,787)	(89,733)
Total liabilities and equity	<u>\$ 1,844,351</u>	<u>\$ 1,872,299</u>

The accompanying notes are an integral part of these financial statements.

**COOPER-STANDARD HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY**  
**(Unaudited)**  
**(Dollar amounts in thousands except share amounts)**

	<b>Total Equity</b>								
	Common Shares	Common Stock	Additional Paid-In Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Loss		Cooper-Standard Holdings Inc. Equity	Noncontrolling Interests	Total Equity
					Other	Comprehensive			
Balance as of December 31, 2023	17,197,479	\$ 17	\$ 512,164	\$ (391,816)	\$ (201,665)	\$ (81,300)	\$ (8,433)	\$ (89,733)	
Share-based compensation, net	92,666	—	668	—	—	668	—	668	
Net (loss) income	—	—	—	(31,660)	—	(31,660)	352	(31,308)	
Other comprehensive (loss) income	—	—	—	—	(3,551)	(3,551)	137	(3,414)	
Balance as of March 31, 2024	<u>17,290,145</u>	<u>\$ 17</u>	<u>\$ 512,832</u>	<u>\$ (423,476)</u>	<u>\$ (205,216)</u>	<u>\$ (115,843)</u>	<u>\$ (7,944)</u>	<u>\$ (123,787)</u>	

  

	<b>Total Equity</b>								
	Common Shares	Common Stock	Additional Paid-In Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Loss		Cooper-Standard Holdings Inc. Equity	Noncontrolling Interests	Total Equity
					Other	Comprehensive			
Balance as of December 31, 2022	17,108,029	\$ 17	\$ 507,498	\$ (189,831)	\$ (209,971)	\$ 107,713	\$ (6,521)	\$ 101,192	
Share-based compensation, net	30,489	—	740	—	—	740	—	740	
Net loss	—	—	—	(130,367)	—	(130,367)	(745)	(131,112)	
Other comprehensive income (loss)	—	—	—	—	2,373	2,373	(23)	2,350	
Balance as of March 31, 2023	<u>17,138,518</u>	<u>\$ 17</u>	<u>\$ 508,238</u>	<u>\$ (320,198)</u>	<u>\$ (207,598)</u>	<u>\$ (19,541)</u>	<u>\$ (7,289)</u>	<u>\$ (26,830)</u>	

The accompanying notes are an integral part of these financial statements.

**COOPER-STANDARD HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Uaudited)  
(Dollar amounts in thousands)

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
<b>Operating activities:</b>		
Net loss	\$ (31,308)	\$ (131,112)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation	24,802	26,175
Amortization of intangibles	1,661	1,807
Share-based compensation expense	2,700	1,467
Equity in (earnings) losses of affiliates, net of dividends related to earnings	(693)	198
Loss on refinancing and extinguishment of debt	—	81,885
Payment-in-kind interest	6,787	11,392
Deferred income taxes	(317)	367
Other	1,233	1,206
Changes in operating assets and liabilities	(19,064)	36,994
Net cash (used in) provided by operating activities	(14,199)	30,379
<b>Investing activities:</b>		
Capital expenditures	(16,834)	(29,263)
Other	165	232
Net cash used in investing activities	(16,669)	(29,031)
<b>Financing activities:</b>		
Proceeds from issuance of long-term debt, net of debt issuance costs	—	927,450
Repayment and refinancing of long-term debt	—	(927,046)
Principal payments on long-term debt	(657)	(755)
Decrease in short-term debt, net	(5)	(1,312)
Debt issuance costs and other fees	—	(73,965)
Taxes withheld and paid on employees' share-based payment awards	(549)	(195)
Other	—	163
Net cash used in financing activities	(1,211)	(75,660)
Effects of exchange rate changes on cash, cash equivalents and restricted cash	(3,855)	(2,850)
Changes in cash, cash equivalents and restricted cash	(35,934)	(77,162)
Cash, cash equivalents and restricted cash at beginning of period	163,061	192,807
Cash, cash equivalents and restricted cash at end of period	<u>\$ 127,127</u>	<u>\$ 115,645</u>

Reconciliation of cash, cash equivalents and restricted cash to the condensed consolidated balance sheets:

	<b>Balance as of</b>	
	<b>March 31, 2024</b>	<b>December 31, 2023</b>
Cash and cash equivalents	\$ 114,191	\$ 154,801
Restricted cash included in other current assets	11,989	7,244
Restricted cash included in other assets	947	1,016
Total cash, cash equivalents and restricted cash	<u>\$ 127,127</u>	<u>\$ 163,061</u>

The accompanying notes are an integral part of these financial statements.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

**1. Overview**

**Basis of Presentation**

Cooper-Standard Holdings Inc. (together with its consolidated subsidiaries, the "Company" or "Cooper Standard"), through its wholly-owned subsidiary, Cooper-Standard Automotive Inc. ("CSA U.S."), is a leading manufacturer of sealing and fluid handling systems (consisting of fuel and brake delivery systems and fluid transfer systems). The Company's products are primarily for use in passenger vehicles and light trucks that are manufactured by global automotive original equipment manufacturers ("OEMs") and replacement markets. The Company conducts substantially all of its activities through its subsidiaries.

The accompanying unaudited condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the U.S. Securities and Exchange Commission (the "SEC") for interim financial information and should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2023 (the "2023 Annual Report"), as filed with the SEC. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States ("U.S. GAAP") for complete financial statements. These financial statements include all adjustments (consisting of normal, recurring adjustments) considered necessary for a fair presentation of the financial position and results of operations of the Company. The operating results for the interim period ended March 31, 2024 are not necessarily indicative of results for the full year. In preparing these financial statements, the Company has evaluated events and transactions for potential recognition or disclosure through the date the financial statements were issued.

As disclosed in its 2023 Annual Report, effective January 1, 2024, the Company changed its management reporting structure with the launch of global product line-focused business segments. This resulted in the realignment of its reportable segments, which are determined based on how the chief operating decision maker ("CODM") manages the business, allocates resources, makes operating decisions and evaluates operating performance. As a result, the Company established two reportable segments: Sealing Systems and Fluid Handling Systems. All other business activities are reported in Corporate, eliminations and other. The segment realignment had no impact on the Company's consolidated financial position, results of operations, or cash flows. All segment information included in this Form 10-Q is reflective of this new structure and prior period information has been revised to conform to the Company's current period presentation. Refer to Note 15. "Segment Reporting" for additional information on the Company's reportable segments and to Note 5. "Goodwill and Intangible Assets" for the impact thereof to the evaluation of recorded goodwill balances.

**Recently Adopted Accounting Pronouncements**

The Company adopted the following Accounting Standard Update ("ASU") during the three months ended March 31, 2024, which did not have a material impact on its condensed consolidated financial statements:

<b>Standard</b>	<b>Description</b>	<b>Effective Date</b>
<i>ASU 2023-07, Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures</i>	Requires disclosure of significant segment expenses that are regularly provided to the CODM and included within each reported measure of segment profit or loss, an amount and description of its composition for other segment items to reconcile to segment profit or loss, and the title and position of the entity's CODM beginning with annual disclosures in 2024. The amendments in this update also require all annual segment disclosures to be included in interim periods beginning in 2025.	January 1, 2024

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
(Dollar amounts in thousands except per share and share amounts)

**Recently Issued Accounting Pronouncements**

The Company considered the recently issued accounting pronouncements summarized as follows, which could have a material impact on its consolidated financial statements or disclosures:

<b>Standard</b>	<b>Description</b>	<b>Impact</b>	<b>Effective Date</b>
ASU 2023-09, <i>Income Taxes (Topic 740): Improvements to Income Tax Disclosures</i>	Requires disaggregated information about a reporting entity's effective tax rate reconciliation as well as information on income taxes paid.	The Company is currently evaluating the impact of this update on its consolidated financial statements and disclosures.	January 1, 2025
ASU 2023-05, <i>Business Combinations - Joint Venture Formations (Subtopic 805-60): Recognition and Initial Measurement</i>	Requires joint ventures to apply a new basis of accounting upon formation, and as a result, initially measure all assets and liabilities at fair value (with exceptions to fair value measurement that are consistent with the business combinations guidance).	The Company is currently evaluating the impact of this update on its consolidated financial statements and disclosures.	January 1, 2025

**2. Revenue**

Revenue is recognized for manufactured parts at a point in time, generally when products are shipped or delivered. The Company usually enters into agreements with customers to produce products at the beginning of a vehicle's life. Blanket purchase orders received from customers and related documents generally establish the annual terms, including pricing, related to a vehicle model. Customers typically pay for parts based on customary business practices with payment terms generally between 30 and 90 days.

Consistent with the Company's change in reportable segments as described in Note 1. "Overview", the Company has changed its revenue disaggregation presentation to align with the new reportable segment structure. Revenue by customer group for the three months ended March 31, 2024 was as follows:

	<b>Sealing Systems</b>	<b>Fluid Handling Systems</b>	<b>Other</b>	<b>Consolidated</b>
Passenger and Light Duty	\$ 343,521	\$ 299,180	\$ —	\$ 642,701
Commercial	7,365	2,926	1,899	12,190
Other	393	3,409	17,732	21,534
<b>Revenue</b>	<b>\$ 351,279</b>	<b>\$ 305,515</b>	<b>\$ 19,631</b>	<b>\$ 676,425</b>

Revenue by customer group for the three months ended March 31, 2023 was as follows:

	<b>Sealing Systems</b>	<b>Fluid Handling Systems</b>	<b>Other</b>	<b>Consolidated</b>
Passenger and Light Duty	\$ 341,280	\$ 293,593	\$ 899	\$ 635,772
Commercial	7,470	3,199	1,913	12,582
Other	230	3,806	30,068	34,104
<b>Revenue</b>	<b>\$ 348,980</b>	<b>\$ 300,598</b>	<b>\$ 32,880</b>	<b>\$ 682,458</b>

The passenger and light duty group consists of sales to automotive OEMs and automotive suppliers, while the commercial group represents sales to OEMs of on- and off-highway commercial equipment and vehicles. The other customer group includes sales related to specialty and adjacent markets.

Substantially all of the Company's revenues were generated from sealing and fluid handling systems (consisting of fuel and brake delivery systems and fluid transfer systems) for use in passenger vehicles and light trucks manufactured by global OEMs.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

A summary of the Company's products is as follows:

Product Line	Description
Sealing Systems	Protect vehicle interiors from weather, dust and noise intrusion for improved driving experience; provide aesthetic and functional class-A exterior surface treatment.
Fuel and Brake Delivery Systems	Sense, deliver and control fluids to fuel and brake systems.
Fluid Transfer Systems	Sense, deliver and control fluids and vapors for optimal powertrain & HVAC operation.

Revenue by geographical region for the three months ended March 31, 2024 was as follows:

	Sealing Systems	Fluid Handling Systems	Other	Consolidated
North America	\$ 150,851	\$ 225,368	\$ —	\$ 376,219
Europe	125,719	34,862	—	160,581
Asia Pacific	54,281	37,881	—	92,162
South America	20,428	7,404	—	27,832
Corporate, eliminations and other	—	—	19,631	19,631
<b>Revenue</b>	<b>\$ 351,279</b>	<b>\$ 305,515</b>	<b>\$ 19,631</b>	<b>\$ 676,425</b>

Revenue by geographical region for the three months ended March 31, 2023 was as follows:

	Sealing Systems	Fluid Handling Systems	Other	Consolidated
North America	\$ 138,112	\$ 227,006	\$ —	\$ 365,118
Europe	131,116	30,738	—	161,854
Asia Pacific	57,111	36,654	—	93,765
South America	22,641	6,200	—	28,841
Corporate, eliminations and other	—	—	32,880	32,880
<b>Revenue</b>	<b>\$ 348,980</b>	<b>\$ 300,598</b>	<b>\$ 32,880</b>	<b>\$ 682,458</b>

**Contract Estimates**

The amount of revenue recognized is usually based on the purchase order price and adjusted for variable consideration, including pricing concessions. The Company accrues for pricing concessions by reducing revenue as products are shipped or delivered. The accruals are based on historical experience, anticipated performance and management's best judgment. The Company also generally has ongoing adjustments to customer pricing arrangements based on the content and cost of its products. Such pricing accruals are adjusted as they are settled with customers. Customer returns, which are infrequent, are usually related to quality or shipment issues and are recorded as a reduction of revenue. The Company generally does not recognize significant return obligations due to their infrequent nature.

**Contract Balances**

The Company's contract assets consist of unbilled amounts associated with variable pricing arrangements in the Asia Pacific region. Once pricing is finalized, contract assets are transferred to accounts receivable. As a result, the timing of revenue recognition and billings, as well as changes in foreign exchange rates, will impact contract assets on an ongoing basis. Contract assets were not materially impacted by any other factors during the three months ended March 31, 2024.

The Company's contract liabilities consist of advance payments received and due from customers. Net contract assets (liabilities) consisted of the following:

	March 31, 2024	December 31, 2023	Change
Contract assets	\$ 7,105	\$ 437	\$ 6,668
Contract liabilities	(15)	(15)	—
<b>Net contract assets</b>	<b>\$ 7,090</b>	<b>\$ 422</b>	<b>\$ 6,668</b>

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

**Other**

The Company, at times, enters into agreements that provide for lump sum payments to customers. These payment agreements are recorded as a reduction of revenue during the period in which the commitment is made, unless the payment is contractually recoverable. Amounts related to commitments of future payments to customers in the condensed consolidated balance sheets as of March 31, 2024 and December 31, 2023 were current liabilities of \$9,656 and \$10,164, respectively, and long-term liabilities of \$2,896 and \$4,293, respectively.

The Company provides assurance-type warranties to its customers. Such warranties provide customers with assurance that the related product will function as intended and complies with any agreed-upon specifications, and are recognized in cost of products sold.

**3. Restructuring**

On an ongoing basis, the Company evaluates its business and objectives to ensure that it is properly configured and sized based on changing market conditions. Accordingly, the Company has implemented several restructuring initiatives, including closure or consolidation of facilities throughout the world and the reorganization of its operating structure.

The Company's restructuring charges consist of severance, retention and outplacement services, and severance-related postemployment benefits (collectively, "employee separation costs"), along with other related exit costs and asset impairments related to restructuring activities (collectively, "other exit costs"). Employee separation costs are recorded based on existing union and employee contracts, statutory requirements, completed negotiations and Company policy.

As further described in Note 15. "Segment Reporting", effective January 1, 2024, the Company changed its management reporting structure with the launch of global product line-focused business segments. As a result, the Company established two reportable segments: Sealing Systems and Fluid Handling Systems. Accordingly, prior period restructuring charges have been revised to conform to the Company's current period presentation.

Restructuring charges by segment were as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Sealing systems	\$ 648	\$ 973
Fluid handling systems	325	1,104
Corporate and other	160	302
<b>Total</b>	<b>\$ 1,133</b>	<b>\$ 2,379</b>

Restructuring activity for the three months ended March 31, 2024 was as follows:

	<b>Employee Separation</b>			<b>Total</b>
	<b>Costs</b>	<b>Other Exit Costs</b>	<b>Total</b>	
Balance as of December 31, 2023	\$ 18,960	\$ 5,333	\$ 24,293	
Expense	671	462	1,133	
Cash payments	(3,131)	(3,247)	(6,378)	
Foreign exchange translation and other	(289)	(253)	(542)	
<b>Balance as of March 31, 2024</b>	<b>\$ 16,211</b>	<b>\$ 2,295</b>	<b>\$ 18,506</b>	

**4. Inventories**

Inventories consist of the following:

	<b>March 31, 2024</b>	<b>December 31, 2023</b>
Finished goods	\$ 46,280	\$ 38,022
Work in process	42,788	38,284
Raw materials and supplies	83,454	70,540
	<b>\$ 172,522</b>	<b>\$ 146,846</b>

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(Unaudited)

(Dollar amounts in thousands except per share and share amounts)

**5. Goodwill and Intangible Assets**

**Goodwill**

As further described in Note 15, "Segment Reporting", effective January 1, 2024, the Company changed its management reporting structure with the launch of global product line-focused business segments. Based on this change, the Company established two reportable segments: Sealing Systems and Fluid Handling Systems. The two reportable segments, along with the Industrial Specialty Group business, are the applicable reporting units for purposes of goodwill assignment and evaluation.

As a result of the segment realignment, the Company allocated goodwill to the reporting units existing under the new organizational structure on a relative fair value basis. The Company estimated the fair values of the reporting units based upon the present value of their anticipated future cash flows. The Company's determination of fair value involved judgment and the use of estimates and assumptions. In conjunction with the goodwill allocation, the Company performed a quantitative impairment assessment of goodwill immediately before and after the segment realignment. The quantitative analyses did not result in any impairment charges as the fair value of each reporting unit exceeded its respective carrying value. Changes in the carrying amount of goodwill by reporting unit for the three months ended March 31, 2024 were as follows:

	Sealing Systems	Fluid Handling Systems	Industrial Specialty Group	Total
Balance as of December 31, 2023	\$ 47,775	\$ 80,303	\$ 12,736	\$ 140,814
Foreign exchange translation	(93)	—	—	(93)
Balance as of March 31, 2024	<u>\$ 47,682</u>	<u>\$ 80,303</u>	<u>\$ 12,736</u>	<u>\$ 140,721</u>

Goodwill is tested for impairment by reporting unit annually or more frequently if events or circumstances indicate that an impairment may exist. There were no indicators of potential impairment during the three months ended March 31, 2024.

**Intangible Assets**

Definite-lived intangible assets and accumulated amortization balances as of March 31, 2024 and December 31, 2023 were as follows:

	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Customer relationships	\$ 152,227	\$ (134,653)	\$ 17,574
Other	37,881	(16,699)	21,182
Balance as of March 31, 2024	<u>\$ 190,108</u>	<u>\$ (151,352)</u>	<u>\$ 38,756</u>
Customer relationships	\$ 152,403	\$ (133,698)	\$ 18,705
Other	38,090	(16,227)	21,863
Balance as of December 31, 2023	<u>\$ 190,493</u>	<u>\$ (149,925)</u>	<u>\$ 40,568</u>

**6. Debt and Other Financing**

A summary of outstanding debt as of March 31, 2024 and December 31, 2023 is as follows:

	March 31, 2024	December 31, 2023
First Lien Notes	\$ 603,408	\$ 595,966
Third Lien Notes	387,053	386,681
2026 Senior Notes	42,357	42,338
Finance leases	21,262	22,243
Other borrowings	47,429	48,220
Total debt	1,101,509	1,095,448
Less: current portion	(49,909)	(50,712)
Total long-term debt	<u>\$ 1,051,600</u>	<u>\$ 1,044,736</u>

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

**First Lien Notes**

On January 27, 2023, the Company issued \$ 580,000 aggregate principal amount of its 13.50% Cash Pay / PIK Toggle Senior Secured First Lien Notes due 2027 (the "First Lien Notes"). The First Lien Notes mature on March 31, 2027 and bear interest at the rate of 13.50% per annum, which is payable in cash semi-annually on June 15 and December 15 of each year. Interest payments commenced on June 15, 2023. However, for the first four interest periods the Company has the option, in its sole discretion, to pay up to 4.50% of such interest by increasing the principal amount of the outstanding First Lien Notes or, in limited circumstances, by issuing additional First Lien Notes. As of March 31, 2024 and December 31, 2023, the aggregate principal amount of the First Lien Notes of \$603,408 and \$595,966, respectively, recognized in the condensed consolidated balance sheets reflect the election to pay 4.50% of the first three interest payments as payment-in-kind.

As of March 31, 2024 and December 31, 2023, the Company had \$ 7,555 and \$8,184, respectively, of unamortized debt issuance costs, and \$ 311 and \$337, respectively, of unamortized original issue discount related to the First Lien Notes, which are presented as direct deductions from the principal balance in the condensed consolidated balance sheets. Both the debt issuance costs and the original issue discount are amortized into interest expense over the term of the First Lien Notes.

**Third Lien Notes**

On January 27, 2023, the Company issued \$ 357,446 aggregate principal amount of its 5.625% Cash Pay / 10.625% PIK Toggle Senior Secured Third Lien Notes due 2027 (the "Third Lien Notes"). The Third Lien Notes mature on May 15, 2027 and bear interest at the rate of 5.625% per annum, which is payable in cash semi-annually on June 15 and December 15 of each year. Interest payments commenced on June 15, 2023. However, for the first four interest periods the Company has the option, in its sole discretion, to pay such interest at 10.625% per annum either by increasing the principal amount of the outstanding Third Lien Notes or, in limited circumstances, by issuing additional Third Lien Notes. As of March 31, 2024 and December 31, 2023, the aggregate principal amount of the Third Lien Notes of \$387,053 and \$386,681, respectively, recognized in the condensed consolidated balance sheets reflect the election to fully pay the first two interest payments as payment-in-kind. The Company has elected to pay the third interest payment, due June 15, 2024, on the Third Lien Notes in cash.

Debt issuance costs related to the Third Lien Notes are amortized into interest expense over the term of the Third Lien Notes. As of March 31, 2024 and December 31, 2023, the Company had \$4,714 and \$5,087, respectively, of unamortized debt issuance costs related to the Third Lien Notes, which are presented as a direct deduction from the principal balance in the condensed consolidated balance sheets.

**2026 Senior Notes**

On November 2, 2016, the Company issued \$ 400,000 aggregate principal amount of its 5.625% Senior Notes due 2026 (the "2026 Senior Notes"). As part of certain refinancing transactions that were completed on January 27, 2023, the Company exchanged \$357,446 aggregate principal amount of its 2026 Senior Notes for \$357,446 aggregate principal amount of its newly issued Third Lien Notes. Following the completion of the exchange, \$42,554 aggregate principal amount of the 2026 Senior Notes remain outstanding.

Debt issuance costs are being amortized into interest expense over the term of the 2026 Senior Notes. As of March 31, 2024 and December 31, 2023, the Company had \$197 and \$216, respectively, of unamortized debt issuance costs related to the 2026 Senior Notes, which is presented as a direct deduction from the principal balance in the condensed consolidated balance sheets.

**ABL Facility**

On November 2, 2016, the Company entered into a third amendment and restatement of the ABL Facility. In March 2020, the Company entered into Amendment No. 1 to the Third Amended and Restated Loan Agreement ("the First Amendment"). As a result of the First Amendment, the ABL Facility maturity was extended to March 2025 and the aggregate revolving loan commitment was reduced to \$180,000. In May 2020, the Company entered into Amendment No. 2 to the Third Amended and Restated Loan Agreement (the "Second Amendment"), which Second Amendment modified certain covenants under the ABL Facility. In December 2022, the Company entered into Amendment No. 3 to the Third Amended and Restated Loan Agreement (the "Third Amendment"), which became effective on January 27, 2023.

The aggregate revolving loan availability includes a \$ 100,000 letter of credit sub-facility and a \$ 25,000 swing line sub-facility. The ABL Facility also provides for an uncommitted \$100,000 incremental loan facility, for a potential total ABL Facility of \$ 280,000 (if requested by the Borrowers and the lenders agree to fund such increase). No consent of any lender (other than those participating in the increase) is required to effect any such increase. The Company's borrowing base as of March 31, 2024 was \$174,619 and the monthly fixed charge coverage ratio was at a level that provided the Company full access to the borrowing base. Net of \$7,255 of outstanding letters of credit, the Company effectively had \$167,364 available for borrowing under its ABL Facility as of March 31, 2024.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

As of March 31, 2024 and December 31, 2023, there were no borrowings under the ABL Facility.

As of March 31, 2024, any borrowings then outstanding under our ABL Facility would mature, and the commitments of the lenders under our ABL Facility would have terminated, on March 24, 2025. Subsequent to quarter end, on May 6, 2024, the ABL Facility was amended to, among other things, extend the termination date for revolving commitments totaling \$150,000 to May 6, 2029.

As of March 31, 2024 and December 31, 2023, the Company had \$ 677 and \$862, respectively, of unamortized debt issuance costs related to the ABL Facility recorded in other long-term assets in the condensed consolidated balance sheets.

**Debt Covenants**

The Company was in compliance with all applicable covenants of the First Lien Notes, Third Lien Notes, 2026 Senior Notes, and ABL Facility as of March 31, 2024.

**Other Financing**

*Finance leases and other.* Other borrowings as of March 31, 2024 and December 31, 2023 reflect finance leases and other borrowings under local bank lines classified in debt payable within one year in the condensed consolidated balance sheets.

*Receivable factoring.* As a part of its working capital management, the Company sells certain receivables through a single third-party financial institution (the "Factor") in a pan-European program. The amount sold varies each month based on the amount of underlying receivables and cash flow needs of the Company. These are permitted transactions under the Company's credit agreements governing the ABL Facility and the indentures governing the First Lien Notes, Third Lien Notes, and 2026 Secured Notes. The European factoring facility allows the Company to factor up to €70 million of its Euro-denominated accounts receivable, accelerating access to cash and reducing credit risk. The factoring facility expires on December 31, 2026.

Costs incurred on the sale of receivables are recorded in other expense, net in the condensed consolidated statements of operations. The sale of receivables under this contract is considered an off-balance sheet arrangement to the Company and is accounted for as a true sale and is excluded from accounts receivable in the condensed consolidated balance sheets. Amounts outstanding under receivable transfer agreements entered into by various locations as of the period end were as follows:

	<b>March 31, 2024</b>	<b>December 31, 2023</b>
Off-balance sheet arrangements	\$ 56,120	\$ 47,903

Accounts receivable factored and related costs throughout the period were as follows:

	<b>Off-Balance Sheet Arrangements</b>	
	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Accounts receivable factored	\$ 121,115	\$ 103,045
Costs	653	437

As of March 31, 2024 and December 31, 2023, cash collections on behalf of the Factor that have yet to be remitted were \$ 11,928 and \$6,466, respectively, and are reflected in other current assets as restricted cash in the condensed consolidated balance sheets.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

**7. Fair Value Measurements and Financial Instruments**

**Fair Value Measurements**

Fair value is defined as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based upon assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, a three-tier fair value hierarchy is utilized, which prioritizes the inputs used in measuring fair value as follows:

- Level 1:** Observable inputs such as quoted prices in active markets;
- Level 2:** Inputs, other than quoted prices in active markets, that are observable either directly or indirectly; and
- Level 3:** Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

***Items Measured at Fair Value on a Recurring Basis***

Estimates of the fair value of foreign currency derivative instruments are determined using exchange traded prices and rates. The Company also considers the risk of non-performance in the estimation of fair value and includes an adjustment for non-performance risk in the measure of fair value of derivative instruments. In certain instances where market data is not available, the Company uses management judgment to develop assumptions that are used to determine fair value. Fair value measurements and the fair value hierarchy level for the Company's assets and liabilities measured or disclosed at fair value on a recurring basis as of March 31, 2024 and December 31, 2023 were as follows:

	<b>March 31, 2024</b>	<b>December 31, 2023</b>	<b>Input</b>
Forward foreign exchange contracts - other current assets	\$ 4,328	\$ 1,285	Level 2
Forward foreign exchange contracts - accrued liabilities	\$ (496)	\$ (998)	Level 2

***Items Measured at Fair Value on a Nonrecurring Basis***

In addition to items that are measured at fair value on a recurring basis, the Company measures certain assets and liabilities at fair value on a nonrecurring basis, which are not included in the table above. As these nonrecurring fair value measurements are generally determined using unobservable inputs, these fair value measurements are classified within Level 3 of the fair value hierarchy.

***Items Not Carried at Fair Value***

Fair values of the Company's First Lien Notes, Third Lien Notes, and 2026 Senior Notes were as follows:

	<b>March 31, 2024</b>	<b>December 31, 2023</b>	
Aggregate fair value	\$ 987,541	\$ 984,448	
Aggregate carrying value <sup>(1)</sup>	\$ 1,045,595	\$ 1,038,808	

<sup>(1)</sup> Excludes unamortized debt issuance costs and unamortized original issue discount.

Fair values were based on quoted market prices and are classified within Level 1 of the fair value hierarchy.

**Derivative Instruments and Hedging Activities**

The Company is exposed to fluctuations in foreign currency exchange rates, interest rates and commodity prices. The Company enters into derivative instruments primarily to hedge portions of its forecasted foreign currency denominated cash flows and designates these derivative instruments as cash flow hedges in order to qualify for hedge accounting.

The Company formally documents its hedge relationships, including the identification of the hedging instruments and the hedged items, as well as its risk management objectives and strategies for undertaking the cash flow hedges. The Company also formally assesses whether a cash flow hedge is highly effective in offsetting changes in the cash flows of the hedged item. Derivatives are recorded at fair value in other current assets, other assets, accrued liabilities and other long-term liabilities. For a cash flow hedge, the change in fair value of the derivative is recorded in accumulated other comprehensive income (loss) ("AOCI") in the condensed consolidated balance sheets, to the extent that the hedges are effective, and reclassified into earnings when the underlying hedged transaction is realized. The realized gains and losses are recorded on the same line as the hedged transaction in the condensed consolidated statements of operations. Cash flows from derivatives used to manage foreign

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

exchange risks designated as cash flow hedges are classified as operating activities within the consolidated statements of cash flows.

The Company is exposed to credit risk in the event of nonperformance by its counterparties on its derivative financial instruments. The Company mitigates this credit risk exposure by entering into agreements directly with major financial institutions with high credit standards that are expected to fully satisfy their obligations under the contracts.

**Cash Flow Hedges**

*Forward Foreign Exchange Contracts.* The Company uses forward contracts to mitigate the potential volatility to earnings and cash flows arising from changes in currency exchange rates that impact the Company's foreign currency transactions. The principal currencies hedged by the Company include various European currencies, the Canadian Dollar, and the Mexican Peso. As of March 31, 2024 and December 31, 2023, the notional amount of these contracts was \$149,924 and \$207,131, respectively, and consisted of hedges of cash flow transactions extending out to December 2024.

Pretax amounts related to the Company's cash flow hedges that were recognized in other comprehensive income (loss) ("OCI") were as follows:

	<b>Gain Recognized in OCI</b>	
	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Forward foreign exchange contracts	\$ 4,208	\$ 5,553

Pretax amounts related to the Company's cash flow hedges that were reclassified from AOCI and recognized in cost of products sold were as follows:

	<b>Gain Reclassified from AOCI to Income</b>	
	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Forward foreign exchange contracts	\$ 662	\$ 3,334

**8. Pension and Postretirement Benefits Other Than Pensions**

The components of net periodic benefit cost (income) for the Company's defined benefit plans and other postretirement benefit plans were as follows:

	<b>Pension Benefits</b>			
	<b>Three Months Ended March 31,</b>			
	<b>2024</b>	<b>2023</b>	<b>U.S.</b>	<b>Non-U.S.</b>
Service cost	\$ —	\$ 598	\$ —	\$ 535
Interest cost	1,819	1,212	2,314	1,295
Expected return on plan assets	(1,647)	(336)	(2,113)	(307)
Amortization of prior service cost and actuarial loss	555	53	778	6
<b>Net periodic benefit cost</b>	<b>\$ 727</b>	<b>\$ 1,527</b>	<b>\$ 979</b>	<b>\$ 1,529</b>

  

	<b>Other Postretirement Benefits</b>			
	<b>Three Months Ended March 31,</b>			
	<b>2024</b>	<b>2023</b>	<b>U.S.</b>	<b>Non-U.S.</b>
Service cost	\$ 6	\$ 45	\$ 13	\$ 38
Interest cost	142	194	205	197
Amortization of prior service credit and actuarial (gain) loss	(730)	4	(609)	(21)
<b>Net periodic benefit (income) cost</b>	<b>\$ (582)</b>	<b>\$ 243</b>	<b>\$ (391)</b>	<b>\$ 214</b>

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

The service cost component of net periodic benefit cost (income) is included in cost of products sold and selling, administrative and engineering expenses in the condensed consolidated statements of operations. All other components of net periodic benefit cost (income) are included in other expense, net in the condensed consolidated statements of operations for all periods presented.

On October 11, 2022, the Company's Board of Directors approved a resolution to merge certain of the Company's U.S. defined benefit pension plans and terminate the resulting merged plan ("U.S. Pension Plan") effective December 31, 2022. The termination of the U.S. Pension Plan is expected to be completed during the year ended December 31, 2024. As part of the termination process, the Company completed the transfer of all lump sum payments to eligible plan participants who elected such lump sums or otherwise met the criteria for lump sum payments. In addition, on April 3, 2024, the Company transferred all plan assets and remaining benefit obligations related to the U.S. Pension Plan to a highly rated insurance company. The insurance company will begin paying plan benefits to eligible plan participants through a group annuity contract beginning in June 2024.

As a result of transferring the remaining benefit obligations, the Company expects to recognize a non-cash pension settlement charge of approximately \$40 to \$50 million, before tax, in the quarter ended June 30, 2024, which includes recognizing the remaining pension losses currently recorded in accumulated other comprehensive loss, and derecognizing the net assets of the plan. As of March 31, 2024 and December 31, 2023, the U.S. Pension Plan was underfunded under U.S. generally accepted accounting principles by \$3,994 and \$3,948, respectively.

**9. Other Expense, Net**

The components of other expense, net were as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Foreign currency losses	\$ (1,971)	\$ (1,917)
Components of net periodic cost other than service cost	(1,266)	(1,745)
Factoring costs	(653)	(437)
Miscellaneous income	241	95
Other expense, net	<u>\$ (3,649)</u>	<u>\$ (4,004)</u>

**10. Income Taxes**

The Company determines its effective tax rate each quarter based upon its estimated annual effective tax rate. The Company records the tax impact of certain unusual or infrequently occurring items, including changes in judgment about valuation allowances and effects of changes in tax laws or rates, in the interim period in which they occur. In addition, jurisdictions with a projected loss for the year where no tax benefit can be recognized are excluded from the estimated annual effective tax rate.

Income tax expense, loss before income taxes and the corresponding effective tax rate for the three months ended March 31, 2024 and 2023 were as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Income tax expense	\$ 4,131	\$ 358
Loss before income taxes	(27,177)	(130,754)
Effective tax rate	(15)%	— %

The effective tax rate for the three months ended March 31, 2024 varied from the effective tax rate for the three months ended March 31, 2023 primarily due to the geographic mix of pre-tax income and losses, and the inability to record a tax expense for pre-tax income and a benefit for pre-tax losses in the U.S. and certain foreign jurisdictions due to valuation allowances, adjustments to uncertain tax positions, and other permanent items.

The income tax rate for the three months ended March 31, 2024 and 2023 varied from the U.S. statutory rate primarily due to the inability to record a tax expense for pre-tax income and a tax benefit for pre-tax losses in the U.S. and certain foreign

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

jurisdictions due to valuation allowances, tax credits, the impact of income taxes on foreign earnings taxed at rates varying from the U.S. statutory rate, adjustments to uncertain tax positions, and other permanent items.

The Company's current and future provision for income taxes is impacted by changes in valuation allowances in the U.S. and certain foreign jurisdictions. The Company's future provision for income taxes will include no tax benefit with respect to losses incurred and, except for certain jurisdictions, no tax expense with respect to income generated in these countries until the respective valuation allowances are eliminated. Accordingly, income taxes are impacted by changes in valuation allowances and the mix of earnings among jurisdictions. The Company evaluates the realizability of its deferred tax assets on a quarterly basis. In completing this evaluation, the Company considers all available evidence in order to determine, based on the weight of the evidence, if a valuation allowance for its deferred tax assets is necessary. Such evidence includes historical results, future reversals of existing taxable temporary differences and expectations for future taxable income (exclusive of the reversal of temporary differences and carryforwards), as well as the implementation of feasible and prudent tax planning strategies. If, based on the weight of the evidence, it is more likely than not that all or a portion of the Company's deferred tax assets will not be realized, a valuation allowance is recorded. If operating results improve or decline on a continual basis in a particular jurisdiction, the Company's decision regarding the need for a valuation allowance could change, resulting in either the initial recognition or reversal of a valuation allowance in that jurisdiction, which could have a significant impact on income tax expense in the period recognized and subsequent periods. In determining the provision for income taxes for financial statement purposes, the Company makes certain estimates and judgments, which affect its evaluation of the carrying value of its deferred tax assets, as well as its calculation of certain tax liabilities.

The Company, or one of its subsidiaries, files income tax returns in the United States and other foreign jurisdictions. During the examination of the Company's 2015-2018 U.S. federal income tax filings, the IRS asserted that income earned by a Netherlands subsidiary from its Mexican branch operations should be categorized as foreign based company sales income under Section 954(d) of the Internal Revenue Code and should be recognized currently as taxable income on the Company's 2015-2018 U.S. federal income tax filings. As a result of this assertion, the IRS issued a Notice of Proposed Adjustment ("NOPA"). The Company believes the proposed adjustment is without merit and is in the process of contesting the matter. Currently, the protest with the IRS for the 2015-2018 tax years is with the IRS's administrative appeals office, and the Company is having continuing discussion about the issue. The Company believes, after consultation with tax and legal counsel, that it is more likely than not that it will ultimately be successful in defending its position. As such, the Company has not recorded any impact of the IRS's proposed adjustment in its condensed consolidated financial statements as of the three months ended March 31, 2024. In the event the Company is not successful in defending its position, the potential income tax expense impact, including interest, related to tax years 2015 through March 31, 2024 is less than \$10,000. The Company intends to vigorously contest the conclusions reached in the NOPA through the IRS's administrative appeals process, and, if necessary, through litigation.

On August 16, 2022, the U.S. enacted the Inflation Reduction Action of 2022, which, among other things, implements a 15% minimum tax on financial statement income of certain large corporations, a 1% excise tax on net stock repurchases and several tax incentives to promote clean energy. The provisions were effective in the first quarter of 2023 and did not have a significant impact on the Company's condensed consolidated financial statements.

Numerous countries have agreed to a statement in support of the Organization for Economic Co-operation and Development ("OECD") model rules that propose a global minimum tax rate of 15%, and European Union member states have agreed to implement the global minimum tax. Certain countries, including European Union member states, have enacted or are expected to enact legislation to be effective as early as 2024, with widespread implementation of a global minimum tax expected by 2025. The Company has recorded the impact of the global minimum tax as currently enacted in the condensed consolidated financial statements as of March 31, 2024. As further legislation becomes effective in countries in which the Company does business, its provision for income taxes could be impacted. The Company will continue to monitor pending legislation and implementation by individual countries and adjust its calculations accordingly.

**11. Net Loss Per Share Attributable to Cooper-Standard Holdings Inc.**

Basic net loss per share attributable to Cooper-Standard Holdings Inc. was computed by dividing net loss attributable to Cooper-Standard Holdings Inc. by the weighted average number of shares of common stock outstanding during the period. Diluted net loss per share attributable to Cooper-Standard Holdings Inc. was computed using the treasury stock method by dividing diluted net loss available to Cooper-Standard Holdings Inc. by the weighted average number of shares of common stock outstanding, including the dilutive effect of common stock equivalents, using the average share price during the period.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

Information used to compute basic and diluted net loss per share attributable to Cooper-Standard Holdings Inc. was as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
Net loss available to Cooper-Standard Holdings Inc. common stockholders	\$ (31,660)	\$ (130,367)
Basic weighted average shares of common stock outstanding	17,462,136	17,229,423
Dilutive effect of common stock equivalents	—	—
Diluted weighted average shares of common stock outstanding	<u>17,462,136</u>	<u>17,229,423</u>
Basic net loss per share attributable to Cooper-Standard Holdings Inc.	<u>\$ (1.81)</u>	<u>\$ (7.57)</u>
Diluted net loss per share attributable to Cooper-Standard Holdings Inc.	<u>\$ (1.81)</u>	<u>\$ (7.57)</u>

Securities excluded from the calculation of diluted loss per share were approximately 249,000 and 94,000 for the three months ended March 31, 2024 and 2023, respectively, because the inclusion of such securities in the calculation would have been anti-dilutive.

**12. Accumulated Other Comprehensive Loss**

Changes in accumulated other comprehensive loss by component, net of related tax, were as follows:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
<b>Foreign currency translation adjustment</b>		
Balance at beginning of period	\$ (157,656)	\$ (158,023)
Other comprehensive loss before reclassifications	(7,245) <sup>(1)</sup>	(70) <sup>(1)</sup>
Amounts reclassified from accumulated other comprehensive loss	—	—
Balance at end of period	<u>\$ (164,901)</u>	<u>\$ (158,093)</u>
<b>Benefit plan liabilities</b>		
Balance at beginning of period	\$ (44,149)	\$ (60,251)
Other comprehensive income (loss) before reclassifications (net of tax expense of \$ 22 and \$65, respectively)	270	(58)
Amounts reclassified from accumulated other comprehensive (loss) income	(117) <sup>(2)</sup>	158 <sup>(3)</sup>
Balance at end of period	<u>\$ (43,996)</u>	<u>\$ (60,151)</u>
<b>Fair value change of derivatives</b>		
Balance at beginning of period	\$ 140	\$ 8,303
Other comprehensive income before reclassifications (net of tax expense of \$ 5 and \$770, respectively)	4,203	4,783
Amounts reclassified from accumulated other comprehensive loss (net of no tax expense and \$894, respectively)	(662)	(2,440)
Balance at end of period	<u>\$ 3,681</u>	<u>\$ 10,646</u>
Accumulated other comprehensive loss, ending balance	<u><u>\$ (205,216)</u></u>	<u><u>\$ (207,598)</u></u>

<sup>(1)</sup> Includes other comprehensive loss related to intra-entity foreign currency balances that are of a long-term investment nature of \$(8,443) and \$(3,823) for the three months ended March 31, 2024 and 2023, respectively.

<sup>(2)</sup> Includes the effect of the amortization of actuarial gains of \$612 and amortization of prior service cost of \$4, net of tax of \$2.

<sup>(3)</sup> Includes the effect of the amortization of actuarial losses of \$147 and amortization of prior service cost of \$6, net of tax of \$5.

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

### **13. Common Stock**

#### ***Share Repurchase Program***

In June 2018, the Company's Board of Directors approved a common stock repurchase program (the "2018 Program") authorizing the Company to repurchase, in the aggregate, up to \$150,000 of its outstanding common stock. Under the 2018 Program, repurchases may be made on the open market, through private transactions, accelerated share repurchases, round lot or block transactions on the New York Stock Exchange or otherwise, as determined by management and in accordance with prevailing market conditions and federal securities laws and regulations. The Company expects to fund any future repurchases from cash on hand and future cash flows from operations. The Company is not obligated to acquire a particular amount of securities, and the 2018 Program may be discontinued at any time at the Company's discretion. The 2018 Program became effective in November 2018. As of March 31, 2024, the Company had approximately \$98,720 of repurchase authorization remaining under the 2018 Program. The Company did not make any repurchases under the 2018 Program during the three months ended March 31, 2024 or 2023.

### **14. Commitments and Contingencies**

The Company is periodically involved in claims, litigation and various legal matters that arise in the ordinary course of business. The Company accrues for litigation exposure when it is probable that future costs will be incurred and such costs can be reasonably estimated. Any resulting adjustments, which could be material, are recorded in the period the adjustments are identified. As of March 31, 2024, the Company does not believe that there is a reasonable possibility that any material loss exceeding the amounts already recognized for claims, litigation and various legal matters, if any, has been incurred. However, the ultimate resolutions of these proceedings and matters are inherently unpredictable. As such, the Company's financial condition, results of operations or cash flows could be adversely affected in any particular period by the unfavorable resolution of one or more of these proceedings or matters.

In addition, the Company conducts and monitors environmental investigations and remedial actions at certain locations. As of March 31, 2024 and December 31, 2023, the Company had approximately \$10,476 and \$11,354, respectively, reserved in accrued liabilities and other liabilities in the condensed consolidated balance sheets on an undiscounted basis. While the Company's costs to defend and settle known claims arising under environmental laws have not been material in the past and are not currently estimated to have a material adverse effect on the Company's financial condition, such costs may be material to the Company's financial statements in the future.

### **15. Segment Reporting**

The Company had historically managed its automotive business in four reportable segments: North America, Europe, Asia Pacific and South America. All other business activities were reported in Corporate, eliminations and other. As disclosed in its 2023 Annual Report, effective January 1, 2024, the Company changed its management reporting structure with the launch of global product line-focused business segments. This resulted in the realignment of the Company's reportable segments, which are based on how the CODM manages the business, allocates resources, makes operating decisions, and evaluates operating performance. Based on this change, the Company established two reportable automotive segments: Sealing Systems and Fluid Handling Systems. All other business activities are reported in Corporate, eliminations and other. Additional information related to the composition of each segment is included below:

- **Sealing Systems:** The Sealing Systems segment is comprised of products that are designed and manufactured to protect vehicle interiors from weather, dust and noise intrusion for an improved driving experience. Its products also provide aesthetic and functional class-A exterior surface treatment. As disclosed in its 2023 Annual Report, the Company believes it is the largest global producer of sealing systems.
- **Fluid Handling Systems:** The Fluid Handling Systems segment is comprised products that help convey, connect, control and communicate throughout fluid systems for superior performance across diverse powertrains. The Company leverages its innovation expertise and vertically integrated manufacturing process with strong global standardization to support customers throughout the world.

The new structure is expected to optimize asset and resource allocation, enhance operating efficiency and aid in accelerating growth. The segment realignment had no impact on the Company's consolidated financial position, results of operations, or cash flows. All segment information is reflective of this new structure, and prior period information has been revised to conform to the Company's current period presentation.

The Company uses segment adjusted EBITDA as the measure of earnings to assess the performance of each segment and determine the resources to be allocated to the segments. The results of each segment include certain allocations for general,

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(Dollar amounts in thousands except per share and share amounts)**

administrative and other shared costs. Segment adjusted EBITDA may not be comparable to similarly titled measures reported by other companies.

Certain financial information on the Company's reportable segments was as follows:

	Three Months Ended March 31,					
	2024			2023		
	External Sales	Intersegment Sales	Adjusted EBITDA	External Sales	Intersegment Sales	Adjusted EBITDA
Sealing systems	\$ 351,279	\$ 11,909	\$ 21,371	\$ 348,980	\$ 15,223	\$ 11,716
Fluid handling systems	305,515	4,830	10,982	300,598	5,123	4,203
Corporate, eliminations and other	19,631	(16,739)	(3,005)	32,880	(20,346)	(3,462)
Consolidated	<u><u>\$ 676,425</u></u>	<u><u>\$ —</u></u>	<u><u>\$ 29,348</u></u>	<u><u>\$ 682,458</u></u>	<u><u>\$ —</u></u>	<u><u>\$ 12,457</u></u>
Three Months Ended March 31,						
	2024			2023		
Adjusted EBITDA				\$ 29,348	\$ 12,457	
Restructuring charges				(1,133)	(2,379)	
Loss on refinancing and extinguishment of debt				—	(81,885)	
EBITDA				\$ 28,215	\$ (71,807)	
Income tax expense				(4,131)	(358)	
Interest expense, net of interest income				(29,281)	(30,220)	
Depreciation and amortization				(26,463)	(27,982)	
Net loss attributable to Cooper-Standard Holdings Inc.				<u><u>\$ (31,660)</u></u>	<u><u>\$ (130,367)</u></u>	
March 31, 2024						
Segment assets:						
Sealing systems				\$ 872,837	\$ 906,022	
Fluid handling systems				729,841	735,465	
Corporate, eliminations and other				241,673	230,812	
Consolidated				<u><u>\$ 1,844,351</u></u>	<u><u>\$ 1,872,299</u></u>	

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*This management's discussion and analysis of financial condition and results of operations is intended to assist in understanding and assessing the trends and significant changes in our results of operations and financial condition. Our historical results may not indicate, and should not be relied upon as an indication of, our future performance. Our forward-looking statements reflect our current views about future events, are based on assumptions and are subject to known and unknown risks and uncertainties that could cause actual results to differ materially from those contemplated by these statements. See "Forward-Looking Statements" below for a discussion of risks associated with reliance on forward-looking statements. Factors that may cause differences between actual results and those contemplated by forward-looking statements include, but are not limited to, those discussed below and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 filed with the U.S. Securities and Exchange Commission ("2023 Annual Report"), including Item 1A. "Risk Factors." The following should be read in conjunction with our 2023 Annual Report and the other information included herein. Our discussion of trends and conditions supplements and updates such discussion included in our 2023 Annual Report. References in this quarterly report on Form 10-Q (the "Report") to "we," "our," or the "Company" refer to Cooper-Standard Holdings Inc., together with its consolidated subsidiaries.*

### **Executive Overview**

#### **Our Business**

We design, manufacture and sell sealing and fluid handling systems (consisting of fuel and brake delivery and fluid transfer systems) for use primarily in passenger vehicles and light trucks manufactured by global automotive original equipment manufacturers ("OEMs"). We are primarily a "Tier 1" supplier, with approximately 84% of our sales in 2023 made directly to major OEMs.

#### **Recent Trends and Conditions**

##### *General Economic Conditions and Outlook*

The global automotive industry is susceptible to uncertain economic conditions that could adversely impact new vehicle demand and production. Business conditions may vary significantly from period to period or region to region. In 2022, global automotive production was negatively impacted by broad supply chain challenges, labor market disruptions and other lingering impacts of the COVID-19 pandemic. In 2023, light vehicle production showed resilience and strong growth, supported by sustained consumer demand and OEM efforts to replenish depleted inventory levels. This resilience and growth was despite continued uncertainty in the global economy created by continued inflation, rising interest rates and increased geopolitical tension in key regions of the world. In 2024, we expect production growth will moderate as inventory levels normalize, interest rates remain relatively high, and the geopolitical tensions driving global economic uncertainty persist.

In North America, U.S. consumer confidence has increased from 2023 levels but remains well below pre-pandemic historical averages. Slowing inflation and the Federal Reserve Board's pause on policy rate actions have been key drivers of improved consumer sentiment. Economists at the International Monetary Fund (IMF) are expecting the economies of the United States, Canada and Mexico to grow by 2.7 percent, 1.2 percent and 2.4 percent, respectively, in 2024.

In Europe, lower inflation and more stable energy costs are supporting stronger household consumption. Uncertainty related to ongoing geopolitical tension and the war in Ukraine continue, however, and remain a constraining factor to overall economic activity. In the current uncertain environment, economists at the IMF are expecting the economy in the Eurozone region to grow by approximately 0.8 percent in 2024.

In the Asia Pacific region, China's post-COVID-19 economy has been burdened by a protracted property crisis, weak consumer and business confidence, and mounting local government debts. In order to bring property and housing supply in line with actual demand, the government will likely have to reduce its past levels of infrastructure investment. As a result, economists at the IMF are expecting the Chinese economy to grow at a more modest 4.6 percent in 2024.

In South America, the Brazilian economy has started the year strong with an increase in the minimum wage and continuing strong labor market contributing to consumer demand. Despite these drivers, inflation has stabilized slightly above target levels set by the Brazilian central bank. As a result, economists at the IMF are now estimating the Brazilian economy will grow 2.2 percent in 2024.

##### **Production Levels**

Our business is directly affected by the automotive vehicle production rates in North America, Europe, Asia Pacific and South America. These production rates can be impacted periodically by changing macro and micro-economic conditions, geopolitical actions, regional consumer sentiment, labor disruptions and changing regulatory requirements, among other factors.

Light vehicle production by region for the three months ended March 31, 2024 and 2023 was as follows:

(in millions of units)	Three Months Ended March 31,		
	2024 <sup>(1)</sup>	2023 <sup>(1)</sup>	% Change
North America	3.9	3.9	1.4%
Europe	4.5	4.6	(2.5)%
Asia Pacific	11.5	11.7	(1.0)%
Greater China	6.2	5.9	4.4%
South America	0.6	0.7	(6.0)%

<sup>(1)</sup> Production data based on S&P Global, April 2024.

Despite improved production in 2023, vehicle inventory and expected production levels remain well below pre-pandemic historical averages. Current industry forecasts suggest global light vehicle production in 2024 will remain flat compared to full year 2023, followed by modest growth in 2025 and 2026. Actual production may vary from forecasted levels due to a number of factors, however, including, but not limited to, consumer demand and industry competitiveness.

#### Raw Materials

Our business is susceptible to inflationary pressures with respect to raw materials. Abrupt changes in the market prices or availability of certain key raw materials may result in operational and profitability challenges for the Company and the industry as a whole. Following the pandemic, market prices for key raw materials, such as steel, aluminum, and oil-derived commodities, experienced a period of extreme volatility, which led to significant cost increases for our business. In response, we worked with our customers to implement or expand index-based commercial agreements that have enabled us to partially recover incremental material costs incurred and significantly reduce our exposure and risk related to commodity price fluctuations going forward. Global commodity markets and pricing have stabilized to a large degree in 2024, and material cost impacts on our results for the three months ended March 31, 2024 were relatively small.

#### General Inflation and Recovery Strategy

We continue to experience inflationary cost pressures and diligently work to address these costs both internally and with our customers. As such, we continue to actively pursue pricing adjustments on current business and consider the impact of inflationary and other costs in our quotes for new business. The majority of our customers recognized these costs and customer negotiations for inflation recovery and sustainable pricing were completed in 2023.

## Results of Operations

	Three Months Ended March 31,		
	2024	2023	Change
	(dollar amounts in thousands)		
Sales	\$ 676,425	\$ 682,458	\$ (6,033)
Cost of products sold	614,782	640,630	(25,848)
Gross profit	61,643	41,828	19,815
Selling, administration & engineering expenses	55,366	52,089	3,277
Amortization of intangibles	1,661	1,807	(146)
Restructuring charges	1,133	2,379	(1,246)
Operating income (loss)	3,483	(14,447)	17,930
Interest expense, net of interest income	(29,281)	(30,220)	939
Equity in earnings (losses) of affiliates	2,270	(198)	2,468
Loss on refinancing and extinguishment of debt	—	(81,885)	81,885
Other expense, net	(3,649)	(4,004)	355
Loss before income taxes	(27,177)	(130,754)	103,577
Income tax expense	4,131	358	3,773
Net loss	(31,308)	(131,112)	99,804
Net (income) loss attributable to noncontrolling interests	(352)	745	(1,097)
Net loss attributable to Cooper-Standard Holdings Inc.	\$ (31,660)	\$ (130,367)	\$ 98,707

### Three Months Ended March 31, 2024 Compared with Three Months Ended March 31, 2023

#### Sales

	Three Months Ended March 31,			Variance Due To:		
	2024	2023	Change	Volume / Mix*	Foreign Exchange	Divestitures
	(dollar amounts in thousands)					
Total sales	\$ 676,425	\$ 682,458	\$ (6,033)	\$ 7,902	\$ (1,095)	\$ (12,840)

\* Net of customer price adjustments, including recoveries.

Sales for the three months ended March 31, 2024 decreased 0.9%, compared to the three months ended March 31, 2023. The decrease in sales was driven by the divestitures of our European technical rubber products business and a joint venture in the Asia Pacific region in prior year, and the negative impact of foreign exchange. The decrease was partially offset by favorable volume and mix, net customer price adjustments including recoveries.

#### Gross Profit

	Three Months Ended March 31,			Variance Due To:		
	2024	2023	Change	Volume / Mix*	Foreign Exchange	Cost (Decreases)/Increases**
	(dollar amounts in thousands)					
Cost of products sold	\$ 614,782	\$ 640,630	\$ (25,848)	\$ (6,678)	\$ 7,645	\$ (26,815)
Gross profit	61,643	41,828	19,815	14,580	(8,740)	13,975
Gross profit percentage of sales	9.1 %	6.1 %				

\* Net of customer price adjustments, including recoveries.

\*\* Net of divestitures.

Cost of products sold is primarily comprised of materials, labor, manufacturing overhead, freight, depreciation and other direct operating expenses. Materials comprise the largest component of our cost of products sold and represented

approximately 50% of total cost of products sold for each of the three months ended March 31, 2024 and March 31, 2023. The change in cost of products sold was impacted by lower volume and mix, net of recoveries, lower energy costs, and manufacturing and purchasing savings through lean initiatives, partially offset by higher inflation of labor and overhead, and unfavorable foreign exchange.

Gross profit for the three months ended March 31, 2024 increased \$19.8 million compared to the three months ended March 31, 2023. The change was driven by volume and mix, net of customer price adjustments including recoveries, manufacturing and purchasing savings through lean initiatives and lower energy costs, partially offset by higher inflation of labor and overhead, and unfavorable foreign exchange.

*Selling, Administration and Engineering Expenses.* Selling, administration and engineering expenses include administrative expenses as well as product engineering and design and development costs. Selling, administration and engineering expenses for the three months ended March 31, 2024 were \$55.4 million, or 8.2% of sales, compared to \$52.1 million, or 7.6% of sales, for the three months ended March 31, 2023. The increase was primarily related to higher compensation related costs.

*Amortization of Intangibles.* Intangibles amortization for the three months ended March 31, 2024 was relatively consistent compared to the three months ended March 31, 2023.

*Restructuring Charges.* Restructuring charges for the three months ended March 31, 2024 decreased \$1.2 million compared to the three months ended March 31, 2023.

*Interest Expense, Net.* Net interest expense for the three months ended March 31, 2024 was relatively consistent compared to the three months ended March 31, 2023.

*Loss on Refinancing and Extinguishment of Debt.* Loss on refinancing and extinguishment of debt for the three months ended March 31, 2023 was \$81.9 million, which resulted from certain fees and the partial write off of new and unamortized debt issuance costs and unamortized original issue discount related to refinancing transactions that occurred in 2023.

*Other Expense, Net.* Other expense, net, for the three months ended March 31, 2024 decreased \$0.4 million compared to the three months ended March 31, 2023, primarily due to a decrease in net periodic benefit cost other than service cost.

*Income Tax Expense.* Income tax expense for the three months ended March 31, 2024 was \$4.1 million on losses before income taxes of \$27.2 million compared to an income tax expense of \$0.4 million on losses before income taxes of \$130.8 million for the three months ended March 31, 2023. The effective tax rate for the three months ended March 31, 2024 differed from the effective tax rate for the three months ended March 31, 2023 primarily due to the geographic mix of pre-tax losses, the inability to record a tax expense for pre-tax earnings and tax benefit for pre-tax losses in the U.S. and certain foreign jurisdictions due to valuation allowances, adjustments to uncertain tax positions, and other permanent items.

### **Segment Results of Operations**

As disclosed in its 2023 Annual Report, effective January 1, 2024, the Company changed its management reporting structure with the launch of global product line-focused business segments. This resulted in the realignment of its reportable segments, which are determined based on how the CODM manages the business, allocates resources, makes operating decisions, and evaluates operating performance. As a result, the Company established two reportable segments: Sealing Systems and Fluid Handling Systems. All other business activities are reported in Corporate, eliminations and other. The segment realignment had no impact on the Company's consolidated financial position, results of operations, or cash flows. All segment information included in this Form 10-Q is reflective of this new structure and prior period information has been revised to conform to the Company's current period segment presentation.

The Company uses segment adjusted EBITDA as the measure of earnings to assess the performance of each segment and determine the resources to be allocated to the segments. We have defined adjusted EBITDA as net income before interest, taxes, depreciation, amortization, restructuring expense, and special items.

The following tables present sales and segment adjusted EBITDA for each of the reportable segments.

**Three Months Ended March 31, 2024 Compared with Three Months Ended March 31, 2023**

**Sales**

	Three Months Ended March 31,			Variance Due To:				
	2024		2023	Change	Volume/ Mix*		Foreign Exchange	Divestitures
	(dollar amounts in thousands)							
<b>Sales to external customers</b>								
Sealing systems	\$ 351,279	\$ 348,980	\$ 2,299	\$ 2,433	\$ (134)	\$ —	\$ —	
Fluid handling systems	305,515	300,598	4,917	5,878	(961)	\$ —	\$ —	
Corporate, eliminations and other	19,631	32,880	(13,249)	(409)	\$ —	\$ —	(12,840)	
<b>Consolidated</b>	<b>\$ 676,425</b>	<b>\$ 682,458</b>	<b>\$ (6,033)</b>	<b>\$ 7,902</b>	<b>\$ (1,095)</b>	<b>\$ —</b>	<b>(12,840)</b>	

\* Net of customer price adjustments, including recoveries.

- Volume and mix was mainly driven by customer price adjustments including recoveries.
- The net impact of foreign currency exchange was primarily related to the Chinese Renminbi and Euro.

**Segment adjusted EBITDA**

	Three Months Ended March 31,			Variance Due To:			
	2024		2023	Change	Volume/ Mix*	Foreign Exchange	Cost Decreases/(Increases)**
	(dollar amounts in thousands)						
<b>Segment adjusted EBITDA</b>							
Sealing systems	\$ 21,371	\$ 11,716	\$ 9,655	\$ 4,508	\$ (2,865)	\$ 8,012	\$ —
Fluid handling systems	10,982	4,203	6,779	9,732	(6,414)	\$ 3,461	\$ —
Corporate, eliminations and other	(3,005)	(3,462)	457	340	248	\$ —	(131)
<b>Consolidated</b>	<b>\$ 29,348</b>	<b>\$ 12,457</b>	<b>\$ 16,891</b>	<b>\$ 14,580</b>	<b>\$ (9,031)</b>	<b>\$ 11,342</b>	<b>\$ —</b>

\* Net of customer price adjustments, including recoveries.

\*\* Net of divestitures.

- Volume and mix was mainly driven by customer price adjustments including recoveries .
- The net impact of foreign currency exchange was primarily related to the Mexican Peso and Polish Zloty.
- The Cost Decreases / (Increases) category above includes:
  - Commodity cost and inflationary economics; and
  - Manufacturing and purchasing savings through lean initiatives.

**Liquidity and Capital Resources**

**Short and Long-Term Liquidity Considerations and Risks**

The sources to fund our ongoing working capital, capital expenditures, debt service and other funding requirements are a combination of cash flows from operations, cash on hand, borrowings under our senior asset-based revolving credit facility ("ABL Facility") and receivables factoring. We utilize intercompany loans and equity contributions to fund our worldwide operations. There may be country-specific regulations which may restrict or result in increased costs in the repatriation of these funds. See Note 6. "Debt and Other Financing" to the unaudited condensed consolidated financial statements included in Part I, Item 1 of this Report for additional information.

We continue to actively preserve cash and enhance liquidity, including managing our capital expenditures as a percent of sales. We continuously monitor and forecast our liquidity situation in light of automotive industry, customer and economic factors, and take the necessary actions to preserve our liquidity and evaluate other financial alternatives that may be available to us should the need arise. Our ability to fund our working capital needs, debt payments and other obligations, and to comply

with the financial covenants, including borrowing base limitations, under our ABL Facility, depend on our future operating performance and cash flows and many factors outside of our control, including the costs of raw materials, the state of the overall automotive industry and financial and economic conditions, including work stoppages and the continued impact of public health events, and other factors. Based on those actions and current projections of light vehicle production and customer demand for our products, we believe that our cash flows from operations, cash on hand, availability under our ABL Facility and receivables factoring will enable us to meet our ongoing working capital requirements, capital expenditures, debt service and other funding requirements for the foreseeable future, despite the challenges facing the industry.

#### **Cash Flows**

*Operating Activities.* Net cash used in operations was \$14.2 million for the three months ended March 31, 2024, compared to net cash provided by operations of \$30.4 million for the three months ended March 31, 2023. The net change was primarily due to changes in net working capital balances, partially offset by higher cash earnings.

*Investing Activities.* Net cash used in investing activities was \$16.7 million for the three months ended March 31, 2024, compared to net cash used in investing activities of \$29.0 million for the three months ended March 31, 2023. The net change was primarily due to lower capital expenditures. We expect capital expenditures in 2024 to be relatively consistent with 2023, primarily as part of initiatives to consistently manage overall capital spending. We anticipate that we will spend approximately \$75 to \$85 million on capital expenditures in 2024.

*Financing Activities.* Net cash used in financing activities totaled \$1.2 million for the three months ended March 31, 2024, compared to net cash used in financing activities of \$75.7 million for the three months ended March 31, 2023. The net change was primarily due to the impact of refinancing transactions that occurred in 2023.

#### **Share Repurchase Program**

In June 2018, our Board of Directors approved a common stock repurchase program (the "2018 Program") authorizing us to repurchase, in the aggregate, up to \$150.0 million of our outstanding common stock. Under the 2018 Program, repurchases may be made on the open market, through private transactions, accelerated share repurchases, round lot or block transactions on the New York Stock Exchange or otherwise, as determined by us and in accordance with prevailing market conditions and federal securities laws and regulations. We expect to fund any future repurchases from cash on hand and future cash flows from operations. The specific timing and amount of any future repurchase will vary based on market and business conditions, changes in tax laws and other factors. We are not obligated to acquire a particular amount of securities, and the 2018 Program may be discontinued at any time at our discretion. The 2018 Program became effective in November 2018. As of March 31, 2024, we had approximately \$98.7 million of repurchase authorization remaining under the 2018 Program. We did not make any repurchases under the 2018 Program during the three months ended March 31, 2024 or 2023.

#### **Other Matters**

We may, from time to time, seek to purchase our outstanding debt securities or loans, including the First Lien Notes, Third Lien Notes and 2026 Senior Notes. Such transactions could be privately negotiated or open market transactions, pursuant to tender offers or otherwise. Any such purchases will be made in our sole discretion in light of market conditions, applicable limitations contained in the agreements governing our indebtedness and other relevant factors. The amounts involved in any such purchase transactions, individually or in the aggregate, may be material. Any such purchases may equate to a substantial amount of a particular class or series of debt, which may reduce the trading liquidity of such class or series.

In the third quarter of 2023, we designated Liveline Technologies, Inc. ("Liveline") an unrestricted subsidiary under the terms of certain of its debt agreements, but Liveline remains a wholly-owned subsidiary of Cooper-Standard Automotive Inc. Liveline had \$0.3 million of net income during the three months ended March 31, 2024. As of March 31, 2024, Liveline had less than \$0.1 million of gross assets. Liveline will look to Cooper Standard for necessary funding until it is able to sustain itself through sales of its products and services.

#### **Non-GAAP Financial Measures**

In evaluating our business, management considers EBITDA and Adjusted EBITDA to be key indicators of our operating performance. Our management also uses EBITDA and Adjusted EBITDA:

- because similar measures are utilized in the calculation of the financial covenants and ratios contained in our financing arrangements;
- in developing our internal budgets and forecasts;
- as a significant factor in evaluating our management for compensation purposes;

- in evaluating potential acquisitions;
- in comparing our current operating results with corresponding historical periods and with the operational performance of other companies in our industry; and
- in presentations to the members of our board of directors to enable our board of directors to have the same measurement basis of operating performance as is used by management in their assessments of performance and in forecasting and budgeting for our company.

In addition, we believe EBITDA and Adjusted EBITDA and similar measures are widely used by investors, securities analysts and other interested parties in evaluating our performance. We define Adjusted EBITDA as net income (loss) plus income tax expense (benefit), interest expense, net of interest income, depreciation and amortization or EBITDA, as adjusted for items that management does not consider to be reflective of our core operating performance. These adjustments include, but are not limited to, restructuring costs, impairment charges, non-cash fair value adjustments and acquisition-related costs.

EBITDA and Adjusted EBITDA are not financial measurements recognized under U.S. GAAP, and when analyzing our operating performance, investors should use EBITDA and Adjusted EBITDA as a supplement to, and not as alternatives for, net income (loss), operating income, or any other performance measure derived in accordance with U.S. GAAP, nor as an alternative to cash flow from operating activities as a measure of our liquidity. EBITDA and Adjusted EBITDA have limitations as analytical tools, and they should not be considered in isolation or as substitutes for analysis of our results of operations as reported under U.S. GAAP. These limitations include the following:

- they do not reflect our cash expenditures or future requirements for capital expenditure or contractual commitments;
- they do not reflect changes in, or cash requirements for, our working capital needs;
- they do not reflect interest expense or cash requirements necessary to service interest or principal payments under our ABL Facility, First Lien Notes, Third Lien Notes, and 2026 Senior Notes;
- they do not reflect certain tax payments that may represent a reduction in cash available to us;
- although depreciation and amortization are non-cash charges, the assets being depreciated or amortized may have to be replaced in the future, and EBITDA and Adjusted EBITDA do not reflect cash requirements for such replacements; and
- other companies, including companies in our industry, may calculate these measures differently and, as the number of differences in the way companies calculate these measures increases, the degree of their usefulness as a comparative measure correspondingly decreases.

In addition, in evaluating Adjusted EBITDA, it should be noted that in the future, we may incur expenses similar to the adjustments in the below presentation. Our presentation of Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by special items.

The following table provides a reconciliation of EBITDA and Adjusted EBITDA from net loss, which is the most comparable financial measure in accordance with U.S. GAAP:

	<b>Three Months Ended March 31,</b>	
	<b>2024</b>	<b>2023</b>
	<b>(dollar amounts in thousands)</b>	
Net loss attributable to Cooper-Standard Holdings Inc.	\$ (31,660)	\$ (130,367)
Income tax expense	4,131	358
Interest expense, net of interest income	29,281	30,220
Depreciation and amortization	26,463	27,982
EBITDA	\$ 28,215	\$ (71,807)
Restructuring charges	1,133	2,379
Loss on refinancing and extinguishment of debt <sup>(1)</sup>	—	81,885
Adjusted EBITDA	<u>\$ 29,348</u>	<u>\$ 12,457</u>

<sup>(1)</sup> Loss on refinancing and extinguishment of debt relating to refinancing transactions in 2023.

## **Contingencies and Environmental Matters**

The information concerning contingencies, including environmental contingencies and the amount currently held in reserve for environmental matters, contained in Note 14. "Commitments and Contingencies" to the unaudited condensed consolidated financial statements included in Part I, Item 1 of this Report, is incorporated herein by reference.

## **Critical Accounting Estimates**

There have been no significant changes in our critical accounting estimates during the three months ended March 31, 2024.

## **Forward-Looking Statements**

This quarterly report on Form 10-Q includes "forward-looking statements" within the meaning of U.S. federal securities laws, and we intend that such forward-looking statements be subject to the safe harbor created thereby. Our use of words "estimate," "expect," "anticipate," "project," "plan," "intend," "believe," "outlook," "guidance," "forecast," or future or conditional verbs, such as "will," "should," "could," "would," or "may," and variations of such words or similar expressions are intended to identify forward-looking statements. All forward-looking statements are based upon our current expectations and various assumptions. Our expectations, beliefs, and projections are expressed in good faith and we believe there is a reasonable basis for them. However, we cannot assure you that these expectations, beliefs and projections will be achieved. Forward-looking statements are not guarantees of future performance and are subject to significant risks and uncertainties that may cause actual results or achievements to be materially different from the future results or achievements expressed or implied by the forward-looking statements. Among other items, such factors may include: volatility or decline of the Company's stock price, or absence of stock price appreciation; impacts and disruptions related to the wars in Ukraine and the Middle East; our ability to achieve commercial recoveries and to offset the adverse impact of higher commodity and other costs through pricing and other negotiations with our customers; work stoppages or other labor disruptions with our employees or our customers' employees; prolonged or material contractions in automotive sales and production volumes; our inability to realize sales represented by awarded business; escalating pricing pressures; loss of large customers or significant platforms; our ability to successfully compete in the automotive parts industry; availability and increasing volatility in costs of manufactured components and raw materials; disruption in our supply base; competitive threats and commercial risks associated with our diversification strategy; possible variability of our working capital requirements; risks associated with our international operations, including changes in laws, regulations, and policies governing the terms of foreign trade such as increased trade restrictions and tariffs; foreign currency exchange rate fluctuations; our ability to control the operations of our joint ventures for our sole benefit; our substantial amount of indebtedness and variable rates of interest; our ability to obtain adequate financing sources in the future; operating and financial restrictions imposed on us under our debt instruments; the underfunding of our pension plans; significant changes in discount rates and the actual return on pension assets; effectiveness of continuous improvement programs and other cost savings plans; significant costs related to manufacturing facility closings or consolidation; our ability to execute new program launches; our ability to meet customers' needs for new and improved products; the possibility that our acquisitions and divestitures may not be successful; product liability, warranty and recall claims brought against us; laws and regulations, including environmental, health and safety laws and regulations; legal and regulatory proceedings, claims or investigations against us; the potential impact of any future public health events on our financial condition and results of operations; the ability of our intellectual property to withstand legal challenges; cyber-attacks, data privacy concerns, other disruptions in, or the inability to implement upgrades to, our information technology systems; the possible volatility of our annual effective tax rate; the possibility of a failure to maintain effective controls and procedures; the possibility of future impairment charges to our goodwill and long-lived assets; our ability to identify, attract, develop and retain a skilled, engaged and diverse workforce; our ability to procure insurance at reasonable rates; and our dependence on our subsidiaries for cash to satisfy our obligations.

You should not place undue reliance on these forward-looking statements. Our forward-looking statements speak only as of the date of this quarterly report on Form 10-Q, and we undertake no obligation to publicly update or otherwise revise any forward-looking statement, whether as a result of new information, future events or otherwise, except where we are expressly required to do so by law.

This quarterly report on Form 10-Q also contains estimates and other information that is based on industry publications, surveys, and forecasts. This information involves a number of assumptions and limitations, and we have not independently verified the accuracy or completeness of the information.

## **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

There have been no material changes to the quantitative and qualitative information about the Company's market risk from those previously disclosed in the Company's 2023 Annual Report.

**Item 4. Controls and Procedures****Evaluation of Disclosure Controls and Procedures**

The Company has evaluated, under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, the effectiveness 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 the end of the period covered by this Report. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. Based on that evaluation, the Company's Chief Executive Officer along with the Chief Financial Officer have concluded that the Company's disclosure controls and procedures were effective at a reasonable assurance level as of the end of the period covered by this Report.

**Changes in Internal Control over Financial Reporting**

There have been no changes in the Company's internal control over financial reporting during the quarter ended March 31, 2024 that have materially affected, or are reasonably likely to affect, the Company's internal control over financial reporting.

## PART II — OTHER INFORMATION

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

#### (c) Purchases of Equity Securities By the Issuer and Affiliated Purchasers

The Company is authorized to purchase, in the aggregate, up to \$150.0 million of our outstanding common stock under our common stock repurchase program, which was effective in November 2018. As of March 31, 2024, we had approximately \$98.7 million of repurchase authorization remaining under our common stock share repurchase program as discussed in Part I, Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources - Share Repurchase Program," and Note 13. "Common Stock" to the unaudited condensed consolidated financial statements included in Part I, Item 1 of this Report.

A summary of our shares of common stock repurchased during the three months ended March 31, 2024 is shown below:

Period	Total Number of Shares Purchased <sup>(1)</sup>	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet be Purchased Under the Program (in millions)
January 1, 2024 through January 31, 2024	—	\$ —	—	\$ 98.7
February 1, 2024 through February 29, 2024	8,711	14.16	—	98.7
March 1, 2024 through March 31, 2024	30,237	14.07	—	98.7
<b>Total</b>	<b>38,948</b>			

<sup>(1)</sup> Represents shares repurchased by the Company to satisfy employee tax withholding requirements due upon the vesting of restricted stock awards.

## **Item 5. Other Information**

### **Restructuring**

On May 7, 2024, the Board of Directors of the Company approved a restructuring plan that will eliminate up to 400 salaried and contract positions and cancel up to 100 open salaried positions based on the Company's recently announced product line organizational structure and current and anticipated market demands. The restructuring effort aims to further improve and maximize the Company's operational efficiency by streamlining business practices and deployed resources, and improving the organization's overall cost structure. The Company expects to complete these restructuring activities by the end of 2024.

The Company expects to recognize total expense related to these actions of approximately \$18 million to \$22 million, primarily in 2024. The cash expenditures include severance and other related costs directly attributable to the restructuring activities which will be paid in 2024 and 2025. The Company anticipates these restructuring activities to provide approximately \$40 million to \$45 million in annualized savings upon completion.

### **Rule 10b5-1 Trading Arrangements**

During the three months ended March 31, 2024, none of the Company's directors or officers (as defined in Rule 16a-1(f) of the Securities Exchange Act of 1934, as amended), adopted, terminated or modified a Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement (as such terms are defined in Item 408 of Regulation S-K of the Securities Act of 1933, as amended).

### **Amended and Restated Bylaws**

On May 7, 2024, the Board of Directors of the Company approved the Amended and Restated Bylaws of the Company (the "Amended and Restated Bylaws") effective as of May 7, 2024, incorporating modifications consistent with current Delaware General Corporation Law. The Amended and Restated Bylaws also reflect additional amendments to provide, among other things, that:

- a stockholder seeking to utilize Rule 14a-19 under the Securities Exchange Act of 1934, as amended ("Rule 14a-19"), must represent that it will follow the rule;
- a stockholder seeking to utilize Rule 14a-19 must provide evidence that it has met the requirements of Rule 14a-19;
- if a stockholder does not comply with Rule 14a-19, the nomination of such nominee shall be disregarded;
- a stockholder that provides notice of a nomination must notify the Secretary of the Company if there is any change in such stockholder's intent to deliver a proxy statement and form of proxy to the amount of holders of shares of the Company's outstanding capital stock required under Rule 14a-19; and
- any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Company's Board of Directors.

The foregoing summary is qualified in its entirety by reference to the Amended and Restated Bylaws of the Company, which are attached hereto as Exhibit 3.1 and are incorporated herein by reference.

**Item 6. Exhibits**

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
3.1*	<a href="#">Amended and Restated Bylaws of Cooper-Standard Holdings Inc. as Amended and Restated Effective May 7, 2024.</a>
10.1*†	<a href="#">Form of 2024 Cooper-Standard Holdings Inc. Amended and Restated 2021 Omnibus Incentive Plan Performance Award Agreement (FCF) (cash or stock settled).</a>
31.1*	<a href="#">Certification of Principal Executive Officer Pursuant to Exchange Act Rule 13a-14(a)/15d-14(a) (Section 302 of the Sarbanes-Oxley Act of 2002).</a>
31.2*	<a href="#">Certification of Principal Financial Officer Pursuant to Exchange Act Rule 13a-14(a)/15d-14(a) (Section 302 of the Sarbanes-Oxley Act of 2002).</a>
32**	<a href="#">Certification Pursuant to 18 U.S.C. Section 1350, As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS***	Inline 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***	Inline XBRL Taxonomy Extension Schema Document With Embedded Linkbase Documents
104***	Cover Page Interactive Data File, formatted in Inline XBRL

\* Filed with this Report.  
\*\* Furnished with this Report.  
\*\*\* Submitted electronically with this Report in accordance with the provisions of Regulation S-T.  
† Management contract or compensatory plan or arrangement.

**SIGNATURES**

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.

**COOPER-STANDARD HOLDINGS INC.**

May 7, 2024

---

Date

*/S/ JONATHAN P. BANAS*

---

**Jonathan P. Banas**  
**Executive Vice President and Chief Financial Officer**  
**(Principal Financial Officer and Duly Authorized Officer)**

AMENDED AND RESTATED

BY-LAWS

OF

COOPER-STANDARD HOLDINGS INC.,

a Delaware corporation

(the “***Corporation***”)

(As Amended and Restated Effective May 7, 2024)

---

AMENDED AND RESTATED  
BY-LAWS  
OF  
COOPER-STANDARD HOLDINGS INC.

ARTICLE I  
OFFICES

**Section 1.1 Registered Office.** The registered office of the Corporation within the State of Delaware shall be located at either (a) the principal place of business of the Corporation in the State of Delaware or (b) the office of the corporation or individual acting as the Corporation's registered agent in Delaware.

**Section 1.2 Additional Offices.** The Corporation may, in addition to its registered office in the State of Delaware, have such other offices and places of business, both within and outside the State of Delaware, as the Board of Directors of the Corporation (the "**Board**") may from time to time determine or as the business and affairs of the Corporation may require.

ARTICLE II  
STOCKHOLDERS MEETINGS

**Section 2.1 Annual Meetings.** The annual meeting of stockholders shall be held at such place and time and on such date as shall be determined by the Board and stated in the notice of the meeting, provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a). At each annual meeting, the stockholders shall elect the directors of the Corporation and may transact any other business as may properly be brought before the meeting.

**Section 2.2 Special Meetings.** Except as otherwise required by applicable law, special meetings of stockholders, for any purpose or purposes, may be called only as provided in the Corporation's Third Amended and Restated Certificate of Incorporation, as the same may be amended or restated from time to time (the "**Certificate of Incorporation**"). The Board may in its sole discretion determine that a special meeting shall not be held at any place but may instead be held solely by means of remote communication pursuant to Section 9.5(a).

**Section 2.3 Notices.** Whenever stockholders are required or permitted to take any action at a meeting, a notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. Unless otherwise provided by applicable law or the Certificate of Incorporation, such notice shall be given by the Corporation not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting in the manner permitted by

---

**Section 9.3.** If said notice is for a stockholders meeting other than an annual meeting, it shall in addition state the purpose or purposes for which the meeting is called, and the business transacted at such meeting shall be limited to the matters so stated in the Corporation's notice of meeting (or any supplement thereto), and, if applicable, the Special Meeting Request (as defined in the Certificate of Incorporation) or as otherwise permitted pursuant to Section 2.7 or Section 3.2. Other than a special meeting of stockholders called pursuant to a Special Meeting Request in accordance with the Certificate of Incorporation, any meeting of stockholders as to which notice has been given may be postponed, cancelled or rescheduled, by a resolution adopted by a majority of the Whole Board upon public announcement given before the date previously scheduled for such meeting or any adjournment thereof.

**Section 2.4 Quorum.** Except as otherwise provided by applicable law, the Certificate of Incorporation or these By-Laws, the presence, in person or by proxy, at a stockholders meeting of the holders of shares of outstanding capital stock of the Corporation representing a majority of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of shares representing a majority of the voting power of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. If a quorum shall not be present or represented by proxy at any meeting of the stockholders, the chairman of the meeting may adjourn the meeting from time to time in the manner provided in Section 2.6 until a quorum shall attend. The stockholders present at a duly convened meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Shares of the Corporation's capital stock shall neither be entitled to vote nor counted for quorum purposes if such shares belong to (a) the Corporation, (b) another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation or (c) any other entity, if a majority of the voting power of such other entity is otherwise controlled, directly or indirectly, by the Corporation; provided, however, that the foregoing shall not limit the right of the Corporation or any such other corporation to vote shares held by it in a fiduciary capacity.

**Section 2.5 Voting of Shares.**

(a) **Voting Lists.** The Corporation shall prepare, no later than the 10th day before every meeting of stockholders, a complete list of the stockholders of record entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order for each class of stock and showing the address and the number of shares registered in the name of each stockholder. Nothing contained in this Section 2.5(a) shall require the Corporation to include the telephone number or other electronic contact information for electronic transmission to any stockholder on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of 10 days ending on the day before the meeting date: (i) on a reasonably accessible electronic network, provided that the information

required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. If the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list required by this Section 2.5(a) or to vote in person or by proxy at any meeting of stockholders.

(b) Manner of Voting. At any stockholders meeting, every stockholder entitled to vote may vote in person or by proxy. If authorized by the Board, the voting by stockholders or proxyholders at any meeting conducted by remote communication may be effected by a ballot submitted by electronic transmission, provided that any such electronic transmission must either set forth or be submitted with information from which the Corporation can determine that the electronic transmission was authorized by the stockholder or proxyholder. The Board, in its discretion, or the chairman of the meeting of stockholders, in such person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(c) Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Proxies need not be filed with the Secretary of the Corporation until the meeting is called to order but shall be filed with the Secretary before being voted. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board.

(d) Required Vote. Subject to the rights of the holders of one or more series of preferred stock of the Corporation ("Preferred Stock"), voting separately by class or series, to elect directors pursuant to the terms of one or more series of Preferred Stock, all matters shall be determined by the vote of a majority of the votes cast by the stockholders present in person or represented by proxy at the meeting and entitled to vote thereon, unless the matter is one upon which, by applicable law, the Certificate of Incorporation, these By-Laws or applicable stock exchange rules, a different or minimum vote is required, in which case such different or minimum vote shall govern and control the decision of such matter.

(e) Inspectors of Election. The Board may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more persons as inspectors of election, who may be employees of the Corporation or otherwise serve the Corporation in other capacities, to act at such meeting of stockholders or any adjournment thereof and to make a written report thereof. The Board may appoint one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspectors of election or alternates are appointed by the Board, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall ascertain and report the number of outstanding shares and the voting power of each; determine the number of shares present in person or represented by proxy at the meeting

and the validity of proxies and ballots; count all votes and ballots and report the results; determine the disposition of any challenges and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. No person who is a candidate for an office at an election may serve as an inspector at such election. Each report of an inspector shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors.

**Section 2.6 Adjournments.** Any annual or special meeting of stockholders may be adjourned, from time to time, whether or not there is a quorum, to reconvene at the same or some other place, if any, provided that a special meeting of stockholders called pursuant to a Special Meeting Request may not be adjourned without the written consent of the stockholders that submitted such Special Meeting Request in accordance with the Certificate of Incorporation. Notice need not be given of any such adjourned meeting if the date, time and place or the means of remote communication by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, as applicable, are announced at the meeting at which the adjournment is taken or are provided in any other manner permitted by the General Corporation Law of the State of Delaware (the “**DGCL**”). At the adjourned meeting the stockholders, or the holders of any class or series of stock entitled to vote separately as a class, as the case may be, may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 2.3, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

### **Section 2.7 Advance Notice for Business.**

(a) Annual Meetings of Stockholders. No business may be transacted at an annual meeting of stockholders, other than business that is either (I) specified in the Corporation’s notice of meeting (or any supplement thereto) given by or at the direction of the Board, (II) otherwise properly brought before the annual meeting by or at the direction of the Board or (III) otherwise properly brought before the annual meeting by any stockholder of the Corporation (x) who is a stockholder on the date of the giving of the notice provided for in this Section 2.7(a) and who is entitled to vote at such annual meeting and (y) who complies with the notice procedures set forth in this Section 2.7(a). Except for proposals properly made in accordance with Rule 14a-8 (or any successor thereof) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and included in the notice of meeting given by or at the direction of the Board, the foregoing clause (III) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of stockholders. Stockholders seeking

to nominate persons for election to the Board must comply with Section 3.2, and this Section 2.7 shall not be applicable to nominations.

(i) In addition to any other applicable requirements, for business (other than nominations) to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation and such business must otherwise be a proper matter for stockholder action. A stockholder's notice to the Secretary with respect to such business, to be timely, must comply with the provisions of this Section 2.7(a)(i). A stockholder's notice must be received by 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 opening of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is called for a date that is more than 30 days earlier or more than 60 days later than such anniversary date, notice by the stockholder to be timely must be so received not earlier than the opening of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting is first made by the Corporation. The public announcement of an adjournment, recess or postponement of an annual meeting shall not commence a new time period or extend a time period for the giving of a stockholder's notice as described in this Section 2.7(a).

(ii) To be in proper written form, a stockholder's notice to the Secretary with respect to any business (other than director nominations which are the subject of Section 3.2) must set forth:

(A) as to each such matter such stockholder proposes to bring before the annual meeting (1) a brief description of the business desired to be brought before the annual meeting and any material interest in such business of such stockholder and any Stockholder Associated Person (as defined below), individually or in the aggregate, (2) the text of the proposal or business (including the text of any resolutions proposed for consideration and if such business includes a proposal to amend these By-Laws, the text of the proposed amendment) and (3) the reasons for conducting such business at the annual meeting;

(B) the name and address of the stockholder proposing such business, as they appear on the Corporation's books, and the name and address of any Stockholder Associated Persons;

(C) the class or series and number of shares of capital stock of the Corporation that are owned of record or are directly or indirectly owned beneficially by such stockholder and by any Stockholder Associated Person, including any shares of any class or series of capital stock of the Corporation as to

which such stockholder, beneficial owner or Stockholder Associated Persons have a right to acquire beneficial ownership at any time in the future;

(D) any proxy (other than a revocable proxy given in response to a solicitation made pursuant to Section 14(a) (or any successor thereof) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), contract, arrangement, understanding or relationship pursuant to which such stockholder or any Stockholder Associated Person has a right to vote any shares of the Corporation;

(E) any Derivative Position held by such Stockholder and by any Stockholder Associated Person;

(F) a description of all agreements, arrangements or understandings (written or oral) between or among such stockholder, any Stockholder Associated Person or any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(G) any other information relating to such stockholder and any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitation of proxies for election of directors (even if an election contest is not involved), or would be otherwise required, in each case pursuant to Section 14 (or any successor thereof) of the Exchange Act and the rules and regulations promulgated thereunder;

(H) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting; and

(I) a statement of whether such stockholder or any Stockholder Associated Person intends, or is part of a group that intends, 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 and/or otherwise to solicit proxies or votes from stockholders in connection with the proposal.

(iii) The foregoing notice requirements of this Section 2.7(a) shall be deemed satisfied by a stockholder as to any proposal made pursuant to Rule 14a-8 (or any successor thereof) of the Exchange Act if the stockholder has notified the Corporation of such stockholder's intention to present such proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) of the Exchange Act. No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.7(a), provided, however, that once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section 2.7(a) shall be

deemed to preclude discussion by any stockholder of any such business conducted in accordance with the rules for such meeting as set forth in Section 2.8. If the Board or the chairman of the annual meeting determines that any stockholder proposal was not made in accordance with the provisions of this Section 2.7(a) or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 2.7(a), such proposal shall not be presented for action at the annual meeting. Notwithstanding the foregoing provisions of this Section 2.7(a), if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that such proposal is set forth in the notice of meeting or other proxy materials and notwithstanding that proxies in respect of such matter may have been received by the Corporation. For purposes of this Section 2.7 and Section 3.2, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(iv) In addition to the provisions of this Section 2.7(a), a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 2.7(a) shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor thereof) under the Exchange Act.

(v) A stockholder providing notice of a business proposed to be brought before a meeting pursuant to this Section 2.7 shall promptly update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice pursuant to clauses (a)(ii)(A)-(G) of this Section 2.7 shall be true and correct (x) as of the record date for notice and voting at the meeting and (y) as of the date that is 15 days prior to the meeting or any adjournment or postponement thereof. Any such update and supplement shall be delivered in writing to the Secretary of the Corporation at the principal executive offices of the Corporation (i) in the case of any update and supplement required to be made as of the record date for notice of the meeting, not later than 5 days after the later of such record date and the public announcement of such record date and (ii) in the case of any update or supplement required to be made as of 15 days prior to the meeting or adjournment or postponement thereof, not later than 10 days prior to the date for the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this Section 2.7 or any other section of these By-Laws shall not limit the Corporation's rights with respect to any deficiencies in any stockholder's notice, including, without limitation, any representation required herein, extend any applicable deadlines under these By-Laws or enable or be deemed to permit a stockholder who has

previously submitted a stockholder's notice under these By-Laws to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and/or resolutions proposed to be brought before a meeting of stockholders.

(vi) For purposes of this Section 2.7 and Section 3.2, the following terms have the following meanings: (a) "affiliates" and "associates" shall have the meanings set forth in Rule 405 under the Securities Act of 1933, as amended; (b) "business day" means any day other than Saturday, Sunday or a day on which banks are closed in New York City, New York; (c) "close of business" means 5:00 p.m. local time at the principal executive offices of the Corporation on any calendar day, whether or not the day is a business day and (d) "opening of business" means 9:00 a.m. local time at the principal executive offices of the Corporation on any calendar day, whether or not the day is a business day.

(b) Special Meetings of Stockholders Any business may be transacted at a special meeting of stockholders, provided that with respect to each special meeting of stockholders, only such business shall be conducted as is permitted by Section 2.3. Nominations of persons for election to the Board may be made at a special meeting of stockholders pursuant to Section 3.2.

**Section 2.8 Conduct of Meetings.** The chairman of each annual and special meeting of stockholders shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer or such other person as shall be appointed by the Board. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the chairman of the meeting. The Board may adopt or, in the absence thereof, the chairman of the meeting may prescribe, such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with these By-Laws or such rules and regulations, the chairman of any meeting of stockholders shall have the right and authority to convene, adjourn, recess and close the meeting, and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairman of the meeting, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (e) limitations on the time allotted (to individuals and in the aggregate) to questions or comments by participants. Unless and to the extent determined by the Board or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The secretary of each annual and special meeting of stockholders shall be the Secretary or, in the absence (or inability or refusal to act) of the Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

**Section 2.9 No Action by Consent of Stockholders in Lieu of Meeting** Except as otherwise expressly provided by the terms of any series of Preferred Stock permitting the holders of such series of Preferred Stock to act by consent, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of the stockholders of the Corporation, unless a majority of the Whole Board approves in advance the taking of such action by means of consent of stockholders, in which case such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum voting power that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with applicable law. No consent shall be effective to take the corporate action referred to therein unless a consent or consents signed by a sufficient number of holders to take such action are delivered to the Corporation in accordance with applicable law within 60 days of the first date on which a consent is so delivered to the Corporation. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used; provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing. If an action by consent under this Section 2.9 has been taken by stockholders by less than unanimous consent, prompt notice of the taking of the action by consent shall be given to those stockholders who have not consented and who would have been entitled to notice of the meeting if the action had been taken at a meeting and the record date for the notice of the meeting were the record date for the action by consent.

### **ARTICLE III DIRECTORS**

**Section 3.1 Powers.** The business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws required to be exercised or done by the stockholders. Directors need not be stockholders or residents of the State of Delaware.

#### **Section 3.2 Advance Notice for Nomination of Directors.**

(a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors by the stockholders of the Corporation, except as may be otherwise provided by the terms of one or more series of Preferred Stock with respect to the rights of holders of one or more series of Preferred Stock to elect directors. Nominations of persons for election to the Board at any annual meeting of stockholders, or at any special meeting of stockholders called for the purpose of electing directors as set forth in the Corporation's notice of such special meeting, may be made (i) by or at the direction of the Board or (ii) by any stockholder of the Corporation (x) who is a stockholder of record on the date of the giving of the notice provided for in this Section 3.2 and who is entitled to vote in the election of

directors at such meeting and (y) who complies with the notice procedures set forth in this Section 3.2 (provided that, in the case of special meeting, the Board or the stockholders in accordance with the Certificate of Incorporation have determined that directors shall be elected at such special meeting).

(b) In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary must comply with the provisions of this Section 3.2(b). A stockholder's notice must be received by the Secretary at the principal executive offices of the Corporation: (i) in the case of an annual meeting, not later than the close of business on the 90th day nor earlier than the opening of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is called for a date that is more than 30 days earlier or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so received not earlier than the opening of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting is first made by the Corporation; (ii) except as specified in clause (iii), in the case of a special meeting of stockholders called for the purpose of electing directors, not earlier than the opening of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the special meeting is first made by the Corporation; and (iii) in the case of a special meeting of stockholders called pursuant to a Special Meeting Request for the purpose of electing directors, not later than 15 days prior to such meeting. The public announcement of an adjournment, recess or postponement of an annual meeting or special meeting shall not commence a new time period or extend a time period for the giving of a stockholder's notice as described in this Section 3.2. The number of nominees a stockholder may nominate for election at a meeting on its own behalf (or in the case of one or more stockholders giving the notice on behalf of a beneficial owner, the number of nominees such stockholders may collectively nominate for election at a meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such meeting.

(c) Notwithstanding anything in paragraph (b) to the contrary, if the number of directors to be elected to the Board at an annual meeting is increased effective after the time period for which nominations would otherwise be due under paragraph (b) of this Section 3.2 and there is no public announcement by the Corporation naming the nominees for the additional directorships at least 100 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 3.2 shall be considered timely, but only with respect to nominees for the additional directorships, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the date on which such public announcement is first made by the Corporation.

(d) To be in proper written form, a stockholder's notice to the Secretary must set forth:

- (i) as to each person whom the stockholder proposes to nominate for election as a director:
  - (A) the name, age, business address and residence address of the person,
  - (B) the principal occupation or employment of the person,
  - (C) the class or series and number of shares of capital stock of the Corporation that are owned of record or are directly or indirectly owned beneficially by the person,
  - (D) any Derivative Instrument directly or indirectly owned beneficially by such nominee,
  - (E) any other information relating to the 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 election of directors pursuant to Section 14 (or any successor thereof) of the Exchange Act and the rules and regulations promulgated thereunder, including such person's written consent to being named in the Corporation's proxy statement as a nominee and to serving as a director if elected,
  - (F) a questionnaire completed and signed by such person (in the form to be provided by the Secretary upon written request of any stockholder of record within 10 days of such request) with respect to the background and qualification of such proposed nominee and the background of any other person or entity on whose behalf the nomination is being made, together with any such other information regarding the nominee that the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation and the independence of such director under the Exchange Act and rules and regulations thereunder and applicable stock exchange rules,
  - (G) a description of 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, and
  - (H) a written representation and agreement (in the form to be provided by the Secretary upon written request of any stockholder of record within 10 days of such request) that such proposed nominee (1) is not and will not become a party to any agreement, arrangement or understanding with, and

has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question that has not been disclosed to the Corporation or that could limit or interfere with such proposed nominee'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 that has not been disclosed to the Corporation, and (3) would be in compliance, if elected as a director of the Corporation, and will comply with, all applicable publicly disclosed corporate governance, code of conduct and ethics, conflict of interest, confidentiality, corporate opportunities, trading and any other policies and guidelines of the Corporation applicable to directors; and

(ii) as to the stockholder giving the notice and any Stockholder Associated Person:

(A) the name and address of such stockholder as they appear on the Corporation's books and the name and address of any Stockholder Associated Person,

(B) the class or series and number of shares of capital stock of the Corporation that are owned of record or directly or indirectly owned beneficially by such Stockholder and any Stockholder Associated Person, including any shares of any class or series of capital stock of the Corporation as to which such stockholder, beneficial owner or Stockholder Associated Persons have a right to acquire beneficial ownership at any time in the future,

(C) any proxy (other than a revocable proxy given in response to a solicitation made pursuant to Section 14(a) (or any successor thereof) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), contract, arrangement, understanding or relationship pursuant to which such stockholder or any Stockholder Associated Person has a right to vote any shares of the Corporation,

(D) any Derivative Position held by such Stockholder and by a Stockholder Associated Person,

(E) a description of all agreements, arrangements or understandings (written or oral) between or among such stockholder, any Stockholder Associated Person, any proposed nominee or any other person or persons (including their names) pursuant to which the nomination or nominations are to be made by such stockholder,

(F) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice,

(G) any other information relating to such stockholder and any Stockholder Associated 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 election of directors pursuant to Section 14 (or any successor thereof) of the Exchange Act and the rules and regulations promulgated thereunder,

(H) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder or any Stockholder Associated Person, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any Stockholder Associated Person was the "Registrant" for purposes of such rule and the nominee was a director or executive officer of such registrant, and

(I) a statement of whether such stockholder or any Stockholder Associated Person intends, or is part of a group that intends, (a) 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 elect the nominee, (b) otherwise to solicit proxies or votes from stockholders for the election of the proposed nominee and/or (c) to solicit proxies in support of any proposed nominee in accordance with Rule 14a-19 promulgated under the Exchange Act. Such notice must be accompanied by a written consent of each proposed nominee to being named in the Corporation's proxy statement as a nominee of the stockholder and to serve as a director if elected.

(J) a representation of whether such stockholder is being financed or indemnified by a third-party for making the nomination.

(e) If the Board or the chairman of the meeting of stockholders determines that any nomination was not made in accordance with the provisions of this Section 3.2, then such nomination shall not be considered at the meeting in question. Notwithstanding the foregoing provisions of this Section 3.2, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting of stockholders of the Corporation to present the nomination, such nomination shall be disregarded, notwithstanding that such nomination is set forth in the notice of meeting or other proxy materials and notwithstanding that proxies in respect of such nomination may have been received by the Corporation. Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any stockholder or Stockholder Associated Person (i) provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a-19 promulgated under the Exchange Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with

the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that the nominee is included as a nominee in the Corporation's proxy statement, notice of meeting or other proxy materials for any annual meeting (or any supplement thereto) and notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). If any stockholder or Stockholder Associated Person provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it or such beneficial owner or Stockholder Associated Person has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act. In addition, any stockholder that provides notice of a proposed nomination for election to the Board pursuant to Rule 14a-19 under the Exchange Act shall notify the Secretary of the Corporation within two business days of any change in such stockholder's intent to deliver a proxy statement and form of proxy to the amount of holders of shares of the Corporation's outstanding capital stock required under Rule 14a-19 under the Exchange Act.

(f) A stockholder providing notice of a proposed nomination for election to the Board to be brought before a meeting pursuant to this Section 3.2 shall promptly update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice pursuant to clauses (d)(i) and (d)(ii)(A)-(E), (G)-(H) of this Section 3.2 shall be true and correct (x) as of the record date for notice and voting at the meeting and (y) as of the date that is 15 days prior to the meeting or any adjournment or postponement thereof. Any such update and supplement shall be delivered in writing to the Secretary of the Corporation at the principal executive offices of the Corporation (i) in the case of any update and supplement required to be made as of the record date for notice of the meeting, not later than 5 days after the later of such record date and the public announcement of such record date and (ii) in the case of any update or supplement required to be made as of 15 days prior to the meeting or adjournment or postponement thereof, not later than 10 days prior to the date for the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this Section 3.2 or any other section of these By-Laws shall not limit the Corporation's rights with respect to any deficiencies in any stockholder's notice, including, without limitation, any representation required herein, extend any applicable deadlines under these By-Laws or enable or be deemed to permit a stockholder who has previously submitted a stockholder's notice under these By-Laws to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and/or resolutions proposed to be brought before a meeting of stockholders.

(g) In addition to the provisions of this Section 3.2, a stockholder shall also comply with all of the applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 3.2 shall be deemed to affect any rights of the holders of Preferred Stock to elect directors pursuant to the Certificate of Incorporation or the right of the Board to fill newly created directorships and vacancies on the Board pursuant to the Certificate of Incorporation.

**Section 3.3 Compensation.** Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, the Board shall have the authority to fix the compensation of directors. The directors may be reimbursed their expenses, if any, of attendance at each meeting of the Board and may be paid either a fixed sum for attendance at each meeting of the Board or other compensation as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of committees of the Board may be allowed like compensation and reimbursement of expenses for service on the committee.

**Section 3.4 Majority Voting.** Except as provided in Section 3.5, to be elected a director at any stockholder meeting, a nominee must receive the affirmative vote of a majority of the votes cast with respect to that director's election at a meeting at which a quorum is present. For purposes of this Section 3.4, a majority of votes cast means that the number of votes "for" a nominee must exceed 50 percent of the votes cast with respect to the election of that nominee with abstentions and broker non-votes, if applicable, not counted as a vote cast "for" or "against" that director's election.

**Section 3.5 Contested Elections.** In the event of a '**Contested Election**', the nominees for director who receive a plurality of the votes cast at a stockholder meeting at which a quorum is present will be elected. An election of directors will be considered a "**Contested Election**" if (i) the secretary receives proper notice under Section 3.2 that a stockholder (the "Nominating Stockholder") intends to make a nomination at such meeting, (ii) the number of nominated individuals including the Nominating Stockholder's nominees would exceed the number of directors to be elected, and (iii) the notice has not been withdrawn by the 14<sup>th</sup> day before the date that the Corporation begins mailing its notice of such meeting to stockholders.

#### **Section 3.6 Resignation and Replacement of Unsuccessful Incumbents.**

(a) Before the Board can nominate any incumbent director for reelection to the Board by majority voting under Section 3.4, such person must submit or have submitted an irrevocable resignation that will become effective if (i) that person does not receive a majority of the votes cast, as calculated pursuant to Section 3.4; and (ii) the Board accepts that resignation in accordance with this Section 3.6.

(b) Within 90 days of receiving the certified vote pertaining to any election of directors by stockholders by majority voting in which an incumbent director failed to receive a majority of the votes cast, the (i) the Governance Committee shall make a recommendation to the Board as to whether to accept or reject the resignation of such incumbent director, or whether other action should be taken and (ii) the Board shall consider the recommendation of the Governance Committee and shall act on the resignation of the unsuccessful incumbent. The Governance Committee in making its recommendation and the Board in making its determination may consider any factors they determine appropriate. Unless the Board makes a determination to reject the resignation of the incumbent director, the Board shall not elect or appoint any unsuccessful incumbent to the Board for at least one year after such annual meeting.

(c) If the Board accepts the resignation of an unsuccessful incumbent pursuant to this Section 3.6, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board may fill the resulting vacancy in accordance with Section 5.3 of the Certificate of Incorporation or may decrease the size of the Board in accordance with the Certificate of Incorporation.

## **ARTICLE IV** **BOARD MEETINGS**

**Section 4.1 Annual Meetings.** The Board shall meet as soon as practicable after the close of each annual stockholders meeting at the place of the annual stockholders meeting unless the Board shall fix another time and place, if any, and give notice thereof in the manner required herein for special meetings of the Board. No notice to the directors shall be necessary to legally convene this meeting, except as provided in this Section 4.1.

**Section 4.2 Regular Meetings.** Regularly scheduled, periodic meetings of the Board may be held without notice at such times, dates and places as shall from time to time be determined by the Board.

**Section 4.3 Special Meetings.** Special meetings of the Board (a) may be called by the Chairman of the Board or the Chief Executive Officer and (b) shall be called by the Chairman of the Board, the Chief Executive Officer or Secretary on the written request of at least a majority of directors then in office, or the sole director, as the case may be, and shall be held at such time, date and place, if any, as may be determined by the person calling the meeting or, if called upon the request of directors or the sole director, as specified in such written request. Notice of each special meeting of the Board shall be given, as provided in Section 9.3, to each director (i) at least 24 hours before the meeting if such notice is oral notice given personally or by telephone or written notice given by hand delivery or by means of a form of electronic transmission and delivery; (ii) at least two days before the meeting if such notice is sent by a nationally recognized overnight delivery service; and (iii) at least five days before the meeting if such notice is sent through the United States mail. If the Secretary shall fail or refuse to give such notice, then the notice may be given by the officer who called the meeting or the directors who requested the meeting. Any and all business that may be transacted at a regular meeting of the Board may be transacted at a special meeting. Except as may be otherwise expressly provided by applicable law, the Certificate of Incorporation, or these By-Laws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice or waiver of notice of such meeting. A special meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 9.4.

**Section 4.4 Quorum; Required Vote.** A majority of the Whole Board shall constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by applicable law, the Certificate of

Incorporation or these By-Laws. If a quorum shall not be present at any meeting, a majority of the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**Section 4.5 Consent In Lieu of Meeting.** Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 4.6 Organization.** The chairman of each meeting of the Board shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, a chairman elected from the directors present. The Secretary shall act as secretary of all meetings of the Board. In the absence (or inability or refusal to act) of the Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

## ARTICLE V COMMITTEES OF DIRECTORS

**Section 5.1 Establishment.** The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board when required. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee.

**Section 5.2 Available Powers.** Any committee established pursuant to Section 5.1 hereof, to the extent permitted by applicable law and by resolution of the Board, shall have and may exercise all of the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it.

**Section 5.3 Alternate Members.** The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee.

**Section 5.4 Procedures.** Unless the Board otherwise provides, the time, date, place, if any, and notice of meetings of a committee shall be determined by such committee. Notice of each committee meeting shall be given, as provided in Section 9.3, to each committee member (i) at least 24 hours before the meeting if such notice is oral notice given personally or by telephone or written notice given by hand delivery or by means of a form of electronic transmission and delivery; (ii) at least two days before the meeting if such notice is sent by a nationally recognized overnight delivery service; and (iii) at least five days before the meeting if such notice is sent through the United States mail. At meetings of a committee, a majority of the

directors then serving on the committee (but not including any alternate member, unless such alternate member has replaced any absent or disqualified member at the time of, or in connection with, such meeting) shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by applicable law, the Certificate of Incorporation, these By-Laws or the Board. If a quorum is not present at a meeting of a committee, the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present. Unless the Board otherwise provides and except as provided in these By-Laws, each committee designated by the Board may make, alter, amend and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board is authorized to conduct its business pursuant to Article III and Article IV of these By-Laws. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not the member or members present constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member.

## **ARTICLE VI OFFICERS**

**Section 6.1 Officers.** The officers of the Corporation elected by the Board shall be a Chairman of the Board, a Chief Executive Officer, and such other officers as the Board from time to time may determine. Officers elected by the Board shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article VI. Such officers shall also have such powers and duties as from time to time may be conferred by the Board. The Chairman of the Board or the Chief Executive Officer may also appoint such other officers (including, without limitation, a Treasurer, Secretary, Controller and one or more Vice Presidents) as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers shall have such powers and duties and shall hold their offices for such terms as may be provided in these By-Laws or as may be prescribed by the Board or, if such officer has been appointed by the Chairman of the Board or the Chief Executive Officer, as may be prescribed by the appointing officer.

(a) Chairman of the Board. The Chairman of the Board shall preside when present at all meetings of the stockholders and the Board. The Chairman of the Board shall advise and counsel the Chief Executive Officer and other officers and shall exercise such powers and perform such duties as shall be assigned to or required of the Chairman of the Board from time to time by the Board or these By-Laws.

(b) Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation, shall have general supervision of the affairs of the Corporation and general control of all of its business subject to the ultimate authority of the Board, and shall be responsible for the execution of the policies of the Board.

(c) Secretary.

(i) The Secretary shall attend all meetings of the stockholders, the Board and committees of the Board (at the request of the Board or such committee) and shall record the proceedings of such meetings in books to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board and shall perform such other duties as may be prescribed by the Board, the Chairman of the Board or the Chief Executive Officer. The Secretary shall have custody of the corporate seal of the Corporation and the Secretary shall have authority to affix the same to any instrument requiring it, and when so affixed, it may be attested by his or her signature. The Board may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing thereof by his or her signature.

(ii) The Secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, if one has been appointed, a stock ledger, or duplicate stock ledger, showing the names of the stockholders and their addresses, the number and classes of shares held by each and, with respect to certificated shares, the number and date of certificates issued for the same and the number and date of certificates cancelled.

(d) Treasurer. The Treasurer shall perform all duties commonly incident to that office (including, without limitation, the care and custody of the funds and securities of the Corporation which from time to time may come into the Treasurer's hands and the deposit of the funds of the Corporation in such banks or trust companies as the Board or the Chief Executive Officer may authorize).

**Section 6.2 Term of Office; Removal; Vacancies.** The Chairman of the Board shall be elected annually by the Board at its first meeting held after each annual meeting of stockholders, and he or she shall hold office until the next annual meeting of the Board and until their successors are duly elected and qualified or until their earlier death, resignation, retirement, disqualification, or removal from office. Any officer, whether elected by the Board or appointed by the Chairman of the Board or the Chief Executive Officer, may be removed, with or without cause, at any time by the Board. Any officer appointed by the Chairman of the Board or the Chief Executive Officer may also be removed, with or without cause, by the Chairman of the Board or the Chief Executive Officer, as the case may be, unless the Board otherwise provides. Any vacancy occurring in any elected office of the Corporation may be filled by the Board. Any vacancy occurring in any office appointed by the Chairman of the Board or the Chief Executive Officer may be filled by the Chairman of the Board or the Chief Executive Officer as the case may be, unless the Board then determines that such office shall thereupon be elected by the Board, in which case the Board shall elect such officer.

**Section 6.3 Other Officers.** The Board may delegate the power to appoint such other officers and agents and may also remove such officers and agents or delegate the power to remove same, as it shall from time to time deem necessary or desirable.

**Section 6.4 Multiple Officeholders; Stockholder and Director Officers** Any number of offices may be held by the same person unless the Certificate of Incorporation or these By-Laws otherwise provide. Officers need not be stockholders or residents of the State of Delaware.

## **ARTICLE VII** **SHARES**

**Section 7.1 Certificated and Uncertificated Shares.** The shares of the Corporation shall be represented by certificates, provided that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed in accordance with Section 7.3 representing the number of shares registered in certificate form. The Corporation shall not have power to issue a certificate representing shares in bearer form.

**Section 7.2 Multiple Classes of Stock** If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the Corporation shall (a) cause the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights to be set forth in full or summarized on the face or back of any certificate that the Corporation issues to represent shares of such class or series of stock or (b) in the case of uncertificated shares, within a reasonable time after the issuance or transfer of such shares, give to the registered owner thereof a notice in writing or by electronic transmission containing the information required to be set forth on certificates as specified in clause (a) above or as required by applicable law; provided, however, that, except as otherwise provided by applicable law, in lieu of the foregoing requirements, there may be set forth on the face or back of such certificate or, in the case of uncertificated shares, on such notice a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights.

**Section 7.3 Signatures.** Each certificate representing capital stock of the Corporation shall be signed by or in the name of the Corporation by any two authorized officers of the Corporation, including but not limited to the Chief Executive Officer, President, Chief Financial Officer, Secretary and Treasurer. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar on the date of issue.

### **Section 7.4 Consideration and Payment for Shares**

(a) Subject to applicable law and the Certificate of Incorporation, shares of stock may be issued for such consideration, having in the case of shares with par value a value not less than the par value thereof, and to such persons, as determined from time to time by the Board. The consideration may consist of any tangible or intangible property or benefit to the Corporation including cash, promissory notes, services performed, contracts for services to be performed or other securities.

(b) Subject to applicable law and the Certificate of Incorporation, shares may not be issued until the full amount of the consideration has been paid, unless upon the face or back of each certificate issued to represent any partly paid shares of capital stock or upon the books and records of the Corporation in the case of partly paid uncertificated shares, there shall have been set forth the total amount of the consideration to be paid therefor and the amount paid thereon up to and including the time said certificate representing certificated shares or said uncertificated shares are issued.

#### **Section 7.5 Lost, Destroyed or Wrongfully Taken Certificates**

(a) If an owner of a certificate representing shares claims that such certificate has been lost, destroyed or wrongfully taken, the Corporation shall issue a new certificate representing such shares or such shares in uncertificated form if the owner: (i) requests such a new certificate before the Corporation has notice that the certificate representing such shares has been acquired by a protected purchaser; (ii) if requested by the Corporation, delivers to the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, wrongful taking or destruction of such certificate or the issuance of such new certificate or uncertificated shares; and (iii) satisfies other reasonable requirements imposed by the Corporation.

(b) If a certificate representing shares has been lost, destroyed or wrongfully taken, and the owner fails to notify the Corporation of that fact within a reasonable time after the owner has notice of such loss, apparent destruction or wrongful taking and the Corporation registers a transfer of such shares before receiving notification, the owner shall to the fullest extent permitted by law be precluded from asserting against the Corporation any claim for registering such transfer or a claim to a new certificate representing such shares or such shares in uncertificated form.

#### **Section 7.6 Transfer of Stock.**

(a) If a certificate representing shares of the Corporation is presented to the Corporation with a stock power or other indorsement requesting the registration of transfer of such shares or an instruction is presented to the Corporation requesting the registration of transfer of uncertificated shares, the Corporation shall register the transfer as requested if:

- (i) in the case of certificated shares, the certificate representing such shares has been surrendered;

(ii) (A) with respect to certificated shares, the indorsement is made by the person specified by the certificate as entitled to such shares; (B) with respect to uncertificated shares, an instruction is made by the registered owner of such uncertificated shares; or (C) with respect to certificated shares or uncertificated shares, the indorsement or instruction is made by any other appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(iii) the transfer does not violate any restriction on transfer imposed by the Corporation that is enforceable in accordance with Section 7.8(a); and

(iv) such other conditions for such transfer as shall be provided for under applicable law have been satisfied.

(b) Whenever any transfer of shares shall be made for collateral security and not absolutely, the Corporation shall only record such fact in the entry of transfer if, when the certificate for such shares is presented to the Corporation for transfer or, if such shares are uncertificated, when the instruction for registration of transfer thereof is presented to the Corporation, both the transferor and transferee request the Corporation to do so.

**Section 7.7 Registered Stockholders.** Before due presentment for registration of transfer of a certificate representing shares of the Corporation or of an instruction requesting registration of transfer of uncertificated shares, the Corporation may treat the registered owner as the person exclusively entitled to inspect for any proper purpose the stock ledger and the other books and records of the Corporation, vote such shares, receive dividends or notifications with respect to such shares and otherwise exercise all the rights and powers of the owner of such shares, except that a person who is the beneficial owner of such shares (if held in a voting trust or by a nominee on behalf of such person) may, upon providing documentary evidence of beneficial ownership of such shares and satisfying such other conditions as are provided under applicable law, may also so inspect the books and records of the Corporation.

#### **Section 7.8 Effect of the Corporation's Restriction on Transfer.**

(a) A written restriction on the transfer or registration of transfer of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, if permitted by the DGCL and noted conspicuously on the certificate representing such shares or, in the case of uncertificated shares, contained in a notice sent by the Corporation to the registered owner of such shares within a reasonable time after the issuance or transfer of such shares, may be enforced against the holder of such shares or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

(b) A restriction imposed by the Corporation on the transfer or the registration of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, even if otherwise lawful, is ineffective against a person without actual knowledge of such restriction unless: (i) the shares are certificated and such restriction is noted conspicuously on the certificate; or (ii) the shares are uncertificated and such restriction

was contained in a notice sent by the Corporation to the registered owner of such shares within a reasonable time after the issuance or transfer of such shares.

**Section 7.9 Regulations.** The Board shall have power and authority to make such additional rules and regulations, subject to any applicable requirement of law, as the Board may deem necessary and appropriate with respect to the issue, transfer or registration of transfer of shares of stock or certificates representing shares. The Board may appoint one or more transfer agents or registrars and may require for the validity thereof that certificates representing shares bear the signature of any transfer agent or registrar so appointed.

## ARTICLE VIII INDEMNIFICATION

**Section 8.1 Right to Indemnification.** Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "**proceeding**"), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter a "**Covered Person**"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized or permitted by applicable law, as the same exists or may hereafter be amended, against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred or suffered by such Covered Person in connection with such proceeding; provided, however, that, except as provided in Section 8.3 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify a Covered Person in connection with a proceeding (or part thereof) initiated by such Covered Person only if such proceeding (or part thereof) is authorized by the Board (whether before, during or after the pendency of such proceeding).

**Section 8.2 Right to Advancement of Expenses.** In addition to the right to indemnification conferred in Section 8.1, a Covered Person shall also have the right to be paid by the Corporation the expenses (including, without limitation, attorneys' fees) incurred in defending or otherwise participating in any such proceeding in advance of its final disposition (hereinafter an "**advancement of expenses**"); provided, however, an advancement of expenses incurred by a Covered Person in his or her capacity as a director or officer of the Corporation (and not in any other capacity in which service was or is rendered by such Covered Person, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "**undertaking**"), by or on behalf of such Covered Person, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "**final**

**adjudication")** that such Covered Person is not entitled to be indemnified for such expenses under this Article VIII or otherwise.

**Section 8.3 Right of Indemnitee to Bring Suit.** If a claim under Section 8.1 or Section 8.2 is not paid in full by the Corporation within 60 days after a written claim therefor has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the Covered Person may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Covered Person shall also be entitled to be paid the expense of prosecuting or defending such suit. In (a) any suit brought by the Covered Person to enforce a right to indemnification hereunder (but not in a suit brought by a Covered Person to enforce a right to an advancement of expenses) it shall be a defense that, and (b) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the Covered Person has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Covered Person is proper in the circumstances because the Covered Person has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including a determination by its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the Covered Person has not met such applicable standard of conduct, shall create a presumption that the Covered Person has not met the applicable standard of conduct or, in the case of such a suit brought by the Covered Person, shall be a defense to such suit. In any suit brought by the Covered Person to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Covered Person is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise shall be on the Corporation.

**Section 8.4 Non-Exclusivity of Rights.** The rights provided to Covered Persons pursuant to this Article VIII shall not be exclusive of any other right that any Covered Person may have or hereafter acquire under applicable law, the Certificate of Incorporation, these By-Laws, an agreement, a vote of stockholders or disinterested directors, or otherwise.

**Section 8.5 Insurance.** The Corporation may maintain insurance, at its expense, to protect itself and/or any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

**Section 8.6 Indemnification of Other Persons.** This Article VIII shall not limit the right of the Corporation to the extent and in the manner authorized or permitted by law to

indemnify and to advance expenses to persons other than Covered Persons. Without limiting the foregoing, the Corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation and to any other person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, to the fullest extent of the provisions of this Article VIII with respect to the indemnification and advancement of expenses of Covered Persons under this Article VIII.

**Section 8.7 Third Party Indemnitors.** The Corporation hereby acknowledges that certain Covered Persons have certain rights to indemnification, advancement of expenses and/or insurance provided by third parties, including stockholders of the Corporation (collectively, the "Third Party Indemnitors"). The Corporation hereby agrees:

(a) that it is the indemnitor of first resort (i.e., its obligations to any such Covered Person are primary and any obligation of the Third Party Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by any such Covered Person are secondary);

(b) that it shall be required to advance the full amount of expenses incurred by any such Covered Person and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of the Certificate of Incorporation or these By-Laws (or any agreement between the Corporation and any such Covered Person), without regard to any rights any such Covered Person may have against the Third Party Indemnitors; and

(c) that it irrevocably waives, relinquishes and releases the Third Party Indemnitors from any and all claims against the Third Party Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof.

The Corporation further agrees that no advancement or payment by the Third Party Indemnitors on behalf of any such Covered Person with respect to any claim for which any such Covered Person has sought indemnification from the Corporation shall affect the foregoing and the Third Party Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Corporation.

**Section 8.8 Amendments.** Any repeal or amendment of this Article VIII by the Board or the stockholders of the Corporation or by changes in applicable law, or the adoption of any other provision of these By-Laws inconsistent with this Article VIII, shall, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide broader indemnification rights to Covered Persons on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

**Section 8.9 Certain Definitions.** For purposes of this Article VIII, (a) references to "other enterprise" shall include any employee benefit plan; (b) references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; (c) references to "serving at the request of the Corporation" shall include any service that imposes duties on, or involves services by, a person with respect to any employee benefit plan, its participants, or beneficiaries; and (d) a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interest of the Corporation" for purposes of Section 145 of the DGCL.

**Section 8.10 Contract Rights.** The rights provided to Covered Persons pursuant to this Article VIII (a) shall be contract rights based upon good and valuable consideration, pursuant to which a Covered Person may bring suit as if the provisions of this Article VIII were set forth in a separate written contract between the Covered Person and the Corporation, (b) shall fully vest at the time the Covered Person first assumes his or her position as a director or officer of the Corporation, (c) are intended to be retroactive and shall be available with respect to any act or omission occurring prior to the adoption of this Article VIII, (d) shall continue as to a Covered Person who has ceased to be a director or officer of the Corporation, and (e) shall inure to the benefit of the Covered Person's heirs, executors and administrators.

**Section 8.11 Severability.** If any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article VIII shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, each such portion of this Article VIII containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

## **ARTICLE IX** **MISCELLANEOUS**

**Section 9.1 Place of Meetings.** If the place of any meeting of stockholders, the Board or committee of the Board for which notice is required under these By-Laws is not designated in the notice of such meeting, such meeting shall be held at the principal business office of the Corporation; provided, however, if the Board has, in its sole discretion, determined that a meeting shall not be held at any place, but instead shall be held by means of remote communication pursuant to Section 9.5 hereof, then such meeting shall not be held at any place.

### **Section 9.2 Fixing Record Dates.**

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a record date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at

the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the business day preceding the day on which notice is given, or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 9.2(a) at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(c) In order that the Corporation may determine the stockholders entitled to consent to corporate action without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date has been fixed by the Board, the record date for determining stockholders entitled to consent to corporate action without a meeting, when no prior action by the Board is otherwise required, shall be the first date on which a signed consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law. If no record date has been fixed by the Board and prior action by the Board is otherwise required, the record date for determining stockholders entitled to consent to corporate action without a meeting shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

### **Section 9.3 Means of Giving Notice.**

(a) Notice to Directors. Whenever under applicable law, the Certificate of Incorporation or these By-Laws notice is required to be given to any director, such notice shall be given either (i) in writing and sent by hand delivery, through the United States mail, or by a nationally recognized overnight delivery service for next day delivery, (ii) by means of electronic transmission, or (iii) by oral notice given personally or by telephone. A notice to a director will be deemed given as follows: (A) if given by hand delivery, orally, or by telephone, when actually received by the director, (B) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the director at the

director's address appearing on the records of the Corporation, (C) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (D) if sent by facsimile telecommunication, when sent to the facsimile number for such director appearing on the records of the Corporation, (E) if sent by email, when sent to the email address for such director appearing on the records of the Corporation, or (F) if sent by any other form of electronic transmission, when sent to the address, location or number (as applicable) for such director appearing on the records of the Corporation.

(b) Notice to Stockholders. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these By-Laws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the Corporation. Notice shall be given (i) if mailed, when deposited in the United States mail, postage prepaid, (ii) if delivered by courier service, the earlier of when the notice is received or left at the stockholder's address, or (iii) if given by electronic mail, when directed to such stockholder's electronic mail address (unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by the DGCL to be given by electronic transmission). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation. A notice by electronic mail will include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the Corporation who is available to assist with accessing such files or information. Any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these By-Laws provided by means of electronic transmission (other than any such notice given by electronic mail) may only be given in a form consented to by such stockholder, and any such notice by such means of electronic transmission shall be deemed to be given as provided by the DGCL. The terms "electronic mail," "electronic mail address," "electronic signature" and "electronic transmission" as used herein shall have the meanings ascribed thereto in the DGCL.

(c) Notice to Stockholders Sharing Same Address. Without limiting the manner by which notice otherwise may be given effectively by the Corporation to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these By-Laws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. A stockholder may revoke such stockholder's consent by delivering written notice of such revocation to the Corporation. Any stockholder who fails to object in writing to the Corporation within 60 days of having been given written notice by the Corporation of its intention to send such a single written notice shall be deemed to have consented to receiving such single written notice.

(d) Exceptions to Notice Requirements. Whenever notice is required to be given, under the DGCL, the Certificate of Incorporation or these By-Laws, to any person with

whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting that shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. If the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

Whenever notice is required to be given by the Corporation, under any provision of the DGCL, the Certificate of Incorporation or these By-Laws, to any stockholder to whom (1) notice of two consecutive annual meetings of stockholders and all notices of stockholder meetings or of the taking of action by written consent of stockholders without a meeting to such stockholder during the period between such two consecutive annual meetings, or (2) all, and at least two payments (if sent by first-class mail) of dividends or interest on securities during a 12-month period, have been mailed addressed to such stockholder at such stockholder's address as shown on the records of the Corporation and have been returned undeliverable, the giving of such notice to such stockholder shall not be required. Any action or meeting that shall be taken or held without notice to such stockholder shall have the same force and effect as if such notice had been duly given. If any such stockholder shall deliver to the Corporation a written notice setting forth such stockholder's then-current address, the requirement that notice be given to such stockholder shall be reinstated. If the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to Section 230(b) of the DGCL. The exception in subsection (1) of the first sentence of this paragraph to the requirement that notice be given shall not be applicable to any notice returned as undeliverable if the notice was given by electronic transmission.

**Section 9.4 Waiver of Notice.** Whenever any notice is required to be given under applicable law, the Certificate of Incorporation, or these By-Laws, a written waiver of such notice, signed before or after the date of such meeting by the person or persons entitled to said notice, or a waiver by electronic transmission by the person entitled to said notice, shall be deemed equivalent to such required notice. All such waivers shall be kept with the books of the Corporation. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where a person attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

#### **Section 9.5 Meeting Attendance via Remote Communication Equipment**

(a) Stockholder Meetings. If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

- (i) participate in a meeting of stockholders; and

(ii) be deemed present in person and vote at a meeting of stockholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (B) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such votes or other action shall be maintained by the Corporation.

(b) Board Meetings. Unless otherwise restricted by applicable law, the Certificate of Incorporation or these By-Laws, members of the Board or any committee thereof may participate in a meeting of the Board or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

**Section 9.6 Dividends.** The Board may from time to time declare, and the Corporation may pay, dividends (payable in cash, property or shares of the Corporation's capital stock) on the Corporation's outstanding shares of capital stock, subject to applicable law and the Certificate of Incorporation.

**Section 9.7 Reserves.** The Board may set apart out of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

**Section 9.8 Contracts and Negotiable Instruments.** Except as otherwise provided by applicable law, the Certificate of Incorporation or these By-Laws, any contract, bond, deed, lease, mortgage or other instrument may be executed and delivered in the name and on behalf of the Corporation by such officer or officers or other employee or employees of the Corporation as the Board may from time to time authorize. Such authority may be general or confined to specific instances as the Board may determine. The Chairman of the Board, the Chief Executive Officer, the President or any Vice President may execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation. Subject to any restrictions imposed by the Board, the Chairman of the Board or the Chief Executive Officer may delegate powers to execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation to other officers or employees of the Corporation under such person's supervision and authority, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

**Section 9.9 Fiscal Year.** The fiscal year of the Corporation shall be fixed by the Board.

**Section 9.10 Seal.** The Board may adopt a corporate seal, which shall be in such form as the Board determines. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

**Section 9.11 Books and Records.** The books and records of the Corporation may be kept within or outside the State of Delaware at such place or places as may from time to time be designated by the Board.

**Section 9.12 Resignation.** Any director, committee member or officer may resign by giving notice thereof in writing or by electronic transmission to the Chairman of the Board, the Chief Executive Officer or the Secretary. The resignation shall take effect at the time specified therein, or at the time of receipt of such notice if no time is specified or the specified time is earlier than the time of such receipt. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 9.13 Surety Bonds.** Such officers, employees and agents of the Corporation (if any) as the Chairman of the Board, the Chief Executive Officer or the Board may direct, from time to time, shall be bonded for the faithful performance of their duties and for the restoration to the Corporation, in case of their death, resignation, retirement, disqualification or removal from office, of all books, papers, vouchers, money and other property of whatever kind in their possession or under their control belonging to the Corporation, in such amounts and by such surety companies as the Chairman of the Board, the Chief Executive Officer or the Board may determine. The premiums on such bonds shall be paid by the Corporation and the bonds so furnished shall be in the custody of the Secretary.

**Section 9.14 Securities of Other Corporations.** Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chairman of the Board or the Chief Executive Officer. Any such officer, may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation or other entity in which the Corporation may own securities, or to consent, in the name of the Corporation as such holder, to any action by such corporation or other entity, and at any such meeting or with respect to any such consent shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed. The Board may from time to time confer like powers upon any other person or persons.

**Section 9.15 Amendments.** In furtherance and not in limitation of the powers conferred upon it by law, the Board shall have the power to adopt, amend, alter or repeal the By-Laws. The affirmative vote of a majority of the Whole Board shall be required to adopt, amend, alter or repeal the By-Laws. The By-Laws also may be adopted, amended, altered or repealed by the stockholders to the extent permissible under the DGCL; provided, however, that

in addition to any vote of the holders of any class or series of capital stock of the Corporation required by applicable law or the Certificate of Incorporation, the affirmative vote of the holders of at least a majority of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend, alter or repeal the By-Laws.

**Section 9.16 Certain Definitions. For purposes of these By-Laws:**

(a) ***Derivative Instrument*** shall mean any option, warrant, convertible security, stock appreciation right, swap or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right is subject to settlement in the underlying class or series of shares of the Corporation or otherwise.

(b) ***Derivative Position*** shall mean (i) any Derivative Instrument directly or indirectly owned beneficially by a stockholder or by any Stockholder Associated Person and any other direct or indirect opportunity of a stockholder or any Stockholder Associated Person to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (ii) any short interest in any security of the Corporation held by a stockholder or any Stockholder Associated Person (for purposes of Section 2.7 and Section 3.2 a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decrease in the value of the subject security), (iii) any rights beneficially owned, directly or indirectly, by a stockholder or Stockholder Associated Person to dividends on the shares of the Corporation that are separated or separable from the underlying shares of the Corporation, (iv) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which a stockholder or any Stockholder Associated Person is a general partner or, directly or indirectly, beneficially owns an interest in a general partner or (v) any performance-related fees (other than an asset-based fee) that a stockholder or any Stockholder Associated Person is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any.

(c) ***electronic transmission*** means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases (including one or more distributed electronic networks or databases) that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, including but not limited to transmission by facsimile transmission, email, telex, telegram and cablegram.

(d) ***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 Sections 13, 14 or 15(d) (or any successor provisions thereof) of the Exchange Act.

(e) “**Stockholder Associated Person**” shall mean for any stockholder giving the notice pursuant to Section 2.7 or Section 3.2 of these By-Laws (i) the beneficial owner, if any, on whose behalf the proposal under Section 2.7 or the nomination under Section 3.2 is made and (ii) the respective affiliates and associates of such stockholder giving the notice or the beneficial owner described in clause (i).

(f) “**Whole Board**” shall mean the total number of directors the Corporation would have if there were no vacancies.

**COOPER-STANDARD HOLDINGS INC.**

**PERFORMANCE UNIT AWARD AGREEMENT**

THIS PERFORMANCE UNIT AWARD AGREEMENT (this "Agreement"), which relates to a grant of performance-vesting Restricted Stock Units ("PUs") made on **[Grant Date]** (the "Date of Grant"), is between Cooper-Standard Holdings Inc., a Delaware corporation (the "Company"), and the individual whose name is set forth on the signature page hereof (the "Participant"):

**R E C I T A L S:**

WHEREAS, the Company has adopted the Amended and Restated Cooper-Standard Holdings Inc. 2021 Omnibus Incentive Plan (the "Plan"), which is incorporated herein by reference and made a part of this Agreement (capitalized terms not otherwise defined herein shall have the same meanings as in the Plan); and

WHEREAS, the Committee has determined that it would be in the best interests of the Company and its shareholders to grant the PUs provided for herein to the Participant pursuant to the Plan, and the terms set forth herein.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. **Grant.** The Company hereby grants to the Participant **Number of Awards Granted** PUs (such amount, the "Target PUs") on the terms and conditions set forth in this Agreement. The Participant's rights with respect to the PUs will remain forfeitable at all times prior to the date such PUs vest as described in Section 4. The actual number of PUs, if any, earned by the Participant will be determined by multiplying the Target PUs by the applicable performance multipliers set forth in this Agreement (as determined based on Performance Goal and relative TSR achievement as set forth below).

2. **Performance Period and Goals.** The vesting of the PUs is subject to the achievement of the performance goals (the "Performance Goals") indicated in Section 2(b) during the Performance Period (as defined below) and the further application of the modification calculations set forth in Section 4.

(a) **Performance Period.** The performance period (the "Performance Period") for this Award is the one-year period commencing on January 1, 2024, and ending on December 31, 2024.

(b) **Performance Goals.** The Performance Goal is Free Cash Flow ("FCF"), as outlined in Exhibit A for the Performance Period. The Performance Goal will be met at "target" level performance for the Performance Period if the Company's **FCF is at least \$1 million and up to \$29.9 million** No portion of the PUs will be earned if FCF for the Performance Period is below \$1 million. The Performance Goal will be met at "maximum" if FCF is greater than or equal to \$30 million.

---

In the event of a material acquisition or divestiture during the Performance Period, as determined by the Committee in its sole discretion, the threshold, target and maximum Performance Goals will be adjusted based on the pro-forma impact of the transaction over the remainder of the Performance Period. A material acquisition or divestiture is a transaction that impacts the payout at the time of the transaction by more than 10% of the target as determined by the Committee.

3. Restrictions on Transfer. In accordance with the Plan, the Participant shall have the right to designate a beneficiary to receive the PUs that will vest upon, or be settled following, the Participant's death, all in the manner and to the extent set forth in this Agreement. The designation may be changed at any time. If no Designation of Beneficiary is made, then any PUs that will vest at the time of death of the Participant, and any previously vested PUs that have not yet been settled as of the date of death of the Participant, shall be paid to the Participant's legal representative pursuant to his or her will or the laws of descent and distribution. The Participant cannot otherwise sell, transfer, or dispose of or pledge or hypothecate or assign the unvested PUs or the Shares underlying the vested PUs prior to the date on which such vested PUs are settled pursuant to Section 4 (collectively, the "Transfer Restrictions").

4. Vesting: Determination of Actual Achieved PUs; Termination of Employment

(a) Determination of Actual Achieved PUs. As soon as practical after the end of the Performance Period (and in all events during the calendar year immediately following the end of the Performance Period), the Committee will determine to what extent the Performance Goal has been achieved.

The Committee may exercise its discretion to adjust the potential number of PUs earned during the Performance Period either upwards or downwards. The total number of PUs, after adjustment (if any), so determined by the Committee shall be considered "Potential Achieved PUs" as of the date of such Committee determination (the "Determination Date").

The Potential Achieved PUs that will vest based on the achievement of the Performance Goals will be further modified based on the Company's Total Shareholder Return ("TSR") , calculated in accordance with Exhibit A, relative to the Comparator Group (as specified in Exhibit A) during the Performance Period as follows:

Company Relative TSR as a Percentile of Median TSR of Comparator Group	Modification of Potential Achieved PUs Vesting (As Determined Pursuant to Section 2)
25 <sup>th</sup> Percentile or less	0.75x
26 <sup>th</sup> Percentile to 74 <sup>th</sup> Percentile	1.00x
75 <sup>th</sup> Percentile or greater	1.25x

\*Relative TSR modifier will not increase the potential number of PUs Vesting over 250% of the Target PUs.

The Committee may exercise its discretion to adjust the potential number of PUs that are vesting either upwards or downwards. The total number of PUs, after adjustment (if any), so determined by the Committee shall be considered "Actual Achieved PUs" as of the date of such Committee determination.

(b) Vesting. Except as set forth in subsection (c) or (d) below, the Actual Achieved PUs (as determined pursuant to Section 4(a)) will vest only if the Participant continues in Employment with the Company or its Affiliates through March 1, 2027 (the "Vesting Date").

(c) Termination of Employment. If the Participant's Employment with the Company or its Affiliates terminates for any reason prior to the Vesting Date, the PUs shall be canceled by the Company without consideration; provided that:

(i) upon termination of the Participant's Employment due to the Participant's death or Disability prior to the end of the Performance Period, the Target PUs shall be considered Actual Achieved PUs and shall vest in full on the date of such death or Disability;

(ii) upon termination of the Participant's Employment due to the Participant's death or Disability after the end of the Performance Period, the Actual Achieved PUs shall vest in full on the date of such death or Disability (or if later, as of the Determination Date);

(iv) if the Participant's Employment terminates for Retirement, the Actual Achieved PUs (determined following the end of the Performance Period) shall be subject to continued vesting as if the Participant had not experienced an Employment termination but shall be pro-rated based on the portion of the Performance Period during which the Participant was employed; and

(vi) in the case of any of the foregoing, any remaining unvested PUs shall be canceled by the Company without consideration.

(d) Change of Control. Notwithstanding the foregoing, in the event of a Change of Control:

(i) If the purchaser, successor or surviving entity (or parent thereof) in the Change of Control (the "Survivor") agrees to assume the PUs or replace the PUs with the same type of award with similar terms and conditions, then the following terms and conditions shall apply:

(A) If the Change of Control occurs prior to the end of the Performance Period, the Performance Goals shall be deemed to have been satisfied at the target level, regardless of actual performance prior to or after the Change of Control, such that only the Target PUs remain available for vesting under this Award. If the Change of Control occurs after the end of the Performance Period, then the Actual Achieved PUs will remain available for vesting under this Award.

(B) Each PU determined under clause (A) above that is assumed by the Survivor shall be appropriately adjusted, immediately after

---

the Change of Control, to apply to the number and class of securities which would have been issuable to the Participant upon the consummation of the Change of Control had the PUs been actual shares immediately prior to such Change of Control.

(C) Upon termination of the Participant's Employment following such Change of Control (1) by the Company or its Affiliates without Cause, or due to Participant's death or Disability, or (2) if the Participant is then or was at the time of a Change of Control a Section 16 Participant, by such Section 16 Participant for Good Reason, in each case within two years after the Change of Control, any unvested portion of this Award (or the replacement award) shall immediately become vested in full (subject to any delay required pursuant to Section 19 of the Plan). Upon termination of the Participant's Employment following a Change of Control due to Retirement, the provisions of Section 4(c) shall apply.

(ii) To the extent the Survivor does not assume the PUs or issue replacement awards as provided in clause (i), then, immediately prior to the date of the Change of Control, the Target PUs or Actual Achieved PUs, as applicable (determined in the manner set forth in clause 4(c)(i)(A) above), shall become immediately and fully vested.

## 5. Settlement.

(a) General. The Company may settle this Award in cash or Shares as determined at the sole discretion of the Committee or its designee. Except as otherwise provided in Section 5(b) or Section 5(c), as soon as practicable after the Vesting Date, for the Actual Achieved PUs that are vested as of such date the Company will settle the vested Actual Achieved PUs by (i) delivering an amount of cash equal to the Fair Market Value, determined as of the Vesting Date, as applicable, of a number of Shares equal to the number of Actual Achieved PUs that have vested, or (ii) making an appropriate book entry in the Participant's name for a number of Shares equal to the number of Actual Achieved PUs that have vested, as determined at the sole discretion of the Committee or its designee. The Transfer Restrictions applicable to any Shares issued in respect of the PUs shall lapse upon such issuance.

(b) Payment Upon Termination. If the Participant's Employment with the Company terminates and such termination triggers the accelerated vesting of the PUs hereunder, then as soon as practicable after the Determination Date, as applicable in accordance with Section 5(a) above, the Company will settle such vested PUs by delivering an amount of cash equal to the Fair Market Value, determined as of the date of payment, of a number of Shares equal to the number of PUs that have vested. For purposes hereof, the PUs that vest upon a Participant's termination of Employment shall be settled only upon the Participant's separation from service within the meaning of Code Section 409A.

Notwithstanding any other provision in the Plan or this Agreement to the contrary, if the Participant is a "specified employee" within the meaning of Code Section 409A as of the date of such separation from service (for reasons other than death), then settlement of such vested PUs shall occur on the date that is six months after the date of

---

the Participant's separation from service to the extent necessary to comply with Code Section 409A.

(c) Payment Upon Change of Control. If payment is triggered pursuant to Section 4(d)(ii), then as soon as practicable after the Change of Control, the Company will settle the vested PUs by (i) delivering an amount of cash equal to the Fair Market Value, determined as of the date of the Change of Control, of a number of Shares equal to the number of vested PUs, or (ii) making an appropriate book entry in the Participant's name for a number of Shares equal to the number of vested PUs, as determined at the sole discretion of the Committee or its designee. The Transfer Restrictions applicable to any Shares issued in respect of the PUs shall lapse upon such issuance.

6. No Voting Rights; Dividend Equivalents. The Participant shall not have voting rights with respect to the Shares underlying the PUs. If any dividends or other distributions are paid with respect to the Shares underlying the PUs, the Participant shall be credited with additional performance units equal to the number of Shares that the Participant would have received had the PUs been actual Shares, so long as the applicable record date occurs on or after the Date of Grant and before such PUs are forfeited or settled; and further provided that such performance units shall be deemed PUs subject to the same risk of forfeiture and other terms of this Agreement and the Plan as apply to the PUs to which such dividends or other distributions relate.

7. No Right to Continued Employment or Future Awards The granting of the PUs shall impose no obligation on the Company or any of its Affiliates to continue the Employment of the Participant and shall not lessen or affect the Company's or any Affiliate's right to terminate the Employment of the Participant. In addition, the granting of the PUs shall impose no obligation on the Company or any of its Affiliates to make awards under the Plan to the Participant in the future.

8. Taxes. The Company and its Affiliates shall have the right and are hereby authorized to withhold from amounts otherwise payable hereunder any applicable withholding taxes in respect of the PUs and to take such other action as may be necessary to satisfy all obligations for the payment of such withholding taxes.

9. Notices. Any notice necessary under this Agreement shall be addressed to the Company in care of its Secretary as specified in the Company's public filings at the principal executive office of the Company and to the Participant at the address appearing in the personnel records of the Company for the Participant or to either party at such other address as either party may designate in writing to the other. Any such notice shall be deemed effective upon actual receipt by the addressee.

10. Choice of Law. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO CONFLICTS OF LAWS.**

11. Performance Units Subject to Plan. By entering into this Agreement, the Participant agrees and acknowledges that the Participant has received and read a copy of the Plan. The PUs are subject to the Plan. The terms and provisions of the Plan as they may be amended from time to time are incorporated herein by reference. In the event of a conflict

---

between any term or provision in this Agreement and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern.

12. Recoupment. This Agreement, the Award and the compensation received by the Participant pursuant to this Agreement shall be subject to the terms of any recoupment or clawback policy that may be adopted by the Company from time to time and to any requirement of applicable law, regulation or listing standard that requires the Company to recoup or clawback compensation paid under this Agreement.

13. Amendments. The Company may amend this Agreement and the Award at any time, provided that the Participant's consent to any amendment is required to the extent the amendment materially diminishes the rights of the Participant or results in cancellation of the Award. Notwithstanding the foregoing, the Company need not obtain Participant (or other interested party) consent for (a) the adjustment or cancellation of an Award pursuant to the adjustment provisions of the Plan; (b) the modification of the Agreement or Award to the extent deemed necessary to comply with any applicable law or the listing requirements of any principal securities exchange or market on which the Shares are then traded; (c) the modification of the Award to preserve favorable accounting or tax treatment of the Award for the Company; or (d) the modification of the Award to the extent the Committee determines that such action does not materially or adversely affect the value of an Award or that such action is in the best interest of the affected Participant or any other person(s) as may then have an interest in the Award.

14. Committee Interpretation. As a condition to the grant of the Award under this Agreement, the Participant agrees (with such agreement being binding upon the Participant's legal representatives, guardians, legatees or beneficiaries) that this Agreement will be interpreted by the Committee and that any interpretation by the Committee of the terms of this Agreement or the Plan, and any determination made by the Committee under this Agreement or the Plan, will be final, binding and conclusive.

15. Data Privacy Consent. The Participant hereby explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of the Participant's personal data as described in this Agreement and any other related materials ("Data") by and among, as applicable, the Company and its affiliates for the exclusive purpose of implementing, administering and managing the Participant's participation in the Plan. The Participant understands that the Company and the Company's affiliates may hold certain personal information about the Participant, including, but not limited to, the Participant's name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all equity-based awards and other entitlement to shares of stock awarded, canceled, exercised, vested, unvested or outstanding in the Participant's favor, for the exclusive purpose of implementing, administering and managing the Plan. The Participant understands that Data will be transferred to a designated third-party external broker or such other stock plan service provider as may be selected by the Company, which is assisting the Company with the implementation, administration and management of the Plan. The Participant understands that the recipients of the Data may be located in the United States or elsewhere, and that the recipient's country (e.g., the United States or otherwise) may have different data privacy laws

---

and regulations and thus the level of data protection provided may not be equivalent to the one offered in Participant's country of residence.

Where Data are to be transferred to a Third Country, as defined in the EU General Data Protection Regulation (GDPR) no. 2016/679, or an international organization, the Company and its affiliates shall ensure that the level of data protection offered is equivalent to the one offered in the Participant's country of residence, especially if such country is part of the European Economic Area; such level shall be in particular guaranteed, by implementing adequate safeguards in the form of contractual arrangements between the Company and such third parties recipients; in particular by executing appropriate Standard Contractual Clauses (SCCs) as adopted and published by the European Commission for that purpose. The Participant understands that if the Participant resides outside the United States, the Participant may request at any given time a list with the names and addresses of any potential third-party recipients of the Data by contacting the Participant's local human resources representative.

The Participant authorizes the Company, the Company's selected broker and any other third-party recipients which assist the Company with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing the Participant's participation in the Plan. A list of such third-party recipients is available upon request. The Company undertakes to provide prior notice to the Participant of any changes to the aforementioned list of third-party recipients; such changes to third-party recipients will be accepted by the Participant unless reasonably objected to for just cause. The Participant understands that Data will be held only as long as is necessary to implement, administer and manage the Participant's participation in the Plan in accordance with applicable data protection laws and regulations, as well as the Company's policies on the retention and disposal of records in effect from time to time. The Participant understands that if the Participant resides outside the United States, the Participant may, at any time, view Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost and without providing any reason for such a withdrawal, by contacting in writing the Participant's local human resources representative. Further, the Participant understands that the Participant is providing the consents herein on a free and purely voluntary basis. If the Participant does not consent, or if the Participant later seeks to revoke the Participant's consent, the Participant's employment status or service and career will not be adversely affected; the only adverse consequence of refusing or withdrawing the Participant's consent is that the Company would not be able to grant the Participant equity-based awards or administer or maintain such awards. Therefore, the Participant understands that refusing or withdrawing the Participant's consent may affect the Participant's ability to participate in the Plan. For more information on the consequences of the Participant's refusal to consent or withdrawal of consent, the Participant understands that he or she may contact the Participant's local human resources representative. The Participant is also entitled to lodge a complaint with the competent supervisory authorities should he or she not receive a reply or otherwise not be satisfied with a reply received by the Company concerning the exercise of his or her aforementioned rights.

---

16. Signature in Counterparts. This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

COOPER-STANDARD  
HOLDINGS INC.

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

Agreed and acknowledged as of the date first  
above written:

---

Participant: Participant Name

---

## Exhibit A

- **FCF Methodology:**

Free Cash Flow Achievement		Payout
Below Threshold	<\$1M	0%
Threshold/Target	\$1M - <\$30M	100 %
Maximum	≥ \$30M	200 %

- **TSR Calculation Methodology:** As follows:

- TSR Beginning Stock Price Calculation – average closing stock price for the 20 trading days immediately prior to the beginning of the Performance Period (for the Company and the Comparator Group companies)
- TSR Ending Stock Price Calculation – average closing stock price for the last 20 trading days of the Performance Period (for the Company and the Comparator Group companies)
- Treatment of Dividends in TSR Calculation – TSR calculation will assume reinvestment of dividends on the ex-dividend date (for the Company and the Comparator Group companies, where applicable)
- Exchange Rate - TSR and dividends (if applicable) of companies in the Comparator Group that are traded on international exchanges will be converted to USD using a published exchange rate on (1) each trading day prior to the beginning of the Performance Period to determine TSR Beginning Stock Price and (2) each trading day during the end of the Performance Period to determine TSR Ending Stock Price.

- **Comparator Group:** The Comparator Group comprises the following 18 companies

Adient plc	American Axle & Manufacturing Holdings, Inc.	Aptiv PLC
Autoliv, Inc.	BorgWarner Inc.	Dana Incorporated
Gentex Corporation	Gentherm	LCI Industries
Lear Corporation	Linamar Corporation	Magna International Inc.
Martinrea International Inc.	Standard Motor Products Inc.	Stoneridge, Inc.
The Goodyear Tire & Rubber Company	TI Fluid Systems plc	Visteon Corporation

- **Changes in the Comparator Group During Performance Period:** The Comparator Group will be fixed based on the constituents at the beginning of the Performance Period; the following adjustments will apply to ensure a balanced/fair assessment of relative performance:

---

- Comparator Group companies that are acquired/merged during the Performance Period will be removed when calculating the Company's relative TSR percentile rank
- Comparator Group companies that file for bankruptcy during the Performance Period would be treated as the worst performers for purposes of determining the Company's relative TSR percentile rank

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER, PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)  
(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, Jeffrey S. Edwards, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Cooper-Standard Holdings Inc.;
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 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 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.

/S/ JEFFREY S. EDWARDS

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

Jeffrey S. Edwards  
Chairman and Chief Executive Officer  
(Principal Executive Officer)

Date: May 7, 2024

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER, PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)  
(SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002)

I, Jonathan P. Banas, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Cooper-Standard Holdings Inc.;
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 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 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.

/S/ JONATHAN P. BANAS

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

Jonathan P. Banas  
Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

Date: May 7, 2024

CERTIFICATION 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 filing of this quarterly report of Cooper-Standard Holdings Inc. (the "Company") on Form 10-Q for the period ended March 31, 2024, with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned officers certifies, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that, to such officer's knowledge:

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 the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 7, 2024

/S/ JEFFREY S. EDWARDS

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

Jeffrey S. Edwards  
Chairman and Chief Executive Officer  
(Principal Executive Officer)

/S/ JONATHAN P. BANAS

Jonathan P. Banas  
Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)