

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

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the Fiscal Year Ended December 31, 2002

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934 (No Fee Required)

For the Transition Period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-10436

L. B. FOSTER COMPANY  
(Exact name of registrant as specified in its charter)

Pennsylvania 25-1324733  
(State of Incorporation) (I.R.S. Employer Identification No.)

415 Holiday Drive, Pittsburgh, Pennsylvania 15220  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (412) 928-3417

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

Title of Each Class	Name of Each Exchange On Which Registered
None	

Securities registered pursuant to Section 12(g) of the Act:  
Common Stock, Par Value \$.01

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III or this Form 10-K or any amendment to this Form 10-K.

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 is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value on March 14, 2003 of the voting stock held by nonaffiliates of the Company was \$36,793,031. Indicate the number of shares outstanding of each of the registrant's classes of common stock as of the latest practicable date.

Class	Outstanding at March 14, 2003
Common Stock, Par Value \$.01	9,531,010 Shares

Documents Incorporated by Reference:

Portions of the Proxy Statement prepared for the 2003 annual meeting of stockholders are incorporated by reference in Items 10, 11, 12 and 13 of Part III.

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PART I

ITEM 1. BUSINESS

Summary Description of Businesses

L. B. Foster Company is engaged in the manufacture, fabrication and distribution of products that serve the nation's surface transportation infrastructure. As used herein, "Foster" or the "Company" means L. B. Foster Company and its divisions and subsidiaries, unless the context otherwise requires.

For rail markets, Foster provides a full line of new and used rail, trackwork, and accessories to railroads, mines and industry. The Company also designs and produces concrete railroad products, insulated rail joints, power rail, track fasteners, coverboards and special accessories for mass transit and other rail systems worldwide.

For the construction industry, the Company sells steel sheet, H-bearing and pipe piling and rents steel sheet piling, for foundation and earth retention requirements. In addition, Foster supplies bridge decking, expansion joints, mechanically stabilized earth wall systems, precast concrete products and other products for highway construction and repair.

For tubular markets, the Company supplies pipe coatings for natural gas pipelines and utilities. The Company also produces threaded products for industrial water well and irrigation markets.

The Company classifies its activities into three business segments: Rail products, Construction products, and Tubular products. Financial information concerning the segments is set forth in Note 19 to the financial statements included in the Company's Annual Report to Stockholders for 2002. The following table shows for the last three fiscal years the net sales generated by each of the current business segments as a percentage of total net sales.

Percentage of Net Sales			
	2002	2001	2000
Rail Products	50%	51%	52%
Construction Products	45%	41%	40%
Tubular Products	5%	8%	8%
	100%	100%	100%

## RAIL PRODUCTS

L. B. Foster Company's rail products include heavy and light rail, relay rail, concrete ties, insulated rail joints, rail accessories and transit products. The Company is a major rail products supplier to industrial plants, contractors, railroads, mines and mass transit systems.

The Company sells heavy rail mainly to transit authorities, industrial companies, and rail contractors for railroad sidings, plant trackage, and other carrier and material handling applications. Additionally, the Company makes some sales of heavy rail to railroad companies and to foreign buyers. The Company sells light rail for mining and material handling applications.

Rail accessories include trackwork, ties, track spikes, bolts, angle bars and other products required to install or maintain rail lines. These products are sold to railroads, rail contractors and industrial customers and are manufactured within the Company or purchased from other manufacturers.

The Company's Allegheny Rail Products (ARP) division engineers and markets insulated rail joints and related accessories for the railroad and mass transit industries, worldwide. Insulated joints are made in-house and subcontracted.

The Company's Transit Products division supplies power rail, direct fixation fastener, coverboards and special accessories primarily for mass transit systems. Most of these products are manufactured by subcontractors and are usually sold by sealed bid to transit authorities or to rail contractors, worldwide.

The Company's Trackwork division sells new and used rail, rail accessories, and produces trackwork for industrial and export markets.

The Company's Rail Technologies subsidiary developed rail signaling and communication devices for North American railroads. On December 31, 2002, this business was reclassified as a discontinued operation and was sold in February 2003.

The Company's CXT subsidiary manufactures engineered concrete products for the railroad and transit industries. CXT's product line includes prestressed concrete railroad ties and grade railroad crossing panels.

## CONSTRUCTION PRODUCTS

L. B. Foster Company's construction products consist of sheet and bearing piling, fabricated highway products, and precast concrete buildings.

Sheet piling products are interlocking structural steel sections that are generally used to provide lateral support at construction sites. Bearing piling products are steel H-beam sections which, in their principal use, are driven into the ground for support of structures such as bridge piers and high-rise buildings. Sheet piling is sold or leased and bearing piling is sold principally to contractors and construction companies.

Other construction products consist of precast concrete buildings, sold principally to national parks, and fabricated highway products. Fabricated highway products consist principally of bridge decking, aluminum bridge rail and other bridge products, which are fabricated by the Company, as well as mechanically stabilized earth wall systems. The major purchasers of these products are contractors for state, municipal and other governmental projects.

Sales of the Company's construction products are partly dependent upon the level of activity in the construction industry. Accordingly, sales of these products have traditionally been somewhat higher during the second and third quarters than during the first and fourth quarters of each year.

## TUBULAR PRODUCTS

The Company provides fusion bond and other coatings for corrosion protection on oil, gas and other pipelines. The Company also supplies special pipe products such as water well casing, column pipe, couplings, and related products for agricultural, municipal and industrial water wells.

## MARKETING AND COMPETITION

L. B. Foster Company generally markets its rail, construction and tubular products directly in all major industrial areas of the United States through a national sales force of 36 salespeople. The Company maintains 16 sales offices and 14 plants or warehouses nationwide. During 2002, less than 5% of the Company's total sales were for export.

The major markets for the Company's products are highly competitive. Product availability, quality, service and price are principal factors of competition within each of these markets. No other company provides the same product mix to the various markets the Company serves. There are one or more companies that compete with the Company in each product line. Therefore, the Company faces significant competition from different groups of companies.

## RAW MATERIALS AND SUPPLIES

Most of the Company's inventory is purchased in the form of finished or semi-finished product. With the exception of relay rail which is purchased from railroads or rail take-up contractors, the Company purchases most of its inventory from domestic and foreign steel producers. There are few domestic suppliers of new rail products and the Company could be adversely affected if a domestic supplier ceased making such material available to the Company. Additionally, the Company is TXI Chaparral Steel's exclusive North American distributor of steel sheet piling and H-bearing pile. See Note 18 to the consolidated financial statements for additional information on this matter.

The Company's purchases from foreign suppliers are subject to the usual risks associated with changes in international conditions and to United States laws which could impose import restrictions on selected classes of products and antidumping duties if products are sold in the United States below certain prices.

## BACKLOG

The dollar amount of firm, unfilled customer orders at December 31, 2002 and 2001 by segment follows:

In thousands	December 31, 2002	December 31, 2001
Rail Products	\$ 45,371	\$ 64,641
Construction Products	59,774	59,808
Tubular Products	3,995	1,307
	\$109,140	\$ 125,756

The reduction in Rail segment backlog reflects the weakness in the current rail market as well as the absence of firm renewal commitments on contracts under negotiation.

Approximately 87% of the December 31, 2002 backlog is expected to ship in 2003.

## RESEARCH AND DEVELOPMENT

The Company's expenditures for research and development are negligible.

## ENVIRONMENTAL DISCLOSURES

While it is not possible to quantify with certainty the potential impact of actions regarding environmental matters, particularly for future remediation and other compliance efforts, in the opinion of management compliance with environmental protection laws will not have a material adverse effect on the financial condition, competitive position, or capital expenditures of the Company. However, the Company's efforts to comply with stringent environmental regulations may have an adverse effect on the Company's future earnings.

## EMPLOYEES AND EMPLOYEE RELATIONS

The Company has 712 employees, of whom 426 are hourly production workers and 286 are salaried employees. Approximately 208 of the hourly paid employees are represented by unions. The Company has not suffered any major work stoppages during the past five years and considers its relations with its employees to be satisfactory.

Substantially all of the Company's hourly paid employees are covered by one of the Company's noncontributory, defined benefit plans and a defined contribution plan. Substantially all of the Company's salaried employees are covered by a defined contribution plan.

## ITEM 2. PROPERTIES

The location and general description of the principal properties which are owned or leased by L. B. Foster Company, together with the segment of the Company's business using the properties, are set forth in the following table:

Location	Function	Acres	Business Segment	Lease Expires
Birmingham, Alabama	Pipe coating facility.	32	Tubular	2007
Doraville, Georgia	Transit products facility. Yard storage.	28	Rail	Owned
Niles, Ohio	Rail fabrication. Trackwork manufacturing. Yard storage.	35	Rail	Owned
Houston, Texas	Casing, upset tubing, threading, heat treating and painting. Yard storage.	65	Tubular, Rail and Construction	Owned
Bedford, Pennsylvania	Bridge component fabricating plant.	10	Construction	Owned
Georgetown, Massachusetts	Bridge component fabricating plant.	11	Construction	Owned
Spokane, Washington	CXT concrete tie and crossings plant. Yard storage.	21	Rail	2003
Spokane, Washington	Precast Plant. Yard Storage.	5	Construction	2007
Grand Island, Nebraska	CXT concrete tie plant.	9	Rail	2003
Hillsboro, Texas	Precast concrete facility.	9	Construction	2012
Petersburg, Virginia	Piling storage facility.	48	Construction	Owned

Including the properties listed above, the Company has 16 sales offices and 14 warehouse, plant and yard facilities located throughout the country. The Company's facilities are in good condition and the Company believes that its production facilities are adequate for its present and foreseeable requirements.

The Company expects to maintain its concrete tie facilities in Spokane, WA and Grand Island, NE.

## ITEM 3. LEGAL PROCEEDINGS

The Company was convicted in December 2000, after a jury trial in Houston, TX, of unlawful disposal of used oil and hazardous waste at its facility in Houston, TX, and was fined \$170,000. The Company does not believe that these convictions are justified and has appealed.

## ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

## PART II

## ITEM 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY AND RELATED MATTERS

## STOCK MARKET INFORMATION

The Company had 762 common shareholders of record on January 31, 2003. Common stock prices are quoted daily through the National Association of Security Dealers, Inc. in its over-the-counter NASDAQ quotation service (Symbol FSTR). The quarterly high and low bid price quotations for common shares (which represent prices between broker-dealers and do not include markup, markdown or commission and may not necessarily represent actual transactions) follow:

Quarter	2002		2001	
	High	Low	High	Low
First	\$6.07	\$4.62	\$3.65	\$2.63
Second	6.05	5.03	4.30	3.40
Third	5.83	3.86	4.45	3.47
Fourth	4.64	3.75	5.00	4.10

## DIVIDENDS

No cash dividends were paid on the Company's Common stock during 2002 and 2001.

The following table sets forth information as of December 31, 2002 with respect to compensation plans under which equity securities of the Company are authorized for issuance.

Plan Category	(I)	(II)	(III)
	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under plans (excluding securities listed in column (I))
Equity compensation plans approved by shareholders	1,535,500	\$4.27	182,550
Equity compensation plans not approved by shareholders	-	-	-
Total	1,535,500	\$4.27	182,550

The Company has awarded shares of its common stock to its outside directors on a biannual basis since June, 2000 under an arrangement not approved by the Company's shareholders. A total of 22,984 shares of common stock have been so awarded. The Company does not contemplate issuing additional shares under this program and has submitted for shareholder approval at the Company's 2003 Annual Shareholders' Meeting a new plan under which outside directors will receive 2,500 shares of the Company's common stock at each annual shareholder meeting at which such outside director is elected or re-elected, commencing with the Company's 2003 Annual Shareholders' Meeting.



ITEM 6. SELECTED FINANCIAL DATA  
(All amounts are in thousands except per share data)

Income Statement Data	Year Ended December 31,				
	2002 (1)	2001 (2)(3)	2000 (2)(4)	1999 (2)	1998 (2)(5)
Net sales	\$ 257,950	\$ 282,119	\$ 264,614	\$ 241,902	\$ 219,412
Operating profit	2,992	5,098	7,960	10,078	8,758
(Loss) income from continuing operations	(5,029)	1,303	3,743	5,091	5,230
Loss from discontinued operations, net of tax	(2,005)	(666)	(253)	(2,588)	(853)
Cumulative effect of change in accounting principle	(4,390)	-	-	-	-
Net (loss) income	(11,424)	637	3,490	2,503	4,377
Basic (loss) earnings per common share:					
Continuing operations	(0.53)	0.14	0.39	0.53	0.53
Discontinued operations	(0.21)	(0.07)	(0.03)	(0.27)	(0.09)
Cumulative effect of change in accounting principle	(0.46)	-	-	-	-
Basic (loss) earnings per common share	(1.20)	0.07	0.37	0.26	0.44
Diluted (loss) earnings per common share:					
Continuing operations	(0.53)	0.14	0.39	0.51	0.52
Discontinued operations	(0.21)	(0.07)	(0.03)	(0.26)	(0.09)
Cumulative effect of change in accounting principle	(0.46)	-	-	-	-
Diluted (loss) earnings per common share	(1.20)	0.07	0.37	0.25	0.43

Balance Sheet Data	December 31,				
	2002	2001	2000	1999	1998
Total assets	\$ 133,984	\$ 160,042	\$ 177,147	\$ 164,731	\$ 119,434
Working capital	46,694	62,011	71,477	67,737	54,604
Long-term debt	26,991	32,758	43,484	44,136	13,829
Stockholders' equity	66,013	77,145	77,359	74,650	73,494

(1) 2002 includes the following non-cash charges: a \$5,050,000 write-down of advances made to the Company's principal specialty trackwork supplier which are not expected to be recovered; a \$1,893,000 charge related to an "other than temporary" impairment of the Company's equity investment in that trackwork supplier; a \$765,000 charge for depreciation expense from assets that had been classified as held for resale, but the sale did not materialize; a \$660,000 impairment charge to adjust assets related to the Company's rail signaling business, classified as a discontinued operation, to their expected fair value; a \$4,390,000, net of tax, charge from the cumulative effect of a change in accounting principle as a result of the adoption of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets"; and a \$2,232,000 charge related to mark-to-market accounting for derivative instruments.

(2) 2001, 2000, 1999 and 1998 were restated to reflect the classification of the Company's rail signaling business as a discontinued operation.

(3) 2001 includes pretax charges of approximately \$1,879,000 related to the Company's plan to consolidate sales and administrative functions and plant operations.

(4) 2000 includes pretax charges of approximately \$1,349,000 related to the Company's plan to consolidate sales and administrative functions and plant operations; a pretax gain of approximately \$800,000 on the sale of an undeveloped 62-acre property located in Houston; TX, and an after-tax gain on the sale of the Monitor Group, classified as a discontinued operation, of \$900,000.

(5) In 1998, the Company recognized a pretax gain on the sale of the Fosterweld division of the Tubular segment of approximately \$1,700,000; a write-down of approximately \$900,000 on property subject to a sales negotiation; and a provision for losses of approximately \$900,000 relating to certain sign structure contracts in the Construction segment.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

## RESULTS OF OPERATIONS

In thousands	Three Months Ended December 31,		2002	Twelve Months Ended December 31,	
	2002	2001 (1)		2001 (1)	2000 (1)
<b>Net Sales:</b>					
Rail Products	\$ 30,717	\$ 35,360	\$ 128,249	\$ 145,054	\$ 138,635
Construction Products	24,288	29,527	116,748	115,600	106,280
Tubular Products	2,001	4,668	12,953	21,055	19,511
Other	-	409	-	410	188
<b>Total Net Sales</b>	<b>\$ 57,006</b>	<b>\$ 69,964</b>	<b>\$ 257,950</b>	<b>\$ 282,119</b>	<b>\$ 264,614</b>
<b>Gross Profit:</b>					
Rail Products	\$ 2,887	\$ 2,977	\$ 12,643	\$ 12,728	\$ 16,762
Construction Products	3,382	3,978	16,296	16,167	18,157
Tubular Products	256	1,028	2,389	4,968	3,411
Other	(897)	319	(1,861)	(367)	(496)
<b>Total Gross Profit</b>	<b>5,628</b>	<b>8,302</b>	<b>29,467</b>	<b>33,496</b>	<b>37,834</b>
<b>Expenses:</b>					
Selling and Administrative Expenses	6,852	6,507	26,475	28,398	29,874
Interest Expense	616	768	2,592	3,564	4,227
Other Expense (Income):					
Impairment of Equity Investment and Advances	5,150	-	6,943	-	-
Other	(434)	(74)	1,097	(694)	(2,506)
<b>Total Expenses</b>	<b>12,184</b>	<b>7,201</b>	<b>37,107</b>	<b>31,268</b>	<b>31,595</b>
(Loss) Income from Continuing Operations, Before Income Taxes	(6,556)	1,101	(7,640)	2,228	6,239
Income Tax (Benefit) Expense	(2,881)	462	(2,611)	925	2,496
(Loss) Income from Continuing Operations	(3,675)	639	(5,029)	1,303	3,743
Loss from Discontinued Operations, Net of Tax	(1,054)	(158)	(2,005)	(666)	(253)
Cumulative Effect of Change in Accounting Principle, Net of Tax	-	-	(4,390)	-	-
<b>Net (Loss) Income</b>	<b>\$ (4,729)</b>	<b>\$ 481</b>	<b>\$ (11,424)</b>	<b>\$ 637</b>	<b>\$ 3,490</b>
<b>Gross Profit %:</b>					
Rail Products	9.4%	8.4%	9.9%	8.8%	12.1%
Construction Products	13.9%	13.5%	14.0%	14.0%	17.1%
Tubular Products	12.8%	22.0%	18.4%	23.6%	17.5%
<b>Total Gross Profit %</b>	<b>9.9%</b>	<b>11.9%</b>	<b>11.4%</b>	<b>11.9%</b>	<b>14.3%</b>

(1) Foster Technologies, the Company's rail signaling and communication business, was classified as a discontinued operation on December 31, 2002. Prior period results have been adjusted to reflect this classification.

The Company had a loss from continuing operations of \$3.7 million, or \$0.39 per share in the fourth quarter of 2002 on net sales of \$57.0 million. Income from continuing operations for the fourth quarter of 2001 was \$0.6 million, or \$0.07 per share on net sales of \$70.0 million. A fourth quarter loss from the discontinued operations of Foster Technologies was \$1.1 million, or \$0.11 per share, compared to a loss of \$0.2 million, or \$0.02 per share in the prior year fourth quarter. See Note 5 "Discontinued Operations" for more details. The fourth quarter 2002 net loss of \$4.7 million includes one-time, non-cash charges totaling \$6.6 million, or \$4.2 million, net of tax.

The non-cash charges recorded in the fourth quarter of 2002 include a \$5.1 million (\$3.1 million, net of tax) charge related to the impairment of the Company's investment in and advances to its principal specialty trackwork supplier which are not expected to be recovered. The expected sale of the Company's Newport, KY pipe coating assets did not materialize, resulting in a non-cash charge of \$0.8 million (\$0.4 million, net of tax). Also in the fourth quarter of 2002, the Company started negotiations and committed to a plan to sell the assets related to its rail signaling and communication device business and recorded a \$0.7 million non-cash impairment charge to adjust these assets to their expected realizable value. The operations of this business qualified as a "component of an entity" and thus, have been classified as a discontinued operation. See "Other Matters" for more details on these fourth quarter 2002 non-cash charges.

Results for the fourth quarter of 2001 included pretax nonrecurring charges of \$0.4 million related to the Company's plan to improve its financial performance by consolidating sales and administrative functions and plant operations.

Sales for the fourth quarter of 2002 declined 18.5% to \$57.0 million from the same period a year ago. Rail products' net sales declined 13.1% to \$30.7 million compared to the 2001 fourth quarter. This decline is related to a general decline in the market due to spending cutbacks for rail projects. Construction products' net sales declined 17.7% to \$24.3 million primarily due to a downturn in sales of H-bearing pile and pipe piling as a result of high raw material prices for pipe and increased competition for beams. Tubular products' net sales declined 57.1% to \$2.0 million as a result of poor market conditions for pipe coating and threaded products.

The gross margin percentage for the Company declined to 9.9% in the fourth quarter of 2002 from 11.9% in the same period of 2001. Gross margin for the fourth quarter of 2002 includes a nonrecurring charge of \$0.8 million, which represents depreciation expense for the assets related to the Newport, KY pipe-coating facility that had been suspended while these assets were classified as "property held for resale". Gross margin for the fourth quarter of 2001 includes nonrecurring charges totaling \$0.1 million related to the closing of the St. Marys, WV mine tie facility. Excluding these nonrecurring charges, the gross margin percentage for the fourth quarter of 2002 declined to 11.2% from 12.0%. The gross margin percentage for the Rail products' segment improved to 9.4% from 8.4% due to the Company's efforts to scale back certain unprofitable operations and improve efficiencies at already profitable operations. The gross margin percentage for the Construction segment improved slightly to 13.9% from 13.5% primarily due to the Company exiting its unprofitable sign structure business. Tubular products' gross margin percentage declined to 12.8% from 22.0% due to low volume inefficiencies at the plant facilities caused by the poor market conditions mentioned above.

Excluding the prior year's fourth quarter amortization of goodwill of \$0.2 million, as a result of the adoption of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets" (SFAS 142), and other non-recurring pretax charges of \$0.3 million, selling and administrative expense increased 12.7%, or \$0.8 million over the same period a year ago. This change was due in part to bad debt recoveries experienced in the fourth quarter of 2001. Interest expense decreased by 19.8% primarily as a result of more efficient asset utilization, which enabled the Company to reduce its corporate borrowings by \$10.8 million, or 27.9% from the same period in 2001. Other expense (income) in the 2002 fourth quarter includes the \$5.1 million charge related to the impairment of the Company's investment in and advances to its principal specialty trackwork supplier, mentioned above, and \$0.2 million accrued dividend income on DM&E Preferred stock. The income tax provision related to continuing operations for the fourth quarter of 2002 was 43.9%. The income tax provision related to continuing operations for the fourth quarter of 2001 was recorded at 42.0%. See Note 14 "Income Taxes" for more information.

#### The Year 2002 Compared to the Year 2001

For the year ended December 31, 2002, the Company recorded a loss from continuing operations of \$5.0 million, or \$0.53 per share on net sales of \$258.0 million. This compares to income from continuing operations of \$1.3 million, or \$0.14 per share on net sales of \$282.1 million for 2001. In 2002, a loss from the discontinued operations of Foster Technologies was recorded at \$2.0 million, or \$0.21 per share, compared to a loss of \$0.7 million, or \$0.07 per share in the prior year. See Note 5 "Discontinued Operations" for more details.

In addition to the previously mentioned, fourth quarter 2002 non-cash charges, the twelve month results include a \$4.4 million, net of tax, non-cash charge from the cumulative effect of a change in accounting principle. Other non-cash charges recorded during the first nine months of 2002 include \$2.2 million (\$1.3 million net of tax) related to mark-to-market accounting for derivative instruments as a result of the Company entering into a new credit agreement, and \$1.8 million related to an "other than temporary" impairment of the Company's equity investment in its principal specialty trackwork supplier.

Results for 2001 included the following nonrecurring pretax charges related to the Company's plan to improve its financial performance: employee severance and facility exit costs of \$0.9 million, asset impairments of \$0.6 million, and other related costs of \$0.4 million. Substantially all components of the restructuring charges were paid in the period incurred.

Rail products' 2002 net sales declined 11.6% to \$128.2 million from the prior year. This decline in sales can be primarily attributed to a continued depressed market for rail distribution products and rail projects. In addition, management's decision to sell off large quantities of used rail inventory in 2001 contributed to an increase in 2001 rail sales. Despite the unavailability of steel sheet piling from the Company's supplier for most of 2002, Construction products' net sales increased 1.0% to \$116.7 million from \$115.6 million in 2001. The increase resulted from a strong year-end 2001 backlog of fabricated bridge products and the additional backlog received with the Greulich Bridge Products acquisition. The Company expanded its Bedford, PA fabricated bridge product facility to accommodate the increase in backlog. The start-up of precast concrete building production at the Company's new Hillsboro, TX facility also contributed to an increase in 2002 sales. Tubular products' net sales declined 38.5% due primarily to lower demand for pipe coating and threaded products. Spending for new pipeline capital projects has decreased significantly due to uncertainties in the energy markets.

Gross margin for the Company was 11.4% in 2002 compared to 11.9% in 2001. Excluding the current and prior years' non-recurring pretax charges of \$0.8 million and \$1.0 million, respectively, gross margin fell to 11.7% in 2002 from 12.2% in 2001. Rail products' gross margin improved to 9.9% from 8.8% in the prior year. Excluding non-recurring pretax charges in 2001, rail products' gross margin was 9.3%. The prior year was negatively impacted by costs associated with the shutdown of the Company's trackwork facility in Pomeroy, OH and the reduction of used rail inventory through low margin sales. Construction products' gross margin did not change from the prior year. Tubular products' gross margin declined to 18.4% from 23.6% due to low volume inefficiencies at plant facilities caused by poor market conditions.

Excluding the prior year's amortization of goodwill of \$0.6 million and non-recurring pretax charges of \$0.9 million, selling and administrative expense decreased by \$0.5 million, or 1.7%. Other expense (income) includes \$1.1 million accrued dividend income on DM&E Preferred stock and the previously mentioned non-cash charges of \$2.2 million related to mark-to-market accounting for derivative instruments, and \$6.9 million related to the impairment of the Company's investment in and advances to its principal specialty trackwork supplier. Interest expense declined 27.3% from the prior year as a result of the previously mentioned reduction in corporate borrowings. The income tax provision for 2002, from continuing operations, was recorded at (34.2%) compared to 41.5% in the prior year. See Note 14 "Income Taxes" for more information.

#### The Year 2001 Compared to the Year 2000

Income from continuing operations in 2001 was \$1.3 million or \$0.14 per share on net sales of \$282.1 million. This compares to income from continuing operations in 2000 of \$3.7 million, or \$0.39 per share, on net sales of \$264.6 million. The loss from discontinued operations in 2000 included operating losses from the Monitor Group of \$0.5 million and Foster Technologies of \$0.6 million, and a \$0.9 million gain on the sale of the Monitor Group.

Rail products' 2001 net sales were \$145.1 million, an increase of 4.6% over the prior year, due primarily to increases in shipments of new rail products and concrete ties. Construction products' net sales increased to \$115.6 million, an 8.8% improvement over the prior year. This increase in sales can be attributed primarily to sales of certain fabricated bridge products and precast concrete buildings, and an improved market for H-bearing pile. Tubular products' sales increased 7.9% to \$21.1 million, in 2001. The sales improvement was primarily due to increased volume at the Company's Birmingham, AL pipe-coating facility.

The gross profit margin for the Company was 11.9% in 2001 compared to 14.3% in 2000. Rail products' gross margin declined to 8.8% from 12.1%, a 3.3 percentage point reduction from the previous year. The decline was primarily due to the competitive environment in the rail supply industry. Costs associated with the closing of the Company's Pomeroy, OH trackwork facility also reduced Rail products' margin. Construction products' 2001 gross profit declined to \$16.2 million, a 3.1 percentage point reduction from the prior year. Sales of low margin piling products, and costs associated with the closing of the Company's Ephrata, PA sign structure plant and the start-

up of the Company's Hillsboro, TX precast concrete buildings facility all contributed to the reduction in Construction products' margin. Tubular products' margin improved 6.1 percentage points in 2001, due primarily to greater efficiencies at the Birmingham, AL pipe-coating facility.

The 2001 results included the following pretax charges associated with the Company's previously-mentioned plan to improve its financial performance: employee severance and facility exit costs of \$0.9 million, asset impairments of \$0.6 million, and other related costs of \$0.4 million. Results for 2000 also included pretax charges as follows: employee severance and facility exit costs of \$1.0 million and asset impairments and other related costs of \$0.3 million. This plan, along with reduced travel and entertainment expenditures, resulted in a 4.9% decline in selling and administrative expense during 2001. Other income in 2001 consisted primarily of accrued dividend income on DM&E Preferred stock. The income tax provision for continuing operations in 2001 was recorded at 41.5% compared to 40.0% in 2000. See Note 14 "Income Taxes" for more information.

#### Liquidity and Capital Resources

The Company generates operational cash flow from the sale of inventory and the collection of accounts receivable. The Company's 2002 average turnover rate for accounts receivable improved compared to 2001, primarily due to higher turnover for receivables related to the Rail segment. The 2002 average turnover rate for inventory also improved compared to 2001. Again, the Rail segment showed the most improvement over the prior year. Working capital at December 31, 2002 was \$46.7 million compared to \$62.0 million at the end of 2001. Management's emphasis on improving working capital utilization was a primary factor in a \$13.7 million reduction in accounts receivable from December 31, 2001 and a \$10.4 million reduction in inventory for the same period.

The Company's Board of Directors has authorized the purchase of up to 1,500,000 shares of its Common stock at prevailing market prices. No purchases were made in 2002. During 2001, the Company purchased 25,000 shares at a cost of \$75,000. From August 1997 through December 31, 2002, the Company had repurchased 973,398 shares at a cost of approximately \$5.0 million. The timing and extent of future purchases will depend on market conditions and options available to the Company for alternate uses of its resources.

Including the Greulich acquisition, discussed in "Other Matters", the Company had capital expenditures of approximately \$6.9 million during 2002. Capital expenditures excluding acquisitions, in 2003, are expected to be approximately \$5.0 million, and funded by cash flow from operations and available external financing sources.

A summary of the Company's required payments under financial instruments and other commitments are presented in the following table:

In thousands	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
<b>CONTRACTUAL CASH OBLIGATIONS</b>					
Total debt including capital leases	\$27,816	\$ 825	\$23,775	\$ 378	\$ 2,838
Operating lease obligations	8,728	3,119	4,029	1,543	37
<b>OTHER FINANCIAL COMMITMENTS</b>					
Standby letters of credit	2,762	2,762	-	-	-

On September 26, 2002, the Company entered into a new credit agreement with a syndicate of three banks led by PNC Bank, N.A. The new agreement provides for a revolving credit facility of up to \$60.0 million in borrowings to support the Company's working capital and other liquidity requirements. The revolving credit facility, which matures in September 2005, is secured by substantially all of the inventory and trade receivables owned by the Company. Availability under this agreement is limited by the amount of eligible inventory and accounts receivable applied against certain advance rates. Proceeds from the new facility were used to repay and retire the Company's previous credit agreement, which was to mature in July 2003. Interest on the new credit facility is based on LIBOR plus a spread ranging from 1.75% to 2.5%.

The agreement includes financial covenants requiring a minimum net worth and a minimum fixed charge coverage ratio.

The agreement also restricts investments, indebtedness, and the sale of certain assets. As of December 31, 2002, the Company was in compliance with all of the agreement's covenants.

Total revolving credit agreement borrowings at December 31, 2002 were \$23.0 million, a decrease of \$12.0 million from the end of the prior year. At December 31, 2002, the Company had approximately \$11.6 million in unused borrowing commitment. Outstanding letters of credit at December 31, 2002 were approximately \$2.8 million. The letters of credit expire annually and are subject to renewal. Management believes its internal and external sources of funds are adequate to meet anticipated needs.

#### Dakota, Minnesota and Eastern Railroad

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The Company maintains a significant investment in the Dakota, Minnesota & Eastern Railroad Corporation (DM&E), a privately held, regional railroad, which controls over 2,500 miles of track in eight states.

At December 31, 2002, the Company's investment was comprised of \$0.2 million of DM&E common stock, \$1.5 million of Series B Preferred Stock and warrants, \$6.0 million of Series C Preferred Stock and warrants, \$0.8 million of Preferred Series C-1 Stock and warrants, and \$0.5 million of Series D Preferred Stock and warrants.

On July 30, 2002, the DM&E announced the acquisition of a 1,400 mile regional railroad formerly owned by the I&M Rail Link, LLC. The Company participated in the financing of this acquisition with a \$0.5 million investment in Series D Preferred Stock and warrants. On a fully diluted basis, the Company's ownership of the DM&E is approximately 13.6%. In addition, the Company has a receivable for accrued dividend income on Preferred Stock of approximately \$3.7 million.

In June 1997, the DM&E announced its plan to build an extension from the DM&E's existing line into the low sulfur coal market of the Powder River Basin in Wyoming, and to rebuild approximately 600 miles of its existing track (the Project). The estimated cost of this project is expected to be in excess of \$2.0 billion. The Project received final approval by the Surface Transportation Board (STB) in January 2002. Litigation has been initiated appealing the STB's approval of the Project. It is expected that the appeal will be decided during the third quarter of 2003. In addition, the State of South Dakota has elected to appeal a federal court decision to enjoin it from enforcing an eminent domain statute. No time frame for a decision is yet known.

If the Project proves to be viable, management believes that the value of the Company's investment in the DM&E could increase significantly. If the Project does not come to fruition, management believes that the value of the Company's investment is supported by the DM&E's existing business.

#### Other Matters

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Specialty trackwork sales of the Company's Rail segment depend primarily on one supplier. In August 2000, the Company contributed a note, having a principal and interest value of approximately \$2.7 million, to a limited liability company created by the Company and this trackwork supplier (the LLC) in exchange for a 30% ownership position. Of the \$2.7 million initial investment, approximately \$1.7 million represented goodwill. At January 1, 2002, the Company's net equity investment in the LLC, net of goodwill amortization prior to the adoption of SFAS 142, was approximately \$1.9 million. During 2002, the Company recognized an impairment loss of the entire \$1.9 million and wrote off this investment. The loss in value of this investment was driven by the continued deterioration of certain rail markets and was determined to be "other than temporary" based on discounted cash flow projections. Equity earnings from this investment during the three years ended December 31, 2002, 2001 and 2000 were immaterial.

The Company has historically advanced progress payments to its principal trackwork supplier for the purpose of supporting working capital requirements and funding raw material purchases and product fabrication costs for Company projects. The timing differential created by these cash flows has resulted in a significant asset related to these advances. At December 31, 2002 and 2001, the Company had advanced to the LLC approximately \$5.4 million and \$2.6 million, respectively. As a result of the operating and financial issues experienced by the LLC, concerns regarding the recoverability of the advances led management to conclude that a full reserve was necessary. A charge for this reserve was recorded in the fourth quarter of 2002. The Company acknowledges the risk of loss that exists relative to these advances and believes that substantial uncertainty exists relative to the Company's ability to realize any measurable amounts of these advances. During 2002, 2001 and 2000, the volume of business the trackwork supplier conducted with the Company was approximately, \$13.4 million, \$13.6 million, and \$12.8 million, respectively. The Company also has approximately \$10.0 million of contractual supply obligations with certain customers related to specialty trackwork. If for any reason this supplier is unable to perform, it could have a negative impact on earnings and cash flows.

Operations at the Company's Newport, KY pipe coating facility were suspended in 1998 in response to unfavorable market conditions. In 1999, the Company recorded an impairment loss to reduce these assets to their anticipated market value. The anticipated 2002 sale of these assets did not materialize. Therefore, during the fourth quarter of 2002, the Company removed the "held for resale" designation of these assets, reclassified them as "in service", and immediately recorded a \$0.8 million write-down to reflect depreciation not recorded while under the "held for resale" designation. The Company's efforts to sell these assets continues.

In 1998, the Company purchased assets, primarily comprised of intellectual property related to the business of supplying rail signaling and communication devices, for approximately \$1.7 million. To date, this operation (Foster Technologies), headquartered in Canada, has not generated significant revenues. During the fourth quarter of 2002, the Company began negotiations for the sale of substantially all assets of this business. At December 31, 2002, the Company recorded an impairment charge of approximately \$0.7 million for the excess of the book value over the expected realizable value. In February 2003, the Company sold assets related to this business for \$0.3 million.

The Company sold all of the assets related to its St. Marys, WV mine tie operation in the fourth quarter of 2002 for \$0.2 million, and recorded a nominal gain on this sale.

On January 4, 2002, the Company acquired substantially all of the equipment, inventory, intellectual property, and customer backlog of the Greulich Bridge Products Division of Harsco Corporation. The purchase price of approximately \$2.2 million consisted of: equipment of \$1.0 million, inventory (net of trade payables) of \$0.5 million, intangible assets of \$0.5 million, and goodwill of \$0.2 million. These assets are being utilized in the Company's fabricated bridge products operations in the Construction products segment, and the results of operations of these assets have been included in the consolidated financial statements since the date of the acquisition.

Management continues to evaluate the overall performance of its operations. A decision to down-size or terminate an existing operation could have a material adverse effect on near-term earnings but would not be expected to have a material adverse effect on the financial condition of the Company.

#### Outlook

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The Company is TXI Chaparral's exclusive distributor of steel sheet piling. Steel sheet piling production commenced in 2001 at TXI Chaparral's Petersburg, VA facility, but the quantity produced had not materially impacted results for 2002 or 2001. In December 2002, the Company announced the availability of a full range of Z-pile sheet piling products. The Company expects the availability of Z-piling to have a positive effect on 2003 earnings for the Construction products segment. However, if TXI Chaparral fails to produce substantial quantities of Z-piling products, earnings could be adversely impacted.

The Company's CXT subsidiary and Allegheny Rail Products division are dependent on one customer, which is a Class I railroad, for a significant portion of their business. CXT has a contract with this railroad for a minimum of 420,000 concrete ties per contract year, expiring in September of 2003. The Company is currently negotiating a renewal of this contract with the railroad. If this contract is not renewed, it could have a negative impact on the operating results of the Company. In addition, a substantial portion of the Company's operations is heavily dependent on governmental funding of infrastructure projects. Significant changes in the level of government funding of these projects or the failure to negotiate contract renewals could have a favorable or unfavorable impact on the operating results of the Company. Additionally, governmental actions concerning taxation, tariffs, the environment or other matters could impact the operating results of the Company. The Company's operating results may also be affected by adverse weather conditions.

Although backlog is not necessarily indicative of future operating results, total Company backlog at December 31, 2002 was approximately \$109.1 million. The following table provides the backlog by business segment:

In thousands	December 31,		
	2002	2001	2000
-----			
Backlog:			
Rail Products	\$ 45,371	\$ 64,641	\$ 86,351
Construction Products	59,774	59,808	52,779
Tubular Products	3,995	1,307	2,219
-----			
Total Backlog	\$109,140	\$125,756	\$141,349
=====			

The reduction in Rail segment backlog reflects the weakness in the current rail market as well as the absence of firm renewal commitments on contracts under negotiation.

#### Critical Accounting Policies

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The Company's significant accounting policies are described in Note 1 to the consolidated financial statements included in Item 8 of this Form 10-K. The accompanying consolidated financial statements have been prepared in conformity with accounting principles

generally accepted in the United States. When more than one accounting principle, or the method of its application, is generally accepted, management selects the principle or method that is appropriate in the Company's specific circumstance. Application of these accounting principles requires management to make estimates that affect the reported amount of assets, liabilities, revenues, and expenses, and the related disclosure of contingent assets and liabilities. The following critical accounting policies related to the Company's more significant judgments and estimates used in the preparation of its consolidated financial statements. There can be no assurance that actual results will not differ from those estimates.

**ASSET IMPAIRMENT** - The Company is required to test for asset impairment whenever events or changes in circumstances indicate that the carrying value of an asset might not be recoverable. The Company applies Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" (SFAS 144) in order to determine whether or not an asset is impaired. This Statement indicates that if the sum of the future expected cash flows associated with an asset, undiscounted and without interest charges, is less than the carrying value, an asset impairment must be recognized in the financial statements. The amount of the impairment is the difference between the fair value of the asset and the carrying value of the asset. The Company believes that the accounting estimate related to an asset impairment is a "critical accounting estimate" as it is highly susceptible to change from period to period, because it requires management to make assumptions about cash flows over future years. These assumptions impact the amount of an impairment, which would have an impact on the income statement. Management's assumptions about future cash flows require significant judgment because actual operating levels have fluctuated in the past and are expected to do so in the future.

During the fourth quarter of 2002, as a result of an ongoing evaluation of Foster Technologies, the Company's rail signaling and communication device business, the Company determined that it would pursue a potential sale of the business technology and long-lived assets. Utilizing a negotiated sales price as an indicator of fair market value for these assets, the Company determined that an impairment of \$0.7 million was required and recorded this charge in the fourth quarter of 2002.

**GOODWILL** - Beginning in fiscal year 2002, goodwill is required to be evaluated annually for impairment, in accordance with Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets," (SFAS 142). SFAS 142 requires a two-step process be performed to analyze whether or not goodwill has been impaired. Step one is to test for potential impairment, which requires that the fair value of the reporting unit be compared to its book value. If the fair value is higher than the book value, no impairment occurs. If the fair value is lower than the book value, step two must be performed. Step two requires measurement of the amount of impairment loss, if any, and requires that a hypothetical purchase price allocation be done to determine the implied fair value of goodwill. The resulting fair value is then compared to the carrying value of goodwill. If the implied fair value of the goodwill is lower than the carrying value of the goodwill, an impairment must be recorded.

The Company believes that the accounting estimate related to the goodwill impairment is a "critical accounting estimate" because the underlying assumptions used for the discounted cash flow can change from period to period and these changes could cause a material impact to the income statement. Management's assumptions about discount rates, inflation rates and other internal and external economic conditions, such as expected growth rate, require significant judgment regarding fluctuating rates and anticipated future revenues. Additionally, SFAS 142 requires that the goodwill be analyzed for impairment on an annual basis using the assumptions that apply at the time the analysis is updated.

As discussed in the notes to the consolidated financial statements, goodwill recorded in the Company's Rail and Construction segments was analyzed for impairment with the implementation of SFAS 142. The fair value of the goodwill associated with these segments was estimated using discounted cash flow methodologies and market comparable information. Based on the analysis, the implied fair value of the goodwill for certain product groups within these segments was less than the book value recorded for the goodwill. Therefore, the Company recognized a pretax impairment charge of \$4.9 million, representing a complete write-off of goodwill for those product groups for which an impairment was determined to exist. In the fourth quarter of 2002, the Company performed the required annual impairment test of the carrying amount of goodwill for the product groups and concluded that no further impairment was required.

Prior to the adoption of SFAS 142, the Company assessed the impairment of goodwill whenever events or changes in circumstances indicated that the carrying value might not be recoverable. No such events or indicators occurred, as prescribed by previous accounting guidance, which required the Company to perform such an assessment.

**ALLOWANCE FOR BAD DEBTS** - The Company's operating segments encounter risks associated with the collection of accounts receivable. As such, the Company records a monthly provision for accounts receivable that are considered to be uncollectible. In order to calculate the appropriate monthly provision, the Company reviews its accounts receivable aging and calculates an allowance through application of historic reserve factors to overdue receivables. This calculation is supplemented by specific account reviews performed by the Company's credit department. As necessary, the application of the Company's allowance rates to specific customers are reviewed and adjusted to more accurately reflect



the credit risk inherent within that customer relationship. The reserve is reviewed for reasonableness on a monthly basis. An account receivable is written off against the allowance when management determines it is uncollectible.

The Company believes that the accounting estimate related to the allowance for bad debts is a "critical accounting estimate" because the underlying assumptions used for the allowance can change from period to period and the allowance could potentially cause a material impact to the income statement and working capital. Specific customer circumstances and general economic conditions may vary significantly from management's assumptions and may impact expected earnings. At December 31, 2002, the Company maintained an allowance for bad debts of \$1.1 million, and, for the year ended December 31, 2002, the Company recognized bad debt expense of \$0.3 million.

**PENSION PLANS** - The calculation of the Company's net periodic benefit cost (pension expense) and benefit obligation (pension liability) associated with its defined benefit pension plans (pension plans) requires the use of a number of assumptions that the Company deems to be "critical accounting estimates." Changes in these assumptions can result in different pension expense and liability amounts, and future actual experience can differ significantly from the assumptions. The Company believes that the two most critical assumptions are the expected long-term rate of return on plan assets and the assumed discount rate.

The expected long-term rate of return reflects the average rate of earnings expected on funds invested or to be invested in the pension plans to provide for the benefits included in the pension liability. The Company establishes the expected long-term rate of return at the beginning of each fiscal year based upon information available to the Company at that time, including the plan's investment mix and the forecasted rates of return on these types of securities. Any differences between actual experience and assumed experience are deferred as an unrecognized actuarial gain or loss. The unrecognized actuarial gains or losses are amortized in accordance with Statement No. 87. Although the long-term rate is intended to be fairly consistent, the Company has reevaluated and reduced the rate in 2002. The expected long-term rates of return determined by the Company for 2002 and 2001 were 7.75% and 8.00%, respectively. Pension expense increases as the expected long-term rate of return decreases. Therefore, the decline in this assumption had the effect of increasing the Company's pension obligation and future pension expense.

The assumed discount rate reflects the current rate at which the pension benefits could effectively be settled. In estimating that rate, Statement No. 87 requires the Company look to rates of return on high quality, fixed income investments. The Company discounted its future pension liabilities using rates of 6.75% and 7.00% as of December 31, 2002 and 2001, respectively. The Company's pension liability increases as the discount rate is reduced. Therefore, the decline in this assumption had the effect of increasing the Company's pension obligation and future pension expense.

**DEFERRED TAX ASSETS** - The recognition of deferred tax assets requires management to make judgments regarding the future realization of these assets. As prescribed by Statement of Financial Accounting Standards No. 109 (SFAS 109), valuation allowances must be provided for those deferred tax assets for which it is more likely than not (a likelihood of more than 50 percent) that some portion or all of the deferred tax assets will not be realized. SFAS 109 requires management to evaluate positive and negative evidence regarding the recoverability of deferred tax assets. Determination of whether the positive evidence outweighs the negative and quantification of the valuation allowance requires management to make estimates and judgments of future financial results. The Company believes that these estimates and judgments are "critical accounting estimates." Cumulative losses in recent periods and other negative evidence further complicate these assessments.

The Company's financial results in recent periods have generated operating loss carryforwards, particularly with regard to the operations of the Company's discontinued foreign operation, Foster Technologies. Management has determined that it is more likely than not that the Company may not realize a portion of the deferred tax assets generated by these losses. Therefore, the Company has provided a valuation allowance for this deferred tax asset. At December 31, 2002, the Company maintained net operating loss carryforwards and a valuation allowance of \$2.7 million and \$2.6 million, respectively. See Note 14 "Income Taxes". The Company's future ability to realize the tax benefit from these net operating loss carryforwards may affect the Company's reported income tax expense (benefit) and net income.

#### New Accounting Pronouncements

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In June 2001, the FASB issued Statement of Accounting Standards No. 143, "Accounting for Asset Retirement Obligations" (SFAS 143), effective for fiscal years beginning after June 15, 2002. SFAS 143 provides accounting requirements for retirement obligations associated with tangible long-lived assets. The obligations affected are those for which there is a legal obligation to settle as a result of existing or enacted law. The Company does not believe this standard will impact its consolidated financial statements.

In August 2001 the FASB issued Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets (SFAS 144), effective for fiscal years beginning after December 31, 2001. This statement supersedes FASB Statement No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of" (SFAS 121), and provides a single accounting model for long-lived assets to be disposed of. On January 1,

2002, the Company adopted SFAS 144 and the adoption did not have a material impact on the Company's consolidated financial statements.

In June 2002, the FASB issued Statement of Financial Accounting Standards No. 146 "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS 146), effective for exit or disposal activities initiated after December 31, 2002, with early application encouraged. This statement supercedes EITF Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." SFAS 146 requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred, rather than at the date of an entity's commitment to an exit plan. The Company does not expect this standard to have a material effect on the Company's consolidated financial statements.

In January 2003, the FASB issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities, and Interpretation of ARB No. 51", (FIN 46). FIN 46 requires certain variable interest entities to be consolidated by the primary beneficiary of the entity if the equity investors in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. FIN 46 is effective for all new variable interest entities created or acquired after January 31, 2003. For variable interest entities created or acquired prior to February 1, 2003, the provisions of FIN 46 must be applied for the first interim or annual period beginning after June 15, 2003. Management is currently evaluating the effect that the adoption of FIN 46 will have on its results of operations and financial condition. The Company has not identified any off balance sheet arrangements for which consolidation under FIN 46 is reasonably possible.

#### ITEM 7A. QUALITATIVE AND QUANTITATIVE DISCLOSURE ABOUT MARKET RISK.

##### Market Risk and Risk Management Policies

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The Company uses derivative financial instruments to manage interest rate exposure on variable-rate debt, primarily by using interest rate collars and variable interest rate swaps. Effective September 26, 2002, in conjunction with the Company's debt refinancing, the Company discontinued cash flow hedge accounting treatment for its interest rate collars and recorded a cumulative charge to reflect mark-to-market accounting. The application of mark-to-market accounting for the year ended December 31, 2002 has resulted in the recognition of a non-cash charge of \$2.2 million which is recorded in other expense (income) on the Consolidated Statements of Operations. The Company continues to apply cash flow hedge accounting to its other interest rate swap.

The Company recognizes all derivative instruments on the balance sheet at fair value. Fluctuations in the fair values of derivative instruments designated as cash flow hedges are recorded in accumulated other comprehensive income, and reclassified into earnings as the underlying hedged items affect earnings. To the extent that a change in interest rate derivative does not perfectly offset the change in value of the interest rate being hedged, the ineffective portion is recognized in earnings immediately.

The Company attempts to maintain a reasonable balance between fixed-rate and floating-rate debt to keep financing costs as low as possible. The Company's primary source of variable-rate debt comes from its revolving credit agreement (See Note 8 to the consolidated financial statements). At December 31, 2002, the Company had approximately \$23.0 million of floating rate debt outstanding under this agreement with an average interest rate of approximately 3.84%. While not specifically correlated with the revolving credit agreement, the Company maintains an economic hedge of this variable rate through the maintenance of two interest rate collar agreements with a weighted average minimum annual interest rate of 4.99% to a maximum weighted average annual interest rate of 5.42% (See Note 9 to the consolidated financial statements). As discussed in Note 9, these derivatives do not qualify for hedge accounting, as defined by Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" (SFAS 133). Since the interest rate on this debt floats with the short-term market rate of interest, the Company is exposed to the risk that these interest rates may decrease below the minimum annual interest rates on the two interest rate collar agreements. The effect of a 1 percent decrease in rate of interest below the 4.99% weighted average minimum annual interest rate on \$23.0 million of outstanding floating rate debt would result in increased annual interest costs of approximately \$0.2 million.

The Company is not subject to significant exposures to changes in foreign currency exchange rates.

##### Forward-Looking Statements

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Statements relating to the potential value or viability of the DM&E or the Project, or management's belief as to such matters, are forward-looking statements and are subject to numerous contingencies and risk factors. The Company has based its assessment on information provided by the DM&E and has not independently verified such information. In addition to matters mentioned above, factors which can adversely affect the value of the DM&E, its ability to complete the Project or the viability of the Project include the following: labor disputes, the outcome of certain litigation, any inability to obtain necessary

environmental and government approvals for the Project in a timely fashion, the DM&E's ability to continue to obtain interim funding to finance the Project, the expense of environmental mitigation measures required by the Surface Transportation Board, an inability to obtain financing for the Project, competitors' response to the Project, market demand for coal or electricity and changes in environmental laws and regulations.

The Company wishes to caution readers that various factors could cause the actual results of the Company to differ materially from those indicated by forward-looking statements made from time to time in news releases, reports, proxy statements, registration statements and other written communications (including the preceding sections of this Management's Discussion and Analysis), as well as oral statements, such as references made to future profitability, made from time to time by representatives of the Company. The inability to negotiate the sale of certain assets could result in an impairment in future periods. The inability to successfully negotiate a new sales contract with a current Class I railroad customer could have a negative impact on the operating results of the Company. Except for historical information, matters discussed in such oral and written communications are forward-looking statements that involve risks and uncertainties, including but not limited to general business conditions, the availability of material from major suppliers, the impact of competition, the seasonality of the Company's business, the adequacy of internal and external sources of funds to meet financing needs, taxes, inflation and governmental regulations. Sentences containing words such as "anticipates", "expects", or "will" generally should be considered forward-looking statements.

/s/David J. Russo  
David J. Russo  
Senior Vice President,  
Chief Financial Officer  
and Treasurer

/s/Linda K. Patterson  
Linda K. Patterson  
Controller

## ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

L.B. FOSTER COMPANY AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS  
DECEMBER 31, 2002 AND 2001

ASSETS	2002	2001
In thousands		
-----		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 3,653	\$ 4,222
Accounts receivable - net	39,363	53,036
Inventories - net	32,925	43,369
Current deferred tax assets	1,494	1,491
Other current assets	696	806
Property held for resale	-	1,333
Current assets of discontinued operations	138	111
-----		
Total Current Assets	78,269	104,368
-----		
PROPERTY, PLANT AND EQUIPMENT - NET	36,083	33,819
-----		
ASSETS OF DISCONTINUED OPERATIONS	196	1,037
-----		
OTHER ASSETS:		
Goodwill and other intangibles - net	1,089	5,550
Investments	12,718	11,104
Deferred tax assets	4,454	1,184
Other assets	1,175	2,980
-----		
Total Other Assets	19,436	20,818
-----		
TOTAL ASSETS	\$133,984	\$160,042
=====		

## LIABILITIES AND STOCKHOLDERS' EQUITY

In thousands, except share data

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CURRENT LIABILITIES:		
Current maturities of long-term debt	\$ 825	\$ 809
Short-term borrowings	-	5,000
Accounts payable - trade	24,094	29,269
Accrued payroll and employee benefits	2,413	2,545
Current deferred tax liabilities	1,474	1,201
Other accrued liabilities	2,695	3,524
Liabilities of discontinued operations	74	9
-----		
Total Current Liabilities	31,575	42,357
-----		
LONG-TERM DEBT	26,991	32,758
-----		
DEFERRED TAX LIABILITIES	4,195	4,968
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OTHER LONG-TERM LIABILITIES	5,210	2,814
-----		
COMMITMENTS AND CONTINGENT LIABILITIES (Note 17)		
-----		
STOCKHOLDERS' EQUITY:		
Common stock, issued 10,228,739 shares in 2002 and 2001	102	102
Paid-in capital	35,143	35,233
Retained earnings	35,208	46,632
Treasury stock - at cost, Common stock, 703,822 shares in 2002 and 762,613 shares in 2001	(3,629)	(3,926)
Accumulated other comprehensive loss	(811)	(896)
-----		
Total Stockholders' Equity	66,013	77,145
-----		
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$133,984	\$160,042
=====		

See Notes to Consolidated Financial Statements.

L. B. FOSTER COMPANY AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS FOR  
THE THREE YEARS ENDED DECEMBER 31, 2002

In thousands, except per share data	2002	2001	2000
NET SALES	\$ 257,950	\$ 282,119	\$ 264,614
COSTS AND EXPENSES:			
Cost of goods sold	228,483	248,623	226,780
Selling and administrative expenses	26,475	28,398	29,874
Interest expense	2,592	3,564	4,227
Other expense (income):			
Impairment of equity investment and advances	6,943	-	-
Other	1,097	(694)	(2,506)
	265,590	279,891	258,375
(LOSS) INCOME FROM CONTINUING OPERATIONS, BEFORE INCOME TAXES AND CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING PRINCIPLE	(7,640)	2,228	6,239
INCOME TAX (BENEFIT) EXPENSE	(2,611)	925	2,496
(LOSS) INCOME FROM CONTINUING OPERATIONS, BEFORE CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING PRINCIPLE	(5,029)	1,303	3,743
DISCONTINUED OPERATIONS (SEE NOTE 5):			
LOSS FROM DISCONTINUED OPERATIONS	(2,005)	(1,134)	(422)
INCOME TAX BENEFIT	-	(468)	(169)
LOSS FROM DISCONTINUED OPERATIONS, NET OF TAX	(2,005)	(666)	(253)
CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING PRINCIPLE, NET OF TAX	(4,390)	-	-
NET (LOSS) INCOME	\$ (11,424)	\$ 637	\$ 3,490
BASIC AND DILUTED (LOSS) EARNINGS PER COMMON SHARE:			
FROM CONTINUING OPERATIONS BEFORE CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING PRINCIPLE	\$ (0.53)	\$ 0.14	\$ 0.39
FROM DISCONTINUED OPERATIONS, NET OF TAX	(0.21)	(0.07)	(0.03)
CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING PRINCIPLE	(0.46)	-	-
NET (LOSS) EARNINGS PER COMMON SHARE	\$ (1.20)	\$ 0.07	\$ 0.37

See Notes to Consolidated Financial Statements.

L.B.FOSTER COMPANY AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS FOR  
THE THREE YEARS ENDED DECEMBER 31, 2002

In thousands	2002	2001	2000
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
(Loss) income from continuing operations	\$ (5,029)	\$ 1,303	\$ 3,743
Adjustment to reconcile net (loss) income to net cash provided (used) by operating activities:			
Deferred income taxes	(3,290)	12	(442)
Depreciation and amortization	5,851	5,414	5,114
Loss (gain) on sale of property, plant and equipment	42	41	(879)
Impairment of equity investment and advances	6,943	-	-
Unrealized loss on derivative mark-to-market	2,232	-	-
Change in operating assets and liabilities:			
Accounts receivable	13,646	4,597	(4,494)
Inventories	8,531	16,393	(14,205)
Other current assets	110	(442)	611
Other noncurrent assets	(3,689)	44	1,258
Accounts payable - trade	(5,370)	(3,669)	8,499
Accrued payroll and employee benefits	(132)	(638)	(149)
Other current liabilities	(829)	(293)	1,001
Other liabilities	324	(110)	(166)
<b>Net Cash Provided (Used) by Continuing Operations</b>	<b>19,340</b>	<b>22,652</b>	<b>(109)</b>
Net Cash (Used) Provided by Discontinued Operations	(1,126)	(564)	628
<b>Net Cash Provided by Operating Activities</b>	<b>18,214</b>	<b>22,088</b>	<b>519</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Proceeds from the sale of property, plant and equipment	483	219	2,428
Capital expenditures on property, plant and equipment	(4,724)	(4,807)	(4,063)
Purchase of DM&E stock	(500)	(800)	-
Acquisition of business	(2,214)	-	-
<b>Net Cash Used by Investing Activities</b>	<b>(6,955)</b>	<b>(5,388)</b>	<b>(1,635)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
(Repayments) proceeds of revolving credit agreement borrowings	(12,000)	(11,500)	1,500
Exercise of stock options and stock awards	207	85	185
Treasury share transactions	-	(75)	(901)
Repayments of long-term debt	(54)	(945)	(1,207)
<b>Net Cash Used by Financing Activities</b>	<b>(11,847)</b>	<b>(12,435)</b>	<b>(423)</b>
Effect of exchange rate changes on cash	19	(43)	(19)
Net (Decrease) Increase in Cash and Cash Equivalents	(569)	4,222	(1,558)
Cash and Cash Equivalents at Beginning of Year	4,222	-	1,558
<b>Cash and Cash Equivalents at End of Year</b>	<b>\$ 3,653</b>	<b>\$ 4,222</b>	<b>\$ -</b>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:</b>			
Interest Paid	\$ 2,791	\$ 3,986	\$ 4,266
Income Taxes Paid	\$ 749	\$ 713	\$ 1,932

During 2002, 2001 and 2000, the Company financed certain capital expenditures totaling \$1,303,000, \$102,000 and \$340,000, respectively, through the execution of capital leases.

See Notes to Consolidated Financial Statements.

L. B. FOSTER COMPANY AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY  
FOR THE THREE YEARS ENDED DECEMBER 31, 2002

In thousands, except share data	Common Stock	Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive Income (Loss)	Total
Balance, January 1, 2000	\$ 102	\$35,377	\$42,505	\$ (3,364)	\$ 30	\$74,650
Net income			3,490			3,490
Other comprehensive loss net of tax:						
Foreign currency translation adjustment					(45)	(45)
Minimum pension liability adjustment					(20)	(20)
Comprehensive income						3,425
Exercise of options to purchase 35,500 shares of Common stock		(71)		256		185
Treasury stock purchases of 223,100 shares				(901)		(901)
Balance, December 31, 2000	102	35,306	45,995	(4,009)	(35)	77,359
Net income			637			637
Other comprehensive loss net of tax:						
Foreign currency translation adjustment					(24)	(24)
Minimum pension liability adjustment					(200)	(200)
Cumulative transition adjustment of a change in accounting principle					(48)	(48)
Unrealized derivative losses on cash flow hedges					(589)	(589)
Comprehensive loss						(224)
Issuance of 28,014 Common shares		(73)		158		85
Treasury stock purchases of 25,000 shares				(75)		(75)
Balance, December 31, 2001	102	35,233	46,632	(3,926)	(896)	77,145
Net loss			(11,424)			(11,424)
Other comprehensive loss net of tax:						
Foreign currency translation adjustment					(17)	(17)
Minimum pension liability adjustment					(434)	(434)
Unrealized derivative losses on cash flow hedges					(686)	(686)
Reclassification adjustment for derivative losses included in net losses					1,222	1,222
Comprehensive loss						(11,339)
Issuance of 58,791 Common shares		(90)		297		207
Balance, December 31, 2002	\$ 102	\$35,143	\$35,208	\$ (3,629)	\$ (811)	\$66,013

See Notes to Consolidated Financial Statements.



## NOTE 1.

## SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

## BASIS OF FINANCIAL STATEMENT PRESENTATION

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant inter-company transactions have been eliminated. The term "Company" refers to L. B. Foster Company and its subsidiaries, as the context requires.

## CASH EQUIVALENTS

The Company considers securities with maturities of three months or less, when purchased, to be cash equivalents.

## INVENTORIES

Inventories are generally valued at the lower of the last-in, first-out (LIFO) cost or market. Approximately 24% in 2002 and 18% in 2001, of the Company's inventory is valued at average cost or market, whichever is lower. The reserve for slow-moving inventory is reviewed and adjusted regularly, based upon product knowledge, physical inventory observation, and the age of the inventory.

## PROPERTY, PLANT AND EQUIPMENT

Maintenance, repairs and minor renewals are charged to operations as incurred. Major renewals and betterments which substantially extend the useful life of the property are capitalized. Upon sale or other disposition of assets, the cost and related accumulated depreciation and amortization are removed from the accounts and the resulting gain or loss, if any, is reflected in income.

Depreciation and amortization are provided on a straight-line basis over the estimated useful lives of 30 to 40 years for buildings and 3 to 10 years for machinery and equipment. Leasehold improvements are amortized over 2 to 7 years which represent the lives of the respective leases or the lives of the improvements, whichever is shorter. The Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

## ALLOWANCE FOR DOUBTFUL ACCOUNTS

Judgment is required to assess the ultimate realization of the Company's accounts receivable, including assessing the probability of collection and the credit-worthiness of certain customers. Reserves for uncollectible accounts are recorded as part of selling, general and administrative expense on the Statements of Consolidated Operations. The Company records a monthly provision for accounts receivable that are considered to be uncollectible. In order to calculate the appropriate monthly provision, the Company reviews its accounts receivable aging and calculates an allowance through application of historic reserve factors to overdue receivables. This calculation is supplemented by specific account reviews performed by the Company's credit department. As necessary, the application of the Company's allowance rates to specific customers are reviewed and adjusted to more accurately reflect the credit risk inherent within that customer relationship. The reserve is reviewed for reasonableness on a monthly basis.

## GOODWILL AND OTHER INTANGIBLE ASSETS

In June 2001, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets" (SFAS 142). SFAS 142 establishes new accounting and reporting requirements for goodwill and intangible assets, including new measurement techniques for evaluating the recoverability of such assets. Under SFAS 142, all goodwill amortization ceased as of January 1, 2002. Goodwill attributable to each of the Company's reporting units was tested for impairment by comparing the fair value of each reporting unit with its carrying value. As a result of the adoption of SFAS 142, the Company recognized a total pre-tax charge of \$4,931,000, of which \$3,664,000 related to the Rail products segment (primarily from the 1999 acquisition of CXT Incorporated), and \$1,267,000 related to the Construction products segment (from the 1997 acquisition of the Precise Fabricating Corporation). The fair values of these reporting units were determined using discounted cash flows based on the projected financial information of the reporting units. On an ongoing basis (absent of any impairment indicators), the Company expects to perform its impairment tests during the fourth quarter.

Under SFAS 142, the impairment charge recognized at adoption is reflected as a cumulative effect of a change in accounting principle, effective January 1, 2002. Impairment adjustments recognized on an ongoing basis are generally recognized as a component of continuing operations.

The carrying amount of goodwill attributable to each segment, after the non-cash charges for the adoption of SFAS 142 at January 1, 2002 is detailed as follows:

In thousands	Rail Products Segment	Construction Products Segment	Tubular Products Segment	Total
Balance as of December 31, 2001	\$3,664	\$1,467	\$ -	\$5,131
Goodwill Impairment - January 1, 2002	(3,664)	(1,267)	-	(4,931)
Goodwill Acquired - Greulich Bridge	-	150	-	150
Balance as of December 31, 2002	\$ -	\$ 350	\$ -	\$ 350

As required by SFAS 142, the Company reassessed the useful lives of its identifiable intangible assets and determined that no changes were required. As the Company has no indefinite lived intangible assets, all intangible assets will continue to be amortized over their remaining useful lives ranging from 5 to 10 years, with a total weighted average amortization period of less than seven years. The components of the Company's intangible assets are as follows:

In thousands	December 31, 2002		December 31, 2001	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
Licensing agreements	\$400	\$ (87)	\$375	\$(23)
Non-compete agreements	350	(70)	-	-
Patents	200	(54)	100	(33)
Total	\$950	\$(211)	\$475	\$(56)

Amortization expense for the year ended December 31, 2002, 2001 and 2000 was \$155,000, \$61,000 and \$43,000, respectively. Future estimated amortization expense is as follows:

In thousands	Estimated Amortization Expense
For the year ended December 31,	
2003	\$155
2004	155
2005	155
2006	155
Thereafter	119

Had the Company been accounting for goodwill under SFAS 142 for all periods presented, the Company's net (loss) income and basic and diluted (loss) earnings per common share for the years ended December 31, 2002, 2001 and 2000 would have been as follows:

In thousands, except per share amounts	2002	2001	2000
Reported net (loss) income	\$(11,424)	\$ 637	\$ 3,490
Goodwill amortization, net of tax	-	423	372
Adjusted net (loss) income	\$(11,424)	\$ 1,060	\$ 3,862
Basic (loss) earnings per common share:			
Reported net (loss) income	\$ (1.20)	\$ 0.07	\$ 0.37
Goodwill amortization, net of tax	-	0.04	0.04
Adjusted basic (loss) earnings per common share	\$ (1.20)	\$ 0.11	\$ 0.41
Diluted (loss) earnings per common share:			
Reported net (loss) income	\$ (1.20)	\$ 0.07	\$ 0.37
Goodwill amortization, net of tax	-	0.04	0.04
Adjusted diluted (loss) earnings per common share	\$ (1.20)	\$ 0.11	\$ 0.40

#### ENVIRONMENTAL REMEDIATION AND COMPLIANCE

Environmental remediation costs are accrued when the liability is probable and costs are estimable. Environmental compliance costs, which principally include the disposal of waste generated by routine operations, are expensed as incurred. Capitalized environmental costs are depreciated, when appropriate, over their useful life.

**EARNINGS PER SHARE**

Basic earnings per share is calculated by dividing net income (loss) by the weighted average of common shares outstanding during the year. Diluted earnings per share is calculated by using the weighted average of common shares outstanding adjusted to include the potentially dilutive effect of outstanding stock options utilizing the treasury stock method.

**REVENUE RECOGNITION**

The Company's revenues are composed of product sales and products and services provided under long-term contracts. The Company recognizes revenue upon shipment of material from stock inventory or upon billing of material shipped directly to the customer from a Company vendor. Title passes to the customer upon shipment. Revenue is reported net of freight for sales from stock inventory and direct shipments. Freight recorded for the years ended December 31, 2002, 2001 and 2000 amounted to \$11,340,000, \$11,332,000 and \$8,903,000, respectively. Revenues from long-term contracts are generally recognized using the percentage-of-completion method based upon the proportion of actual costs incurred to estimated total costs. For certain products, the percentage of completion is based upon actual labor and engineering costs to estimated total labor and engineering costs. For certain other products, the Company recognizes revenues based upon the units delivered compared to total units ordered by the customer.

As certain long-term contracts extend over one or more years, revisions to estimates of costs and profits are reflected in the accounting period in which the facts that require the revisions become known. At the time a loss on a contract becomes known, the entire amount of the estimated loss is recognized on the financial statements. The Company has historically made reasonable dependable estimates of the extent of progress towards completion, contract revenues, and contract costs on its long-term contracts. However, due to uncertainties inherent in the estimation process, actual results could differ materially from those estimates.

Revenue from contract change orders and claims is recognized when the settlement is probable and the amount can be reasonably estimated. Contract costs include all direct material, labor, subcontract costs and those indirect costs related to contract performance. Costs in excess of billings, and billings in excess of costs are classified as a current asset.

**FAIR VALUE OF FINANCIAL INSTRUMENTS**

The Company's financial instruments consist of accounts receivable, accounts payable, short-term and long-term debt, and interest rate agreements.

The carrying amounts of the Company's financial instruments at December 31, 2002 and 2001 approximate fair value.

**USE OF ESTIMATES**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

**STOCK-BASED COMPENSATION**

In December 2002, the FASB issued Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation-Transition and Disclosure-an amendment of FASB Statement No. 123" (SFAS 148) effective for fiscal years ending after December 31, 2002 and for interim periods beginning after December 15, 2002. This statement amends Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" (SFAS 123), to provide alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. In addition, SFAS 148 amends the disclosure requirements of SFAS 123 to require prominent disclosures in both annual and interim financial statements about the method of accounting for stock-based employee compensation and the effect of the method used on reported results.

The Company has adopted the disclose-only provisions of SFAS 123, but applies the intrinsic value method of Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" (APB 25) and related interpretations in accounting for its stock option plans. Accordingly, no compensation expense has been recognized.

The following table illustrates the effect on the Company's (loss) income from continuing operations and (loss) earnings per share had compensation expense for the Company's stock option plans been applied using the method required by SFAS 123. Refer to Note 12 "Stock Options" for more information regarding stock based compensation.

In thousands, except per share amounts	2002	2001	2000
Net (loss) income from continuing operations, as reported	\$ (5,029)	\$1,303	\$3,743
Add: Stock-based employee compensation expense included in reported net (loss) income, net of related tax effects	-	-	-
Deduct: Total stock-based employee compensation expense determined under fair value method for all awards, net of related tax effects	270	260	315
Pro forma (loss) income from continuing operations	\$ (5,299)	\$1,043	\$3,428
(Loss) earnings per share from continuing operations:			

Basic and diluted, as reported	\$ (0.53)	\$ 0.14	\$ 0.39
Basic and diluted, pro forma	\$ (0.56)	\$ 0.11	\$ 0.36

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## DERIVATIVE FINANCIAL INSTRUMENTS AND HEDGING ACTIVITIES

The Company uses derivative financial instruments to manage interest rate exposure on variable-rate debt, primarily by using interest rate collars and variable interest rate swaps. Effective September 26, 2002, in conjunction with the Company's debt refinancing, the Company discontinued cash flow hedge accounting treatment for its interest rate collars and has applied mark-to-market accounting prospectively. Adjustments in the fair value of these instruments are recorded as Other Expense (Income). The Company continues to apply cash flow hedge accounting to the interest rate swap.

At contract inception, the Company designates its derivative instruments as hedges. The Company recognizes all derivative instruments on the balance sheet at fair value. Fluctuations in the fair values of derivative instruments designated as cash flow hedges are recorded in accumulated other comprehensive income, and reclassified, as adjustments to interest expense, as the underlying hedged items affect earnings. To the extent that a change in interest rate derivative does not perfectly offset the change in value of the interest rate being hedged, the ineffective portion is recognized in earnings immediately.

The Company is not subject to significant exposures to changes in foreign currency exchange rates. The Company does, however, hedge the cash flows of operations of its Canadian subsidiary. The Company manages its exposures to changes in foreign currency exchange rates on firm sales and purchase commitments by entering into foreign currency forward contracts. The Company's risk management objective is to reduce its exposure to the effects of changes in exchange rates on these transactions over the duration of the transactions. At December 31, 2002 and 2001, the Company did not have any foreign currency forward contracts outstanding.

## NEW ACCOUNTING PRONOUNCEMENTS

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 143, "Accounting for Asset Retirement Obligations" (SFAS 143), effective for fiscal years beginning after June 15, 2002. SFAS 143 provides accounting requirements for retirement obligations associated with tangible long-lived assets. The obligations affected are those for which there is a legal obligation to settle as a result of existing or enacted law. The Company does not believe this standard will impact its consolidated financial statements.

In August 2001 the FASB issued Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets (SFAS 144), effective for fiscal years beginning after December 31, 2001. This statement supersedes FASB Statement No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of" (SFAS 121), and provides a single accounting model for long-lived assets to be disposed of. On January 1, 2002, the Company adopted SFAS 144 and the adoption did not have a material impact on the Company's consolidated financial statements.

In June 2002, the FASB issued Statement of Financial Accounting Standards No. 146 "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS 146), effective for exit or disposal activities initiated after December 31, 2002, with early application encouraged. This statement supercedes EITF Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)." SFAS 146 requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred, rather than at the date of an entity's commitment to an exit plan. The Company does not expect this standard to have a material effect on the Company's consolidated financial statements.

In January 2003, the FASB issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities, and Interpretation of ARB No. 51", (FIN 46). FIN 46 requires certain variable interest entities to be consolidated by the primary beneficiary of the entity if the equity investors in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. FIN 46 is effective for all new variable interest entities created or acquired after January 31, 2003. For variable interest entities created or acquired prior to February 1, 2003, the provisions of FIN 46 must be applied for the first interim or annual period beginning after June 15, 2003. Management is currently evaluating the effect that the adoption of FIN 46 will have on its results of operations and financial condition. The Company has not identified any off balance sheet arrangements for which consolidation under FIN 46 is reasonably possible.

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 NOTE 2.  
 ACCOUNTS RECEIVABLE

Accounts receivable at December 31, 2002 and 2001 are summarized as follows:

In thousands	2002	2001
Trade	\$40,357	\$53,542
Allowance for doubtful accounts	(1,063)	(812)
Other	69	306
	\$39,363	\$53,036

The increase in current year reserves is due to fully reserved accounts. Bad debt expense (income) was \$256,000, \$(20,000), and \$108,000 in 2002, 2001 and 2000, respectively.

The Company's customers are principally in the Rail, Construction and Tubular segments of the economy. As of December 31, 2002 and 2001, trade receivables, net of allowance for doubtful accounts, from customers in these markets were as follows:

In thousands	2002	2001
Rail	\$19,016	\$28,158
Construction	18,793	22,732
Tubular	1,485	1,840
	\$39,294	\$52,730

Credit is extended on an evaluation of the customer's financial condition and generally collateral is not required.

NOTE 3.  
 INVENTORIES

Inventories at December 31, 2002 and 2001 are summarized as follows:

In thousands	2002	2001
Finished goods	\$21,700	\$33,995
Work-in-process	6,343	5,551
Raw materials	6,731	5,756
Total inventories at current costs	34,774	45,302
Less:		
Current cost over LIFO stated values	(1,249)	(1,333)
Inventory valuation reserve	(600)	(600)
	\$32,925	\$43,369

At December 31, 2002 and 2001, the LIFO carrying value of inventories for book purposes exceeded the LIFO value for tax purposes by approximately \$5,082,000 and \$5,034,000, respectively. During 2002, inventory quantities were reduced resulting in a liquidation of certain LIFO inventory layers carried at costs which were higher than the costs of current purchases. The effect of these reductions in 2002 was to increase cost of goods sold by \$714,000. During 2001, liquidation of LIFO layers carried at costs that were lower than current purchases resulted in a decrease to cost of goods sold of \$307,000. During 2000, liquidation of LIFO layers carried at costs that were higher than current purchases resulted in an increase to cost of goods sold of \$18,000.

NOTE 4.  
 PROPERTY HELD FOR RESALE

Property held for resale at December 31, 2002 and 2001 consists of the following:

In thousands	2002	2001
Location:		
Birmingham, AL	\$ -	\$ 1,333
Property held for resale	\$ -	\$ 1,333

Operations at the Tubular segment's Newport, KY pipe coating facility were suspended in 1998 in response to unfavorable market conditions. In 1999, the Company recorded an impairment loss to reduce these assets to their anticipated market value. In 2000, the machinery and equipment from this operation was dismantled and transferred to the Company's Birmingham, AL location. The expected sale of these assets did not materialize in 2002. In accordance with Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", these assets were reclassified as held and used and a \$765,000 non-cash charge was recognized representing depreciation that had been suspended while these assets were classified as held for resale.

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 NOTE 5.  
 DISCONTINUED OPERATIONS

During the fourth quarter of 2002, the Company started negotiations and committed to a plan to sell the assets related to the Rail segment's rail signaling and communications device business in 2003 and recorded a \$660,000 non-cash impairment loss to adjust these assets to their fair value. The operations of the rail signaling and communication device business qualify as a "component of an entity" under Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" and thus, have been reclassified as discontinued operations in the fourth quarter of 2002, and prior periods have been restated. The rail signaling and communication device business was sold effective February 28, 2003.

In the fourth quarter of 1999, the Company made the decision to discontinue the operations of the Monitor Group, a developer of portable mass spectrometers. In September 2000, the Company sold the assets of the Monitor Group for \$1,500,000 cash. The disposition of the Monitor Group represented the disposal of a business segment under Accounting Principles Board "APB" Opinion No. 30. Accordingly, results of the operation were classified as discontinued, and prior periods have been restated.

The following table reconciles net (loss) income from continuing operations before the cumulative effect of a change in accounting principle to net (loss) income before the cumulative effect of a change in accounting principle:

In thousands	2002	2001	2000
Net (loss) income from continuing operations (before the cumulative effect of a change in accounting principle)	\$(5,029)	\$1,303	\$3,743
Discontinued operations			
Loss from operations of the rail signaling and communication device business (including a pretax provision for the disposal of assets in 2002 of \$660,000)	(2,005)	(1,134)	(1,040)
Income from the operations of the Monitor Group, (including a pretax gain on disposal of \$1,500,000)	-	-	618
Income tax benefit	-	468	169
Loss from discontinued operations	(2,005)	(666)	(253)
Net (loss) income before cumulative effect of a change in accounting principle	\$ (7,034)	\$637	\$3,490

The 2002 non-cash impairment loss to adjust the assets of the rail signaling and communication device business to fair value was recorded to the following asset classes:

In thousands	
Intangibles	\$ 611
Equipment	49
Total impairment loss	\$ 660

The following table details balance sheet information for discontinued operations:

In thousands	2002	2001
-----		
Current assets		
Accounts receivable	\$ 1	\$ 28
Inventory	118	75
Other current assets	19	8
-----		
Total current assets	138	111
-----		
Other assets		
Property, plant and equipment - net	95	132
Intangibles - net	101	905
-----		
Total other assets	196	1,037
-----		
Total assets	334	1,148
-----		
Current liabilities		
Accounts payable - trade	69	21
Accrued payroll and employee benefits	1	1
Other accrued liabilities	4	(13)
-----		
Total current liabilities	74	9
-----		
Net assets of discontinued operations	\$260	\$1,139
=====		



NOTE 6.  
PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment at December 31, 2002 and 2001 consists of the following:

In thousands	2002	2001
Land	\$ 6,541	\$ 6,352
Improvements to land and leaseholds	7,438	6,465
Buildings	7,675	6,060
Machinery and equipment, including equipment under capitalized leases	50,188	44,676
Construction in progress	181	717
	72,023	64,270
Less accumulated depreciation and amortization, including accumulated amortization of capitalized leases	35,940	30,451
	\$36,083	\$33,819

Depreciation expense for the years ended December 31, 2002, 2001 and 2000 amounted to \$5,696,000, \$5,353,000 and \$5,071,000, respectively.

NOTE 7.  
OTHER ASSETS AND INVESTMENTS

The Company holds investments in the stock of the Dakota, Minnesota & Eastern Railroad Corporation (DM&E), which is recorded at its historical cost of \$8,993,000 and \$8,493,000 at December 31, 2002 and 2001, respectively. This investment is comprised of \$193,000 of DM&E Common stock, \$1,500,000 of DM&E Series B Preferred Stock and Common stock warrants, \$6,000,000 in DM&E Series C Preferred Stock and Common stock warrants, \$800,000 in DM&E Series C1 Preferred Stock and Common stock warrants, and \$500,000 in DM&E Series D Preferred Stock and Common stock warrants. The Company accrued dividend income on these issuances of \$1,114,000, \$881,000 and \$813,000 in 2002, 2001 and 2000, respectively. The Company had a receivable for accrued dividend income on these issuances of \$3,725,000, \$2,611,000 and \$1,730,000 in 2002, 2001 and 2000, respectively. Although the market value of the investments in DM&E stock are not readily determinable, management believes the fair value of this investment exceeds its carrying amount.

In August 2000, the Company contributed a note, having a principal and interest value of approximately \$2,700,000, to a limited liability company created by the Company and its principal trackwork supplier in exchange for a 30% ownership position. Of the \$2,700,000 initial investment, approximately \$1,700,000 represented goodwill. During 2002, the Company recognized an impairment loss of approximately \$1,893,000 to write off this investment. The loss in the value of this investment was driven by the continued deterioration of certain rail markets and was determined to be "other than temporary" based on discounted cash flow projections. The Company's proportionate share of the unaudited financial results for this investment was immaterial for the years ended December 31, 2002, 2001 and 2000.

NOTE 8.  
BORROWINGS

On September 26, 2002, the Company entered into a new credit agreement with a syndicate of three banks led by PNC Bank, N.A. The new agreement provides for a revolving credit facility of up to \$60,000,000 in borrowings to support the Company's working capital and other liquidity requirements. The revolving credit facility, which matures in September 2005, is secured by substantially all of the inventory and trade receivables owned by the Company. Availability under the agreement is limited by the amount of eligible inventory and accounts receivable, applied against certain advanced rates. Proceeds from the new facility were used to repay and retire the Company's previous credit agreement, which was to mature in July 2003. Interest on the new credit facility is based on LIBOR plus a spread ranging from 1.75% to 2.5%.

The agreement includes financial covenants requiring a minimum net worth, a minimum level for the fixed charge coverage ratio and a maximum level for the consolidated capital expenditures. The agreement also restricts investments, indebtedness, and the sale of certain assets. As of December 31, 2002, the Company was in compliance with all the agreement's covenants.

At December 31, 2002, 2001 and 2000, the weighted average interest rate on short-term borrowings was 3.84%, 5.41% and 8.12%, respectively. At December 31, 2002 the Company had borrowed \$23,000,000 under the agreement, which was classified as long-term (See Note 9). Under the agreement, the Company had approximately \$11,645,000 in unused borrowing commitment at December 31, 2002.

Long-term debt at December 31, 2002 and 2001 consists of the following:

In thousands	2002	2001
Revolving Credit Agreement with weighted average interest rate of 3.84% at December 31, 2002 and 5.41% at December 31, 2001, expiring September 26, 2005	\$23,000	\$30,000
Lease obligations payable in installments through 2012 with a weighted average interest rate of 7.33% at December 31, 2002 and 8.30% at December 31, 2001	1,897	1,522
Massachusetts Industrial Revenue Bond with an average interest rate of 1.58% at December 31, 2002 and 2.89% at December 31, 2001, payable March 1, 2013	2,045	2,045
Pennsylvania Economic Development Financing Authority Tax Exempt Pooled Bond payable in installments from 2005 through 2021 with an average interest rate of 1.63% at December 31, 2002	400	-
Pennsylvania Department of Community and Economic Development Machinery and Equipment Loan Fund payable in installments through 2009 with a fixed interest rate of 3.75%	474	-
	27,816	33,567
Less current maturities	825	809
	\$26,991	\$32,758

The \$23,000,000 revolving credit borrowings included in long-term debt were obtained under the revolving loan agreement discussed in Note 8 and are subject to the same terms and conditions. The borrowings are classified as long-term because the Company does not anticipate reducing the borrowings below \$23,000,000 during 2003.

The Massachusetts Industrial Revenue Bond is secured by a \$2,085,000 standby letter of credit.

The Pennsylvania Economic Development Financing Authority Tax-Exempt Pooled Bond is secured by a \$410,000 standby letter of credit.

The Company uses interest rate collars to manage interest rate exposure on variable-rate debt. The Company has a LIBOR-based interest rate collar agreement, which became effective in March 2001 and expires in March 2006, with a notional value of \$15,000,000, a maximum annual interest rate of 5.60%, and a minimum annual interest rate of 5.00%. The counterparty to the collar agreement has the option, on March 6, 2005, to convert the \$15,000,000 collar to a one-year, fixed-rate instrument with interest payable at an annual rate of 5.49%. The Company also has a LIBOR-based interest rate collar agreement, which became effective in April 2001 and expires in April 2006, with a notional value of \$10,000,000, a maximum annual interest rate of 5.14%, and a minimum annual interest rate of 4.97%. The counterparty to the collar agreement has the option, on April 18, 2004, to convert the \$10,000,000 collar to a two-year fixed-rate instrument with interest payable at an annual rate of 5.48%. Other expense (income) for 2002 includes a non-cash charge of \$2,232,000 related to the mark-to-market accounting for these derivative instruments as a result of the Company entering into a new credit agreement late in the third quarter. The new agreement, as discussed in Note 8, discontinued the hedging relationship of the Company's interest rate collars with the underlying debt instrument. Although these derivatives are not deemed to be effective hedges of the new credit facility, in accordance with the provisions of SFAS 133, the Company has retained these instruments as protection against interest rate risk associated with the new credit agreement and the Company will continue to record the mark-to-market adjustments on the interest rate collars, through 2006, in its consolidated income statement.

The Company also has an interest rate swap agreement related to variable rate borrowings, which expires in December 2004, has a notional value of \$2,453,000 at December 31, 2002, and is designed to fix the total interest rate at 7.42%. The Company is obligated to pay additional interest on the swap if LIBOR exceeds 7.249%. The fair value of the swap at December 31, 2002 is a \$171,000 liability and is classified within other long-term liabilities on the Consolidated Balance Sheets. At the current fair value based on prevailing interest rates as of December 31, 2002, the \$101,000 of other comprehensive loss related to this derivative, which is net of tax, will be reclassified into earnings as the underlying hedged items affect earnings, over the term of the agreement.

The maturities of long-term debt for each of the succeeding five years subsequent to December 31, 2002 are as follows: 2003 - \$825,000; 2004 - \$461,000; 2005 - \$23,314,000; 2006 - \$329,000; 2007 and after - \$2,887,000.

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 NOTE 10.  
 STOCKHOLDERS' EQUITY

At December 31, 2002 and 2001, the Company had authorized shares of 20,000,000 in Common stock and 5,000,000 in Preferred stock. No Preferred stock has been issued. The Common stock has a par value of \$.01 per share. No par value has been assigned to the Preferred stock.

The Company's Board of Directors has authorized the purchase of up to 1,500,000 shares of its Common stock at prevailing market prices. As of December 31, 2002, the Company had repurchased 973,398 shares at a total cost of approximately \$5,016,800. No purchases were made in 2002. The timing and extent of future purchases will depend on market conditions and options available to the Company for alternative uses of its resources.

No cash dividends on Common stock were paid in 2002, 2001, or 2000.

NOTE 11.  
 ACCUMULATED OTHER COMPREHENSIVE LOSS

The components of accumulated other comprehensive loss, net of tax, for the years ended December 31, 2002 and 2001, are as follows:

In thousands	2002	2001
Cumulative transition adjustment of a change in accounting principle (SFAS 133)	\$ -	\$ (48)
Unrealized derivative losses on cash flow hedges	(101)	(589)
Foreign currency translation adjustment	(56)	(39)
Minimum pension liability adjustment	(654)	(220)
	<u>\$(811)</u>	<u>\$(896)</u>

NOTE 12.  
 STOCK OPTIONS

The Company has two stock option plans currently in effect under which future grants may be issued: The 1985 Long-Term Incentive Plan (1985 Plan) and the 1998 Long-Term Incentive Plan for Officers and Directors (1998 Plan).

The 1985 Plan, as amended and restated in March 1994, provides for the award of options to key employees and directors to purchase up to 1,500,000 shares of Common stock at no less than 100% of fair market value on the date of the grant. The 1998 Plan as amended and restated in May 2001, provides for the award of options to key employees and directors to purchase up to 900,000 shares of Common stock at no less than 100% of fair market value on the date of the grant. Both Plans provide for the granting of "nonqualified options" and "incentive stock options" with a duration of not more than ten years from the date of grant. The Plans also provide that, unless otherwise set forth in the option agreement, options are exercisable in installments of up to 25% annually beginning one year from date of grant. Stock to be offered under the Plans may be authorized from unissued Common stock or previously issued shares which have been reacquired by the Company and held as Treasury shares. At December 31, 2002, 2001 and 2000, Common stock options outstanding under the Plans had option prices ranging from \$2.75 to \$6.00, with a weighted average price of \$4.27, \$4.05 and \$4.26 per share, respectively.

The weighted average remaining contractual life of the stock options outstanding for the three years ended December 31, 2002 are: 2002 - 6.4 years; 2001 - 6.7 years; and 2000 - 7.1 years.

The Option Committee of the Board of Directors which administers the Plans may, at its discretion, grant stock appreciation rights at any time prior to six months before an option's expiration date. Upon exercise of such rights, the participant surrenders the exercisable portion of the option in exchange for payment (in cash and/or Common stock valued at its fair market value) of an amount not greater than the spread, if any, by which the average of the high and low sales prices quoted in the Over-the-Counter Exchange on the trading day immediately preceding the date of exercise of the stock appreciation right exceeds the option price. No stock appreciation rights were issued or outstanding during 2002, 2001 or 2000.

Options for 55,500 shares were exercised during 2002 with a weighted average exercise price of \$3.45. No options were exercised in 2001; however, during 2000, options exercised totaled 35,500 shares with a weighted average exercise price of \$3.32.

Certain information for the three years ended December 31, 2002 relative to employee stock options is summarized as follows:

	2002	2001	2000
-----			
Number of shares under Incentive Plan:			
Outstanding at beginning of year	1,402,750	1,187,500	950,500
Granted	251,500	356,000	462,500
Canceled	(63,250)	(140,750)	(190,000)
Exercised	(55,500)	-	(35,500)
-----			
Outstanding at end of year	1,535,500	1,402,750	1,187,500
=====			
Exercisable at end of year	1,040,500	916,250	721,375
=====			
Number of shares available for future grant:			
Beginning of year	370,800	136,050	408,550
=====			
End of year	182,550	370,800	136,050
=====			

Pro forma information regarding net income and earnings per share for options granted is required by SFAS 123, and has been determined as if the Company had accounted for its employee stock options under the fair value method of SFAS 123. The fair value of stock options used to compute pro forma net income and earnings per share disclosures is the estimated present value at grant date using the Black-Scholes option-pricing model with the following weighted-average assumptions used for grants in 2002, 2001 and 2000, respectively: risk-free interest rates of 4.94%, 5.24% and 6.02%; dividend yield of 0.0% for all three years; volatility factors of the expected market price of the Company's Common stock of .32, .31 and .29; and a weighted-average expected life of the option of ten years. The weighted average fair value of options granted at December 31, 2002, 2001, and 2000 was \$2.75, \$1.91 and \$2.26, respectively.

Had compensation expense for the Company's stock option plans been determined in accordance with SFAS 123, the Company's net (loss) income from continuing operations and diluted (loss) earnings per share would have been: \$(5,299,000) or \$(0.56) per share in 2002, \$1,043,000 or \$0.11 per share in 2001, and \$3,428,000 or \$0.36 per share in 2000.

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 NOTE 13.  
 (LOSS) EARNINGS PER COMMON SHARE

The following table sets forth the computation of basic and diluted (loss) earnings per common share:

In thousands, except per share amounts	Years ended December 31,		
	2002	2001	2000
-----			
Numerator:			
Numerator for basic and diluted earnings per common share - net (loss) income available to common stockholders:			
(Loss) income from continuing operations	\$(5,029)	\$1,303	\$3,743
Loss from discontinued operations	(2,005)	(666)	(253)
Cumulative effect of change in accounting principle	(4,390)	-	-
-----			
Net (loss) income	\$(11,424)	\$637	\$3,490
=====			
Denominator:			
Weighted average shares	9,494	9,429	9,490
-----			
Denominator for basic earnings per common share	9,494	9,429	9,490
Effect of dilutive securities:			
Contingent issuable shares	13	44	53
Employee stock options	140	34	15
-----			
Dilutive potential common shares	153	78	68
Denominator for diluted earnings per common share - adjusted weighted average shares and assumed conversions	9,647	9,507	9,558
=====			
Basic and diluted (loss) earnings per common share:			
Continuing operations	\$ (0.53)	\$ 0.14	\$ 0.39
Discontinued operations	(0.21)	(0.07)	(0.03)
Cumulative effect of change in accounting principle	(0.46)	-	-
-----			
Basic and diluted (loss) earnings per common share	\$ (1.20)	\$ 0.07	\$ 0.37
=====			

In 2002, the Company did not include dilutive securities in the calculation of weighted average common shares because of their anti-dilutive effect due to the net loss incurred.

Weighted average shares issuable upon the exercise of stock options which were antidilutive and were not included in the calculation were 352,000, 684,000 and 791,000 in 2002, 2001 and 2000, respectively.

NOTE 14.  
 INCOME TAXES

At December 31, 2002 and 2001, the tax benefit of net operating loss carryforwards available for foreign and state income tax purposes was approximately \$2,666,000 and \$2,166,000, respectively. For financial reporting purposes, a valuation allowance of \$1,974,000 has been recognized to offset the deferred tax assets related to the state and foreign net operating loss carryforwards. The Company's valuation allowance for deferred tax assets was increased by \$411,000 during 2002 and \$357,000 during 2001 to reflect the uncertainty regarding the Company's ability to utilize state and foreign net operating loss carryforwards, which begin to expire in 2005. Additionally, at December 31, 2002, the Company wrote down the value of its investment and advances with its specialty trackwork supplier by \$6,943,000, creating a deferred tax asset of approximately \$2,491,000. For financial reporting purposes, a valuation allowance of \$667,000 has been recognized to offset a portion of the deferred tax asset due to the uncertainty of the Company's ability to utilize the entire deferred tax asset. The change in the net deferred tax asset (liability) reflects \$541,000 in deferred tax assets related to adoption of SFAS 142 in which the Company recognized \$4,931,000 in goodwill impairment as the cumulative effect of a change in accounting principle for book purposes, as well as the change in minimum pension liability and derivative instruments which are recorded, net of tax, in accumulated other comprehensive loss. Significant components of the Company's deferred tax liabilities and assets as of December 31, 2002 and 2001 are as follows:

In thousands	2002	2001
-----		
Deferred tax liabilities:		
Depreciation	\$ 4,195	\$ 4,968
Inventories	1,474	1,201

Total deferred tax liabilities	5,669	6,169
Deferred tax assets:		
Accounts receivables	362	295
Net operating loss carryforwards	2,666	2,166
Minimum pension liability	453	139
Derivative instruments	70	442
Writedown of investment and advances	2,491	-
Goodwill	541	-
Other - net	2,006	1,196
Total deferred tax assets	8,589	4,238
Valuation allowance for deferred tax assets	2,641	1,563
Deferred tax assets	5,948	2,675
Net deferred tax asset (liability)	\$ 279	\$ (3,494)

Significant components of the provision for income taxes from continuing operations are as follows:

In thousands	2002	2001	2000
Current:			
Federal	\$ 615	\$ 757	\$2,777
State	64	156	161
Total current	679	913	2,938
Deferred:			
Federal	(2,904)	(2)	(398)
State	(386)	14	(44)
Total deferred	(3,290)	12	(442)
Total income tax expense	\$(2,611)	\$ 925	\$2,496

The reconciliation of income tax from continuing operations computed at statutory rates to income tax expense (benefit) is as follows:

	2002	2001	2000
Statutory rate	(34.0%)	34.0%	34.0%
State income tax	(2.6)	11.8	0.8
Foreign income tax	-	-	5.1
Nondeductible expenses	(1.9)	1.8	0.1
Other	4.3	(6.1)	-
	(34.2%)	41.5%	40.0%

(Loss) income from continuing operations before income taxes included a loss from domestic operations of \$(12,571,000) in 2002, and income of \$2,228,000 in 2001, and \$6,239,000 in 2000.

NOTE 15.  
RENTAL AND LEASE INFORMATION

The Company has capital and operating leases for certain plant facilities, office facilities, and equipment. Rental expense for the years ended December 31, 2002, 2001, and 2000 amounted to \$4,008,000, \$4,145,000 and \$4,058,000, respectively. Generally, the land and building leases include escalation clauses.

The following is a schedule, by year, of the future minimum payments under capital and operating leases, together with the present value of the net minimum payments as of December 31, 2002:

In thousands	Capital Leases	Operating Leases
Year ending December 31,		
2003	\$ 868	\$ 3,119
2004	457	2,537
2005	264	1,492
2006	264	1,236
2007 and thereafter	361	344
Total minimum lease payments	2,214	\$8,728
Less amount representing interest	317	
Total present value of minimum payment	1,897	
Less current portion of such obligations	761	
Long-term obligations with interest rates ranging from 3.66% to 11.42%	\$1,136	

Assets recorded under capital leases are as follows:

In thousands	2002	2001
Machinery and equipment at cost	\$3,029	\$2,827
Buildings	399	-
Land	219	-
Less accumulated amortization	3,647	2,827
	1,371	1,367
Net property, plant and equipment	2,276	1,460
Machinery and equipment held for resale, at cost	-	2,033
Less accumulated amortization/valuation	-	827
Net property held for resale	-	1,206

Net prepaid expenses	77	67
Net capital lease assets	\$2,353	\$2,733



Substantially all of the Company's hourly paid employees are covered by one of the Company's noncontributory, defined benefit plans and a defined contribution plan. Substantially all of the Company's salaried employees are covered by a defined contribution plan established by the Company.

The hourly plan assets consist of various mutual fund investments. The following tables present a reconciliation of the changes in the benefit obligation, the fair market value of the assets and the funded status of the plan, with the accrued pension cost in other non-current liabilities in the Company's balance sheets:

In thousands	2002	2001
-----		
Changes in benefit obligation:		
Benefit obligation at beginning of year	\$ 2,668	\$ 2,747
Service cost	54	75
Interest cost	183	175
Actuarial losses (gains)	151	(224)
Benefits paid	(101)	(105)
-----		
Benefit obligation at end of year	\$ 2,955	\$ 2,668
=====		
Change to plan assets:		
Fair value of assets at beginning of year	\$ 2,013	\$ 2,383
Actual loss on plan assets	(380)	(328)
Employer contribution	108	63
Benefits paid	(101)	(105)
-----		
Fair value of assets at end of year	\$ 1,640	\$ 2,013
=====		
Funded status	\$(1,315)	\$ (655)
Unrecognized actuarial loss	1,151	473
Unrecognized net transition asset	(45)	(55)
Unrecognized prior service cost	53	62
-----		
Accrued benefit cost	\$ (156)	\$ (175)
=====		
Amounts recognized in the statement of financial position consist of:		
Accrued benefit liability	\$ (1,315)	\$ (655)
Intangible asset	53	62
Accumulated other comprehensive loss	1,106	418
-----		
Net amount recognized	\$ (156)	\$ (175)
=====		

The Company's funding policy for defined benefit plans is to contribute the minimum required by the Employee Retirement Income Security Act of 1974. Net periodic pension costs for the three years ended December 31, 2002 are as follows:

In thousands	2002	2001	2000
-----			
Components of net periodic benefit cost:			
Service cost	\$ 54	\$ 75	\$ 61
Interest cost	183	175	179
Actual loss on plan assets	380	328	204
Amortization of prior service cost	(9)	(9)	(16)
Recognized net actuarial loss	(519)	(531)	(420)
-----			
Net periodic benefit cost	\$ 89	\$ 38	\$ 8
=====			

Assumptions used to measure the projected benefit obligation and develop net periodic pension costs for the three years ended December 31, 2002 were:

	2002	2001	2000
-----			
Assumed discount rate	6.75%	7.00%	7.00%
=====			
Expected rate of return on plan assets	7.75%	8.00%	8.00%
=====			

Amounts applicable to the Company's pension plans with accumulated benefit obligations in excess of plan assets are as follows:

In thousands	2002	2001	2000
-----			
Projected benefit obligation	\$2,955	\$2,668	\$2,747

Accumulated benefit obligation	2,955	2,668	2,718
Fair value of plan assets	1,640	2,013	2,383

=====

The Company's defined contribution plan, available to substantially all salaried employees, contains a matched savings provision that permits both pretax and after-tax employee contributions. Participants can contribute from 2% to 15% of their annual compensation and receive a matching employer contribution up to 3% of their annual compensation.

Further, the plan requires an additional matching employer contribution, based on the ratio of the Company's pretax income to equity, up to 3% of the employee's annual compensation. Additionally, the Company contributes 1% of all salaried employees' annual compensation to the plan without regard for employee contribution. The defined contribution plan expense was \$373,000 in 2002, \$558,000 in 2001, and \$877,000 in 2000.

## COMMITMENTS AND CONTINGENT LIABILITIES

The Company is subject to laws and regulations relating to the protection of the environment, and the Company's efforts to comply with increasingly stringent environmental regulations may have an adverse effect on the Company's future earnings. In the opinion of management, compliance with the present environmental protection laws will not have a material adverse effect on the financial condition, results of operations, competitive position, or capital expenditures of the Company.

The Company is subject to legal proceedings and claims that arise in the ordinary course of its business. In the opinion of management, the amount of ultimate liability with respect to these actions will not materially affect the financial condition or liquidity of the Company, although the resolution in any reporting period of one or more of these matters could have a material effect on the Company's results of operations for that period.

At December 31, 2002, the Company had outstanding letters of credit of approximately \$2,762,000.

## NOTE 18.

## RISKS AND UNCERTAINTIES

The Company's future operating results may be affected by a number of factors. Deteriorating market conditions could have a material adverse impact on any of the Company's operating segments. The Company is dependent upon a number of major suppliers. If a supplier had operational problems or ceased making material available to the Company, operations could be adversely affected.

Specialty trackwork sales of the Company's Rail segment depend primarily on one source, in which the Company maintains a 30% ownership position. During the third quarter of 2002, the Company recorded a \$1,793,000 "other than temporary" impairment charge related to its equity investment in this supplier. On December 31, 2002, the Company wrote down \$5,050,000 of advances made to this supplier and the remaining \$100,000 in its equity investment. These advances are not expected to be recoverable. The Company has approximately \$10.0 million of contractual supply obligations with certain customers related to specialty trackwork. If, for any reason, this supplier is unable to perform, the Company could experience a negative impact on earnings and cash flows.

The Company is TXI Chaparral's exclusive North American distributor of steel sheet piling. Steel sheet piling production commenced in 2001 at TXI Chaparral's Petersburg, VA facility, but the quantity produced has not materially impacted results for 2002 or 2001. In December 2002, the Company announced the availability of a full range of Z-pile sheet piling products. The Company expects the availability of Z-piling to have a positive effect on 2003 earnings for the Construction products segment. However, if TXI Chaparral fails to produce substantial quantities of Z-piling products, earnings could be adversely impacted.

The Company's CXT subsidiary and Allegheny Rail Products division are dependent on one customer for a significant portion of their business. In addition, a substantial portion of the Company's operations are heavily dependent on governmental funding of infrastructure projects. Significant changes in the level of government funding of these projects or the failure to negotiate contract renewals, could have a favorable or unfavorable impact on the operating results of the Company. Additionally, governmental actions concerning taxation, tariffs, the environment or other matters could impact the operating results of the Company. The Company's operating results may also be affected by adverse weather conditions.

L. B. Foster Company is organized and evaluated by product group, which is the basis for identifying reportable segments.

The Company is engaged in the manufacture, fabrication and distribution of rail, construction and tubular products.

The Company's Rail segment provides a full line of new and used rail, trackwork and accessories to railroads, mines and industry. The Rail segment also designs and produces concrete ties, insulated rail joints, power rail, track fasteners, coverboards and special accessories for mass transit and other rail systems. Foster Technologies, the Company's rail signaling and communication business, was classified as a discontinued operation on December 31, 2002. Prior period results have been adjusted to reflect this classification. See Note 5, "Discontinued Operations".

The Company's Construction segment sells and rents steel sheet piling, H-bearing pile, and other piling products for foundation and earth retention requirements. In addition, the Company's Fabricated Products division sells bridge decking, heavy steel fabrications, expansion joints and other products for highway construction and repair. The Geotechnical division designs and supplies mechanically-stabilized earth wall systems while the Buildings division produces precast concrete buildings.

The Company's Tubular segment supplies pipe coatings for pipelines and utilities. Additionally, this segment produces pipe-related products for special markets, including water wells and irrigation.

The Company markets its products directly in all major industrial areas of the United States, primarily through a national sales force.

The following table illustrates revenues, profits/losses, assets, depreciation/amortization and capital expenditures of the Company by segment. Segment profit is the earnings before income taxes and includes internal cost of capital charges for assets used in the segment at a rate of, generally 1% per month. The accounting policies of the reportable segments are the same as those described in the summary of significant accounting policies except that the Company accounts for inventory on a First-In, First-Out (FIFO) basis at the segment level compared to a Last-In, First-Out (LIFO) basis at the consolidated level.

In thousands		2002			
	Net Sales	Segment Profit/(Loss)	Segment Assets	Depreciation/Amortization	Expenditures for Long-Lived Assets
Rail Products	\$128,249	\$ (1,511)	\$ 57,475	\$ 2,429	\$ 909
Construction Products	116,748	1,007	44,385	1,719	4,705
Tubular Products	12,953	714	6,243	350	1,149
<b>Total</b>	<b>\$257,950</b>	<b>\$ 210</b>	<b>\$108,103</b>	<b>\$ 4,498</b>	<b>\$ 6,763</b>

In thousands		2001			
	Net Sales	Segment Profit/(Loss)	Segment Assets	Depreciation/Amortization	Expenditures for Long-Lived Assets
Rail Products	\$145,054	\$ (3,122)	\$ 71,083	\$ 3,001	\$ 1,750
Construction Products	115,600	1,807	49,018	1,617	2,526
Tubular Products	21,055	2,850	8,236	603	263
<b>Total</b>	<b>\$281,709</b>	<b>\$ 1,535</b>	<b>\$128,337</b>	<b>\$ 5,221</b>	<b>\$ 4,539</b>

In thousands	2000				
	Net Sales	Segment Profit	Segment Assets	Depreciation/Amortization	Expenditures for Long-Lived Assets
Rail Products	\$138,635	\$ 99	\$ 84,395	\$ 2,346	\$ 1,572
Construction Products	106,280	4,429	53,944	1,391	2,261
Tubular Products	19,511	1,531	9,058	630	211
Total	\$264,426	\$ 6,059	\$147,397	\$ 4,367	\$ 4,044

One customer accounted for more than 11% of consolidated net sales in 2002. While the Company expects this relationship to continue, the loss of this customer could affect the operations of the Rail segment. No customer accounted for more than 10% of consolidated sales in 2001 or 2000. Sales between segments are immaterial.

Reconciliations of reportable segment net sales, profit, assets, depreciation and amortization, and expenditures for long-lived assets to the Company's consolidated totals are illustrated as follows:

In thousands	2002	2001	2000
Net Sales from Continuing Operations			
Total for reportable segments	\$ 257,950	\$ 281,709	\$ 264,426
Other net sales	-	410	188
	\$ 257,950	\$ 282,119	\$ 264,614
(Loss) Income from Continuing Operations			
Total for reportable segments	\$ 210	\$ 1,535	\$ 6,059
Adjustment of inventory to LIFO	84	357	162
Unallocated other (expense) income	(8,040)	694	2,506
Other unallocated amounts	106	(358)	(2,488)
(Loss) income from continuing operations, before income taxes and cumulative effect of change in accounting principle	\$ (7,640)	\$ 2,228	\$ 6,239
Assets			
Total for reportable segments	\$ 108,103	\$ 128,337	\$ 147,397
Unallocated corporate assets	20,429	25,556	23,913
LIFO and market value inventory reserves	(1,849)	(1,933)	(2,290)
Unallocated property, plant and equipment	6,967	6,934	6,816
Assets of discontinued operations	334	1,148	1,311
Total assets	\$ 133,984	\$ 160,042	\$ 177,147
Depreciation/Amortization			
Total reportable for segments	\$ 4,498	\$ 5,221	\$ 4,367
Other	1,353	193	747
	\$ 5,851	\$ 5,414	\$ 5,114
Expenditures for Long-Lived Assets			
Total for reportable segments	\$ 6,763	\$ 4,539	\$ 4,044
Expenditures included in acquisition of business	(1,025)	-	-
Expenditures financed under capital leases	(1,303)	(102)	(340)
Expenditures included in property held for sale	-	-	(99)
Other expenditures	289	370	458
	\$ 4,724	\$ 4,807	\$ 4,063

Approximately 97% of the Company's total net sales were to customers in the United States, and a majority of the remaining sales were to other North American countries.

All of the Company's long-lived assets are located in North America and almost 100% of those assets are located in the United States.

## RESTRUCTURING, IMPAIRMENT, AND OTHER NON-RECURRING CHARGES

The expected sale of the Company's Newport, KY pipe coating assets did not materialize, resulting in a 2002 fourth quarter non-cash charge of \$765,000. This charge represents depreciation expense that had been suspended while these assets were classified as held for resale.

Also during the fourth quarter of 2002, the Company started negotiations and committed to a plan to sell the assets related to its rail signaling business. The Company recorded a \$660,000 non-cash impairment loss to adjust these assets to their fair value. The operations of the rail signaling business qualify as a "component of an entity" and thus, have been classified as discontinued operations in 2002. See Note 5, "Discontinued Operations".

Both of these transactions were recorded in accordance with the provisions of Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets".

Other non-cash charges that were recorded in 2002 include: \$6,943,000 impairment of the Company's investment in and advances to its principal specialty trackwork supplier; \$4,390,000 (net of tax) from the cumulative effect of a change in accounting principle, as a result of the adoption of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets"; and \$2,232,000 related to mark-to-market accounting for derivative instruments, as a result of the Company entering into a new credit agreement, which discontinued the hedging relationship of the Company's interest rate collars with the underlying debt instrument.

A two-year plan to improve the Company's financial performance by consolidating sales and administrative functions, and plant operations was implemented during 2001 and 2000. Results for 2001 included pretax charges of \$1,879,000 related to the plan. These charges consisted of employee severances and facility exit costs of \$845,000; asset impairments of \$606,000; and other related costs of \$428,000.

Results for 2000 also included pretax charges related to the above-mentioned plan of \$1,349,000. These charges consisted of employee severances and facility exit costs of \$1,011,000; asset impairments of \$173,000; and other related costs of \$165,000.

Costs associated with the consolidation of sales and administrative functions were charged to selling and administrative expense, while costs associated with the consolidation of plant operations, including substantially all impairment charges, were included in cost of sales, on the Company's Consolidated Statements of Operations. Substantially all components of the restructuring charges were paid in the period incurred.

Quarterly financial information for the years ended December 31, 2002 and 2001 is presented below:

In thousands, except per share amounts	2002				
	First Quarter(1)	Second Quarter	Third Quarter(2)(3)	Fourth Quarter(4)(5)(6)	Total
Net sales	\$ 63,173	\$ 70,806	\$ 66,965	\$ 57,006	\$ 257,950
Gross profit	\$ 6,795	\$ 8,700	\$ 8,344	\$ 5,628	\$ 29,467
Income (loss) from continuing operations	\$ 28	\$ 1,063	\$ (2,445)	\$ (3,675)	\$ (5,029)
Loss from discontinued operations	\$ (317)	\$ (332)	\$ (302)	\$ (1,054)	\$ (2,005)
Cumulative effect of change in accounting principle	\$ (4,390)	\$ -	\$ -	\$ -	\$ (4,390)
Net (loss) income	\$ (4,679)	\$ 731	\$ (2,747)	\$ (4,729)	\$ (11,424)
Basic and diluted (loss) earnings per common share:					
From continuing operations	\$ -	\$ 0.11	\$ (0.26)	\$ (0.39)	\$ (0.53)
From discontinued operations	\$ (0.03)	\$ (0.03)	\$ (0.03)	\$ (0.11)	\$ (0.21)
From cumulative effect of change in accounting principle	\$ (0.46)	\$ -	\$ -	\$ -	\$ (0.46)
Basic and diluted (loss) earnings per common share	\$ (0.50)	\$ 0.08	\$ (0.29)	\$ (0.50)	\$ (1.20)

(1) During the third quarter of 2002, the Company completed its goodwill impairment testing required by the adoption of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets" and recorded a \$4,390,000 non-cash charge. In accordance with this standard, this charge was recognized as the cumulative effect of a change in accounting principle as of the date of adoption, January 1, 2002, and accordingly, previously reported amounts have been restated to reflect the adoption of this standard. 2) Includes a non-cash charge of \$2,260,000 related to the mark-to-market accounting for derivative instruments as a result of the Company entering into a new credit agreement late in the third quarter, which discontinued the hedging relationship of the Company's interest rate collars with the underlying debt instrument. 3) Includes a \$1,793,000 "other than temporary" impairment charge related to the Company's equity investment in its principal specialty trackwork supplier. 4) Includes a \$5,050,000 write-down of uncollectible advances made to the Company's principal specialty trackwork supplier and the remaining \$100,000 balance in its equity investment. 5) Includes a \$765,000 charge for depreciation expense that had been suspended while the Company's Newport, KY pipe-coating assets were classified as held for resale. 6) During the fourth quarter, the Company committed to a plan to sell the assets related to its rail signaling business and recorded a \$660,000 impairment loss to adjust the assets to their expected realizable value. Accordingly, this business was reclassified as a discontinued operation and prior periods continuing operations have been restated by the amount reflected as discontinued operations.

In thousands, except per share amounts

2001

	First Quarter(1)(2)	Second Quarter(1)(2)	Third Quarter(1)(2)	Fourth Quarter(1)(2)	Total
Net sales	\$ 56,090	\$ 80,274	\$ 75,791	\$ 69,964	\$ 282,119
Gross profit	\$ 5,340	\$ 10,135	\$ 9,719	\$ 8,302	\$ 33,496
(Loss) income from continuing operations	\$ (1,685)	\$ 1,176	\$ 1,173	\$ 639	\$ 1,303
Loss from discontinued operations	\$ (180)	\$ (185)	\$ (143)	\$ (158)	\$ (666)
Net (loss) income	\$ (1,865)	\$ 991	\$ 1,030	\$ 481	\$ 637
Basic (loss) earnings per common share:					
From continuing operations	\$ (0.18)	\$ 0.12	\$ 0.12	\$ 0.07	\$ 0.14
From discontinued operations	\$ (0.02)	\$ (0.02)	\$ (0.02)	\$ (0.02)	\$ (0.07)
Basic (loss) earnings per common share	\$ (0.20)	\$ 0.11	\$ 0.11	\$ 0.05	\$ 0.07
Diluted (loss) earnings per common share:					
From continuing operations	\$ (0.18)	\$ 0.12	\$ 0.12	\$ 0.07	\$ 0.14
From discontinued operations	\$ (0.02)	\$ (0.02)	\$ (0.02)	\$ (0.02)	\$ (0.07)
Diluted (loss) earnings per common share	\$ (0.20)	\$ 0.10	\$ 0.11	\$ 0.05	\$ 0.07

(1) The quarterly results include charges related to the Company's previously announced plan of consolidating sales and administrative functions and plant operations. For the first, second, third and fourth quarters, these pretax charges were \$1,356,000, \$140,000, \$10,000 and \$373,000, respectively. (2) The previously reported continuing operations have been restated to reflect the classification of the Company's rail signaling business as a discontinued operation.

Note 22.  
Subsequent Event

In February 2003, the Company sold assets related to its rail signaling and communications device business (Foster Technologies) for \$300,000. These assets, classified as a discontinued operation on December 31, 2002, were comprised of a patent, associated intellectual property, inventory and equipment.



To the Board of Directors and Stockholders of L. B. Foster Company:  
-----

We have audited the accompanying consolidated balance sheets of L. B. Foster Company and Subsidiaries as of December 31, 2002 and 2001, and the related consolidated statements of operations, common stockholders' equity and cash flows for each of the three years in the period ended December 31, 2002. Our audits also included the financial statement schedule listed in the index at Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of L. B. Foster Company and Subsidiaries at December 31, 2002 and 2001, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2002 in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As described in Note 1 to the consolidated financial statements, the Company adopted the provisions of Statement of Accounting Standards No. 142, "Goodwill and Other Intangible Assets", effective January 1, 2002.

As described in Note 1 to the consolidated financial statements, the Company adopted the provisions of Statement of Accounting Standards No. 133, "Accounting for Derivatives and Hedging Activities", effective January 1, 2001.

/s/Ernst & Young LLP  
Pittsburgh, Pennsylvania  
January 28, 2003

To the Stockholders of L. B. Foster Company:  
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The management of L. B. Foster Company is responsible for the integrity of all information in the accompanying consolidated financial statements and other sections of the annual report. Management believes the financial statements have been prepared in conformity with accounting principles generally accepted in the United States that reflect, in all material respects, the substance of events and transactions, and that the other information in the annual report is consistent with those statements. In preparing the financial statements, management makes informed judgments and estimates of the expected effects of events and transactions being accounted for currently.

The Company maintains a system of internal accounting control designed to provide reasonable assurance that assets are safeguarded and that transactions are executed in accordance with management's authorization and are properly recorded to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States. Underlying the concept of reasonable assurance is the evaluation of the costs and benefits derived from control. This evaluation requires estimates and judgments by the Company. The Company believes that its internal accounting controls provide an appropriate balance between costs and benefits.

The Board of Directors pursues its oversight role with respect to the financial statements through the Finance and Audit Committee which is composed of outside directors. The Finance and Audit Committee meets periodically with management, the internal audit department and our independent auditors to discuss the adequacy of the internal accounting control, the quality of financial reporting and the nature, extent and results of the audit effort. Both the internal audit department and the independent auditors have free access to the Finance and Audit Committee.

/s/Stan L. Hasselbusch  
Stan L. Hasselbusch  
President and  
Chief Executive Officer

/s/David J. Russo  
David J. Russo  
Senior Vice President,  
Chief Financial Officer  
and Treasurer

## ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## PART III

## ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information concerning the directors is set forth under "Election of Directors" in the Company's Proxy Statement for the 2003 annual meeting of stockholders ("2003 Proxy Statement"). Such information is incorporated herein by reference. Information concerning the executive officers who are not directors of the Company is set forth below. With respect to the period prior to August 18, 1977, references to the Company are to the Company's predecessor, Foster Industries, Inc.

Name	Age	Position
Alec C. Bloem	52	Senior Vice President - Concrete Products
Samuel K. Fisher	50	Senior Vice President - Rail
Robert J. Howard	47	Vice President - Human Resources
Gregory W. Lippard	34	Vice President - Rail Product Sales
Linda K. Patterson	53	Controller
David J. Russo	44	Senior Vice President, Chief Financial Officer and Treasurer
David L. Voltz	50	Vice President, General Counsel and Secretary
Donald F. Vukmanic	51	Vice President - Piling Products
David J. A. Walsh	50	Vice President - Fabricated Products

Mr. Bloem was elected Senior Vice President - Concrete Products in March 2000, having previously served as Vice President - Geotechnical and Precast Division from October 1999, and President - Geotechnical Division from August 1998. Prior to joining the Company in August 1998, Mr. Bloem served as Vice President- VSL Corporation.

Mr. Fisher was elected Senior Vice President - Rail in October 2002, having previously served as Senior Vice President - Product Management since June 2000. From October 1997 until June 2000, Mr. Fisher served as Vice President - Rail Procurement. Prior to October 1997, he served in various other capacities with the Company since his employment in 1977.

Mr. Howard was elected Vice President - Human Resources in June 2002. Mr. Howard was Vice President - Human Resources of Bombardier Transportation, the former Daimler Chrysler Rail Systems, a supplier of rail vehicles, transportation systems and services, worldwide, from January 1992 until June 2002. Mr. Howard also served as the Director of Employee Relations with USAirways from 1981 until 1992.

Mr. Lippard was elected Vice President - Rail Product Sales in June 2000. Prior to re-joining the Company in 2000, Mr. Lippard served as Vice President - International Trading for Tube City, Inc. from June 1998. Mr. Lippard served in various other capacities with the Company since his initial employment in 1991.

Ms. Patterson was elected Controller in February 1999, having previously served as Assistant Controller since May 1997 and Manager of Accounting since March 1988. Prior to March 1988, she served in various other capacities with the Company since her employment in 1977.

Mr. Russo was elected Vice President and Chief Financial Officer in July 2002. In December 2002, Mr. Russo was promoted to the office of Sr. Vice President and Chief Financial Officer and elected to the additional office of Treasurer. Mr. Russo was Corporate Controller of WESCO International Inc., a distributor of electrical construction products, electrical and industrial MRO supplies and integrated supply services, from 1999 until joining L. B. Foster Company in 2002. Mr. Russo also served as Corporate Controller of Life Fitness Inc., an international designer, manufacturer and distributor of aerobic and strength training fitness equipment, primarily to the commercial marketplace (health clubs), from 1991 until 1998.

Mr. Voltz was elected Vice President, General Counsel and Secretary in December 1987. Mr. Voltz joined the Company in 1981.

Mr. Vukmanic was elected Vice President - Piling Products in August 2000. Prior to August 2000, Mr. Vukmanic served as National Sales Manager - Piling from February 1999, Vice President and Controller from February 1997, and Controller from February 1988. Mr. Vukmanic joined the Company in 1977.

Mr. Walsh was elected Vice President - Fabricated Products in February 2001. Prior to joining the Company in February 2001, Mr. Walsh served as General Manager of IKG-Greulich, a business unit of Harsco Corp., from February 1998, and as Vice President of Harris Specialty Chemicals Inc. from January 1995.

Officers are elected annually at the organizational meeting of the Board of Directors following the annual meeting of stockholders.

## ITEM 11. EXECUTIVE COMPENSATION

The information set forth under "Executive Compensation" in the 2003 Proxy Statement is incorporated herein by reference.

## ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The information set forth under "Ownership of Securities by Management" and "Principal Stockholders" in the 2003 Proxy Statement is incorporated herein by reference.

## ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The information set forth under "Certain Transactions" in the 2003 Proxy Statement is incorporated herein by reference.

## ITEM 14. CONTROLS AND PROCEDURES

(a) Within the 90 days prior to the date of this Annual Report on Form 10-K, an evaluation was carried out under the supervision and with the participation of L. B. Foster Company's management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Rules 13a-14 and 15d-14 under the Securities Act of 1934).

(b) Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the design and operation of these disclosure controls and procedures were effective, and that there were no significant changes in the Company's internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

## PART IV

## ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) The following documents are filed as a part of this Report:

## 1. Financial Statements

-----  
The following consolidated financial statements, accompanying notes and Report of Independent Auditors in the Company's Annual Report to Stockholders for 2002 have been included in Item 8 of this Report:

Consolidated Balance Sheets at December 31, 2002 and 2001.

Consolidated Statements of Income for the Three Years Ended December 31, 2002, 2001 and 2000.

Consolidated Statements of Cash Flows for the Three Years Ended December 31, 2002, 2001 and 2000.

Consolidated Statements of Stockholders' Equity for the Three Years Ended December 31, 2002, 2001 and 2000.

Notes to Consolidated Financial Statements.

Report of Independent Auditors.

## 2. Financial Statement Schedule

Schedules for the Three Years Ended December 31, 2002, 2001 and 2000:

II - Valuation and Qualifying Accounts.

The remaining schedules are omitted because of the absence of the conditions upon which they are required.

## 3. Exhibits

The exhibits marked with an asterisk are filed herewith. All exhibits are incorporated herein by reference:

- 3.1 Restated Certificate of Incorporation as amended to date, filed as Appendix B to the Company's April 17, 1998 Proxy Statement.
- \* 3.2 Bylaws of the Registrant, as amended to date.
- \* 4.0 Rights Agreement, dated as of May 15, 1997, between L. B. Foster Company and American Stock Transfer & Trust Company, including the form of Rights Certificate and the Summary of Rights attached thereto.
  - 4.0.1 Amended Rights Agreement dated as of May 14, 1998 between L. B. Foster Company and American Stock Transfer & Trust Company, filed as Exhibit 4.0.1 to Form 10-Q for the quarter ended June 30, 1998.
  - 4.0.2 Revolving Credit and Security Agreement dated September 26, 2002, between L. B. Foster Company and PNC Bank, N.A., filed as Exhibit 4.0.2 to Form 10-Q for the quarter ended September 30, 2002.
- 10.12 Lease between CXT Incorporated and Pentzer Development Corporation, dated April 1, 1993, filed as Exhibit 10.12 to Form 10-K for the year ended December 31, 1999.
  - 10.12.1 Amendment dated March 12, 1996 to lease between CXT Incorporated and Pentzer Development Corporation, filed as Exhibit 10.12.1 to Form 10-K for the year ended December 31, 1999.
  - \* 10.12.2 Amendment dated November 7, 2002 to lease between CXT Incorporated and Pentzer Development Corporation.
- 10.13 Lease between CXT Incorporated and Crown West Realty, L.L.C., dated December 20, 1996, filed as Exhibit 10.13 to Form 10-K for the year ended December 31, 1999.
  - \* 10.13.1 Amendment dated June 29, 2001 between CXT Incorporated and Crown West Realty.
- 10.14 Lease between CXT Incorporated and Pentzer Development Corporation, dated November 1, 1991 and filed as Exhibit 10.14 to Form 10-K for the year ended December 31, 1999.
- 10.15 Lease between CXT Incorporated and Union Pacific Railroad Company, dated February 13, 1998, and filed as Exhibit 10.15 to Form 10-K for the year ended December 31, 1999.

- \* 10.17 Lease between Registrant and City of Hillsboro, TX dated February 22, 2002.
- \* 10.19 Lease Between the Registrant and American Cast Iron Pipe Company for Pipe-Coating Facility in Birmingham, AL dated December 11, 1991.
- 10.19.1 Amendment to Lease between the Registrant and American Cast Iron Pipe Company for pipe coating facility in Birmingham, AL, dated November 15, 2000, and filed as Exhibit 10.19.2 to Form 10-K for the year ended December 31, 2000.
- 10.20 Asset Purchase Agreement, dated June 5, 1998 by and among the Registrant and Northwest Pipe Company, filed as Exhibit 10.0 to Form 8-K on June 18, 1998.
- 10.21 Stock Purchase Agreement dated June 3, 1999, by and among the Registrant and the shareholders of CXT Incorporated, filed as Exhibit 10.0 to Form 8-K on July 14, 1999.
- 10.33.2 Amended and Restated 1985 Long Term Incentive Plan, as amended and restated February 26, 1997, filed as Exhibit 10.33.2 to Form 10-Q for the quarter ended June 30, 1997. \*\*
- 10.34 Amended and Restated 1998 Long-Term Incentive Plan for Officers and Directors, as amended and restated February 2, 2001, filed as Exhibit 10.34 to Form 10-K for the year ended December 31, 2000. \*\*
- \* 10.45 Medical Reimbursement Plan. \*\*
- 10.46 Leased Vehicle Plan, as amended October 16, 2002 and filed as Exhibit 10.46 to Form 10-Q for the quarter ended September 30, 2002. \*\*
- \* 10.51 Supplemental Executive Retirement Plan. \*\*
- \* 10.52 Outside Directors Stock Award Plan. \*\*
- \* 10.53 Directors' resolutions under which directors' compensation was established, dated October 15, 2002. \*\*
- 19 Exhibits marked with an asterisk are filed herewith.
- \* 23.7 Consent of Independent Auditors.
- \*\* Identifies management contract or compensatory plan or arrangement required to be filed as an Exhibit.

(b) Reports on Form 8-K

No reports on Form 8-K were filed during 2002.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

L. B. FOSTER COMPANY

March 26, 2003

By: /s/ Stan L. Hasselbusch  
(Stan L. Hasselbusch,  
President and Chief  
Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Name ----	Position -----	Date ----
By: /s/ Lee B. Foster II (Lee B. Foster II)	Chairman of the Board and Director	March 26, 2003
By: /s/ Stan L. Hasselbusch (Stan L. Hasselbusch)	President, Chief Executive Officer and Director	March 26, 2003
By: /s/ Henry J. Massman, IV (Henry J. Massman, IV)	Director	March 26, 2003
By: /s/ Diane B. Owen (Diane B. Owen)	Director	March 26, 2003
By: /s/ David J. Russo (David J. Russo)	Senior Vice President, Chief Financial Officer and Treasurer	March 26, 2003
By: /s/ Linda K. Patterson (Linda K. Patterson)	Controller	March 26, 2003
By: /s/ John W. Puth (John W. Puth)	Director	March 26, 2003
By: /s/ William H. Rackoff (William H. Rackoff)	Director	March 26, 2003



I, Stan L. Hasselbusch, certify that:

1. I have reviewed this Annual Report on Form 10-K of L. B. Foster Company;
2. Based on my knowledge, this Annual 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 Annual Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Annual 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 Annual 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-14 and 15d-14) for the registrant and we have:
  - a) designed such disclosure controls and procedures 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 Annual Report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this Annual Report (the "Evaluation Date"); and
  - c) presented in this Annual Report our conclusions about the effectiveness of the disclosure controls and procedures based in our evaluation as of the Evaluation Date;
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, 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 in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this Annual Report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: March 26, 2003

/s/Stan L. Hasselbusch  
Stan L. Hasselbusch  
President and Chief Executive Officer

I, David J. Russo, certify that:

1. I have reviewed this Annual Report on Form 10-K of L. B. Foster Company;
2. Based on my knowledge, this Annual 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 Annual Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Annual 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 Annual 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-14 and 15d-14) for the registrant and we have:
  - a) designed such disclosure controls and procedures 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 Annual Report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this Annual Report (the "Evaluation Date"); and
  - c) presented in this Annual Report our conclusions about the effectiveness of the disclosure controls and procedures based in our evaluation as of the Evaluation Date;
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation, 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 in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this Annual Report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: March 26, 2003

/s/David J. Russo  
David J. Russo  
Senior Vice President,  
Chief Financial Officer and  
Treasurer

CERTIFICATION UNDER SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, each of the undersigned certifies that this Annual Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in this Annual Report fairly presents, in all material respects, the financial condition and results of operations of L. B. Foster Company.

March 26, 2003

/s/Stan L. Hasselbusch  
Stan L. Hasselbusch  
President and  
Chief Executive Officer

March 26, 2003

/s/David J. Russo  
David J. Russo  
Senior Vice President,  
Chief Financial Officer and  
Treasurer

L. B. FOSTER COMPANY AND SUBSIDIARIES  
 SCHEDULE II VALUATION AND QUALIFYING ACCOUNTS  
 FOR THE YEARS ENDED DECEMBER 31, 2002, 2001, AND 2000  
 (In Thousands)

	Balance at Beginning of Year	Additions		Deductions	Balance at End of Year
		Charged to Costs and Expenses	Other		
2002					
-----					
Deducted from assets to which they apply:					
Allowance for doubtful accounts	\$ 812	\$ 256	\$	\$ 6 (1)	\$ 1,062
	=====	=====	=====	=====	=====
Provision for decline in market value of inventories	\$ 600	\$	\$	\$	\$ 600
	=====	=====	=====	=====	=====
Not deducted from assets:					
Provision for special termination benefits	\$ 388	\$ 169	\$	\$ 328 (2)	\$ 229
	=====	=====	=====	=====	=====
Provision for environmental compliance & remediation	\$ 340	\$ 47	\$	\$ 62 (2)	\$ 325
	=====	=====	=====	=====	=====
2001					
-----					
Deducted from assets to which they apply:					
Allowance for doubtful accounts	\$ 1,564	\$ (20)	\$	\$ 732 (1)	\$ 812
	=====	=====	=====	=====	=====
Provision for decline in market value of inventories	\$ 600	\$	\$	\$	\$ 600
	=====	=====	=====	=====	=====
Not deducted from assets:					
Provision for special termination benefits	\$ 391	\$ 156	\$	\$ 159 (2)	\$ 388
	=====	=====	=====	=====	=====
Provision for environmental compliance & remediation	\$ 213	\$ 154	\$	\$ 27 (2)	\$ 340
	=====	=====	=====	=====	=====
2000					
-----					
Deducted from assets to which they apply:					
Allowance for doubtful accounts	\$ 1,555	\$ 108	\$	\$ 99 (1)	\$ 1,564
	=====	=====	=====	=====	=====
Provision for decline in market value of inventories	\$ 600	\$	\$	\$	\$ 600
	=====	=====	=====	=====	=====
Not deducted from assets:					
Provision for special termination benefits	\$ 5	\$ 524	\$	\$ 138 (2)	\$ 391
	=====	=====	=====	=====	=====
Provision for environmental compliance & remediation	\$ 214	\$ 49	\$	\$ 50 (2)	\$ 213
	=====	=====	=====	=====	=====

(1) Notes and accounts receivable written off as uncollectible. (2) Payments made on amounts accrued and reversals of accruals.

BYLAWS  
OF  
L.B. Foster Company  
(a Pennsylvania corporation)  
...00000...

ARTICLE I

Notice - Waivers - Meetings Generally

Section 1.01 Manner of giving notice.

(a) General rule.--Whenever written notice is required to be given to any person under the provisions of the Business Corporation Law or by the articles or these bylaws, it may be given to the person either personally or by sending a copy thereof by first class or express mail, postage prepaid, or by telegram (with messenger service specified), telex or TWX (with answerback received) or courier service, charges prepaid, or by facsimile transmission, to the address (or to the telex, TWX or fax number) of the person appearing on the books of the corporation or, in the case of directors, supplied by the director to the corporation for the purpose of notice. If the notice is sent by mail, telegraph or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office or courier service for delivery to that person or, in the case of telex or TWX, when dispatched or, in the case of fax, when received. A notice of meeting shall specify the place, day and hour of the meeting and any other information required by any provision of the Business Corporation Law, the articles or these bylaws.

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

Section 1.02 Notice of meetings of board of directors.--Notice of a regular meeting of the board of directors need not be given. Notice of every special meeting of the board of directors shall be given to each director by telephone or in writing at least 24 hours (in the case of notice by telephone, telex, TWX or fax) or 48 hours (in the case of notice by telegraph, courier service or express mail) or five days (in the case of notice by first class mail) before the time at which the meeting is to be held. Every such notice shall state the time and place of the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in a notice of the meeting.

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Section 1.03 Notice of meetings of shareholders.--Written notice of every meeting of the shareholders shall be given by, or at the direction of, the secretary to each shareholder of record entitled to vote at the meeting at least 20 days prior to the day named for the meeting. If the secretary neglects or refuses to give notice of a meeting, the person or persons calling the meeting may do so. In the case of a special meeting of shareholders, the notice shall specify the general nature of the business to be transacted. Notice by mail of any regular or special meeting of the shareholders may be sent by any class of postpaid mail.

Section 1.04 Use of conference telephone and similar equipment.--The board of directors may provide by resolution with respect to a specific meeting or with respect to a class of meetings that one or more persons may participate in a meeting of the board of directors or of the shareholders of the corporation by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at the meeting.

ARTICLE II

Shareholders

Section 2.01 Place of meeting.--All meetings of the shareholders of the corporation shall be held at the registered office of the corporation unless another place is designated by the board of directors in the notice of a meeting.

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

Section 2.03 Quorum and adjournment.

(a) General rule.--A meeting of shareholders of the corporation duly called shall not be organized for the transaction of business unless a quorum is present. The presence of shareholders entitled to cast at least a majority of the votes that all shareholders are entitled to cast on a particular matter to be acted upon at the meeting shall constitute a quorum for the purposes of

consideration and action on the matter. Shares of the corporation owned, directly or indirectly, by it and controlled, directly or indirectly, by the board of directors of this corporation, as such, shall not be counted in determining the total number of outstanding shares for quorum purposes at any given time.

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

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

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

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

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

Section 2.05 Advance notice of nominations and proposals.--A nomination of a person for election as a director or a proposal on any subject that, in either case, is made by a shareholder shall not be considered at any special or annual meeting of shareholders unless written notice thereof has been received by the secretary not less than 90 days in advance of the meeting or, if later, the seventh calendar day following the first public announcement of the date of the meeting. The shareholder making the nomination or proposal shall, upon request, promptly furnish to the board of directors such information as the board of directors shall reasonably request to enable it to evaluate the nominee or proposal and formulate a recommendation to the shareholders with respect to the nominee or proposal. For purposes of this Section 2.05, a meeting that is held pursuant to the adjournment for any reason of a previous meeting shall be deemed to be the same meeting as the previous meeting, and the date by which notice must be received pursuant to this Section 2.05 shall be determined with reference to the date of the first meeting that was adjourned. If judges of election have not been appointed for a meeting, the presiding officer of the meeting may conclusively determine whether a nomination or proposal has been made in accordance with this Section 2.05. The procedures of this Section 2.05 shall not be deemed to create any right on the part of a shareholder to propose any particular business at a meeting of the shareholders.

Section 2.06 Organization.--At every meeting of the shareholders, the chairman of the board, if there be one, or, in the case of a vacancy in office or absence of the chairman of the board, one of the following officers present in the order stated: the vice chairman of the board, if there be one, the president, the vice presidents in their order of rank and seniority, or a person chosen by majority vote of the shareholders present, shall act as chairman of the meeting. The secretary or, in the absence of the secretary, an assistant secretary, or, in the absence of the secretary and assistant secretaries, a person appointed by the chairman of the meeting, shall act as secretary.

Section 2.07 Proxy expenses.--The corporation shall pay the reasonable expenses of solicitation of votes, proxies or consents of shareholders by or on behalf of the board of directors or its nominees for election to the board, including solicitation by professional proxy solicitors and otherwise.

Section 2.08 Consent of shareholders in lieu of meeting.--Any action required or permitted to be taken at a meeting of the shareholders or of a class of shareholders may be taken without a meeting only upon the unanimous written consent of all shareholders who would have been entitled to vote thereon at a meeting of shareholders called to consider the matter.

### ARTICLE III

#### Board of Directors

##### Section 3.01 Personal liability of directors.

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

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

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

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

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

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

Section 3.02 Qualifications and selection of directors.

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

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

Section 3.03 Number and term of office.

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

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

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

Section 3.04 Place of meetings.--Meetings of the board of directors may be held at such place within or without Pennsylvania as the board of directors may from time to time appoint or as may be designated in the notice of the meeting.

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

Section 3.06 Regular meetings.--Regular meetings of the board of directors shall be held at such time and place as shall be designated from time to time by resolution of the board of directors.

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

Section 3.08 Quorum of and action by directors.

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

(b) Action by written consent.--Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if, prior or subsequent to the action, a consent or consents thereto by all of the directors in office is filed with the secretary of the corporation.

Section 3.09 Executive and other committees.

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

(1) The submission to shareholders of any action requiring approval of shareholders under the Business Corporation Law.

(2) The creation or filling of vacancies in the board of directors.

(3) The adoption, amendment or repeal of these bylaws.

(4) The amendment or repeal of any resolution of the board that by its terms is amendable or repealable only by the board.

(5) Action on matters committed exclusively by a resolution of the board of directors to another committee of the board.

(b) Alternate committee 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 the committee or for the purposes of any written action by the committee. In the absence or disqualification of a member and alternate member or members of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another director to act at the meeting in the place of the absent or disqualified member.

(c) Term.--Each committee of the board shall serve at the pleasure of the board.

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

Section 3.10 Compensation.--The board of directors shall have the authority to fix the compensation of directors for their services as directors and a director may be a salaried officer of the corporation.

#### ARTICLE IV

##### Officers

###### Section 4.1 Officers generally.

(a) Number, qualifications and designation.--The officers of the corporation shall be a president, one or more senior or regular vice presidents, a secretary, a treasurer, a controller, a general counsel, and such other officers as may be elected in accordance with the provisions of Section 4.03. Officers may but need not be directors or shareholders of the corporation. Each officer shall be a natural person of full age. The board of directors may elect from among the members of the board a chairman of the board and a vice chairman of the board who shall be officers of the corporation. Any number of offices may be held by the same person.

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

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

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

Section 4.03 Subordinate officers, committees and agents.--The board of directors may from time to time elect such other officers and appoint such committees, employees or other agents as the business of the corporation may require, including one or more assistant secretaries, and one or more assistant treasurers, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine. The board of directors may delegate to any officer or committee the power to elect subordinate officers and to retain or appoint employees or other agents, or committees thereof and to prescribe the authority and duties of such subordinate officers, committees, employees or other agents.

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

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

Section 4.06 Authority.--All officers of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided by or pursuant to resolutions or orders of the board of directors or in the absence of controlling provisions in the resolutions or orders of the board of directors, as may be determined by or pursuant to these bylaws.

Section 4.07 The chairman and vice chairman of the board.--The chairman of the board or, in the absence of the chairman, the vice chairman of the board, shall preside at all meetings of the shareholders and of the board of directors and shall perform such other duties as may from time to time be requested by the board of directors.

Section 4.08 The president.--The president shall be the chief executive officer of the corporation and shall have general supervision over the business



and operations of the corporation, subject however, to the control of the board of directors. The president shall sign, execute, and acknowledge, in the name of the corporation, deeds, mortgages, bonds, contracts or other instruments authorized by the board of directors, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors, or by these bylaws, to some other officer or agent of the corporation; and, in general, shall perform all duties incident to the office of president and such other duties as from time to time may be assigned by the board of directors.

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

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

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

Section 4.12 Salaries.--The salaries of the officers elected by the board of directors shall be fixed from time to time by the board of directors or by such officer as may be designated by resolution of the board. The salaries or other compensation of any other officers, employees and other agents shall be fixed from time to time by the officer or committee to which the power to elect such officers or to retain or appoint such employees or other agents has been delegated pursuant to Section 5.03. No officer shall be prevented from receiving such salary or other compensation by reason of the fact that the officer is also a director of the corporation.

#### ARTICLE V

##### Shares

Section 5.01 Record holder of shares.--The corporation shall be entitled to treat the person in whose name any share or shares of the corporation stand on the books of the corporation as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to, or interest in, such share or shares on the part of any other person.

Section 5.02 Lost, destroyed or mutilated certificates.--The holder of any shares of the corporation shall immediately notify the corporation of any loss, destruction or mutilation of the certificate therefor, and the board of directors may, in its discretion, cause a new certificate or certificates to be issued to the holder, in case of mutilation of the certificate, upon the surrender of the mutilated certificate or, in case of loss or destruction of the certificate, upon satisfactory proof of the loss or destruction and, if the board of directors shall so determine, the deposit of a bond in such form and in such sum, and with such surety or sureties, as it may direct.

#### ARTICLE VI

##### Indemnification of Directors, Officers and Other Authorized Representatives

Section 6.01 General.--To the fullest extent permitted by Pennsylvania law, the corporation shall, in the case of directors and/or officers, and may, at the discretion of the Board of Directors in the case of employees and/or agents of the corporation, defend, indemnify and hold harmless any such person who was or is a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including, without limitation, an action, suit or proceeding by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding. The indemnification provided by, or granted pursuant to, this Article VI shall, unless otherwise provided when authorized or ratified in the case of an employee or agent, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 6.02 Interpretation.--The provisions of this Article are intended to constitute bylaws authorized by 15 Pa.C.S. 1746.

ARTICLE VII

Miscellaneous

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

Section 7.02 Amendment of bylaws.

(a) General rule.--Except as provided in this Section 7.02 with respect to this Section 7.02 and Section 2.05, these bylaws may be amended either (i) by vote of the shareholders at any duly organized annual or special meeting of shareholders, or (ii) regardless of whether the shareholders have previously adopted or approved the bylaw being amended, by action of the Board of Directors. The shareholders may amend Section 2.05, or this Section 7.02 only by the affirmative vote of not less than two-thirds of the votes that all shareholders, voting as a single class, are entitled to cast thereon.

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

L.B. FOSTER COMPANY  
AND  
AMERICAN STOCK TRANSFER & TRUST COMPANY,  
as Rights Agent

RIGHTS AGREEMENT  
DATED AS OF MAY 15, 1997

Exhibit 4

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EXHIBIT A  
EXHIBIT B

RIGHTS AGREEMENT

This Rights Agreement, dated as of May 15, 1997 (the "Agreement"), is made and entered into by and between L.B. Foster Company, a Delaware corporation (the "Company"), and American Stock Transfer & Trust Company, a New York corporation (the "Rights Agent"), with reference to the following background:

On May 15, 1997 (the "Declaration Date"), the board of directors of the

Company authorized and declared a dividend distribution of one right for each share of Class A Common Stock, par value \$.01 per share, of the Company (the "Common Stock") outstanding at the close of business on May 21, 1997 (the "Record Date"), and has authorized the issuance of one Right (as such number may hereafter be adjusted pursuant to the provisions of Section 11(p)) for each share of Common Stock of the Company issued between the Record Date (whether originally issued or delivered from the Company's treasury) and the Distribution Date. This Agreement sets forth the terms of the Rights.

NOW, THEREFORE, with the intention of being legally bound, the parties agree as follows:

Section 1. Certain Definitions. For purposes of this Agreement, the following terms have the meanings indicated:

(a) "Acquiring Person" means any Person that, together with all Affiliates and Associates of that Person, is the Beneficial Owner of 20% or more of the shares of Common Stock then outstanding, but shall not include:

(i) the Company, any Subsidiary of the Company, any employee benefit plan of the Company or of any Subsidiary of the Company, or any Person or entity organized, appointed or established by the Company for or pursuant to the terms of any such plan, or

(ii) any Person who would otherwise become an Acquiring Person solely as a result of a reduction in the number of shares of Common Stock outstanding due to the repurchase of shares of Common Stock by the Company, unless and until that Person shall purchase or otherwise become the Beneficial Owner of additional shares of Common Stock constituting 0.5% or more of the then outstanding shares of Common Stock other than pursuant to a Qualifying Offer.

Notwithstanding the foregoing, a Person shall not become an "Acquiring Person" as the result of the acquisition by the Person of newly issued shares of Common Stock directly from the Company (it being understood that a purchase from an underwriter or other intermediary in connection with a public offering by the Company is deemed for purposes hereof to be a purchase directly from the Company). If a Person (x) shall become the Beneficial Owner of 20% or more of the shares of Common Stock of the Company then outstanding by reason of the receipt of newly-issued shares of Common Stock directly from the Company and (y) shall, after such direct issuance by the Company, become the Beneficial Owner of any additional shares of Common Stock of the Company other than pursuant to a Qualifying Offer (and thereafter remains a Beneficial Owner of 20% or more of the shares of Common Stock of the Company), then such Person shall be deemed to be an "Acquiring Person." If a transferee of shares from a Person described in clause (x) of the preceding sentence, regardless of whether the transferor acquires additional shares as described in clause (y) of the preceding sentence, becomes the Beneficial Owner of 20% or more of the shares of Common Stock of the Company then outstanding, the transferee shall be deemed to be an "Acquiring Person."

(b) "Act" means the Securities Act of 1933, as amended.

(c) "Affiliate" and "Associate" have the respective meanings ascribed to those terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as in effect on the date of this Agreement.

(d) A Person shall be deemed the "Beneficial Owner" of, and shall be deemed to "beneficially own," any securities:

(i) that the Person or any of the Person's Affiliates or Associates, directly or indirectly, has the right to acquire (whether that right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding (whether or not in writing) or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; except that a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own":

(A) securities tendered pursuant to a tender or exchange offer made by the Person or any of the Person's Affiliates or Associates until the tendered securities are accepted for purchase or exchange, or

(B) securities issuable upon exercise of Rights at any time prior to the occurrence of a Triggering Event, or

(C) securities issuable upon exercise of Rights from and after the occurrence of a Triggering Event which Rights were acquired by the Person or any of the Person's Affiliates or Associates prior to the Distribution Date or pursuant to Section 3(a) or Section 22 (the "Original Rights") or pursuant to Section 11(a)(i) in connection with an adjustment made with respect to any Original Rights;

(ii) that the Person or any of the Person's Affiliates or Associates, directly or indirectly, has the right to vote or dispose of or has "beneficial ownership" of (as determined pursuant to Rule 13d-3 or any successor regulation of the General Rules and Regulations under the Exchange Act), including pursuant to any agreement, arrangement or understanding, whether or not in writing; except that a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own," any security under this paragraph (ii) as a result of an agreement, arrangement or understanding to vote such security if such agreement, arrangement or understanding:

(A) arises solely from a revocable proxy given in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable provisions of the General Rules and Regulations under the Exchange Act, and

(B) is not also then reportable by the Person on Schedule 13D under the Exchange Act (or any comparable or successor report); or

(iii) that are beneficially owned, directly or indirectly, by any other

Person (or any Affiliate or Associate thereof) with which the Person (or any of the Person's Affiliates or Associates) has any agreement, arrangement or understanding (whether or not in writing), for the purpose of acquiring, holding, voting (except pursuant to a revocable proxy as described in the exception to subparagraph (ii) above or disposing of any voting securities of the Company.

Nothing in this subsection (d) shall cause a Person engaged in business as an underwriter of securities to be the "Beneficial Owner" of, or to "beneficially own," any securities acquired through that Person's participation in good faith in a firm commitment underwriting until the expiration of 40 days after the date of such acquisition.

- (e) "Business Day" means any day other than a Saturday, Sunday or a day on which banking institutions in the Commonwealth of Pennsylvania are authorized or obligated by law or executive order to close.
- (f) "Close of business" on a date means 5:00 P.M., Pittsburgh time, on that date; except that if that date is not a Business Day it shall mean 5:00 P.M., Pittsburgh time, on the next succeeding Business Day.
- (g) "Common Stock" means the Class A Common Stock, par value \$.01 per share, of the Company, except that "Common Stock" when used with reference to any Person other than the Company shall mean the capital stock of that Person with the greatest voting power, or the equity securities or other equity interest having power to control or direct the management, of that Person.
- (h) "Continuing Director" shall mean any member of the board of directors of the Company who is not an Acquiring Person or an Affiliate or Associate of an Acquiring Person or a nominee or representative of an Acquiring Person or any such Affiliate or Associate and who was a member of the board of directors of the Company before the Stock Acquisition Date, and any successor to a Continuing Director who is not an Acquiring Person or an Affiliate or Associate of an Acquiring Person or nominee or representative of an Acquiring Person or of any such Affiliate or Associate and who was recommended for election or elected to succeed the Continuing Director by a majority of the Continuing Directors then on the board of directors of the Company.
- (i) "Distribution Date" means the earlier of the following:
  - (i) the close of business on the tenth day after the Stock Acquisition Date, or
  - (ii) the close of business on the tenth Business Day after the date that a tender or exchange offer by any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan of the Company or of any Subsidiary of the Company, or any Person or entity organized, appointed or established by the Company for or pursuant to any such plan) is first published or sent or given within the meaning of Rule 14d-2(a) of the General Rules and Regulations under the Exchange Act, if upon consummation thereof, the Person would be the Beneficial Owner of 20% or more of the shares of Common Stock then outstanding.
- (j) "Person" means any individual, firm, corporation, partnership, association or other entity.
- (k) "Purchase Price" means the exercise price at which a holder of a Right may purchase one share of Common Stock upon exercise of a Right.
- (l) "Qualifying Offer" means a tender offer or exchange offer for all outstanding shares of Common Stock at a price and on terms determined by at least a majority of the members of the Continuing Directors who are not officers or employees of the Company and who are not representatives, nominees, Affiliates or Associates of the Person making the offer, to be
  - (i) at a price that is fair to Stockholders (taking into account all factors that such Continuing Directors deem relevant) and
  - (ii) otherwise in the best interests of the Company and its Stockholders.
- (m) "Section 11(a)(ii) Event" means any event described in Section 11(a)(ii).
- (n) "Section 13 Event" means any event described in clauses (x), (y) or (z) of Section 13(a).

(o) "Stock Acquisition Date" means the first date of public announcement (which, for purposes of this definition, includes, without limitation, a report filed pursuant to Section 13(d) under the Exchange Act) by the Company or an Acquiring Person that an Acquiring Person has become such.

(p) "Subsidiary" means, with reference to any Person, any corporation of which an amount of voting securities sufficient to elect at least a majority of the directors of that corporation is beneficially owned, directly or indirectly, by that Person, or otherwise controlled by that Person.

(q) "Triggering Event" means any Section 11(a)(ii) Event or Section 13 Event.

Section 2. Appointment of Rights Agent. The Company hereby appoints the Rights Agent to act as agent for the Company and the holders of the Rights (who, in accordance with Section 3, shall prior to the Distribution Date also be the holders of the Common Stock) in accordance with the terms of this Agreement, and the Rights Agent hereby accepts such appointment. The Company may from time to time appoint such Co-Rights Agents as it deems necessary or desirable.

Section 3. Issuance of Rights Certificates.

(a) Until the Distribution Date:

(i) the Rights will be evidenced (subject to subsection (b)) by the certificates for the Common Stock registered in the names of the holders of the Common Stock (which certificates for Common Stock shall be deemed also to be certificates for Rights) and not by separate certificates, and

(ii) the Rights will be transferable only in connection with the transfer of the underlying shares of Common Stock (including a transfer to the Company).

As soon as practicable after the Distribution Date, the Rights Agent will send by first-class, insured, postage prepaid mail, to each record holder of the Common Stock as of the close of business on the Distribution Date, at the address of the holder shown on the records of the Company, one or more rights certificates in substantially the form of Exhibit A (the "Rights Certificates"), evidencing one Right for each share of Common Stock so held, subject to adjustment as provided in this Agreement. If an adjustment in the number of Rights per share of Common Stock has been made pursuant to Section 11(p) at the time of distribution of the Rights Certificates, the Company shall make the necessary and appropriate rounding adjustments (in accordance with Section 14(a)) so that Rights Certificates representing only whole numbers of Rights are distributed and cash is paid in lieu of any fractional Rights. On and after the Distribution Date, the Rights will be evidenced solely by the Rights Certificates.

(b) As promptly as practicable following the Record Date, the Company will send a copy of a Summary of Rights, in substantially the form attached hereto as Exhibit B (the "Summary of Rights"), by first-class, postage prepaid mail, to each record holder of the Common Stock as of the close of business on the Record Date, at the address of the holder shown on the records of the Company. With respect to certificates for the Common Stock outstanding as of the Record Date, until the Distribution Date, the Rights will be evidenced by the certificates for the Common Stock and the registered holders of the Common Stock shall also be the registered holders of the associated Rights. Until the earlier of the Distribution Date or the Expiration Date (as defined in Section 7), the transfer of any certificates representing shares of Common Stock in respect of which Rights have been issued shall also constitute the transfer of the Rights associated with those shares of Common Stock.

(c) Rights shall be issued in respect of all shares of Common Stock that are issued (whether originally issued or from the Company's treasury) after the Record Date but prior to the earlier of the Distribution Date or the Expiration Date and, in certain circumstances as provided in Section 22, after the Distribution Date. Certificates representing those shares of Common Stock shall also be deemed to be certificates for Rights, and shall bear the following legend:

This certificate also evidences and entitles the holder hereof to certain Rights as set forth in the Rights Agreement between L.B. Foster Company (the "Company") and American Stock Transfer & Trust Company (the "Rights Agent") dated as of May 15, 1997 (the "Rights Agreement"), the terms of which are incorporated herein by this reference and a copy of which is on file at the principal office of the Company. Under certain circumstances, as set forth in the Rights Agreement, such Rights will be evidenced by separate certificates and will no longer be evidenced by this certificate. The Company will mail to the holder of this certificate a copy of the Rights Agreement, as in effect on the date of mailing, without charge promptly after receipt of a written request therefor. Under certain circumstances set forth in the Rights Agreement, Rights issued to or held by any Person who is, was or becomes an Acquiring Person or any Affiliate or Associate thereof (as such terms are defined in the Rights Agreement), whether currently held by or on behalf of such Person or by any subsequent holder, may become null and void.

With respect to certificates containing the foregoing legend, until the earlier of (i) the Distribution Date or (ii) the Expiration Date, the Rights associated with the Common Stock represented by such certificates shall be evidenced by such certificates alone and registered holders of Common Stock shall also be the registered holders of the associated Rights, and the transfer of any such certificates shall also constitute the transfer of the Rights associated with the Common Stock represented by such certificates. If the Company acquires any Common Stock after the Record Date but before the Distribution Date, any Rights associated with such Common Stock shall be deemed canceled and retired so that the Company shall not be entitled to exercise any rights associated with Common Stock that is no longer outstanding.

#### Section 4. Form of Rights Certificates.

(a) The Rights Certificates (and the forms of election to purchase and of assignment to be printed on the reverse thereof) shall each be substantially in the form set forth in Exhibit A and may have such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Company may deem appropriate and as are not inconsistent with this Agreement, or as may be required to comply with any applicable law, rule or regulation, including any rule or regulation of any stock exchange or other trading facility on which the Rights may from time to time be listed or traded, or to conform to usage. Subject to Section 11 and Section 22, the Rights Certificates, whenever distributed, shall be dated as of the Record Date and on their face shall entitle the holders thereof to purchase such number of shares of Common Stock as shall be set forth therein at the Purchase Price, but the amount and type of securities purchasable upon the exercise of each Right and the Purchase Price thereof shall be subject to adjustment as provided in this Agreement.

(b) Any Rights Certificate issued pursuant to Section 3(a) or Section 22 that represents Rights beneficially owned by a Person described in Section 7(e), and any Rights Certificate issued pursuant to Section 6 or Section 11 upon transfer, exchange, replacement or adjustment of any other Rights Certificate referred to in this sentence, shall contain (to the extent feasible) the following legend:

The Rights represented by this Rights Certificate are or were beneficially owned by a Person who was or became an Acquiring Person or an Affiliate or Associate of an Acquiring Person (as such terms are defined in the Rights Agreement). Accordingly, this Rights Certificate and the Rights represented hereby may become null and void in the circumstances specified in Section 7(e) of such Agreement.

#### Section 5. Countersignature and Registration.

(a) The Rights Certificates shall be executed on behalf of the Company by its Chairman of the Board, its President or any Vice President, either manually or by facsimile signature, and shall have affixed thereto the Company's seal or a facsimile thereof which shall be attested by the Secretary or an Assistant Secretary of the Company, either manually or by facsimile signature. The Rights Certificates shall be manually countersigned by the Rights Agent and shall not be valid for any purpose unless so countersigned. If any officer of the Company who has signed any of the Rights Certificates ceases to be such officer of the Company before countersignature by the Rights Agent and issuance and delivery by the Company, such Rights Certificates, nevertheless, may be countersigned by the Rights Agent and issued and delivered by the Company with the same force and effect as though the person who signed such Rights Certificates had not ceased to be such officer of the Company. Any Rights Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Rights Certificate, is a proper officer of the Company to sign such Rights Certificate, although at the date of the execution of this Rights Agreement any such person was not such an officer.

(b) Following the Distribution Date, the Rights Agent will keep or cause to be kept, at its principal office or offices designated as the appropriate place for surrender of Rights Certificates upon exercise or transfer, books for registration and transfer of the Rights Certificates issued hereunder. Such books shall show the names and addresses of the respective holders of the Rights Certificates, the number of Rights evidenced on its face by each of the Rights Certificates and the date of each of the Rights Certificates.

#### Section 6. Transfer, Split Up, Combination and Exchange of Rights Certificates; Mutilated, Destroyed, Lost or Stolen Rights Certificates.

(a) Subject to Sections 4(b), 7(e) and 14, at any time after the close of business on the Distribution Date, and at or prior to the close of business on the Expiration Date, any Rights Certificate or Certificates may be transferred, split up, combined or exchanged for another Rights Certificate or Certificates, entitling the registered holder to purchase a like number of shares of Common Stock (or other securities, cash or other assets, as the case may be) as the Rights Certificate or Certificates surrendered then entitled such holder (or former holder in the case of a transfer) to purchase. Any registered holder desiring to transfer, split up, combine or exchange any Rights Certificate or Certificates shall make such request in writing delivered to the Rights Agent, and shall surrender the Rights Certificate or Certificates to be transferred, split up, combined or exchanged at the principal office or offices of the Rights Agent designated for that purpose. Neither the Rights Agent nor the Company shall be obligated to take any action with respect to the transfer of any surrendered Rights Certificate until the registered holder shall have completed and signed the certificate contained in the form of assignment on the reverse side of the Rights Certificate and shall have provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) or Affiliates or Associates thereof as the Company shall reasonably request. Thereupon the Rights Agent shall, subject to Sections 4(b), 7 (e) and 14, countersign and deliver to the Person entitled thereto a Rights Certificate or Rights Certificates, as the case may be, as so requested. The Company may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer, split up, combination or exchange of Rights Certificates.

(b) Upon receipt by the Company and the Rights Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Rights Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to them, and reimbursement to the Company and the Rights Agent of all reasonable expenses incidental thereto, and upon surrender to the Rights Agent and cancellation of the Rights Certificate if mutilated, the Company will execute and deliver a new Rights Certificate of like tenor to the Rights Agent for countersignature and delivery to the registered owner in lieu of the Rights Certificate so lost, stolen, destroyed or mutilated.

#### Section 7. Exercise of Rights; Purchase Price; Expiration Date of Rights.

(a) Subject to subsection (e), the registered holder of any Rights Certificate may exercise the Rights evidenced thereby (except as otherwise provided in this Agreement) in whole or in part at any time after the Distribution Date upon surrender of the Rights Certificate, with the form of election to purchase and the certificate on the reverse side thereof duly executed, to the Rights Agent at the principal office or offices of the Rights Agent designated for that purpose, together with payment of the aggregate Purchase Price with respect to the total number of shares of Common Stock (or other securities, cash or other assets, as the case may be) as to which the surrendered Rights are then exercisable, at or prior to the earliest of (the earliest of (i), (ii) and (iii) being herein referred to as the "Expiration Date"):

- (i) the close of business on May 15, 2007 (the "Final Expiration Date"),
- (ii) the time at which the Rights are redeemed as provided in Section 23, or
- (iii) the time at which the Rights are exchanged as provided in Section 24.

(b) The Purchase Price for each share of Common Stock pursuant to

the exercise of a Right shall initially be \$30.00 and shall be subject to adjustment from time to time as provided in Sections 11 and 13(a) and shall be payable in accordance with subsection (c).

(c) Upon receipt of a Rights Certificate representing exercisable Rights, with the form of election to purchase and the certificate duly executed, accompanied by payment, with respect to each Right so exercised, of the Purchase Price per share of Common Stock (or other shares, securities, cash or other assets, as the case may be) to be purchased as set forth below and an amount equal to any applicable transfer tax, the Rights Agent shall, subject to Section 20(k), thereupon promptly:

(i) (A) requisition from any transfer agent of the shares of Common Stock (or make available, if the Rights Agent is the transfer agent for those shares) certificates for the total number of shares of Common Stock to be purchased and the Company hereby irrevocably authorizes its transfer agent to comply with all such requests, or

(B) if the Company shall have elected to deposit the total number of shares of Common Stock issuable upon exercise of the Rights hereunder with a depository agent, requisition from the depository agent depository receipts representing the number of shares of Common Stock as are to be purchased (in which case certificates for the shares of Common Stock represented by such receipts shall be deposited by the transfer agent with the depository agent) and the Company will direct the depository agent to comply with such request,

(ii) requisition from the Company the amount of cash, if any, to be paid in lieu of fractional shares in accordance with Section 14,

(iii) after receipt of such certificates or depository receipts, cause the same to be delivered to or upon the order of the registered holder of the Rights Certificate, registered in such name or names as may be designated by the holder, and

(iv) after receipt thereof, deliver such cash, if any, to or upon the order of the registered holder of the Rights Certificate.

The payment of the Purchase Price (as that amount may be reduced pursuant to Section 11(a)(iii)) shall be made in cash or by certified bank check or bank draft payable to the order of the Company. If the Company is obligated to issue other securities of the Company, to pay cash and/or to distribute other property pursuant to Section 11(a), the Company will make all arrangements necessary so that such other securities, cash and/or other property are available for distribution by the Rights Agent, if and when appropriate.

(d) If the registered holder of any Rights Certificate exercises fewer than all the Rights evidenced thereby, a new Rights Certificate evidencing Rights equivalent to the Rights remaining unexercised shall be issued by the Rights Agent and delivered to, or upon the order of, the registered holder of the Rights Certificate, registered in such name or names as may be designated by such holder, subject to Section 14.

(e) Notwithstanding anything in this Agreement to the contrary, from and after the first occurrence of a Section 11(a)(ii) Event, any Rights beneficially owned by:

(i) an Acquiring Person or an Associate or Affiliate of an Acquiring Person,

(ii) a transferee of an Acquiring Person (or an Associate or Affiliate of an Acquiring Person) who becomes a transferee after the Acquiring Person becomes such, or

(iii) a transferee of an Acquiring Person (or an Associate or Affiliate of an Acquiring Person) who becomes a transferee prior to or concurrently with the Acquiring Person becoming such and receives such Rights pursuant to either:

(A) a transfer (whether or not for consideration) from the Acquiring Person to holders of equity interests in the Acquiring Person or to any Person with whom the Acquiring Person has any continuing agreement, arrangement or understanding regarding the transferred Rights, or

(B) a transfer that the Board of Directors of the Company has determined is part of a plan, arrangement or understanding that has as a primary purpose or effect the avoidance of this subsection (e),

shall become null and void without any further action and no holder of such Rights shall have any rights whatsoever with respect to such Rights, whether under this Agreement or otherwise. The Company shall use all reasonable efforts to ensure that this subsection (e) and Section 4(b) are complied with, but shall have no liability to any holder of Rights Certificates or other Person as a result of its failure to make any determinations hereunder with respect to an Acquiring Person or its Affiliates, Associates or transferees.

(f) Notwithstanding anything in this Agreement to the contrary, neither the Rights Agent nor the Company shall be obligated to undertake any action with respect to a registered holder upon the occurrence of any purported exercise as set forth in this Section 7 unless the registered holder shall have:

(i) completed and signed the certificate contained in the form of election to purchase set forth on the reverse side of the Rights Certificate



surrendered for such exercise, and

(ii) provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) of the Rights or Affiliates or Associates thereof as the Company shall reasonably request.

Section 8. Cancellation and Destruction of Rights Certificates. All Rights Certificates surrendered for exercise, transfer, split up, combination or exchange shall, if surrendered to the Company or any of its agents, be delivered to the Rights Agent for cancellation or in canceled form, or, if surrendered to the Rights Agent, shall be canceled by it, and no Rights Certificates shall be issued in lieu thereof except as expressly permitted by this Agreement. The Company shall deliver to the Rights Agent for cancellation and retirement, and the Rights Agent shall so cancel and retire, any other Rights Certificate purchased or acquired by the Company otherwise than upon the exercise thereof. The Rights Agent shall deliver all canceled Rights Certificates to the Company, or shall, at the written request of the Company, destroy such canceled Rights Certificates, and in such case shall deliver a certificate of destruction thereof to the Company.

Section 9. Reservation and Availability of Capital Stock.

(a) The Company covenants and agrees that it will from and after such time as the Rights become exercisable use its best reasonable efforts to cause to be reserved and kept available out of its authorized and unissued shares of Common Stock (and any other securities for which the Rights become exercisable), the number of shares of Common Stock (and/or other securities) that, as provided in this Agreement, including without limitation Section 11(a)(iii), will be sufficient to permit the exercise in full of all outstanding Rights.

(b) So long as the shares of Common Stock (and/or other securities) issuable and deliverable upon the exercise of the Rights may be listed on any national securities exchange or authorized for quotation on the National Association of Securities Dealers, Inc. Automated Quotation System ("Nasdaq"), the Company shall use its best efforts to cause, from and after such time as the Rights become exercisable, all shares reserved for such issuance to be authorized for such quotation or to be listed on such exchange upon official notice of issuance upon such exercise.

(c) The Company shall use its best efforts to:

(i) file, as soon as practicable following the earliest date after the first occurrence of a Section 11(a)(ii) Event, a registration statement under the Act, with respect to the securities purchasable upon exercise of the Rights on an appropriate form,

(ii) cause that registration statement to become effective as soon as practicable after such filing, and

(iii) cause that registration statement to remain effective (with a prospectus at all times meeting the requirements of the Act) until the earlier of:

(A) the date as of which the Rights are no longer exercisable for such securities, and

(B) the Expiration Date.

The Company will also take such action as may be appropriate under, or to ensure compliance with, the securities or "blue sky" laws of the various states in connection with the exercisability of the Rights. The Company may temporarily suspend, for up to 90 days after the date set forth in clause (i) of the first sentence of this subsection (c), the exercisability of the Rights in order to prepare and file such registration statement and permit it to become effective. Upon any such suspension, the Company shall issue a public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. In addition, if the Company shall determine that a registration statement is required following the Distribution Date, the Company may temporarily suspend the exercisability of the Rights until such time as a registration statement has been declared effective so long as the Company uses good faith efforts to that end. Notwithstanding any provision of this Agreement to the contrary, the Rights shall not be exercisable in any jurisdiction if the requisite qualification in that jurisdiction has not been obtained, the exercise thereof is not permitted under applicable law or a registration statement has not been declared effective.

(d) The Company will take all such action as may be necessary to ensure that all Common Stock and/or other shares of capital stock delivered upon exercise of Rights shall, at the time of delivery of the certificates for such shares (subject to payment of the Purchase Price), be duly and validly authorized and issued and fully paid and nonassessable.

(e) The Company further covenants and agrees that it will pay when due and payable any and all federal and state transfer taxes and charges that may be payable in respect of the issuance or delivery of the Rights Certificates and of any certificates for Common Stock (and/or other securities, as the case may be) issued upon the exercise of Rights. The Company shall not, however, be required to pay any transfer tax payable in respect of any transfer or delivery of Rights Certificates to a Person other than, or the issuance or delivery of Common Stock (and/or other securities, as the case may be) in respect of a name other than that of the registered holder of the Rights Certificates evidencing Rights surrendered for exercise or to issue or deliver any certificates for Common Stock (and/or other securities, as the case may be), in a name other than that of the registered holder upon the exercise of any Rights until such tax shall have been paid (any such tax being payable by the holder of such Rights Certificate at the time of surrender) or until it has been established to the

Company's reasonable satisfaction that no such tax is due.

Section 10. Common Stock Record Date. Each Person in whose name any certificate for Common Stock (and/or other securities, as the case may be) is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of that Common Stock and/or other securities, as the case may be) represented thereby on, and such certificate shall be dated, the date upon which the Rights Certificate evidencing those Rights was duly surrendered and payment of the Purchase Price (and all applicable transfer taxes) was made. If the date of surrender and payment is a date upon which the Common Stock (and/or other securities, as the case may be) transfer books of the Company are closed, the Person shall be deemed to have become the record holder of such shares (fractional or otherwise) on, and such certificate shall be dated, the next succeeding Business Day on which the Common Stock (and/or other securities, as the case may be) transfer books of the Company are open. Prior to the exercise of the Rights evidenced thereby, the holder of a Rights Certificate shall not be entitled to any rights of a stockholder of the Company with respect to shares for which the Rights shall be exercisable, including, without limitation, the right to vote, to receive dividends or other distributions or to exercise any preemptive rights, and shall not be entitled to receive any notice of any proceedings of the Company, except as provided in this Agreement.

Section 11. Adjustment of Purchase Price, Number and Kind of Shares or Number of Rights. The Purchase Price, the number and kind of shares covered by each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 11.

(a) (i) If the Company at any time after the Distribution Date:

(A) declares a dividend on the Common Stock payable in shares of Common Stock,

(B) subdivides the outstanding Common Stock,

(C) combines the outstanding Common Stock into a smaller number of shares, or

(D) issues any shares of its capital stock in a reclassification of the Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation),

except as otherwise provided in this subsection (a) and Section 7(e), the number and kind of shares of Common Stock or capital stock, as the case may be, issuable on the record date for such dividend or of the effective date of such subdivision, combination or reclassification, shall be proportionately adjusted so that the holder of any Right exercised after such time shall be entitled to receive, upon payment of the Purchase Price then in effect, the aggregate number and kind of shares of Common Stock or capital stock, as the case may be, that, if such Right had been exercised immediately prior to such date and at a time when the Common Stock transfer books of the Company were open, the holder would have owned upon such exercise and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification.

(ii) If any Person becomes an Acquiring Person other than pursuant to a transaction subject to Section 13(a) or a Qualifying Offer, then, promptly following the occurrence of such event, proper provision shall be made so that each holder of a Right (except as provided below and in Section 7(e)) shall thereafter have the right to receive, upon exercise thereof at the then current Purchase Price in accordance with this Agreement, such number of shares of Common Stock of the Company as shall equal the result obtained by (x) multiplying the then current Purchase Price by the number of shares of Common Stock for which a Right was exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event, and (y) dividing that product (which, following such first occurrence, shall thereafter be referred to as the "Purchase Price" for each Right and for all purposes of this Agreement) by 50% of the current market price (determined pursuant to subsection (d)) per share of Common Stock on the date of such first occurrence (such number of shares, the "Adjustment Shares").

(iii) If the number of shares of Common Stock authorized by the Company's certificate of incorporation but not outstanding or reserved for issuance for purposes other than upon exercise of the Rights is not sufficient to permit the exercise in full of the Rights in accordance with the foregoing paragraph (ii) of this subsection (a), the Company shall:

(A) determine the excess of (1) the value of the Adjustment Shares issuable upon the exercise of a Right (the "Current Value") over (2) the Purchase Price (such excess, the "Spread"), and

(B) with respect to each Right, make adequate provision to substitute for the Adjustment Shares, upon payment of the applicable Purchase Price:

(1) cash,

(2) a reduction in the Purchase Price,

(3) Common Stock or other equity securities of the Company (including, without limitation, shares, or units of shares, of Class B Common Stock that the Board of Directors of the Company has deemed to have the same value as shares of Common Stock (such shares of Class B Common Stock being "common stock

equivalents")),

(4) debt securities of the Company,

(5) other assets, or

(6) any combination of the foregoing, having an aggregate value equal to the Current Value, where such aggregate value has been determined by the board of directors of the Company based upon the advice of a nationally recognized investment banking firm selected by the board of directors.

If the Company shall not have made adequate provision to deliver value pursuant to subparagraph (B) of this paragraph (iii) within 30 days following the later of (x) the first occurrence of a Section 11(a)(ii) Event and (y) the date on which the Company's right of redemption pursuant to Section 23(a) expires (the later of (x) and (y) being referred to herein as the "Section 11(a)(ii) Trigger Date"), then the Company shall be obligated to deliver, upon the surrender for exercise of a Right and without requiring payment of the Purchase Price, shares of Common Stock (to the extent available) and then, if necessary, cash, which shares and/or cash have an aggregate value equal to the Spread. If the board of directors of the Company determines in good faith that it is likely that sufficient additional shares of Common Stock could be authorized for issuance upon exercise in full of the Rights, the 30-day period set forth above may be extended to the extent necessary, but not more than 90 days after the Section 11(a)(ii) Trigger Date, in order that the Company may seek stockholder approval for the authorization of such additional shares (such period, as it may be extended, the "Substitution Period"). To the extent that the Company determines that some action need be taken pursuant to this Section 11(a)(iii), the Company (x) shall provide, subject to Section 7(e), that such action shall apply uniformly to all outstanding Rights, and (y) may suspend the exercisability of the Rights until the expiration of the Substitution Period in order to seek any authorization of additional shares and/or to decide the appropriate form of distribution to be made and to determine the value thereof. In the event of any such suspension, the Company shall issue a public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. For purposes of this Section 11(a)(iii), the value of the Common Stock shall be the current market price (as determined pursuant to subsection (d)) per share of the Common Stock on the Section 11(a)(ii) Trigger Date and the value of any "common stock equivalent" shall be deemed to have the same value as the Common Stock on such date.

(b) If the Company fixes a record date for the issuance of rights, options or warrants to all holders of Common Stock entitling them to subscribe for or purchase (for a period expiring within 45 calendar days after such record date) Common Stock (or shares having the same rights, privileges and preferences as the shares of Common Stock ("equivalent stock")) or securities convertible into Common Stock or equivalent stock at a price per share of Common Stock or per share of equivalent stock (or having a conversion price per share, if a security convertible into Common Stock or equivalent stock) less than the current market price (as determined pursuant to subsection (d)) per share of Common Stock on such record date, the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately before such record date by a fraction, the numerator of which is the number of shares of Common Stock outstanding on such record date, plus the number of shares of Common Stock that the aggregate offering price of the total number of shares of Common Stock and/or equivalent stock so to be offered (and/or the aggregate initial conversion price of the convertible securities so to be offered) would purchase at such current market price, and the denominator of which shall be the number of shares of Common Stock outstanding on such record date, plus the number of additional shares of Common Stock and/or equivalent stock to be offered for subscription or purchase (or into which the convertible securities so to be offered are initially convertible). If such subscription price may be paid by delivery of consideration part or all of which may be in a form other than cash, the value of such consideration shall be as determined in good faith by the board of directors of the Company, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of the Rights. Shares of Common Stock owned by or held for the account of the Company shall not be deemed outstanding for the purpose of any such computation. An adjustment shall be made successively whenever such a record date is fixed, and in the event that such rights or warrants are not so issued, the Purchase Price shall be adjusted to be the Purchase Price that would then be in effect if such record date had not been fixed.

(c) If the Company fixes a record date for a distribution to all holders of Common Stock (including any distribution made in connection with a consolidation or merger in which the Company is the continuing corporation) of evidences of indebtedness, cash (other than a regular quarterly cash dividend out of the earnings or retained earnings of the Company), assets (other than a dividend payable in Common Stock, but including any dividend payable in stock other than Common Stock) or subscription rights or warrants (excluding those referred to in subsection (b)), the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to the record date by a fraction, the numerator of which shall be the current market price (as determined pursuant to subsection (d)) per share of Common Stock on the record date, less the fair market value (as determined in good faith by the board of directors of the Company, whose determination shall be described in a statement filed with the Rights Agent) of the portion of the cash, assets or evidences of indebtedness so to be distributed or of the subscription rights or warrants applicable to a share of Common Stock and the denominator of which shall be the current market price (as determined pursuant to subsection (d)) per share of Common Stock. Adjustments shall be made

successively whenever such a record date is fixed, and if the distribution is not so made, the Purchase Price shall be adjusted to be the Purchase Price that would have been in effect if such record date had not been fixed.

(d) For the purpose of any computation hereunder, other than computations made pursuant to Section 11(a)(iii) and Section 24(c), the "current market price" per share of Common Stock on any date shall be deemed to be the average of the daily closing prices per share of Common Stock for the 30 consecutive Trading Days (as defined below) immediately prior to that date; for purposes of computations made pursuant to Section 11(a)(iii), the "current market price" per share of Common Stock on any date shall be deemed to be the average of the daily closing prices per share of that Common Stock for the 10 consecutive Trading Days immediately following that date; and for purposes of computations made pursuant to Section 24(c), the "current market price" per share of Common Stock shall be deemed to be the closing price per share of Common Stock on the Trading Day immediately preceding the date of exchange pursuant to Section 24. If the current market price per share of Common Stock is determined during a period following the announcement by the issuer of the Common Stock of:

(i) a dividend or distribution on such Common Stock payable in shares of such Common Stock or securities convertible into shares of such Common Stock (other than the Rights), or

(ii) any subdivision, combination or reclassification of such Common Stock;

and prior to the expiration of the requisite 30 Trading-Day or 10 Trading-Day period, as set forth above, after the ex-dividend date for the dividend or distribution, or the record date for the subdivision, combination or reclassification, then, and in each such case, the "current market price" shall be properly adjusted to take into account ex-dividend trading. The closing price for each day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the shares of Common Stock are not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the shares of Common Stock are listed or admitted to trading or, if the shares of Common Stock are not listed or admitted to trading on any national securities exchange, the last quoted sale price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by Nasdaq or such other system then in use, or, if on any such date the shares of Common Stock are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Common Stock selected by the board of directors of the Company. If on any such date no market maker is making a market in the Common Stock, the fair value of such shares on such date as determined in good faith by the board of directors of the Company shall be used. The term "Trading Day" shall mean a day on which the principal national securities exchange on which the shares of Common Stock are listed or admitted to trading is open for the transaction of business or, if the shares of Common Stock are not listed or admitted to trading on any national securities exchange, a Business Day. If the Common Stock is not publicly held or not so listed or traded, "current market price" per share shall mean the fair value per share as determined in good faith by the board of directors of the Company, whose determination shall be described in a statement filed with the Rights Agent and shall be conclusive for all purposes.

(e) Notwithstanding anything in this Agreement to the contrary, no adjustment in the Purchase Price shall be required unless the adjustment would require an increase or decrease of at least 1% in the Purchase Price, but any adjustments that by reason of this subsection (e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 11 shall be made to the nearest cent or to the nearest ten-thousandth of a share of Common Stock or other share, as the case may be. Notwithstanding the first sentence of this subsection (e), any adjustment required by this Section 11 shall be made no later than the earlier of:

(i) three years from the date of the transaction that mandates such adjustment, or (ii) the Expiration Date.

(f) If as a result of an adjustment made pursuant to Section 13(a), the holder of any Right thereafter exercised becomes entitled to receive any shares of capital stock other than Common Stock, the number of such other shares so receivable upon exercise of any Right and the Purchase Price thereof shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Common Stock contained in subsections (a), (b), (c), (e), (g), (h), (i), (j), (k) and (m), and Sections 7, 9, 10, 13 and 14 with respect to the Common Stock shall apply on like terms to any such other shares.

(g) All Rights originally issued by the Company after any adjustment of the Purchase Price shall evidence the right to purchase, at the adjusted Purchase Price, the number of shares of Common Stock purchasable from time to time upon exercise of the Rights, all subject to further adjustment as provided herein.

(h) Unless the Company shall have exercised its election as provided in subsection (i), upon each adjustment of the Purchase Price as a result of the calculations made in subsections (b) and (c), each Right outstanding immediately prior to the making of the adjustment shall thereafter evidence the right to purchase, at the adjusted Purchase Price, that number of shares of Common Stock (calculated to the nearest one-thousandth) obtained by:

(i) multiplying (x) the number of shares covered by a Right immediately prior to this adjustment, by (y) the Purchase Price in effect immediately prior to such adjustment of the Purchase Price, and

(ii) dividing the product so obtained by the Purchase Price in effect immediately after such adjustment of the Purchase Price.

(i) The Company may elect on or after the date of any adjustment of the Purchase Price to adjust the number of Rights, in lieu of any adjustment in the number of shares of Common Stock purchasable upon the exercise of a Right. Each of the Rights outstanding after the adjustment in the number of Rights shall be exercisable for the number of shares of Common Stock for which a Right was exercisable immediately prior to the adjustment. Each Right held of record prior to the adjustment of the number of Rights shall become that number of Rights (calculated to the nearest ten-thousandth) obtained by dividing the Purchase Price in effect immediately prior to adjustment of the Purchase Price by the Purchase Price in effect immediately after adjustment of the Purchase Price. The Company shall make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the Purchase Price is adjusted or any day thereafter, but, if the Rights Certificates have been issued, shall be at least 10 days later than the date of the public announcement. If Rights Certificates have been issued, upon each adjustment of the number of Rights pursuant to this subsection (i), the Company shall, as promptly as practicable, cause to be distributed to holders of record of Rights Certificates on such record date Rights Certificates evidencing, subject to Section 14, the additional Rights to which the holders shall be entitled as a result of the adjustment, or, at the option of the Company, shall cause to be distributed to the holders of record in substitution and replacement for the Rights Certificates held by the holders prior to the date of adjustment, and upon surrender thereof, if required by the Company, new Rights Certificates evidencing all the Rights to which the holders shall be entitled after the adjustment. Rights Certificates so to be distributed shall be issued, executed and countersigned in the manner provided for in this Agreement (and may bear, at the option of the Company, the adjusted Purchase Price) and shall be registered in the names of the holders of record of Rights Certificates on the record date specified in the public announcement.

(j) Irrespective of any adjustment or change in the Purchase Price or the number of shares of Common Stock issuable upon the exercise of the Rights, the Rights Certificates theretofore and thereafter issued may continue to express the Purchase Price per share and the number of shares that were expressed in the initial Rights Certificates issued hereunder.

(k) Before taking any action that would cause an adjustment reducing the Purchase Price below the then stated or par value, if any, of the number of shares of Common Stock issuable upon exercise of the Rights, the Company shall take any corporate action that may, in the opinion of its counsel, be necessary for the Company validly to issue fully paid and nonassessable shares of Common Stock at the adjusted Purchase Price.

(l) In any case in which this Section 11 shall require that an adjustment in the Purchase Price be made effective as of a record date for a specified event, the Company may elect to defer until the occurrence of that event the issuance to the holder of any Right exercised after that record date the number of shares of Common Stock and other capital stock or securities of the Company, if any, issuable upon such exercise over and above the number of shares of Common Stock and other capital stock or securities of the Company, if any, issuable upon such exercise on the basis of the Purchase Price in effect prior to the adjustment. In that case, the Company shall deliver to such holder a due bill or other appropriate instrument evidencing the holder's right to receive such additional shares (fractional or otherwise) or securities upon the occurrence of the event requiring the adjustment.

(m) Anything in this Section 11 to the contrary notwithstanding, the Company shall be entitled to make such reductions in the Purchase Price, in addition to those adjustments expressly required by this Section 11, as and to the extent that in their good faith judgment the board of directors of the Company shall determine to be advisable in order that any:

(i) consolidation or subdivision of the Common Stock,

(ii) issuance wholly for cash of any shares of Common Stock at less than the current market price,

(iii) issuance wholly for cash of shares of Common Stock or securities that by their terms are convertible into or exchangeable for shares of Common Stock,

(iv) stock dividends or

(v) issuance of rights, options or warrants referred to in this Section 11, hereafter made by the Company to holders of its Common Stock shall not be taxable to such stockholders.

(n) The Company covenants and agrees that it will not, at any time after the Distribution Date:

(i) consolidate with or merge with or into any other Person (other than a Subsidiary of the Company in a transaction that complies with subsection (o)), or

(ii) sell or transfer (or permit any Subsidiary to sell or transfer), in one transaction, or a series of related transactions, assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person or Persons (other than the Company and/or any of its Subsidiaries in one or more transactions each of which complies with subsection (o));

if:

- (x) at the time of or immediately after such consolidation, merger or sale there are any rights, warrants or other instruments or securities outstanding or agreements in effect that would substantially diminish or otherwise eliminate the benefits intended to be afforded by the Rights; or
- (y) prior to, simultaneously with or immediately after such consolidation, merger or sale, the stockholders of the Person who constitutes, or would constitute, the "Principal Party" for purposes of Section 13(a) shall have received a distribution of Rights previously owned by such Person or any of its Affiliates and Associates.

(o) The Company covenants and agrees that, after the Distribution Date, it will not, except as permitted by Section 23 or Section 27, take (or permit any Subsidiary to take) any action if at the time the action is taken it is reasonably foreseeable that the action will diminish substantially or eliminate the benefits intended to be afforded by the Rights.

(p) Notwithstanding anything in this Agreement to the contrary, if the Company at any time after the Declaration Date and before the Distribution Date:

- (i) declares a dividend on the outstanding shares of Common Stock payable in shares of Common Stock,
- (ii) subdivides the outstanding shares of Common Stock, or
- (iii) combines the outstanding shares of Common Stock into a smaller number of shares,

the number of Rights associated with each share of Common Stock then outstanding, or issued or delivered thereafter but prior to the Distribution Date, shall be proportionately adjusted so that the number of Rights associated with each share of Common Stock following any such event shall equal the result obtained by multiplying the number of Rights associated with each share of Common Stock immediately prior to such event by a fraction, the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to the occurrence of the event and the denominator of which shall be the total number of shares of Common Stock outstanding immediately following the occurrence of such event.

Section 12. Certificate of Adjusted Purchase Price or Number of Shares. Whenever an adjustment is made as provided in Section 11 or Section 13 (other than adjustments occurring prior to the Distribution Date or any Triggering Event), the Company shall:

- (i) promptly prepare a certificate setting forth the adjustment and a brief statement of the facts accounting for the adjustment,
- (ii) promptly file with the Rights Agent, and with each transfer agent for the Common Stock, a copy of the certificate, and
- (iii) mail a brief summary thereof to each holder of a Rights Certificate in accordance with Section 26.

Promptly after the Distribution Date or any Triggering Event, the Company shall comply with the foregoing for any adjustment that occurred prior to the Distribution Date or the Triggering Event. The Rights Agent shall be fully protected in relying on any certificate delivered by the Company pursuant to this Section 12 and on any adjustment therein contained.

Section 13. Consolidation, Merger or Sale or Transfer of Assets or Earning Power.

(a) If, following the Stock Acquisition Date, directly or indirectly,

- (x) the Company shall consolidate with, or merge into, any other Person (other than a Subsidiary of the Company in a transaction that complies with Section 11(o)), and the Company shall not be the continuing or surviving corporation of such consolidation or merger,
- (y) any Person (other than a Subsidiary of the Company in a transaction that complies with Section 11(o)) shall consolidate with, or merge with or into, the Company, and the Company shall be the continuing or surviving corporation of the consolidation or merger and, in connection with the consolidation or merger, all or part of the outstanding shares of Common Stock shall be changed into or exchanged for stock or other securities of any other Person or cash or any other property, or
- (z) the Company shall sell or otherwise transfer (or one or more of its Subsidiaries shall sell or otherwise transfer), in one transaction or a series of related transactions, assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any Person or Persons (other than the Company or any Subsidiary of the Company in one or more transactions each of which and all of which comply with Section 11(o));

then, and in each such case (except as contemplated by subsection (d)), proper provision shall be made so that:

- (i) each holder of a Right, except as provided in Section 7(e), shall thereafter have the right to receive, upon the exercise thereof at the then current Purchase Price in accordance with the terms of this Agreement, such number of validly authorized and issued, fully paid, non-assessable and freely tradeable shares of Common Stock of the Principal Party (as defined below), not subject to any liens, encumbrances, rights of first refusal or other adverse claims or restrictions, as shall be equal to the result obtained by:

(1) multiplying the then current Purchase Price by the number of shares of Common Stock for which a Right is exercisable immediately prior to the first occurrence of a Section 13 Event (or, if a Section 11(a)(ii) Event has occurred prior to the first occurrence of a Section 13 Event, multiplying the number of such shares for which a Right was exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event by the Purchase Price in effect immediately prior to such first occurrence) and

(2) dividing that product (which, following the first occurrence of a Section 13 Event, shall be referred to as the "Purchase Price" for each Right and for all purposes of this Agreement) by 50% of the current market price (determined pursuant to Section 11(d)(i)) per share of the Common Stock of such Principal Party on the date of consummation of such Section 13 Event;

(ii) such Principal Party shall thereafter be liable for, and shall assume, by virtue of such Section 13 Event, all the obligations and duties of the Company pursuant to this Agreement;

(iii) the term "Company" shall thereafter be deemed to refer to such Principal Party, it being specifically intended that the provisions of Section 11 shall apply only to such Principal Party following the first occurrence of a Section 13 Event;

(iv) such Principal Party shall take such steps (including, but not limited to, the reservation of a sufficient number of shares of its Common Stock) in connection with the consummation of any such transaction as may be necessary to assure that the provisions hereof shall thereafter be applicable, as nearly as reasonably may be, in relation to its shares of Common Stock thereafter deliverable upon the exercise of the Rights; and

(v) Section 11(a)(ii) shall be of no effect following the first occurrence of any Section 13 Event.

(b) "Principal Party" shall mean:

(i) in the case of any transaction described in clause (x) or (y) of the first sentence of subsection (a), the Person that is the issuer of any securities into which shares of Common Stock of the Company are converted in the merger or consolidation, and if no securities are so issued, the Person that is the other party to the merger or consolidation; and

(ii) in the case of any transaction described in clause (z) of the first sentence of subsection (a), the Person that receives the greatest portion of the assets or earning power transferred pursuant to such transaction or transactions;

In the case of either paragraph (i) or (ii) of this subsection (b):

(1) if the Common Stock of such Person is not at such time or has not been continuously over the preceding 12-month period registered under Section 12 of the Exchange Act, and such Person is a direct or indirect Subsidiary of another Person the Common Stock of which is and has been so registered, "Principal Party" shall refer to such other Person; and

(2) in case such Person is a Subsidiary, directly or indirectly, of more than one Person, the Common Stocks of two or more of which are and have been so registered, "Principal Party" shall refer to whichever of such Persons is the issuer of the Common Stock having the greatest aggregate market value.

(c) The Company shall not consummate any such consolidation, merger, sale or transfer unless the Principal Party shall have a sufficient number of authorized shares of its Common Stock that have not been issued or reserved for issuance to permit the exercise in full of the Rights in accordance with this Section 13 and unless prior thereto the Company and the Principal Party shall have executed and delivered to the Rights Agent a supplemental agreement providing for the terms set forth in subsections (a) and (b) and further providing that, as soon as practicable after the date of any consolidation, merger or sale of assets mentioned in subsection (a), the Principal Party will:

(i) prepare and file a registration statement under the Act, with respect to the Rights and the securities purchasable upon exercise of the Rights on an appropriate form, and will use its best efforts to cause such registration statement to:

(A) become effective as soon as practicable after such filing,

and

(B) remain effective (with a prospectus at all times meeting the requirements of the Act) until the Expiration Date; and

(ii) deliver to holders of the Rights historical financial statements for the Principal Party and each of its Affiliates that comply in all respects with the requirements for registration on Form 10 under the Exchange Act.

This Section 13 shall similarly apply to successive mergers or consolidations or sales or other transfers. If a Section 13 Event occurs at any time after the occurrence of a Section 11(a)(ii) Event, the Rights that have not theretofore been exercised shall thereafter become exercisable in the manner described in

subsection (a), subject to Section 7(e).

(d) Notwithstanding anything in this Agreement to the contrary, this Section 13 shall not apply to a transaction described in clauses (x) and (y) of the first sentence of subsection (a) if:

(i) the transaction is consummated with a Person or Persons who acquired shares of Common Stock pursuant to a Qualifying Offer (or a wholly owned subsidiary of any such Person or Persons),

(ii) the price per share of Common Stock offered in the transaction is not less than the highest price paid per share pursuant to the Qualifying Offer, and

(iii) the form of consideration being offered to the remaining holders of shares of Common Stock pursuant to the transaction is the same as the form of consideration paid pursuant to the Qualifying Offer.

Upon consummation of a transaction contemplated by this subsection (d), all Rights shall expire.

#### Section 14. Fractional Rights and Fractional Shares.

(a) The Company shall not be required to issue fractions of Rights, except prior to the Distribution Date as provided in Section 11(p), or to distribute Rights Certificates that evidence fractional Rights. After the Distribution Date, in lieu of fractional Rights, there shall be paid to the registered holders of the Rights Certificates with regard to which fractional Rights would otherwise be issuable, an amount in cash equal to the same fraction of the current market value of a whole Right. For purposes of this subsection (a), the current market value of a whole Right shall be the closing price of the Rights for the Trading Day immediately prior to the date on which the fractional Rights would have been otherwise issuable. The closing price of the Rights for any day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the Rights are not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Rights are listed or admitted to trading, or if the Rights are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by Nasdaq or such other system then in use or, if on any such date the Rights are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Rights selected by the Board of Directors of the Company. If on any such date no such market maker is making a market in the Rights, the fair value of the Rights on such date as determined in good faith by the board of directors of the Company shall be used.

(b) The Company shall not be required to issue fractions of shares of Common Stock upon exercise of the Rights or to distribute certificates that evidence fractional shares of Common Stock. In lieu of fractional shares of Common Stock, the Company may pay to the registered holders of Rights Certificates at the time the Rights are exercised as herein provided an amount in cash equal to the same fraction of the current market value of one share of Common Stock. For purposes of this subsection (b), the current market value of one share of Common Stock shall be the closing price of one share of Common Stock (as determined pursuant to Section 11(d)) for the Trading Day immediately prior to the date of exercise.

(c) The holder of a Right by the acceptance of the Rights expressly waives his right to receive any fractional Rights or any fractional shares upon exercise of a Right, except as permitted by this Section 14.

Section 15. Rights of Action. All rights of action in respect of this Agreement are vested in the respective registered holders of the Rights Certificates (and, prior to the Distribution Date, the registered holders of the Common Stock). Any registered holder of any Rights Certificate (or, prior to the Distribution Date, of the Common Stock), without the consent of the Rights Agent or of the holder of any other Rights Certificate (or, prior to the Distribution Date, of the Common Stock), may, on his own behalf and for his own benefit, enforce, and may institute and maintain any suit, action or proceeding against the Company to enforce, or otherwise act in respect of, his right to exercise the Rights evidenced by such Rights Certificate in the manner provided in such Rights Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and shall be entitled to specific performance of the obligations hereunder and injunctive relief against actual or threatened violations of this Agreement.

Section 16. Agreement of Rights Holders. Every holder of a Right by accepting the same consents and agrees with the Company and the Rights Agent and with every other holder of a Right that:

(a) prior to the Distribution Date, the Rights will be transferable only in connection with the transfer of Common Stock;

(b) after the Distribution Date, the Rights Certificates are transferable only on the registry books of the Rights Agent if surrendered at the principal office or offices of the Rights Agent designated for that purpose, duly endorsed or accompanied by a proper instrument of transfer and with the appropriate forms and certificates fully executed;

(c) subject to Section 6(a) and Section 7(f), the Company and the Rights Agent may deem and treat the person in whose name a Rights Certificate



(or, prior to the Distribution Date, the associated Common Stock certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on the Rights Certificates or the associated Common Stock certificate made by anyone other than the Company or the Rights Agent) for all purposes, and neither the Company nor the Rights Agent, subject to the last sentence of Section 7(e), shall be affected by any notice to the contrary; and

- (d) notwithstanding anything in this Agreement to the contrary, neither the Company nor the Rights Agent shall have any liability to any holder of a Right or other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by any governmental authority, prohibiting or otherwise restraining performance of such obligation, but the Company shall use its best efforts to have any such order, decree or ruling lifted or otherwise overturned as soon as possible.

Section 17. Rights Certificate Holder Not Deemed a Stockholder. No holder, as such, of any Rights Certificate shall be entitled to vote, receive dividends or be deemed for any purpose the holder of the number of shares of Common Stock or any other securities of the Company that may at any time be issuable on the exercise of the Rights represented thereby, nor shall anything contained in this Agreement or in any Rights Certificate be construed to confer upon the holder of any Rights Certificate, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in Section 25), or to receive dividends or subscription rights, or otherwise, until the Right or Rights evidenced by such Rights Certificate have been exercised in accordance with the provisions of this Agreement.

Section 18. Concerning the Rights Agent.

(a) The Company agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and counsel fees and disbursements and other disbursements incurred in the administration and execution of this Agreement and the exercise and performance of its duties hereunder. The Company also agrees to indemnify the Rights Agent for, and to hold it harmless against, any loss, liability, suit, action, proceeding or expense, incurred without negligence, bad faith or willful misconduct on the part of the Rights Agent, for any action taken or suffered by the Rights Agent in connection with the acceptance and administration of this Agreement and the exercise and performance of its duties hereunder, including the costs and expenses of defending against and appealing any claim of liability arising therefrom, directly or indirectly.

(b) The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its acceptance and administration of this Agreement or the exercise and performance of its duties hereunder in reliance upon any Rights Certificate or certificate for Common Stock or for other securities of the Company, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement, instruction or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons, or otherwise upon the advice of counsel as set forth in Section 20.

Section 19. Merger or Consolidation or Change of Name of Rights Agent.

(a) Any corporation into which the Rights Agent or any successor Rights Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Rights Agent or any successor Rights Agent shall be a party, or any corporation succeeding to the corporate trust or stockholder services business of the Rights Agent or any successor Rights Agent, shall be the successor to the Rights Agent under this Agreement without the execution or filing of any paper or any further act on the part of either of the parties hereto, provided that such corporation would be eligible for appointment as a successor Rights Agent under the provisions of Section 21. In case at the time such successor Rights Agent shall succeed to the agency created by this Agreement, any of the Rights Certificates shall have been countersigned but not delivered, any such successor Rights Agent may adopt the countersignature of the predecessor Rights Agent and deliver such Rights Certificates so countersigned; and in case at that time any of the Rights Certificates shall not have been countersigned, any successor Rights Agent may countersign such Rights Certificates either in the name of the predecessor or in the name of the successor Rights Agent; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates in this Agreement.

(b) In case at any time the name of the Rights Agent shall be changed and at such time any of the Rights Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Rights Certificates so countersigned; and in case at that time any of the Rights Certificates shall not have been countersigned, the Rights Agent may countersign such Rights Certificates either in its prior name or in its changed name; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

Section 20. Duties of Rights Agent. The Rights Agent shall have only the duties and obligations expressly set forth in this Agreement. There shall be no implied duties or obligations of the Rights Agent. The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the

following terms and conditions, by all of which the Company and the holders of Rights Certificates, by their acceptance thereof, shall be bound:

- (a) The Rights Agent may consult with legal counsel selected by it (who may be legal counsel for the Company), and the advice of such counsel shall be full and complete authorization and protection to the Rights Agent as to any action taken, suffered or omitted by it in good faith and in accordance with such advice.
- (b) Whenever in the administration, exercise and performance of its duties under this Agreement the Rights Agent shall deem it necessary or desirable that any fact or matter (including, without limitation, the identity of any Acquiring Person and the determination of "current market price") be proved or established by the Company prior to taking, suffering or omitting any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by any one of the Chairman of the Board, any Vice Chairman of the Board, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company and delivered to the Rights Agent; and any such certificate shall be full authorization and protection to the Rights Agent for any action taken, suffered or omitted in good faith by it under the provisions of this Agreement in reliance upon such certificate.
- (c) The Rights Agent shall not be liable or responsible hereunder to the Company except for its own negligence, bad faith or willful misconduct.
- (d) The Rights Agent shall not be liable or responsible for or by reason of any of the representations, warranties, statements of fact or recitals contained in this Agreement or in the Rights Certificates (except as to the fact that it has countersigned the Rights Certificates) or be required to verify the same, but all such representations, warranties, statements and recitals are and shall be deemed to have been made by the Company only.
- (e) The Rights Agent shall not have any liability or responsibility in respect of the legality, validity or enforceability of this Agreement or the execution and delivery hereof (except the due execution hereof by the Rights Agent) or in respect of the legality, validity, enforceability or execution of any Rights Certificate (except its countersignature thereof); nor shall it be liable or responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Rights Certificate; nor shall it be liable or responsible for any adjustment including, without limitation, as required under the provisions of Section 11 or 13 (including any adjustment which results in the Rights becoming void) or liable or responsible for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights evidenced by Rights Certificates after receipt of a notice or certificate pursuant to Section 12 describing any such adjustment); nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any shares of Common Stock or other securities to be issued pursuant to this Agreement or any Rights Certificate or as to whether any shares of Common Stock or other securities will, when so issued, be validly authorized and issued, fully paid and nonassessable.
- (f) The Company agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent or the carrying out or performing by the Rights Agent of the provisions of this Agreement.
- (g) The Rights Agent is hereby authorized and directed to accept instructions or directions with respect to the administration of this Agreement and the execution and performance of its duties hereunder and certificates delivered pursuant to any provision hereof from the Chairman of the Board, any Vice Chairman of the Board, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the Company, and is authorized to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable or responsible for any action taken, suffered or omitted to be taken by it in good faith in accordance with instructions of any such officer or for any delay in acting while waiting for such instructions.
- (h) The Rights Agent and any Affiliate, stockholder, director, officer or employee of the Rights Agent may buy, sell or deal in any of the Rights or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though the Rights Agent were not Rights Agent under this Agreement. Nothing herein shall preclude the Rights Agent or any such Affiliate, stockholder, director, officer or employee from acting in any other capacity for the Company or for any other legal entity.
- (i) The Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent shall not be liable or responsible for any act, omission, default, neglect or misconduct of any such attorneys or agents or for any loss or damages to the Company or to the holders of the Rights resulting from any such act, omission, default, neglect or misconduct, provided reasonable care was exercised in the selection and continued employment thereof. The Rights Agent shall not be under any duty or responsibility to insure

compliance with any applicable federal or state securities laws in connection with the issuance, transfer or exchange of the Rights Certificates.

- (j) No provision of this Agreement shall require the Rights Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of its rights if there shall be reasonable grounds for believing that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to it.
- (k) If, with respect to any Rights Certificate surrendered to the Rights Agent for exercise, transfer, split up, combination or exchange, the Certificate attached to the form of assignment or form of election to purchase, as the case may be, has either not been completed or indicates an affirmative response to clause 1 and/or 2 thereof, the Rights Agent shall not take any further action with respect to such requested exercise, transfer, split up, combination or exchange without first consulting with the Company.

Section 21. Change of Rights Agent. The Rights Agent or any successor Rights Agent may resign and be discharged from its duties under this Agreement upon 30 days' prior notice in writing mailed to the Company, and to each transfer agent of the Common Stock, by registered or certified mail, and, after the Distribution Date, to the holders of the Rights Certificates by first-class mail. The Company may remove the Rights Agent or any successor Rights Agent upon 30 days' prior notice in writing, mailed to the Rights Agent or successor Rights Agent, as the case may be, and to each transfer agent of the Common Stock, by registered or certified mail, and to the holders of the Rights Certificates by first-class mail. If the Rights Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Rights Agent. If the Company shall fail to make such appointment within 30 days after giving notice of such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent or by the holder of a Rights Certificate (who shall, with such notice, submit his Rights Certificate for inspection by the Company), then any registered holder of any Rights Certificate may apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Company or by such a court, shall be a corporation organized and doing business under the laws of the United States or of the Commonwealth of Pennsylvania (or of any other state of the United States so long as such corporation is authorized to do business as a banking institution in the Commonwealth of Pennsylvania), in good standing, having a principal office in the Commonwealth of Pennsylvania, which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal or state authority and which has at the time of its appointment as Rights Agent a combined capital and surplus of at least \$50,000,000. After appointment, the successor Rights Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Company shall file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Common Stock, and mail a notice thereof in writing to the registered holders of the Rights Certificates. Failure to give any notice provided for in this Section 21, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent, as the case may be.

Section 22. Issuance of New Rights Certificates. Notwithstanding any of the provisions of this Agreement or of the Rights to the contrary, the Company may, at its option, issue new Rights Certificates evidencing Rights in such form as may be approved by its board of directors to reflect any adjustment or change in the Purchase Price and the number or kind or class of shares or other securities or property purchasable under the Rights Certificates made in accordance with this Agreement. In addition, in connection with the issuance or sale of shares of Common Stock following the Distribution Date and prior to the redemption or expiration of the Rights, the Company:

(i) shall, with respect to shares of Common Stock so issued or sold pursuant to the exercise of stock options or warrants or under any employee plan or arrangement, or upon the exercise, conversion or exchange of securities hereafter issued by the Company, and

(ii) may, in any other case, if deemed necessary or appropriate by the board of directors of the Company;

issue Rights Certificates representing the appropriate number of Rights in connection with such issuance or sale. No such Rights Certificate shall be issued if, and to the extent that, the Company shall be advised by counsel that such issuance would create a significant risk of material adverse tax consequences to the Company or the Person to whom such Rights Certificate would be issued, or appropriate adjustment has otherwise been made in lieu of the issuance thereof.

Section 23. Redemption and Termination.

(a) The board of directors of the Company may, at its option, at any time before the earlier of:

(i) the close of business on the tenth day following the Stock Acquisition Date, or

(ii) the Final Expiration Date;

redeem all but not less than all of the then outstanding Rights at a redemption

price of \$.05 per Right, as such amount may be appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such redemption price being referred to as the "Redemption Price"). Notwithstanding the foregoing, if the board of directors of the Company authorizes redemption of the Rights in either of the circumstances set forth in clauses (x) or (y) below, then there must be Continuing Directors then in office and the authorization shall require the concurrence of a majority of such Continuing Directors:

(x) the authorization occurs on or after the time a Person becomes an Acquiring Person, or

(y) the authorization occurs on or after the date of a change (resulting from a proxy or consent solicitation) in a majority of the directors in office at the commencement of such solicitation if any Person who is a participant in such solicitation has stated (or, if upon the commencement of such solicitation, a majority of the board of directors of the Company has determined in good faith) that such Person (or any of its Affiliates or Associates) intends to take, or may consider taking, any action that would result in such Person becoming an Acquiring Person or that would cause the occurrence of a Triggering Event.

Notwithstanding anything in this Agreement to the contrary, the Rights shall not be exercisable at any time when the Company may redeem them pursuant to this Section 23. The Company may, at its option, pay the Redemption Price in cash, shares of Common Stock (based on the "current market price", as defined in Section 11(d), of the Common Stock at the time of redemption) or any other form of consideration deemed appropriate by the board of directors.

(b) At such time as specified in the resolution of the board of directors ordering redemption of the Rights (or at such time as is determined by, a committee of the board of directors authorized by the board of directors to specify such time at the time of the board's adoption of such resolution or immediately upon such action of the board of directors if the board does not specify a date or so empower a committee) and without any further action and without any notice, the right to exercise the Rights will terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price for each Right so held. Promptly after the action of the board of directors ordering the redemption of the Rights, the Company shall give notice of such redemption to the Rights Agent and the holders of the then outstanding Rights by mailing such notice to all such holders at each holder's last address as it appears upon the registry books of the Rights Agent or, prior to the Distribution Date, on the registry books of the Transfer Agent for the Common Stock. Any notice mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption will state the method by which the payment of the Redemption Price will be made. Any failure to give or inadequacy of such notice shall not affect the validity of the redemption. The Redemption Price shall be payable to those Persons who are record holders of the Rights at the close of business on a date determined by the board of directors, which date shall be at least eleven days after the board of directors orders redemption of the Rights. Neither the Company nor any of its Affiliates or Associates may redeem, acquire or purchase for value any Rights at any time except:

(i) in the manner specifically set forth in this Section 23 or in Section 24, or

(ii) in connection with the purchase of Common Stock prior to the Distribution Date.

#### Section 24. Exchange.

(a) The board of directors of the Company may, at its option, at any time and from time to time on or after a Section 11(a)(ii) Event, exchange all or part of the then outstanding and exercisable Rights (which shall not include Rights that have become void pursuant to the provisions of Section 7(e) for shares of Common Stock at an exchange ratio of one share of Common Stock per Right, appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such exchange ratio being hereinafter referred to as the "Exchange Ratio"). Notwithstanding the foregoing, the board of directors shall not be empowered to effect such exchange at any time after any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan of the Company or any such Subsidiary, or any entity holding shares of Common Stock for or pursuant to the terms of any such plan), together with all Affiliates and Associates of such Person, becomes the Beneficial Owner of 50% or more of the Common Stock then outstanding. In the event that there shall not be sufficient Common Stock issued but not outstanding or authorized but unissued to permit any exchange of Rights as contemplated in accordance with this Section 24, the Company shall use its best reasonable efforts to take all such action as may be necessary to authorize additional Common Stock for issuance upon exchange of the Rights.

(b) Immediately upon the action of the board of directors of the Company ordering the exchange of any Rights pursuant to subsection (a) and without any further action and without any notice, the right to exercise such Rights shall terminate and the only right thereafter of a holder of such Rights shall be to receive that number of shares of Common Stock equal to the number of such Rights held by such holder multiplied by the Exchange Ratio. The Company shall promptly give public notice of any such exchange, but the failure to give, or any defect in, such notice shall not affect the validity of the exchange. The Company promptly shall mail a notice of any the exchange to all of the holders of Rights at their last addresses as they appear upon the registry books of the Rights Agent. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each notice of exchange shall state the method by which the exchange of the Common Stock for Rights will be effected and, in the event of any partial exchange, the number of Rights that will be exchanged. Any partial exchange shall be effected pro rata based on the number of Rights (other than Rights that have become void pursuant

to the provisions of Section 7(e)) held by each holder of Rights.

(c) In any exchange pursuant to this Section 24, the Company, at its option, may substitute for any share of Common Stock exchangeable for a Right:

- (i) "common stock equivalents,"
- (ii) cash,
- (iii) debt securities of the Company,
- (iv) other assets, or
- (v) any combination of the foregoing, having an aggregate value which a majority of the Continuing Directors and the board of directors of the Company shall have determined in good faith to be equal to the current market price of one share of Common Stock (determined pursuant to Section 11(d)).

Section 25. Notice of Certain Events.

(a) In case the Company shall propose, at any time after the Distribution Date:

- (i) to pay any dividend payable in stock of any class to the holders of Common Stock, or
- (ii) to offer to the holders of Common Stock rights or warrants to subscribe for or to purchase any additional shares of Common Stock or shares of stock of any class or any other securities, rights or options, or
- (iii) to effect any reclassification of its Common Stock (other than a reclassification involving only the subdivision of outstanding shares of Common Stock), or
- (iv) to effect any consolidation or merger into or with any other Person (other than a Subsidiary of the Company in a transaction that complies with Section 11(o)), or to effect any sale or other transfer (or to permit one or more of its Subsidiaries to effect any sale or other transfer), in one transaction or a series of related transactions, of more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person or Persons (other than the Company and/or any of its Subsidiaries in one or more transactions each of which and all of which comply with Section 11(o)), or
- (v) to effect the liquidation, dissolution or winding up of the Company;

then, in each such case, the Company shall give to each holder of a Rights Certificate, to the extent feasible and in accordance with Section 26, a notice of the proposed action, which shall specify the record date for the purposes of the stock dividend, distribution of rights or warrants, or the date on which the reclassification, consolidation, merger, sale, transfer, liquidation, dissolution, or winding up is to take place and the date of participation therein by the holders of the shares of Common Stock, if any such date is to be fixed, and such notice shall be so given in the case of any action covered by clause (i) or (ii) above at least 20 days prior to the record date for determining holders of the shares of Common Stock for purposes of the action, and in the case of any other action, at least 20 days prior to the date of the taking of the proposed action or the date of participation therein by the holders of the shares of Common Stock, whichever shall be the earlier.

(b) In case any Section 11(a)(ii) Event shall occur, then, in any such case:

- (i) the Company shall as soon as practicable thereafter give to each holder of a Rights Certificate, to the extent feasible and in accordance with Section 26, a notice of the occurrence of such event, which shall specify the event and the consequences of the event to holders of Rights under Section 11(a)(ii), and
- (ii) all references in subsection (a) to Common Stock shall be deemed thereafter to refer to Common Stock and/or, if appropriate, other securities.

Section 26. Notices. Notices or demands authorized by this Agreement to be given or made by the Rights Agent or by the holder of any Rights to or on the Company shall be sufficiently given or made if and when sent by first-class mail, postage prepaid, addressed (until another address is filed in writing with the Rights Agent) as follows:

L.B. Foster Company  
415 Holiday Drive  
Pittsburgh, PA 15220  
Attention: Secretary

Subject to Section 21, any notice or demand authorized by this Agreement to be given or made by the Company or by the holder of any Rights Certificate to or on the Rights Agent shall be sufficiently given or made if and when sent by first class mail, postage prepaid, addressed (until another address is filed in writing with the Company) as follows:

American Stock Transfer & Trust Company  
40 Wall Street, 46th Floor  
New York, NY 10005  
Attention: Herbert Lemmer

Notices or demands authorized by this Agreement to be given or made by the Company or the Rights Agent to the holder of any Rights Certificate (or, if before the Distribution Date, to the holder of certificates representing shares of Common Stock) shall be sufficiently given or made if and when sent by first class mail, postage prepaid, addressed to such holder at the address of such holder as shown on the registry books of the Company.

Section 27. Supplements and Amendments.

(a) Prior to the Distribution Date and subject to subsection (f), the Company and the Rights Agent shall, if the Company so directs, supplement or amend any provision of this Agreement without the approval of any holders of certificates representing shares of Common Stock.

(b) From and after the Distribution Date and subject to subsection (f), the Company and the Rights Agent shall, if the Company so directs, supplement or amend this Agreement without the approval of any holders of Rights in order:

(i) to cure any ambiguity,

(ii) to correct or supplement any provision contained herein that may be defective or inconsistent with any other provisions herein,

(iii) to shorten or lengthen any time period hereunder (which lengthening or shortening, following the first occurrence of an event set forth in clauses (i) or (ii) of the first sentence to Section 23(a), shall be effective only if there are Continuing Directors and shall require the concurrence of a majority of such Continuing Directors), or

(iv) to change or supplement the provisions hereunder in any manner that the Company deems necessary or desirable and that does not adversely affect the interests of the holders of Rights Certificates (other than any Acquiring Person).

(c) This Agreement may not be supplemented or amended to lengthen, pursuant to subsection (b)(iii):

(i) a time period relating to when the Rights may be redeemed at such time as the Rights are not then redeemable, or

(ii) any other time period unless such lengthening is for the purpose of protecting, enhancing or clarifying the rights of, and/or the benefits to, the holders of Rights.

(d) Without limiting the other provisions of this section, the Company may at any time or from time to time prior to such time as any Person becomes an Acquiring Person amend this Agreement to lower the thresholds set forth in Sections 1(a) and 1(i) to not less than 10%.

(e) Upon the delivery of a certificate from an appropriate officer of the Company stating that the proposed supplement or amendment is in compliance with this Section 27, the Rights Agent shall execute such supplement or amendment.

(f) Notwithstanding anything in this Agreement to the contrary, no supplement or amendment shall be made pursuant to this Section 27 that changes the Redemption Price, the Final Expiration Date, the Purchase Price or the number of shares of Common Stock for which a Right is exercisable.

(g) Prior to the Distribution Date, the interests of the holders of Rights shall be deemed coincident with the interests of the holders of Common Stock.

Section 28. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Rights Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

Section 29. Determinations and Actions by the Board of Directors, etc. For all purposes of this Agreement, any calculation of the number of shares of Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Common Stock of which any Person is the Beneficial Owner, shall be made in accordance with the last sentence of Rule 13d-3(d)(1)(i) of the General Rules and Regulations under the Exchange Act as in effect on the date of this Agreement. The board of directors of the Company (with, where specifically provided for herein, the concurrence of the Continuing Directors) shall have the exclusive power and authority to administer this Agreement and to exercise all rights and powers specifically granted to the board (with, where specifically provided for herein, the concurrence of the Continuing Directors) or to the Company, or as may be necessary or advisable in the administration of this Agreement, including, without limitation, the right and power to interpret this Agreement, and make all determinations deemed necessary or advisable for the administration of this Agreement (including a determination to redeem or not redeem the Rights or to amend the Agreement). All such actions, calculations, interpretations and determinations (including, for purposes of clause (i) below, all omissions with respect to the foregoing) that are done or made by the board (with, where specifically provided for herein, the concurrence of the Continuing Directors) in good faith, shall:

(i) be final, conclusive and binding on the Company, the Rights Agent, the holders of the Rights and all other parties, and

(ii) not subject the board or the Continuing Directors to any liability to the holders of the Rights.

Section 30. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any Person other than the Company, the Rights Agent and the registered holders of the Rights Certificates (and, prior to the Distribution Date, registered holders of the Common Stock) any legal or

equitable right, remedy or claim under this Agreement; but this Agreement shall be for the sole and exclusive benefit of the Company, the Rights Agent and the registered holders of the Rights Certificates (and, prior to the Distribution Date, registered holders of the Common Stock).

Section 31. Severability. If any term of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated; except that notwithstanding anything in this Agreement to the contrary, if any such term, provision, covenant or restriction is held by such court or authority to be invalid, void or unenforceable, and the board of directors of the Company determines in its good faith judgment that severing the invalid language from this Agreement would materially adversely affect the purpose or effect of this Agreement, the right of redemption set forth in Section 23 shall be reinstated and shall not expire until the close of business on the tenth day following the date of such determination by the board of directors.

Section 32. Governing Law. This Agreement, each Right and each Rights Certificate issued hereunder shall be governed by and interpreted and enforced in accordance with the substantive laws of the State of Delaware, without reference to the principles governing the conflict of laws applicable in that or any other jurisdiction.

Section 33. Counterparts. This Agreement may be executed in any number of counterparts, each which shall be an original, and all of which shall together constitute a single instrument.

Section 34. Descriptive Headings. Descriptive headings of the provisions of this Agreement are inserted for convenience only and shall not affect the meaning of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

L.B. FOSTER COMPANY

By: /s/ David L. Voltz  
-----  
Name: David L. Voltz  
Title: Vice President

AMERICAN STOCK TRANSFER & TRUST COMPANY

By: /s/ Herbert Lemmer  
-----  
Name: Herbert Lemmer  
Title: Vice President

EXHIBIT A

[FORM OF RIGHTS CERTIFICATE]

Certificate No. R- Rights

NOT EXERCISABLE AFTER MAY 15, 2007 OR EARLIER IF REDEEMED BY THE COMPANY. THE RIGHTS ARE SUBJECT TO REDEMPTION, AT THE OPTION OF THE COMPANY, AT \$.05 PER RIGHT ON THE TERMS SET FORTH IN THE RIGHTS AGREEMENT. UNDER CERTAIN CIRCUMSTANCES, RIGHTS BENEFICIALLY OWNED BY AN ACQUIRING PERSON (AS DEFINED IN THE RIGHTS AGREEMENT) AND ANY SUBSEQUENT HOLDER OF SUCH RIGHTS MAY BECOME NULL AND VOID. [THE RIGHTS REPRESENTED BY THIS RIGHTS CERTIFICATE ARE OR WERE BENEFICIALLY OWNED BY A PERSON WHO WAS OR BECAME AN ACQUIRING PERSON OR AN AFFILIATE OR ASSOCIATE OF AN ACQUIRING PERSON (AS SUCH TERMS ARE DEFINED IN THE RIGHTS AGREEMENT). ACCORDINGLY, THIS RIGHTS CERTIFICATE AND THE RIGHTS REPRESENTED HEREBY MAY BECOME NULL AND VOID IN THE CIRCUMSTANCES SPECIFIED IN SECTION 7(e) OF SUCH AGREEMENT.] (1)

(1) The portion of the legend in brackets shall be inserted in the place of the preceding sentence if applicable.

RIGHTS CERTIFICATE  
L.B. FOSTER COMPANY

This certifies that , or registered assigns, is the registered owner of the number of Rights set forth above, each of which entitles the owner thereof,

subject to the terms of the Rights Agreement dated as of May 15, 1997 (the "Rights Agreement") between L.B. Foster Company, a Delaware corporation (the "Company"), and American Stock Transfer & Trust Company, a New York corporation (the "Rights Agent"), to purchase from the Company at any time prior to 5:00 P.M. (Pittsburgh time) on May 15, 2007 at the office or offices of the Rights Agent designated for such purpose, or its successor as Rights Agent, one fully paid, non-assessable share of Class A Common Stock of the Company ("Common Stock"), at a purchase price of \$30.00 per share (the "Purchase Price"), upon presentation and surrender of this Rights Certificate with the Form of Election to Purchase and related Certificate duly executed. The number of Rights evidenced by this Rights Certificate (and the number of shares that may be purchased upon exercise thereof) set forth above, and the Purchase Price per share set forth above, are the number and Purchase Price as of May 15, 1997, based on the Common Stock as constituted at such date.

Upon the occurrence of a Section 11(a)(ii) Event (as defined in the Rights Agreement), if the Rights evidenced by this Rights Certificate are beneficially owned by (i) an Acquiring Person or an Affiliate or Associate of any such Acquiring Person (as defined in the Rights Agreement), (ii) a transferee of any such Acquiring Person, Associate or Affiliate, or (iii) under certain circumstances specified in the Rights Agreement, a transferee of a person who, after such transfer, became an Acquiring Person, or an Affiliate or Associate of an Acquiring Person, such Rights shall become null and void and no holder hereof shall have any right with respect to such Rights from and after the occurrence of such Section 11(a)(ii) Event.

As provided in the Rights Agreement, the Purchase Price and the number and kind of shares of Common Stock or other securities that may be purchased upon exercise of the Rights evidenced by this Rights Certificate are subject to modification and adjustment upon the occurrence of certain events, including a Triggering Event (as defined in the Rights Agreement).

This Rights Certificate is subject to the terms of the Rights Agreement, which terms are hereby incorporated herein by reference and made a part hereof and to which Rights Agreement reference is made for a full description of the rights, limitations of rights, obligations, duties and immunities hereunder of the Rights Agent, the Company and the holders of the Rights Certificates, which limitations of rights include the temporary suspension of the exercisability of such Rights under the circumstances set forth in the Rights Agreement. Copies of the Rights Agreement are on file at the above-mentioned office of the Rights Agent and are also available upon written request to the Rights Agent.

This Rights Certificate, with or without other Rights Certificates, upon surrender at the principal office or offices of the Rights Agent designated for such purpose, may be exchanged for another Rights Certificate or Rights Certificates of like tenor and date evidencing Rights entitling the holder to purchase a like aggregate number of shares of Common Stock as the Rights evidenced by the Rights Certificate or Rights Certificates surrendered shall have entitled such holder to purchase. If this Rights Certificate is exercised in part, the holder shall be entitled to receive upon surrender hereof another Rights Certificate or Rights Certificates for the number of whole Rights not exercised.

Subject to the Rights Agreement, the Rights evidenced by this Certificate may be (i) redeemed by the Company at its option at a redemption price of \$.05 per Right at any time prior to the earlier of the close of business on (A) the tenth day following the Stock Acquisition Date (as such time period may be extended pursuant to the Rights Agreement), and (B) the Final Expiration Date (as defined in the Rights Agreement) or (ii) exchanged by the Company under certain circumstances, at its option, in whole or in part, for one share of Common Stock per Right (or, in certain cases, other securities, cash or assets of the Company), subject in each case to adjustment in certain events as provided in the Rights Agreement. Under certain circumstances set forth in the Rights Agreement, the decision to redeem shall require the concurrence of a majority of the Continuing Directors.

No fractional shares of Common Stock will be issued upon the exercise of any Right or Rights evidenced hereby, but in lieu thereof a cash payment will be made, as provided in the Rights Agreement.

No holder of this Rights Certificate shall be entitled to vote or receive dividends or be deemed for any purpose the holder of shares of Common Stock or of any other securities of the Company issuable upon the exercise hereof, nor shall anything contained in the Rights Agreement or herein be construed to confer upon the holder hereof, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in the Rights Agreement), or to receive dividends or subscription rights, or otherwise, until the Right or Rights evidenced by this Rights Certificate shall have been exercised as provided in the Rights Agreement.

This Rights Certificate shall not be valid or obligatory for any purpose unless countersigned by the Rights Agent.

WITNESS the facsimile signature of the proper officers of the Company and its corporate seal.

Dated as of

ATTEST:

By:

-----  
Secretary

L.B. FOSTER COMPANY

By:

-----  
Title:



Countersigned:

AMERICAN STOCK TRANSFER & TRUST COMPANY

By:

-----

Authorized Signature

[Form of Reverse Side of Rights Certificate]

FORM OF ASSIGNMENT

(To be executed by the registered holder to transfer the Rights Certificate.)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

-----  
-----  
-----

(Please print name and address of transferee)

-----  
this Rights Certificate, together with all right, title and interest therein and does hereby irrevocably constitute and appoint Attorney, to transfer the within Rights Certificate on the books of the within-named Company, with full power of substitution.

Dated: \_\_\_\_\_, \_\_\_\_\_

-----  
Signature

Signature Guaranteed:

CERTIFICATE

The undersigned hereby certifies by checking the appropriate boxes that:

(1) this Rights Certificate [ ] is [ ] is not being sold, assigned and transferred by or on behalf of a Person who is or was an Acquiring Person or an Affiliate or Associate of any such Acquiring Person (as such terms are defined pursuant to the Rights Agreement);

(2) after due inquiry and to the best knowledge of the undersigned, it [ ] did [ ] did not acquire the Rights evidenced by this Rights Certificate from any Person who is, was or subsequently became an Acquiring Person or an Affiliate or Associate of an Acquiring Person.

Dated: \_\_\_\_\_, \_\_\_\_\_

-----  
Signature

Signature Guaranteed:

NOTICE

The signature to the foregoing Assignment and Certificate must correspond to the name as written upon the face of this Rights Certificate in every particular.

FORM OF ELECTION TO PURCHASE

(To be executed if holder desires to exercise Rights represented by the Rights Certificate.)

To: L.B. Foster Company:

The undersigned hereby irrevocably elects to exercise Rights represented by this Rights Certificate to purchase the shares of Common Stock issuable upon the exercise of the Rights (or such other securities of the Company or of any other person that may be issuable upon the exercise of the Rights) and requests that certificates for such shares be issued in the name of and delivered to:

-----  
Please insert social security or other identifying number

-----  
-----  
-----  
(Please print name and address)

If such number of Rights shall not be all the Rights evidenced by this Rights Certificate, a new Rights Certificate for the balance of such Rights shall be registered in the name of and delivered to:

-----  
Please insert social security  
or other identifying number

-----  
-----  
-----  
(Please print name and address)

Dated: \_\_\_\_\_, \_\_\_\_\_

-----  
Signature

Signature Guaranteed:

**CERTIFICATE**

The undersigned hereby certifies by checking the appropriate boxes  
that:

(1) the Rights evidenced by this Rights Certificate [ ] are [ ] are not  
being exercised by or on behalf of a Person who is or was an Acquiring Person or  
an Affiliate or Associate of any such Acquiring Person (as such terms are  
defined pursuant to the Rights Agreement);

(2) after due inquiry and to the best knowledge of the undersigned, it  
[ ] did [ ] did not acquire the Rights evidenced by this Rights Certificate from  
any Person who is, was or subsequently became an Acquiring Person or an  
Affiliate or Associate of an Acquiring Person.

Dated: \_\_\_\_\_, \_\_\_\_\_

Signature \_\_\_\_\_

Signature Guaranteed:

**NOTICE**

The signature to the foregoing Election to Purchase and Certificate  
must correspond to the name as written upon the face of this Rights Certificate  
in every particular.

EXHIBIT B

SUMMARY OF RIGHTS

On May 15, 1997, the Board of Directors of L.B. Foster Company (the "Company") declared a dividend distribution of one right (a "Right") for each outstanding share of the Company's Class A Common Stock, par value \$0.01 per share ("Common Stock"), to stockholders of record at the close of business on May 21, 1997. Except as described below, each Right, when exercisable, entitles the registered holder to purchase from the Company one share of Common Stock at a purchase price of \$30.00 (the "Purchase Price"), subject to adjustment. The description and terms of the Rights are set forth in a Rights Agreement (the "Rights Agreement") between the Company and American Stock Transfer & Trust Company, as Rights Agent. The following is a general description only and is subject to the detailed terms and conditions of the Rights Agreement. A copy of the Rights Agreement, including the form of Rights Certificate and the Summary of Rights to be provided to stockholders of the Company, is being filed with the Securities and Exchange Commission as an Exhibit to the Company's Registration Statement on Form 8-A and is incorporated herein by reference.

Initially, the Rights will be attached to all Common Stock certificates representing shares then outstanding, and no separate Rights Certificates will be distributed. The Rights will separate from the Common Stock and a Distribution Date will occur upon the earlier of (i) 10 days following a public announcement that a person or group of affiliated or associated persons other than the Company, its subsidiaries or any person receiving newly-issued shares of Common Stock directly from the Company or indirectly via an underwriter in connection with a public offering by the Company (an "Acquiring Person") has acquired, or obtained the right to acquire, beneficial ownership of 20% or more of the outstanding shares of Common Stock (the "Stock Acquisition Date"), or (ii) 10 business days following the commencement of a tender offer or exchange offer that would result in a person or group beneficially owning 20% or more of such outstanding shares of Common Stock. Until the Distribution Date, (i) the Rights will be evidenced by the Common Stock certificates and will be transferred with and only with such Common Stock certificates, (ii) new Common Stock certificates issued after May 21, 1997 will contain a notation incorporating the Rights Agreement by reference and (iii) the surrender for transfer of any certificates for Common Stock will also constitute the transfer of the Rights associated with the Common Stock represented by such certificate.

The Rights are not exercisable until the Distribution Date and will expire at the close of business on May 15, 2007, unless earlier redeemed or exchanged by the Company as described below.

As soon as practicable after the Distribution Date, Rights Certificates will be mailed to holders of record of the Common Stock as of the close of business on the Distribution Date and, thereafter, the separate Rights Certificates alone will represent the Rights. Except as otherwise determined by the Board of Directors, only shares of Common Stock issued prior to the Distribution Date will be issued with Rights.

If any person becomes an Acquiring Person other than pursuant to a Qualifying Offer (as defined below), each holder of a Right will thereafter have the right to receive, upon exercise, Common Stock (or, in certain circumstances, cash, property or other securities of the Company) having a value equal to two times the exercise price of the Right. The Rights Agreement contains an exemption for any issuance of Common Stock by the Company directly to any person (for example, in a private placement or an acquisition by the Company in which Common Stock is used as consideration) or indirectly via an underwriter in connection with a public offering by the Company, even if that person would become the beneficial owner of 20% or more of the outstanding Common Stock, provided that such person does not acquire any additional shares of Common Stock. Notwithstanding any of the foregoing, all Rights that are, or (under certain circumstances specified in the Rights Agreement) were, beneficially owned by any Acquiring Person will be null and void. However, Rights are not exercisable in any event until such time as the Rights are no longer redeemable by the Company as set forth below.

A "Qualifying Offer" means a tender offer or exchange offer for all outstanding shares of Common Stock at a price and on terms determined by at least a majority of the Continuing Directors (as defined below) who are not officers or employees of the Company and who are not related (as specified in the Rights Agreement) to the Person making such offer, to be fair to and in the best interests of the Company and its stockholders.

If at any time following the Stock Acquisition Date (i) the Company is acquired in a merger or other business combination transaction in which the Common Stock is changed or exchanged or in which the Company is not the surviving corporation (other than a merger that follows a Qualifying Offer and satisfies certain other requirements), or (ii) 50% or more of the Company's assets or earning power is sold or transferred, each holder of a Right (except Rights that have been previously voided as set forth above) shall thereafter have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the exercise price of the Right. The events set forth in this paragraph and in the second preceding paragraph are referred to as the "Triggering Events."

The Purchase Price payable, and the number of shares of Common Stock or other securities or property issuable, upon exercise of the Rights are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Common Stock, (ii) if holders of the Common Stock are granted certain rights or warrants to subscribe for Common Stock or convertible securities at less than the current market price of the Common Stock, or (iii) upon the distribution to holders of the Common Stock of evidences of indebtedness or assets (excluding

regular quarterly cash dividends) or of subscription rights or warrants (other than those referred to above).

With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments amount to at least 1% of the Purchase Price. No fractional shares will be issued and, in lieu thereof, an adjustment in cash will be made based on the market price of the Common Stock on the last trading date prior to the date of exercise.

At any time until ten days following the Stock Acquisition Date, the Company may redeem the Rights in whole, but not in part, at a price of \$.05 per Right (payable in cash, Common Stock or other consideration deemed appropriate by the Board of Directors). Under certain circumstances set forth in the Rights Agreement, the decision to redeem shall require the concurrence of a majority of the Continuing Directors. Immediately upon the action of the Board of Directors ordering redemption of the Rights or at such other time as may be specified by the Board when it orders redemption, with, where required, the concurrence of a majority of the Continuing Directors, the Rights will terminate and the only right of the holders of Rights will be to receive the \$.05 redemption price.

The term "Continuing Directors" means any member of the Board of Directors of the Company who was a member of the Board prior to the Stock Acquisition Date, and any person who is subsequently elected to the Board if such person is recommended or approved by a majority of the Continuing Directors, but shall not include an Acquiring Person, or an affiliate or associate of an Acquiring Person, or any representative of the foregoing entities.

Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends. While the distribution of the Rights will not be taxable to stockholders or to the Company, stockholders may, depending upon the circumstances, recognize taxable income if the Rights become exercisable for Common Stock (or other consideration) of the Company or for common stock of the acquiring company as set forth above.

Other than those provisions relating to the principal economic terms of the Rights, any of the provisions of the Rights Agreement may be amended by the Board of Directors of the Company prior to the Distribution Date. After the Distribution Date, the Rights Agreement may be amended by the Board (in certain circumstances, with the concurrence of the Continuing Directors) in order to cure any ambiguity, to make changes that do not adversely affect the interests of holders of Rights (excluding the interests of any Acquiring Person), or to shorten or lengthen any time period under the Rights Agreement; provided, however, that no amendment to adjust the time period governing redemption shall be made at a time when the Rights are not redeemable.

As of May 15, 1997, there were 10,162,738 shares of Common Stock outstanding and 759,000 shares of Common Stock reserved for issuance under outstanding options to purchase Common Stock. Each outstanding share of Common Stock on May 21, 1997 will receive one Right. In addition, Rights shall be issued in respect of all shares of Common Stock that are issued (whether originally issued or from the Company's treasury) after that date but prior to the earlier of the Distribution Date or the Expiration Date and, in certain circumstances as provided in the Rights Agreement, after the Distribution Date.



SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE, is made and entered into this 29th day of June, 2001, by and between CROWN WEST REALTY, L.L.C., hereinafter called "Lessor" and CXT INCORPORATED, a Delaware corporation, hereinafter called "Lessee".

RECITALS

WHEREAS, the Lessor and Lessee have previously entered into a lease agreement for the lease of real property and improvements identified as follows:

Lease dated December 20, 1996 (the "Lease"), as amended by Addendum to lease dated July 23, 1998, and as further amended by Amendment to Lease dated June 30, 1999 covering those certain premises, described as Building #7 comprising approximately 120,000 square feet and approximately five (5) acres of land to be used for storage immediately east of Building #7, across fifth Street, all located at 3808 North Sullivan Road in Spokane, Washington; and

WHEREAS, Lessor and Lessee wish to further amend certain of the terms of the Lease;

NOW THEREFORE, in consideration of the promises and agreements herein contained, the parties agree as follows:

- 1. The recitals set forth above are incorporated as part of this agreement.
- 2. Paragraph 2, Term, is amended so that the term of the Lease shall expire March 31, 2007.
- 3. Paragraph 3, Rent, is amended to read as follows:

The Monthly Base Rent which includes base year taxes, assessments, insurance and common area costs, except as provided in paragraph 28, shall be as follows:

October 1, 2001 through September 30, 2002	\$22,464.00
October 1, 2002 through March 31, 2003	\$23,363.00
April 1, 2003 through March 31, 2004	\$24,297.00
April 1, 2004 through March 31, 2005	\$25,269.00
April 1, 2005 through March 31, 2006	\$26,280.00
April 1, 2006 through March 31, 2007	\$27,331.00

Said Monthly Base Rent shall be paid to Lessor monthly in advance on or before the first (1st) business day of the month for which said rent is due at the office of Lessor at The Park. A late charge of one and one-half percent (1-1/2%) of the delinquent amount will be added to all amounts of Monthly Base Rent and Monthly Additional Rent due that are not received by the tenth (10th) of the month in which they are due.

- 4. Paragraph 4, Option to Extend, is hereby deleted in its entirety and replaced with the following:

4. Extension Term. Upon the expiration of the term of the Lease as set out in this Amendment (i.e., on March 31, 2007), the term of the Lease shall automatically be extended for one (1) five (5) year period which shall commence on April 1, 2007 and continue through March 31, 2012 ("Extension Term"), unless Lessee sends written notice pursuant to Paragraph 40.7 to Lessor no less than one hundred eighty (180) days prior to March 31, 2007, that Lessee elects not to extend the term of the Lease for the Extension Term period. The Monthly Base Rent payable by Lessee during the Extension Term shall be adjusted and increased annually on April 1 of each year commencing April 1, 2007, at a rate which is one hundred and four percent (104%) of the Monthly Base Rent payable during the year immediately preceding.

- 5. Paragraph 10.5, Existing Doors, is amended to read as follows:

Lessor agrees to replace five (5) overhead doors on the Premises at Lessor's sole cost and expense. Thereafter the Lessee shall maintain said doors and windows in good working order throughout the term of this Lease and Extension Term.

- 6. All other terms and conditions of the original Lease agreement are hereby ratified and affirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the said Lessor and Lessee have executed this Amendment to Lease in duplicate the day and year first written above.

LESSOR: LESSEE:  
CROWN WEST REALTY, L.L.C. CXT INCORPORATED  
a Delaware corporation

By: \_\_\_\_\_/S/ By: Alec C. Bloem /S/  
----- -----  
Rob B. Gragg, VP & Asset Manager Its: President





THE STATE OF TEXAS

COUNTY OF HILL

This agreement of a lease made this 22 day of February 2002 by and between the CITY OF HILLSBORO, TEXAS, hereinafter referred to as "Lessor," and L. B. FOSTER CORPORATION, hereinafter referred to as Lessee. In contemplation of the mutual consideration set forth herein the parties hereby agree as follows:

Lessor does by these presents lease and demise unto Lessee the real property described in "Exhibit A," attached hereto and incorporated by reference herein including all improvements situated thereon, for a term of ten (10) years, commencing upon the date of this lease, unless sooner terminated by virtue of the terms and provisions herein contained. This lease is made upon and subject to the following conditions and covenants, to-wit:

I. RENTAL

Rental for the above designated property, which Lessee agrees to pay to Lessor is as follows: The total lease amount is Seven Hundred Thousand and No/100 Dollars (\$700,000.00). Rental shall be payable in one hundred nineteen (119) equal monthly installments of Five Thousand Eight Hundred Thirty-Three Dollars and 33/100 Dollars (\$5833.33) each and one (1) final payment of Five Thousand Eight Hundred Thirty-Three Dollars and 73/100 Dollars (\$5833.73) (1). The payments shall commence on the first day of the month after the date of this lease, continuing in a like amount on the first day of each month thereafter throughout the term of the lease. Lease payments received 10 calendar days or more past the due date will be assessed a late charge/fee of five percent (5%) of the payment amount. Payments will be made to the City of Hillsboro, Texas at 214 B. Elm Street, P.O. Box 568 Hillsboro, Texas, 76645, or such address as may be designated from time to time by the Lessor.

II. OCCUPANCY

Lessor warrants and represents to Lessee that it has complete and lawful right to lease the premises, and that upon paying the rents and performing the other terms and conditions, hereof, Lessee shall have quiet and peaceful possession of the premises, subject to Lessee's compliance with the provisions of this Lease Agreement.

III. CARE AND MAINTENANCE OF PREMISES

Lessee shall promptly make all repairs and perform all maintenance on the building and parking lot, and shall keep all areas of the property, including the parking lot, in proper condition, repair, and maintenance. Lessee agrees to pay all costs associated with the care and maintenance of

the premises. Failure to adequately maintain the premises shall be deemed a default of the Lease Agreement and shall entitle the Lessor to all remedies stated herein.

IV. ALTERATIONS

Upon written approval of the Lessor, Lessee shall have the right, at its own expense, to make alterations and improvements and to install such fixtures, machinery, and equipment in and about the premises, and to post or attach such signs to the interior and exterior of said premises as Lessee may deem desirable. All alterations, improvements, signs, fixtures (including lights), and machinery which have been or may be installed, placed, and attached in or about the premises by Lessee shall always remain the property of Lessee and upon termination by expiration or otherwise of this lease, or of any renewal thereof, or at any prior time or times, Lessee will, as it desires to do so, be permitted to remove within a reasonable time all or any of said alterations, improvements, signs, fixtures, machinery and equipment so installed, placed, or attached; provided, however, that any damage caused to the premises by reason of such removal shall be repaired by Lessee, and the Lessee shall restore the premises to their original condition.

V. UTILITIES

Lessee hereby agrees to pay for all electricity, gas, water, and other utilities used by Lessee upon the premises.

VI. REAL PROPERTY TAXES AND PERSONAL PROPERTY TAXES

In contemplation of the fact that the lessor is a governmental entity and the real property may be tax exempt, the lessee herein agrees to provide payment in lieu of taxes to all taxing entities for the real property as follows:

I. 50 % of the assessable taxes based on the appraised value of the property for the City of Hillsboro and Hill County.

II. 100 % of the assessable taxes based on the appraised value of the property for all other taxing entities.

During the term of this agreement, Lessee shall make payment in lieu of taxes by January 31 of each year, payable directly to the Lessor at the address in Section XVI of the agreement.

Lessee agrees to pay when due all taxes and assessments of every nature, kind, and description levied and assessed by the taxing authorities against personal properties, betterments, and improvements contained in the building as the same may become due from time to time during the term of this lease. Lessee hereby certifies that all taxes on such property are current (paid in full as of the date hereof).

#### VII. INSURANCE

The Lessee shall, at Lessee's own expense, maintain insurance coverage as set forth below:

General Liability Insurance:	Bodily Injury \$1,000,000 per occurrence
Property damage	\$1,000,000 per occurrence
Aggregate	\$2,000,000
Products/completed operations	\$2,000,000 aggregate
Environmental Liability Coverage	\$1,000,000
Workers Compensation	Statutory Limits

Standard form fire extended coverage property insurance insuring in an amount of at least \$1,000,000 against the perils of fire, extended coverage, vandalism, malicious mischief, special extended coverage ("all risk").

The Lessee shall not occupy the premises under this Lease Agreement until the Lessee has obtained all the insurance required under this Lease Agreement and such insurance has been approved by the Lessor. All required policies shall name Lessor as an additional insured, except the Worker's Compensation Insurance (as applicable). As proof of the insurance coverage, the Lessee shall furnish to Lessor valid certificates of insurance of the types and limits required herein, prior to occupying the premises. In addition, the required insurance coverage shall contain 'a provision that coverage afforded under the policies will not be materially changed or canceled without provision of thirty (30) days written notice to Lessor. The insurance requirements shall remain in effect throughout the term of this Lease Agreement.

Concerning insurance to be furnished by the Lessee, it is a condition precedent to the acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the requirements to be fulfilled by the Lessee;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas.

The Lessee agrees to the following:

1. The Lessee hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall not have the right to recovery or subrogation against Lessor, it being the intention that the insurance policies shall protect all parties to the Lease Agreement and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and the Lessee shall have no recourse against Lessor for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of the Lessee.
3. Approval, disapproval or failure to act by Lessor regarding any insurance supplied by the Lessee shall not relieve Lessee of full responsibility or liability, if any, for damages and accidents as set forth in the Lease Agreement. Neither shall the insolvency or denial of liability by the insurance company exonerate the Lessee from liability.
4. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

#### VIII. LIABILITY AND INDEMNIFICATION

The Lessee hereby accepts responsibility and liability for the Lessee's employees, agents, sub-contractors, guests or other's use or occupation of the premises contemplated by this Lease Agreement. The Lessee shall be solely and completely responsible for the use and/or occupation of the leased premises. The Lessee herein agrees to comply with the requirements of all applicable laws, rules and regulations and shall exonerate, indemnify and hold the Lessor harmless from any and all liability or damages resulting from failure to do so. In addition, the Lessee agrees to keep, save and hold the Lessor harmless from any and all actions, liabilities, damages, judgments, costs and expenses including reasonable attorneys' fees, in case an action is filed or does in any way accrue against the Lessor, its officials, officers, and employees in consequence of this Lease Agreement or for any act, negligence or omission of the Lessee in the use or occupation of the premises. It is specifically understood and agreed by the Lessee that such indemnity is indemnity by the Lessee to indemnify and protect the Lessor from liability, claims, suits, losses, damages or causes of action due to the Lessee's use of the premises under this Lease Agreement. Lessor shall not be held responsible for and shall be expressly held harmless by Lessee from any and all liability resulting from any injury, loss, or damage to any person or property occurring in or about the lease premises, whether the loss, injury, or damage be to personal property of the Lessee or any other person, except in instances where such loss, injury, or damage is caused by or through the negligence of Lessor, its agents and employees.

#### IX. HAZARDOUS MATERIALS

Lessee shall defend, indemnify, and hold harmless Lessor from any and all liabilities (including strict liability), actions, demands, penalties, losses, costs, or expenses (including, without limitation, attorneys' fees and expenses and remediation costs), suits, costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future be paid, incurred, or suffered by, or asserted against Lessor by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from the lease premises of any hazardous materials or any hazardous materials contamination, or arise out of or result from the environmental condition of the lease premises or the applicability of any governmental requirements relating to hazardous materials (including, without limitation, CRCLA or any federal, state, or local so-called "Superfund" or "Superlien" laws, statute, law, ordinance, code, rule, regulation, order, or decree), caused by or within the control of Lessee. The representations, covenants, warranties, and indemnification contained in this paragraph shall survive the term of this lease.

#### X. PARTIAL OR TOTAL DESTRUCTION OF PREMISES

In the event the premises are hereinafter partially damaged or destroyed or rendered partially unfit for their accustomed use by fire or other casualty insured by fire and extended coverage insurance, then Lessor shall, with insurance proceeds, promptly repair said premises and restore the same to substantially the same condition in which the premises were immediately prior to the occurrence of such damage, but in no event shall Lessor be required to expend any funds other than the insurance proceeds. From and after the date of damage, the rental required to be paid by Lessee to Lessor shall be reduced to that portion of the annual rent which the value of the part of the lease premises not damaged bears to the value of the total premises, such value to be determined as of the date of the damage. The lease term shall be extended to such times as to compensate for the rent abatement.

Lessee shall provide to Lessor a Certificate of Insurance with Lessor as loss payee and with instruction that Lessor will be notified if Lessee fails to pay insurance premiums in a timely manner.

#### XI. CONDEMNATION

Should the whole or any part of the lease premises be condemned or taken by a competent authority for any public or quasi-public use or purpose, each party shall be entitled to retain, as its own property, any award payable to it. In the event that a single award is made on account of the condemnation, each party will be entitled to take such proportion of said award as may be fair and reasonable. If the whole of the lease premises shall be so condemned or taken, Lessor shall not be liable to Lessee except and as its rights are preserved in this paragraph. In determining such proportion to be divided, the parties will take into account all improvements made by Lessee and the transfer of the real estate to Lessor.

#### XII. TERMINATION OF LEASE AND DEFAULTS OF LESSEE

1) This lease shall terminate upon expiration of the lease term or if this lease expressly and in

writing provides for any option or options, and if any such option is exercised by Lessee, then this lease will terminate at the expiration of the option term or terms. Upon default in the payment of rental herein or upon any other default by Lessee in accordance with the terms and provisions of this lease, this lease may at the option of Lessor be canceled and forfeited. Provided, however, before any such cancellation and forfeiture except as provided in XII(2) below, Lessor shall give Lessee a written notice specifying the default, or defaults, and stating that this lease will be canceled and forfeited thirty (30) days after the giving of such notice, unless such default, or defaults, are remedied within such grace period. Lessee shall have the right to exercise the option to purchase under XV below during the thirty (30) day grace period.

2) In the event Lessee is adjudicated bankrupt or in the event of a judicial sale or other transfer of Lessee's leasehold interest by reason of any bankruptcy or insolvency proceedings or any other operation of law, and such bankruptcy, judicial sale, or transfer has not been vacated or set aside within thirty (30) days from giving of notice thereof by Lessor to Lessee, then and in any such event, Lessor may, at its option, immediately terminate this lease, re-enter the premises, upon giving thirty (30) days written notice by Lessor to Lessee, all to the extent permitted by applicable law.

3) In (1) and (2) above, waiver as to any default shall not constitute a waiver of any subsequent default or defaults.

4) Acceptance of keys, advertising, and re-renting by Lessor upon the Lessee's default shall be construed only as an effort to mitigate damages by the Lessor, and not as an agreement to terminate this lease.

#### XIII. RIGHTS OF EITHER PARTY TO MAKE GOOD ANY DEFAULT OF THE OTHER

If default shall be made by either party in the performance of, or compliance with, any of the terms, covenants, or conditions of this lease, and such default shall have continued for thirty (30) days after written notice thereof from one party to the other, the party aggrieved, in addition to all other remedies now or hereafter provided by law, may, but need not, perform such term, covenant, or condition, or make good such default and any amount advanced shall be repaid forthwith on demand within ten (10) days from the date of said advance.

#### XIV. ASSIGNABILITY

The Lessee shall not assign, mortgage, or encumber this lease, or sublet or permit the lease premises or any part thereof to be used by others, without the prior written consent of Lessor in each instance. If this lease is assigned, or if the lease premises or any part thereof is sublet or occupied by anybody other than the Lessee and affiliated companies, the Lessor may, after default by the Lessee, collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the rent herein reserved. No such assignment, subletting, occupancy, or collection shall be deemed a waiver of this covenant, nor the acceptance of the assignee, subtenant, or occupant as a Lessee, or a release of the Lessee from the further performance by the Lessee of the covenants in this lease. The consent by Lessor to an assignment or subletting shall not be construed to relieve the Lessee from obtaining the consent in writing of the Lessor to any further assignment or subletting. Lessee agrees to forward all payments received from subleasee, if one is approved, to Lessor during the term hereof. Notwithstanding the foregoing, Lessee, any merge or consolidate with another entity so long as the surviving entity is bound to the terms of this Lease Agreement.

#### XV. OPTION TO PURCHASE

At any time after the expiration of five (5) years from the date of this lease, during the lease term or any extension thereof, Lessee is given the option to purchase the leased premises together with all improvements thereon for the unpaid principal lease amount. The Lessee shall exercise this option to purchase by giving to Lessor written notice of its intention to purchase. If this option to purchase is exercised, Lessor shall deliver to Lessee within thirty (30) days after having received such notice a Special Warranty Deed and Lessee shall deliver to Lessor, on the date that the deed is delivered, a cashier's check for the unpaid principal balance of the lease payments. If Lessee has not previously exercised its option to purchase, Lessee's payment of the last payment owed hereunder shall be Lessee's exercise of said option. Lessee's obligations to make the rental payments on the lease shall be suspended after Lessee notifies Lessor of its intention to exercise the option to purchase.

#### XVI. NOTICES

Any notice or communication required or permitted hereunder or under this Lease Agreement shall be in writing, sent certified mail return receipt requested and addressed as follows:

To Lessor:                   City Manager  
                                  City of Hillsboro  
                                  214 E. Elm  
                                  P.O. Box 568  
                                  Hillsboro, Texas 76645

To Lessee:                   L. B. Foster Company  
                                  c/o David Minor  
                                  901 N. Highway 77  
                                  Hillsboro, Texas 76645

Either party may change the address to which notices are to be sent it by giving the other party written notice of the new address in the manner provided in this section.

#### XVII. RIGHTS CUMULATIVE

The various rights, powers, options, elections, and remedies of either party provided in this lease shall be construed as cumulative and not one of them is exclusive of the others, or exclusive of any rights, remedies, or priorities allowed either party by law, and shall in one way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied, or undischarged.

#### XVIII. BENEFITS TO BIND AND BENEFITS OF SUCCESSORS ASSIGNS ETC.

The provisions of this lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and/or assigns.

#### XIX. TEXAS CAPITAL FUND REQUIREMENT

Lessee is aware that Lessor has acquired funds from the Texas Capital Fund. Any terms or conditions contained in this lease which contradict any of the rules and regulations of Texas Capital Fund shall be void. Lessee acknowledges that Lessee is familiar with the rules and regulations of Texas Capital Fund. Any amendments to the lease agreement shall require prior written approval by the Texas Department of Economic Development. Any change in the total lease amount will result in an adjustment of the monthly lease payment and the calculation of a revised payment schedule.

#### XX. EQUIPMENT FINANCING

Lessor disclaims any right or interest in certain equipment, whether or not considered to be fixtures, described in Exhibit B hereto (the "Equipment"), which Equipment is subject to a Lease Agreement among GE Capital Public Finance Inc. ("GEPF"), Hillsboro Industrial Development Corporation and Lessee (the "Equipment Lease"). Lessor agrees to give GEPF and its assigns access to the Equipment and the right to store on the premises the Equipment in the event Lessee should default under the Equipment Lease for a period not to exceed 60 days from any lease termination resulting from such default. Lessor agrees to execute documents reasonably requested by Lessee in connection with the provisions of this Article XX herein.

#### XXI. OPEN MEETINGS ACT COMPLIANCE

This lease has been approved by the City Council of the City of Hillsboro,

meeting in an open session on the 5th day of February 2002 and all provisions of the Texas Open Meetings Acts have been complied with by City of Hillsboro.

IN WITNESS WHEREOF, the parties hereunto have executed duplicate originals of this document by their proper officers duly authorized to so act and with the intent to be bound by the terms stated herein.

LESSOR:

CITY OF HILLSBORO

ATTEST:

By:

LESSEE:

L.B. FOSTER COMPANY

ATTEST:

By:

EXHIBIT A

TRACT 1:

FIELD NOTES for a lot, tract, or parcel of land containing 7.277 acres lying and situated in the J.E. Ross Survey A-750 in Hillsboro, Hill County, Texas. Said land is that certain 7.285 acre tract described in a deed from Spartan Copper, Incorporated to Hillsboro Loan Investors, L.P. as recorded in Volume 884, Page 134 of the official Public Records of Hill County, and is more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found in the northwest line of U.S. Highway 17 for the south corner of said 7.285 acre tract, said point being the most easterly corner of a tract described, in a deed to Franklin Industries, Inc. as recorded in Volume 928, Page 772 of the Official Public Records of Hill County;

THENCE: N 44 deg 53 min 0 sec W 599.95 feet along Franklin's northeast line to a 5/8" iron rod found for corner; THENCE: N 35 deg 54 min 0 sec E 94.55 feet and N 50 deg 17 min 15 sec W 82.21 feet and N 31 deg 49 min 30 sec E 259.24 feet along Franklin's line, 5/8" iron rods found at all corners;

THENCE: S 85 deg 52 min 0 sec E 369.45 feet to a 1/2" iron rod set for corner;

THENCE: S 42 deg 37 min 15 sec E 181.00 feet to a railroad spike found for corner;

THENCE: S 21 deg 51 min 0 sec E 118.04 feet to a railroad spike found for corner in the northwest line of said U.S. Highway 77;

THENCE: Around a curve to the left with radius 2024.86 feet an arc distance of 255.26 feet (Chord: S 26 deg 19 min 30 sec W 255.09 feet) to a 1/2" Iron rod set for corner;

THENCE: S 29 deg 7 min 10 sec W 190.88 feet to a 1/2" iron rod set for corner

THENCE: S 17 deg 26 min 10 sec W 115.00 feet to the point of beginning, containing 7.277 acres of land.

TRACT 2:

FIELD NOTES for a lot, tract, or parcel of land containing 1.356 acres lying and situated in the J.H. Ross Survey A-750 in Hillsboro, Hill County, Texas. Said land is that certain 1.52 acre tract described in a deed from Hillsboro Lake Park Association to Robintech, Inc. as recorded in Volume 486, Page 779 of the Deed Records of Hill County, and in a Quit Claim Deed from Hillsboro Lake Park Association to Robintech, Inc. as recorded in Volume 507, Page 497 of the Deed Records of Hill County. Said land is more particularly described by metes and bounds as follows:

BEGINNING at railroad spike found for the most easterly corner of a tract described in a deed to Hillsboro Loan Investors, L.P. as recorded in Volume 864, Page 134 of the Official Public Records of Hill County;

THENCE: N 21 deg 51 min 8 sec W 118.04 feet to a railroad spike found for corner;

THENCE: N 42 deg 37 min 15 sec W 181.00 feet to a 1/2" iron rod set for corner;

THENCE: N 85 deg 52 min 0 sec W 369.45 feet to a 5/8" iron rod found for corner;

THENCE: N 30 deg 43 min 0 sec E 99.95 feet to a 1/2" iron rod found for corner;

THENCE: S 80 deg 18 min 55 sec E 299.57 feet and S 68 deg 39 min 37 sec E 327.05 feet along a fence, 5/8" iron rods found for corners;

THENCE: S 31 deg 57 min 50 sec W 219.12 feet to the point of beginning, containing 1.356 acres of land.

SUBLEASE AGREEMENT

BETWEEN

AMERICAN CAST IRON PIPE COMPANY,

AND

L.B. POSTER COMPANY

Dated as of December 11, 1991

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SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT made and entered into this 11th day of December, 1991, by and between AMERICAN CAST IRON PIPE COMPANY, a Georgia corporation (hereinafter referred to as "Landlord"), and L.B. FOSTER COMPANY, a Delaware corporation (hereinafter referred to as "Tenant").

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of a lease agreement dated

November 25, 1991 and recorded in the office of the Judge of Probate of Jefferson County, Alabama in Real Property Volume 4150 Page 449 et seq. (hereinafter referred to as the "Prime Lease") between Landlord and the Industrial Development Board of the City of Birmingham (hereinafter referred to as the "Prime Landlord"), Landlord leased from the Prime Landlord certain real property located in Birmingham, Alabama described in Exhibit A hereto (hereinafter referred to as the "demised premises"); and

WHEREAS, Tenant desires to Sublease from Landlord, and Landlord desires to sublease unto Tenant, the demised premises, which premises are more particularly described below; and

WHEREAS, Tenant shall use the demised premises for the purpose of coating pipe manufactured by Landlord and other purposes directly related thereto, and for no other purpose without the written consent of the Landlord.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual undertakings, covenants, promises and agreements herein contained, and for other good and valuable consideration, receipt of which is acknowledged, Landlord and Tenant agree as follows:

ARTICLE 1 PREMISES AND TERM Landlord hereby subleases to Tenant, and Tenant does sublease and take from Landlord, the demised premises as described on Exhibit "A" attached hereto and made a part hereof, together with the building and other improvements to be erected upon the demised premises.

TO HAVE AND TO HOLD the said demised premises, together with all and singular the improvements thereunto belonging or in any manner appertaining, unto Tenant for a term commencing on the Commencement Date set forth in Article 3 hereof, and continuing thereafter to and including the date three (3) years from the first day of the first month immediately following such Commencement Date, subject, however, to extension and renewal as provided in Article 25 hereof.

ARTICLE 2 CONSTRUCTION OF IMPROVEMENTS Landlord agrees to construct or cause to be constructed a building and other improvements on the demised premises, in accordance with the preliminary plans and specifications prepared by American Cast Iron Pipe Company's Engineering Department, and dated 7/8/91, 7/23/91, 7/25/91, and 8/14/91, copies of which are attached hereto and incorporated herein as Exhibit "B" and initialed by Landlord and Tenant, which plans and specifications the parties have carefully reviewed and specifically approved. Tenant shall make no alteration or addition to the demised premises without the express written consent of Landlord.

ARTICLE 3 TENANT'S POSSESSION

(a) Commencement Date The Commencement Date shall be the earlier of (i) the date on which the Landlord's representative responsible for supervising construction shall certify in writing to Landlord or the Prime Landlord that the building is substantially complete and ready for use (except for the personal property required to be installed or supplied by Tenant), or (ii) the date of the issuance by the appropriate governmental authority of a temporary certificate of occupancy for the entire building, or (iii) the date on which Tenant commences business in the building.

(b) Fixed Commencement Date After the Commencement Date has been determined, and upon the demand of either Landlord or Tenant, the parties hereto will execute a written declaration in recordable form expressing the specific commencement and termination dates of the term of this Sublease.

(c) Tenant Fixtures Tenant shall have the right prior to the Commencement Date to enter upon the demised premises at reasonable times for the purpose of installing the furnishings, fixtures and equipment necessary or desirable for Tenant to conduct its business operations, provided that Tenant shall assume full risk of damage to any such property placed in, on or about the demised premises except to the extent such damage is caused by Landlord's negligence.

(d) Completion Date Landlord shall use its reasonable best efforts to cause the building to be ready for occupancy by Tenant on or before December 20, 1991. Landlord shall not be liable to Tenant if Landlord is unable to have the building ready for occupancy by such date, and Landlord's nondelivery of possession to Tenant on such date shall not affect this Sublease or the obligations of Tenant under this Sublease; provided, however, that at Tenant's option this Sublease shall be deemed null and void if the Commencement Date does not occur on or before February 3, 1992. In the event the Sublease is declared null and void, Tenant shall have sixty (60) days to remove its property from the demised premises.

ARTICLE 4 TENANT'S SURRENDER OF PREMISES Upon the expiration or earlier termination of this Sublease, Tenant shall surrender to Landlord the demised premises, including all buildings, replacements, changes, additions, and improvements thereon, except fixtures, machinery, equipment and other items of personal property that were furnished or paid for by Tenant, clean and in good

order, condition and repair, reasonable wear and tear excepted. Tenant may remove any items of personal property that were furnished or paid for by Tenant on the condition that Tenant repair to Landlord's reasonable satisfaction, at Tenant's sole cost and expense, any physical damages to the premises caused by any such removal of Tenant's property. The right granted Tenant in this Article shall not include the right to remove any plumbing or electrical fixtures, or heating or air conditioning equipment, floor coverings that have been glued or fastened to the floors, or any paneling, tile, or other materials that have been attached to the walls or ceilings all of which shall be deemed to constitute a part of the freehold, and as a matter of course, shall not include the right to remove any fixtures or machinery that were furnished or paid for by Landlord. Any trade fixtures or other personal property belonging to Tenant, if not removed within sixty (60) days after such termination and if Landlord shall so elect, shall be deemed abandoned and become the property of Landlord without any payment or offset therefor. If Landlord shall not so elect, Landlord may remove such fixtures or property from the demised premises and store them at Tenant's risk and expense, and Tenant agrees to pay all necessary costs and expenses thereby incurred. Tenant shall repair and restore, and save Landlord harmless from, all damage to the demised premises caused by such removal, whether by Tenant or reasonably by Landlord. Landlord agrees that Tenant shall have access to the demised premises for sixty (60) days after lease termination for the purpose of removing Tenant's property.

ARTICLE 5 TENANT'S USE Tenant shall use the demised premises for conducting its business of applying a coating to pipe manufactured only by Landlord, storing and distributing such pipe and purposes directly related thereto, and for no other purpose without written consent of the Landlord. Tenant shall not use the demised premises for the purpose of storing, distributing or coating pipe manufactured by others.

#### ARTICLE 6 RENT

(a) Basic Rent The basic annual rent for the demised premises is \$120.00, payable by Tenant monthly in advance in equal installments of \$10.00 each on the last day of every month during the Sublease term, or as otherwise mutually agreed (the "Basic Rent"). In addition to the Basic Rent, Tenant shall pay additional rent, based upon a percentage of Tenant's gross revenue from business operations conducted on the demised premises, as hereinafter set forth.

#### (b) Additional Rent

(i) During the first Sublease Year (as hereinafter defined), in addition to the Basic Rent, Tenant shall pay to Landlord an additional rent for the demised premises ("Additional Rent") equal to 3.5% of gross revenues (as hereinafter defined) earned in the coating of 10"-16" pipe, and equal to 6% of gross revenues earned in the coating of 18"-24" pipe, by Tenant in the demised premises, subject to adjustments under 7 (b) (ii) below. As used herein the term "Sublease Year" means the period of 12 consecutive months commencing on the Commencement Date, and on each annual anniversary of the Commencement Date during the term of this Sublease. The parties may, for any particular project, adjust the percentage of gross revenues used to calculate additional rent pursuant to a written agreement executed by both parties.

(ii) During each subsequent Sublease Year, in addition to the Basic Rent, Tenant shall pay to Landlord an Additional Rent for the demised premises equal to a mutually agreed upon percentage of Tenant's gross revenues earned by Tenant's pipe coating operations conducted in the demised premises.

If Tenant and Landlord are unable to agree upon a mutually acceptable percentage of gross revenues to be paid by Tenant as Additional Rent at least ninety (90) days prior to commencement each succeeding year to which such percentages shall apply, the following shall apply for the following year. If the Additional Rent paid by Tenant to Landlord in the previous Sublease year is less than \$300,000.00 then the percentages set forth in subparagraph (i) above shall increase by one-half of one percent. If Additional Rent paid by Tenant to Landlord in the previous Sublease year is \$300,000.00 or greater, then the percentages shall be reduced by one-half of one percent.

(C) Gross Revenues The term "gross revenues" shall mean Tenant's revenues from pipe coating operations conducted in the demised premises, including, but not limited to, all sales, income from services, service charges, fees charged by Tenant, including without limitation storage fees and distribution fees, and loadout charges on shipments by truck, whether such coating is performed for Landlord or others, and whether paid or unpaid (it being agreed that all risks of credit shall be borne by Tenant). The term "gross revenues" shall not include load-out charges on shipments by rail car; freight; taxes; and as a matter of course, the revenues derived or attributable to the sales price of pipe.

(d) Method of Payment of Additional Rent The Additional Rent shall be paid to Landlord in the following manner:

(i) If the gross revenues on which the Additional Rent is based are derived from the coating of pipe for Landlord, Landlord shall deduct the Additional Rent from Landlord's payment of Tenant's invoices in the month following the month in which the coating services were performed;

(ii) If the gross revenues on which the Additional Rent is based are derived from the coating of pipe for one of Landlord's customers other than Tenant, Tenant shall pay the Additional Rent to Landlord on the last day of the calendar month following the calendar quarter in which such coating services were performed, and gross revenues shall be determined by the prices shown on the customer's purchase order to Tenant; and

(iii) If the gross revenues on which the Additional Rent is based are derived from the coating of pipe manufactured by Landlord and purchased by Tenant for resale to others, Tenant shall pay the Additional Rent to Landlord on the last day of the calendar month following the calendar quarter in which Tenant invoices its customer for the pipe and/or coating services, and gross revenues shall be based on coating prices mutually agreed upon at time of pipe order placement by Tenant to Landlord.

(e) quarterly Statements

(i) Within thirty (30) days after the end of each calendar quarter during the Sublease term, Tenant shall furnish to Landlord a verified, detailed statement certified as to its accuracy by an officer of Tenant, setting forth the amount of gross revenues of Tenant from coating operations during the preceding quarter, showing the amount of Additional Rent required to be paid by Tenant for such quarter, and providing a breakdown of the calculations of the Additional Rent. Simultaneously with the delivery of such statement, Tenant shall pay to Landlord all such Additional Rent other than the Additional Rent to be deducted by Landlord from Tenant's invoices. Tenant shall keep a full and accurate set of records adequately showing the amount of gross revenues arising out of operations conducted on the demised premises each month during the Sublease term.

(ii) Landlord and its duly authorized representatives shall have the right to inspect and to audit Tenant's books, records and other supporting data at all times during the term of this Sublease during normal business hours for the purpose of verifying any statement within two (2) years after it is submitted, and Tenant agrees (absent forces majeure) to keep and to preserve such books and records for at least two (2) years after the end of each Sublease Year. If an inspection accurately discloses that further Additional Rent is owed by Tenant, the Tenant will immediately deliver its payment of the Additional Rent. The acceptance by Landlord of Additional Rent shall not be deemed a waiver of its rights to claim further Additional Rent after a review and inspection of Tenant's books and records.

(iii) If the inspection or audit made by Landlord of Tenant's books and records accurately discloses an understatement of gross revenue in Tenant's certified quarterly statement in an amount sufficient to result in an error of 5% or more in underpayment of Additional Rent, then Tenant shall bear the reasonable cost of such inspection or audit. If Tenant shall fail to cause to be delivered to Landlord a certified quarterly statement at the times and in the manner herein provided, Landlord may give Tenant ten (10) days' written notice of such default and of its intention to end the term of this Sublease and thereupon, at the expiration of such notice period, the term of this Sublease shall expire as fully and completely as if that were the date herein fixed for the expiration of the term, if Tenant has not cured such default within the ten day period.

(f) Disputed Amounts If Landlord is not satisfied with any monthly statement submitted to it by Tenant, including, but not limited to, the competitive market value of the coating services referred to in paragraph (d) (iii) above, Landlord shall notify Tenant in writing to that effect within 30 days after Tenant's monthly statement is delivered to Landlord. If notice is not given by Landlord within the period of 30 days, the statement shall be deemed accepted and approved by it. If the parties are unable to resolve a dispute over a monthly statement within ten (10) days of the giving of notice of the dispute by Landlord, then the senior executive officers of Tenant and Landlord shall attempt to reach a mutually acceptable resolution within seven (7) days thereafter. If no resolution is reached within the 7-day period, the dispute shall be determined by arbitration in accordance with the provisions of this Sublease.

(g) Operation of Business At all times on and after the commencement of this Sublease, Tenant shall conduct its business in a reputable manner and with adequate staff. If the facility is not being operated for reasons other than lack of business from Landlord, this Sublease may be terminated at the option of either party.

ARTICLE 7 PROPERTY TAXES

(a) Real Property Tax Landlord agrees to pay all real property taxes and/or assessments on the demised premises which become due during the term of this Sublease. Tenant shall pay any license fee, license tax, or business license fee imposed by any taxing authority against the demised premises and any tax on the Landlord's right to receive, or the receipt of, rent or income from the demised premises or against Landlord's business of leasing the demised premises; provided, however that Tenant shall not be liable to pay any income taxes imposed on Landlord.

(b) Personal Property Taxes Tenant shall pay all taxes charged against trade fixtures, furnishings, equipment, and all other personal property belonging to Tenant and located on the demised premises.

## ARTICLE 8 INSURANCE

### (a) Types of Insurance

(i) All Risks of Physical Loss or Damage During the term of this Sublease! Tenant shall reimburse Landlord for the amount of the annual premium paid by Landlord to maintain insurance on the demised premises against all risks of physical loss or damage as provided by the insurance. The insurance shall be maintained in an amount at all times not less than 100% of the full insurable value thereof, subject to a deductible of \$25,000.00 per occurrence. The term "full insurable value" shall mean actual replacement value of the building. Full insurable value shall be determined from time to time, but not more frequently than once in any twelve calendar months, at the request of Landlord by the insurer or, at the option of Landlord, by an appraiser, engineer, architect, or contractor who shall be mutually acceptable to Landlord and the Prime Landlord. The Landlord shall be the named insured and the Prime Landlord shall be an additional named insured. All payments for loss shall be paid to Landlord for any damages to the premises. Tenant agrees to pay Landlord the replacement value of any physical loss or damage to the building that is, by virtue of the deductible only, not covered by insurance.

(ii) Liability. During the term of this Sublease, Tenant shall, at its sole expense, provide and keep in force standard commercial general liability insurance protecting and indemnifying Tenant, Landlord, and the Prime Landlord against claims of the kind typically covered under such standard commercial general liability insurance for damages to person or property or for loss of life or of property occurring upon, in, or about the demised premises, and the street, gutters, sidewalks, or curbs adjacent thereto. Limits of \$5,000,000 in respect to injuries to any one person, or any one accident or disaster or incident or occurrence of negligence for any bodily injury and/or property damage are to be maintained. The Prime Landlord and the Landlord shall be additional named insureds as owners and lessors of the premises.

(iii) Boiler. Boiler insurance if and when the demised premises contain a boiler or boilers, in the amounts which may be required under the terms of the Prime Lease. However, Foster will not be required to obtain boiler insurance in an amount in excess of \$2,000,000.

(b) Policies and Carriers All insurance provided for in paragraph (a) hereof shall be effected under standard form policies issued by insurers of recognized responsibility, which are rated A or A+ by A.M. Best Company with a minimum financial rating of Class IX.

(c) Policies and Certificates Certificates of insurance shall be delivered to Landlord. Tenant shall pay all premiums for all policies required pursuant to paragraph (a) hereof and, at least 30 days prior to the expiration of each such policy, Tenant shall pay the premium for the renewal of each such policy and furnish to Landlord for exhibition to the Prime Landlord receipt (s) evidencing payment of such premium(s). Tenant shall not violate or permit to be violated any of the conditions or provisions of any policy furnished by Tenant pursuant to paragraph (a), and Tenant shall so perform and satisfy the requirements of the companies writing such policies so that at all times companies of good standing shall be willing to write such insurance.

(d) Prior Notice Each policy required by this Article, a duplicate original, a certified copy thereof, or a certificate therefor, shall contain an agreement by the insurer that such policy shall not be cancelled without at least thirty (30) days prior written notice to Landlord and the Prime Landlord.

ARTICLE 9 UTILITIES Tenant shall pay for all water, heat, gas, electricity, and other costs of utilities consumed or used by it in connection with its occupancy of the demised premises. In the event that one or more of such utilities or related services shall be supplied to the demised premises and to Landlord or one or more other tenants within the Landlord's adjacent properties without being individually metered or measured to the demised premises, Tenant's appropriate proportional share thereof shall be paid as additional rent. Where reasonably possible, all utility metering to the demised premises shall be separate and shall meter the usage in the demised premises only. Tenant's proportional share of water and sewer usage shall be 100% of the bill for the entire building.

ARTICLE 10 ASSUMPTION OF RISK Anything herein to the contrary notwithstanding, on and as of the Commencement Date as defined in Article 3, Tenant assumes full risk of damage to its property, fixtures, equipment, tools, improvements, stock, goods, wares and merchandise, that it may have in or on or about the demised premises, resulting from fire, lightning, extended coverage perils, flood and any catastrophe, regardless of cause or origin. Landlord shall not be liable to Tenant or anyone claiming by, through or under Tenant, including Tenant's insurance carrier or carriers, for any loss or damage resulting from fire, lightning or extended coverage perils or from an act of God. Landlord shall not be liable to the insurance carrier for damages insured against, either directly or by way of subrogation.

## ARTICLE 11 HAZARDOUS MATERIAL INDEMNITY

(a) Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept, or used in or about the demised premises by Tenant, its agents, employees, contractors or invitees, unless such Hazardous Material is necessary or useful to Tenant's business as conducted on the demised premises and will be used, kept and stored in a manner that complies with all laws and regulations governing any such Hazardous Material so brought upon or used or kept in or about the demised premises; however, Landlord has no obligation, and will not undertake, to insure compliance with any laws regulating the use, storage or disposal of any Hazardous Material, such compliance being the sole responsibility of Tenant. If Tenant breaches the

obligations stated in the preceding sentence, or if the presence of Hazardous Material on the demised premises caused or permitted by Tenant results in contamination of the demised premises, or if contamination of the demised premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the demised premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the demised premises, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Sublease term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the demised premises. Without limiting the foregoing, if the presence of any Hazardous Material on the demised premises caused or permitted by Tenant results in any contamination of the demised premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the demised premises to the condition existing prior to the introduction of any such Hazardous Material to the demised premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the demised premises. Notwithstanding any provision above to the contrary, Tenant shall have no liability whatsoever for preexisting conditions or for hazardous substances arising from the operations of any other person or entity, unless at the time of such operations such person or entity was an employee, agent, affiliate or independent contractor of Tenant.

(b) As used herein, the term "Hazardous Material" means any substance, material or waste which is or becomes regulated by any local governmental authority, the State of Alabama or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under Alabama law, (ii) petroleum, including crude oil or any fraction thereof, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. ss. 1321), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. ss. 6901 et seq. (42 U.S.C. ss. 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq. (42 U.S.C. ss. 9601), (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. ss. 6991 et seq., (viii) listed pursuant to Section 302(a) (2) of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. ss. 11001 et seq. (42 U.S.C. ss. 11002(a)(2)), or (ix) for which rules have been promulgated pursuant to Section 6 of the Toxic Substances Control Act, 15 U.S.C. ss. 2601 et seq. (15 U.S.C. ss. 2605).

(c) Tenant shall not install or cause to be installed any underground storage tanks.

(d) If aboveground storage tanks are employed by Tenant, such tanks shall be properly installed and protected so as to comply with all local, state and Federal requirements, laws and regulations.

(e) Tenant shall be solely responsible for obtaining any environmental permits required, including storm water runoff permits.

(f) Tenant shall not deposit or dispose of any waste material upon the surface or below the surface of the demised premises.

ARTICLE 12 SIGNS Tenant shall not erect, place, or allow to be placed any sign or advertising matter on the exterior of the building without the prior written consent of Landlord; provided, however, that Landlord hereby consents to Tenant placing such signs on the demised premises as Tenant reasonably believes appropriate to identify Tenant as the operator of the demised premises.

ARTICLE 13 MAINTENANCE AND REPAIRS It is understood and agreed that Landlord shall, at its sole cost and expense, keep and maintain during the terms of this Sublease Agreement or any extension or renewal thereof the foundation, roof, and structural support portion of the exterior of the building in proper condition and in a good state of repair. Landlord shall be responsible for the initial painting of the building and Tenant shall be responsible for painting thereafter. Landlord shall not be responsible for any maintenance or repair caused by the fault or neglect of Tenant or due to hazards and risks covered or required to be covered by insurance hereunder except as insurance proceeds are available therefor. All other maintenance and repair of said structure, including painting of exterior (other than the initial painting) and interior walls, and maintenance and repair, and replacement of equipment, shall be the sole responsibility of Tenant.

It is understood and agreed that should either party to this Agreement fail or refuse to start and to proceed thereafter with due diligence to make any repairs or maintenance as may be reasonably necessary for the purpose of fulfilling the terms and conditions of the agreements herein set forth within a reasonable length of time (not to exceed fifteen (15) days) after being notified in writing of the need thereof, that the other party hereto may make such repairs at the cost and expense of the party so failing or refusing. In the event of an emergency situation, Tenant may, in its discretion, make emergency repairs without giving written notification to Landlord, and Landlord shall reimburse Tenant for the reasonable value of the emergency repairs in the event that such repairs were the responsibility of Landlord hereunder and were not due to the fault of Tenant or Tenant's agents. The rights of Tenant hereunder specifically do not include the right to offset or deduct any amounts claimed hereunder from rentals due. Landlord reserves the right to enter upon the demised premises during business hours at any time to inspect the same and to make necessary

repairs to fulfill Landlord's obligation hereunder.

**ARTICLE 14 FIRE OR OTHER CASUALTY LOSSES** If the demised premises should be damaged or destroyed during the Sublease term by fire or other insurable casualty without the fault of Tenant, Landlord shall repair and/or restore the same to substantially the condition it was in immediately prior to such damage or destruction, except as in this Article provided. Landlord's obligation under this Article shall in no event exceed the scope of the work required to be done by Landlord in the original construction of the building. Landlord shall not be required to, but Tenant, unless otherwise agreed by Landlord, may with due dispatch, replace or restore forthwith any trade fixtures, signs or other installations theretofore installed by Tenant. Basic Rent payable under this Sublease shall be abated proportionately according to the floor area of the demised premises which is unusable by the Tenant, but if such damage was caused by the fault of Tenant there shall be no abatement of rent. Such abatement shall continue for the period commencing with such damage or destruction and ending with the completion by Landlord of such work of repair and/or reconstruction as Landlord is obligated to do. If, however, the building should be damaged or destroyed by any cause so that the Landlord shall decide to demolish or to abandon, or completely rebuild the building Landlord may, within sixty (60) days after such damage or destruction, give Tenant written notice of such decision, and thereupon this Sublease shall be deemed to have terminated as of the date of the damage or destruction and Tenant shall immediately quit and surrender the demised premises to Landlord; provided, however, that Tenant shall have sixty (60) days thereafter to remove its property from the demised premises.

**ARTICLE 15 EMINENT DOMAIN**

(a) **Condemnation** If at any time during the term of this Sublease the whole or any part of the demised premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, Landlord shall be entitled to and shall receive any and all awards that may be made in any such proceedings; and Tenant hereby assigns and transfers to the Landlord any and all such awards that may be made to Tenant, provided, however, that Tenant shall have the right to make a separate claim with the condemning authority for the value of Tenant's property and/or moving and relocation expenses, and provided further, that such separate claims shall not reduce or adversely affect the amount of Landlord's award.

Tenant shall not be entitled to any payment based inter alia upon the value of the unexpired term of this Sublease, consequential damage to the land not so taken, fixtures, or alterations to the premises.

(b) **Sublease Termination** If such proceedings shall result in the taking of the whole or substantially all of the demised premises, this Sublease and the term hereof shall terminate and expire on the date of such taking, and the Basic Rent, Additional Rent, and other sums or charges provided in this Sublease to be paid by Tenant shall be apportioned and paid to the date of such taking.

(c) **partial Condemnation** If less than the whole or less than substantially all of the demised premises shall be taken in such proceedings, and the part so taken shall consist only of the property surrounding the building or any part thereof, but not the building itself, this Sublease shall terminate only as to the portion of the demised premises so taken, and this Sublease shall continue for the balance of its term as to the part of the demised premises remaining and the Basic Rent and Additional Rent to be paid by Tenant after such taking for the remaining part of the demised premises shall be reduced by an amount agreed upon by Landlord and Tenant. If Landlord and Tenant are unable to agree on the amount of such reduction within 30 days after the mailing by Landlord of a written notice to Tenant that the premises have been so taken, then the reduction shall be in an amount as shall be determined by arbitration as provided in this Sublease.

If, however, the part so taken shall consist of the building or a part thereof, Tenant shall have the right to cancel and terminate this Sublease as of the date of such taking by giving to Landlord notice in writing of such election within thirty (30) days after the mailing by Landlord of a written notice to Tenant that the premises have been so taken; and the Basic Rent, Additional Rent and all other sums and charges in this Sublease provided to be paid by the Tenant shall be apportioned and paid to the date of such termination.

If Tenant shall not elect to terminate, this Sublease shall continue for the balance of its term as to the part of the demised premises remaining, and the Basic Rent to be paid by Tenant after such taking for the remaining part of the demised premises shall be reduced pro rata in the portion which the space in the building so taken bears to the entire space in the building originally demised. If Landlord and Tenant shall not agree upon the amount of such pro rata reduction within ten (10) days after the thirty day period within which Tenant may elect to cancel shall have expired, then the same shall be in an amount as shall be determined by arbitration as provided in this Sublease.

(d) Restoration If less than the whole or less than substantially all of the building shall be taken in such proceedings, and Tenant shall not elect to terminate this Sublease, Landlord shall, with reasonable dispatch, repair the remaining portion of the building so as to restore such building as a building complete in itself, but Landlord shall not be obliged to expend thereon more than the sum allowed to Landlord in such condemnation proceeding for damage to the building, less all expenses incurred by Landlord in such proceeding, nor shall there be any abatement of rent during such restoration; provided, however, that if the expense of such restoration would be greater than the sum allowed to Landlord, less such expenses in the condemnation proceeding, then Landlord shall have an option, for a period of thirty (30) days after such partial taking, within which to decide whether to make the restoration or terminate this Sublease. If, within such thirty-day period, Landlord shall give written notice to Tenant of termination, this Sublease and the term hereof shall terminate and expire on the last day of the calendar month following the month in which such notice shall be given and the Basic Rent, Additional Rent, and other sums or charges in this Sublease provided to be paid by Tenant shall be paid to the date of such termination; provided, however, that if Tenant shall agree in writing, within twenty (20) days after receiving any such notice of termination from Landlord, to pay the difference by which the cost of such restoration exceeds the sum allowed to Landlord in such condemnation proceeding, less such expenses, then Landlord's notice of termination and right to terminate hereunder shall cease and Landlord shall make such restoration as hereinbefore required.

(e) Substantially All Of Premises For the purposes of this Article, substantially all of the demised premises shall be deemed to be taken if the portion of the demised premises not so taken does not constitute, or cannot be repaired or reconstructed so as to constitute, a complete plot and structure usable by Tenant as an entity for the proper conduct for its business. In the event that there shall be a dispute between Landlord and Tenant as to whether "substantially all" of the demised premises are taken, such dispute shall be submitted to and determined by arbitration as provided in this Sublease.

(f) Rent During Arbitration The rent hereunder shall not abate during any arbitration proceeding or pending any arbitration award pursuant to this Article, but an adjustment in the rent,

including a retroactive adjustment for any period during which Tenant may have been deprived of the use of the building, or any part thereof, shall be made as soon as the exact amount thereof payable shall have been determined by the arbitration award.

#### ARTICLE 16 DEFAULT

(a) Events of Default The occurrence of any one or more of the following shall constitute a default of this Sublease:

(i) Rent Default Tenant shall fail to pay any installment of the rent on the date that the same is due and such failure shall continue for a period of ten (10) days after the giving of notice by Landlord of written demand for such payment; provided, however, that three (3) or more successive failures to pay rent within ten (10) days of the due date thereof shall constitute an event of default without the necessity of Landlord making any written demand;

(ii) Abandonment The abandonment or vacating of the demised premises by Tenant;

(iii) Insolvency. The making by Tenant of a general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any bankruptcy law (unless, in the case of a petition filed against Tenant the same is dismissed within 60 days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets or of Tenant's interest in this Sublease, where possession is not restored to Tenant within thirty (30) days; or the attachment or the judicial seizure of substantially all of Tenant's assets or of Tenant's interest in this Sublease where such seizure is not discharged within thirty (30) days;

(iv) Mechanic's Lien or Other Claims Tenant does, or permits to be done, any act which creates a mechanic's lien or claim therefor against the demised premises provided that Tenant has 30 days to satisfy said lien;

(v) Assignment or Subleasing Assignment or subleasing of all or any portion of the demised premises without the prior written consent of Landlord; or

(vi) Breach A failure by Tenant to observe and perform any other provision of this Sublease, where such failure continues to be unremedied for thirty (30) days after written notice by Landlord to Tenant specifying the same; or if such failure cannot with due diligence be cured within a period of thirty (30) days and the continuance of such period will not subject Landlord to the risk of termination or default of the Prime Lease or foreclosure of any superior mortgage, if Tenant shall not, (1) within said thirty-day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within such thirty-day period, and thereafter diligently prosecute to completion, all steps necessary to remedy the same, and (iii) complete such remedy within such time after the date of the giving of said notice to Landlord as shall reasonably be necessary.

(b) Remedies Upon the occurrence of any one or more of the foregoing events of default, Landlord shall have the option to do any of the following in addition to and not in limitation of any other remedy permitted by law or by this Sublease:

(i) Landlord shall have the immediate right to terminate this Sublease, or re-enter and attempt to relet without terminating this Sublease, and remove all persons and property from the demised premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without services of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby;

(ii) If Landlord, without terminating this Sublease, either (1) elects to re-enter and attempts to relet, or (2) takes possession pursuant to legal proceedings, or (3) takes possession pursuant to any notice provided by law, then it may, from time to time, make such alterations and repairs as may be necessary in order to relet the demised premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Sublease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. Upon each such reletting, all rentals received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied to payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month be less than that to be paid during the month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the demised premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a notice of such intention be given to Tenant. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach;

(iii) Should Landlord at any time terminate this Sublease for any breach, in addition to any other remedies Landlord may have, it may recover from Tenant all damages Landlord may incur by reason of such breach, including the cost of recovering the demised premises and reasonable attorney's fees;

(iv) In addition to other remedies provided for in this Sublease, Landlord shall be entitled to restraint by injunction of the violation, or attempted or threatened violation of any condition or provision of this Sublease, or to a



decree specifically compelling performance of any such condition or provision.

(C) Expense Reimbursement In addition to any other remedies Landlord may have at law or equity and/or under this Sublease, Tenant shall pay upon demand all Landlord's costs, charges and expenses, including fees of counsel, agents and others retained by Landlord, incurred in connection with the recovery of sums due under this Sublease, or because of the breach of any covenant under this Sublease or for any other relief against Tenant. In the event Tenant shall bring any action against Landlord for relief hereunder and Landlord shall prevail, Tenant shall pay Landlord's reasonable attorney fees and all court costs.

(d) No Waiver. No waiver of any covenant or condition or of the breach of any covenant or condition of this Sublease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify or authorize the nonobservance on any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance of rent by Landlord at any time when Tenant is in default under any covenant or condition hereof, be construed as a waiver of such default or of Landlord's right to terminate this Sublease on account of such default, nor shall any waiver or indulgence granted by Landlord to Tenant be taken as an estoppel against Landlord, it being expressly understood that if at any time Tenant shall be in default in any of its covenants or conditions hereunder, an acceptance by Landlord of rental during the continuance of such default or the failure on the part of Landlord promptly to avail itself of such other rights or remedies as Landlord may have, shall not be construed as a waiver of such default, that Landlord may at any time thereafter, if such default continues, terminate this Sublease on account of such default or pursue any other remedy permitted by law or by this Sublease.

(e) Cumulative Remedies The rights and remedies given to Landlord by this Sublease shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive at law or in equity of the rights and remedies which Landlord might otherwise have by virtue of default under this Sublease, and the exercise of one such right or remedy by Landlord shall not impair Landlord's standing to exercise any other right or remedy.

(f) Tenant's Failure to Take Possession Tenant shall take possession and be open for business, fully equipped and staffed, within ninety (90) days of Landlord's notice to Tenant that the demised premises are ready for occupancy.

ARTICLE 17 NON-DISTURBANCE Tenant understands that other persons and entities, including Landlord, conduct businesses or reside near the demised premises. Tenant covenants and agrees to conduct its business in such a manner as to not unreasonably interfere with the occupants of surrounding properties, including Landlord. Landlord covenants and agrees to conduct its business in such a manner as to not unreasonably interfere with Tenant's operations.

ARTICLE 18 WAIVER The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Sublease, or of any rule or regulation, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of rent with knowledge of the breach of any covenant of this Sublease shall not be deemed a waiver of such breach. No provision of this Sublease shall be deemed to have been waived by Landlord, unless such waiver be in writing signed by Landlord.

#### ARTICLE 19 SUBORDINATION AND ATTORNMENT

(a) Subordination This Sublease is subject and subordinate at all times to the lien of future and existing mortgages on the demised premises, and to all renewals, modifications, consolidations and replacements of said mortgages. Although no instrument or act on the part of Tenant shall be necessary to effectuate such subordination, Tenant will, nevertheless, execute and deliver such further instruments as may be desired by the mortgagee subordinating this Sublease to the lien of all such mortgages. Tenant hereby appoints Landlord its attorney-in-fact, irrevocably, to execute and deliver any such instrument for the Tenant.

(b) Nondisturbance So long as Tenant is not in default in the payment of rent or additional rent or in the performance of any of the terms of this Sublease, the Tenant's possession of the demised premises and the Tenant's rights and privileges under the Sublease or any renewal thereof shall not be diminished or interfered with by the mortgagee.

(C) No Recording of Sublease by Tenant Tenant shall not place this Sublease on record without the consent of Landlord. At the request of Landlord, Tenant will execute a short-form memorandum of Sublease for recording purposes containing references to such provisions of this Sublease as Landlord, in its sole discretion, shall deem necessary.

(d) Attornment In the event any future or existing mortgage on the demised premises is foreclosed for any reason, and the mortgagee or purchaser at the foreclosure sale succeeds to the interest of the Landlord under this Sublease, the Tenant shall be bound to the mortgagee or purchaser, as the case may be, under all of the terms of this Sublease for the balance of the term thereof remaining with the same force and effect as if the mortgagee or purchaser were the Landlord under the Sublease, and Tenant hereby attorns to the mortgagee or purchaser as its landlord, such attornment to be effective and self-operative without the execution of any further instrument on the part of either of the parties hereto, immediately upon the mortgagee or purchaser succeeding to the interest of the Landlord under the Sublease. Notwithstanding anything herein to the contrary, Tenant shall be under no obligation to pay rent to the mortgagee or purchaser until Tenant receives written notice from the mortgagee or purchaser that it has succeeded to the interest of the Landlord under the Sublease. The respective rights and obligations of the Tenant and the mortgagee or purchaser upon such attornment shall to the extent of the then remaining balance of the term of this Sublease be the same as now set forth herein.

(e) Estoppel Certificate Tenant shall, from time to time and upon written request by Landlord, furnish Landlord a written statement, signed by Tenant and addressed to the person designated in such request, on the status of any matter pertaining to the Sublease, including that at the date of such statement (1) the provisions and conditions of the Sublease have been complied with, (ii) there are no defaults by Landlord, and (iii) the Sublease is still in full force and effect. If any or all of (i), (ii) or (iii) are not stated in the affirmative in the statement, the statement shall describe the facts and matters which Tenant alleges prevents such affirmative statement.

ARTICLE 20 ABANDONMENT Tenant shall not vacate or abandon the demised premises at any time during the term of this Sublease, nor permit the premises to remain unoccupied, for a period longer than 14 consecutive days during the term of this Sublease; and if Tenant shall abandon, vacate or surrender the demised premises, or be dispossessed by process of law or otherwise, any personal property belonging to Tenant left on the demised premises longer than sixty (60) days after lease termination, shall, at the option of the Landlord, be deemed abandoned.

ARTICLE 21 ASSIGNMENT AND SUBLEASING Tenant shall not assign this Sublease (whether by operation of law or otherwise) or sublet all or any portion of the demised premises without the prior written consent of Landlord. Any purported assignment or sublease without Landlord's prior written approval shall be null and void and of no force and effect whatsoever. If any single entity or group of affiliated entities other than the present owners should ever own or control more than fifty percent (50%) of the voting capital stock of Foster, American shall have the option of canceling this Sublease. Any breach of this assignment clause by Tenant will constitute a default under the terms of this Sublease and Landlord shall have all rights and remedies available to it as set forth herein.

ARTICLE 22 AUTOMATIC RENEWAL This Sublease shall automatically renew for an additional two (2) year term ("Renewal Term") up to a maximum aggregate lease term of five (5) years from the Commencement Date (as defined in Article 3) unless terminated by either party on written notice to the other given at least ninety (90) days prior to the expiration of the initial or any such Renewal Term hereof; provided, however, that this Sublease shall not automatically renew for any Renewal Term if any default by Tenant shall exist as of the commencement date of such Renewal Term.

Any Renewal Term shall be upon the same conditions applicable during the initial term.

Notwithstanding anything in this Sublease to the contrary, this Sublease shall terminate if and when that certain Service Agreement of even date herewith between Landlord and Tenant shall terminate, such termination of the Sublease to be effective on the date on which termination of the Service Agreement is effective.

ARTICLE 23 COVENANT OF QUIET ENJOYMENT Tenant, upon paying the Basic Rent and all Additional Rent and other charges and performing all the other terms of this Sublease, shall quietly have and enjoy the demised premises during the term of this Sublease without hindrance or interference by anyone claiming by or through the Landlord, subject, however, to the reservations and conditions of this Sublease, the Prime Lease, and any fee mortgage to which this Sublease is subordinate.

ARTICLE 24 APPLICABLE LAWS AND NECESSARY LICENSES Tenant at its sole expense shall comply with all laws, orders, and regulations of federal, state, and municipal authorities, and with any lawful direction of any public officer, which shall impose any duty upon Landlord or Tenant with respect to the demised premises. Tenant, at its sole expense, shall obtain all required licenses or permits for the conduct of its business within the terms of this Sublease, and for the making of repairs, alterations, improvements, or additions, and Landlord, where necessary, will join with Tenant in applying for all such permits or licenses. Tenant is solely responsible for obtaining all air, solid waste, and water pollution control permits as required for its operation. Further, it is Tenant's responsibility to meet all environmental compliance requirements now and in the future. With respect to Tenant's operation of facility, Tenant will respond promptly to provide any corrective actions required to maintain proper compliance with any present or future environmental control regulation or permit affecting its operation; provided, however, that Tenant shall have no liability whatsoever for preexisting conditions or for the activities of any other person or entity, unless at the time of such activities such person or entity was an employee, agent, affiliate or independent contractor of Tenant.

#### ARTICLE 25 ALTERATIONS ADDITIONS AND IMPROVEMENTS

(a) Tenant shall not make any alterations, additions, or improvements to the demised premises without Landlord's prior written consent, except for the initial installation of equipment and fixtures and for nonstructural alterations which do not exceed Five Thousand Dollars (\$5,000) in cost cumulatively over the Sublease term and which are not visible from the outside of the building. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount satisfactory to Landlord. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Article upon Landlord's written request. All alterations, additions, and improvements will be accomplished in good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials.

(b) Tenant shall pay when due all claims for labor and material furnished to the demised premises. Tenant shall give Landlord at least ten (10) days prior written notice of the commencement of any work on the demised premises. Landlord may elect to record and post notices of nonresponsibility on the demised

premises.

## ARTICLE 26 LEGAL COSTS

(a) Legal Proceedings Tenant shall reimburse Landlord, upon demand, for any costs or expenses incurred by Landlord in connection with any breach or default of Tenant under this Sublease, whether or not suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Sublease is commenced, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorney's fees and costs. Such attorney's fees and costs shall be paid by the losing party in such action. Tenant shall also indemnify Landlord against and hold Landlord harmless from all costs, expenses, demands, and liability incurred by Landlord if Landlord becomes or is made a party to any claim or action (i) instituted by Tenant against any person or entity other than Landlord, or by any third-party against Tenant, or by or against any person holding any interest under or using the demised premises by license of or agreement with Tenant; (ii) for foreclosure of any lien for labor or material furnished to or for Tenant or such other persons; (iii) otherwise arising out of or resulting from any act or transaction of Tenant or such other persons; (iv) necessary to protect Landlord's interest under this Sublease in any bankruptcy of or against Tenant, or other proceeding under Title 11 of the United States Code, as amended. Tenant shall defend Landlord against any such claim or action at Tenant's expense with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such claim or action.

(b) Landlord's Consent Tenant shall pay Landlord's reasonable attorney's fees incurred in connection with Tenant's request for Landlord's consent for the assignment or subletting of this Sublease, or in connection with any other act Tenant proposes to do and which requires Landlord's consent.

ARTICLE 27 RIGHT OF ENTRY Landlord, the Prime Landlord, and any agents of Landlord or the Prime Landlord, may enter the demised premises at all reasonable times to examine or inspect the same, to exhibit the demised premises to potential buyers, investors, tenants or other parties, or for any other purposes Landlord or Prime Landlord deems necessary.

## ARTICLE 28 RESERVATION OF EASEMENTS

(a) Landlord shall have the right to grant easements in areas of the demised premises for the installation of utilities, provided that the use of such easement areas for such purposes does not interfere substantially with the operations of Tenant's business. Tenant shall not be entitled to any compensation or abatement of rent if the use of such easement areas does not interfere substantially with Tenant's business.

(b) Landlord reserves the right to use the railroads, roads and other paths existing across the demised premises as a means of ingress and egress to and from other premises of the Landlord, by trucks, motor and other vehicles, and by persons on foot, and Landlord shall have the right for itself, its agents, servants and employees, invites, and licenses, to use such easement at any time and for any purpose on condition that such use does not substantially interfere with Tenant's operations.

ARTICLE 29 ARBITRATION Any disagreement between the parties with respect to the interpretation or application of this Sublease or the obligations of the parties hereunder shall be determined by arbitration. Such arbitration shall be conducted, upon request of either Landlord or Tenant, before three arbitrators (unless Landlord and Tenant agree to one arbitrator) designated by the American Arbitration Association and in accordance with the rules of such association. The arbitrators designated and acting under this Sublease shall make their award in strict conformity with such rules and shall have no power to depart from or change any of the provisions thereof. All arbitration proceedings hereunder shall be conducted in the county in which the demised premises are located. The award of the arbitrator shall be binding, final, and conclusive on the parties. The fees of the arbitrators and the expenses incident to the proceedings shall be borne equally between Landlord and Tenant. The fees of respective counsel engaged by the parties, and the fees of expert witnesses and other witnesses called for by the parties, shall be paid by the respective party engaging such counsel or calling and engaging such witnesses.

## ARTICLE 30 INDEMNITY

(a) Landlord shall not be liable for any injury or damage to persons or property occurring within the demised premises, including, but not limited to, personal injury or property damage to Tenant, or to its officers, agents, employees, licensees, or invitees, unless such liability is attributable to the negligent or willful conduct of Landlord, its agents, servants, contractors, employees or licensees.

(b) Tenant shall indemnify and save harmless Landlord against and from any and all claims by or on behalf of any person, firm, or corporation, arising from any work or thing whatsoever done by or on behalf of Tenant, in or about the demised premises, and will further indemnify and save harmless Landlord against and from any and all claims arising from any breach or default on the part of Tenant in the performance of any covenant or agreement to be performed by Tenant pursuant to the terms of this Sublease, or arising from any act or negligence of Tenant, or any of its agents, contractors, servants, employees or licensees, and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim or action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice of Landlord, covenants to defend, at Tenant's expense, such action or proceeding by counsel reasonably satisfactory to

Landlord. Landlord shall have the right, if it sees fit, to participate in such defense at its own expense; provided, however, that this indemnification shall not extend to claims, demands, actions, losses or liabilities that are attributable to the negligent or willful misconduct or intentional breach of Landlord, its agents, servants, contractors, employees or licensees.

ARTICLE 31 NOTICES Any notice to be given hereunder by either party to the other shall be given in writing, delivered personally, or mailed by certified mail, postage paid, or by a nationally known air courier, to the following addresses or to such other addresses as the parties hereto may designate from time to time in the manner provided in this paragraph:

TO LANDLORD AT: American Cast Iron Pipe Company  
1501 31st Avenue North  
P. O. Box 2727  
Birmingham, Alabama 35207  
Attention: President

With a Copy To: Samuel W. Oliver, Jr., Esq.  
Burr & Forman  
3000 South Trust Tower  
420 N. 20th Street  
Birmingham, AL 35203

TO TENANT AT: L.B. Foster Company  
415 Holiday Drive  
Pittsburgh, PA 15220  
  
Attention: President

With a Copy To: L. B. Foster Company  
6455 Old Peachtree Road  
Norcross, GA 30071  
Attention: V.P. - Tubular Products

All notices shall be deemed to be given when deposited in the United States mail or delivered to such courier as aforesaid or when personally delivered.

ARTICLE 32 NO BROKER Tenant represents that it has not negotiated with or dealt with any broker in connection with the negotiating and execution of this Sublease.

ARTICLE 33 GOVERNING LAW This Sublease shall be governed by, construed, and enforced in accordance with the laws of the State of Alabama.

ARTICLE 34 BINDING EFFECT The provisions of this Sublease shall be binding on and inure to the benefit of the parties, their legal representatives, successors, and permitted assigns.

ARTICLE 35 RELATIONSHIP OF PARTIES The parties have not created and do not intend to create by this Sublease a joint venture or partnership relation between them, it being understood and agreed that the provisions of this Sublease with regard to the payment by Tenant and the acceptance by Landlord of a sum equal to a percentage of gross revenues is a reservation of rent.

ARTICLE 36 CAPTIONS FOR CONVENIENCE The captions of this Sublease are for convenience only, are not a part of the Sublease, and do not in any way limit or amplify the terms and provisions thereof.

ARTICLE 37 ENTIRE AGREEMENT This Sublease contains all of the agreements and representations between the parties. None of the terms of this Sublease shall be waived or modified to any extent, except by written instrument signed and delivered by both parties.

ARTICLE 38 COUNTERPARTS This Sublease may be executed in one or more counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed and affixed their respective seals to this Sublease Agreement on the day and year first above written.

EXECUTIVE MEDICAL REIMBURSEMENT PLAN

The Medical Reimbursement plan (MRP) is a special benefit for key employees designed to supplement the comprehensive Medical Plan and the Dental Plan (also referred to in this document as the "Basic Plans"). This Plan is subject to the same exclusions, limitations, and conditions outlined in your Comprehensive Medical Plan and Dental Plan booklets with the exception of vision care, chiropractic and mental/nervous, drug/alcohol treatment. The Plan is designed to provide reimbursement for deductibles, co-insurance, and usual, customary and reasonable charges which exceed the maximums allowed under the Basic Plans subject to an overall annual maximum reimbursement as set forth on Page 5. In addition, the Plan also provides reimbursement for certain vision care expenses. The Plan is administered by Acordia National, hereinafter referred to as Acordia.

Who is eligible for the MRP?

Employees holding positions with a job level exempt 12 and above. In order to receive a benefit under the MRP, you must be enrolled in the Basic Plan and pay the required contribution.

Certain members of your family are also eligible for coverage. They include (provided you have enrolled them under the Basic Plan):

- o Your spouse.
- o Single dependent children under age 19 (unmarried children age 19 up to the child's 25th birthday if the child is a full-time student who depends solely on the employee for support and maintenance).
- o Single dependent children, regardless of age, if they are physically or mentally disabled before age 19. Children include your natural born children, legally adopted children, stepchildren, and foster children who live with you and depend on you for support and maintenance. Proof of dependency for other than natural children will be required.

When do you become eligible?

Your coverage under the MRP will begin the day your Basic plan coverage starts or the day you are promoted to an exempt level 12, provided you are already enrolled in the Basic Plan and you pay the required contribution. Coverage for your eligible dependents will automatically begin on the date your coverage begins.

Do you need to complete an enrollment form?

No. You will automatically be enrolled in the MRP when you submit the Benefit Enrollment form to enroll in the Basic plan or when you become eligible for the MRP. If you do not want to participate in the MRP when first eligible to do so, you must send written notice to the Benefits Department in Pittsburgh.



What is your cost to participate In the MRP?

Employees at job level exempt 15 and above must pay \$65 per month and employees in positions which are exempt level 12 through 14 must pay \$45 per month for MRP coverage.

What benefits are covered by the MRP?

Medical expenses shall be limited to the following:

- Services, supplies and treatments including well-baby care, which are authorized by a licensed physician, and which in the geographical area where incurred, are the usual, customary and reasonable services, supplies or treatments provided for the condition being treated
- o Charges which are usual, customary, and reasonable for the services, supplies and treatments received in the geographical area.
- o Chiropractic treatment is limited to a maximum benefit of \$500 per person per calendar year under the MRP.
- o The combined lifetime maximum benefit for treatment of alcoholism and drug addictions is \$25,000 per person per lifetime under the MRP.
- o Exceptions which are further defined under "Exclusions."

Dental expenses shall be limited to the following:

- o Services, supplies and treatments, including sealants and bonding, which are authorized by a licensed dentist and which in the geographical area where incurred, are the usual customary and reasonable services, supplies or treatments provided for the condition being treated.
- o Charges which are usual, customary and reasonable for the services, supplies and treatments received in the geographical area.
- o Charges limited to two teeth cleanings per person per calendar year unless additional cleanings are necessitated to prevent gum or bone disease damage.
- o Exclusions which are further defined under "Exclusions."

Orthodontic expenses shall be limited to the following:

- o Services, supplies and treatments which are authorized by a licensed orthodontist and which in the geographical area where incurred, are the usual, customary and reasonable service, supplies or treatments provided for the condition being treated.



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- o Charges which are usual, customary and reasonable for the services, supplies and treatments received in the geographical area.

- o Charges which shall be based on quarterly installments

only.

- o Exceptions which are further defined under "Exclusions."

Vision care expenses shall be limited to the following:

- o Services, supplies and treatments which are authorized by a licensed ophthalmologist or optometrist and which in the geographical area where incurred are the usual, customary and reasonable services, supplies or treatments provided for the condition being treated.

- o Charges which are usual, customary and reasonable for the services, supplies and treatments received.

- o Charges limited to one eye examination per person per calendar year unless more frequent examinations are medically necessary.

- o Charges limited to any combination of prescription eyeglasses and/or contact lenses, but no more than two pairs per participant and eligible dependent(s) every two years unless a prescription change warrants new eye wear in less time.

- o Charges limited to a maximum of \$75.00 for each set of

frames.

- o Exceptions which are further defined under "Exclusions."

What is excluded under the MRP?

- o Premiums for the L.B. Foster Company Basic Plans are not reimbursable under the MRP.
- o Expenses which are paid by the Basic Plans.
- o The portion of an actual charge which is in excess of the reasonable and customary charge.
- o Medicines obtained without prescriptions of a physician, including nonprescription drugs and vitamins.
- o Ace bandages, braces, and other support items available as over-the-counter products.
- o Dehumidifiers, air conditioners, vaporizers and/or any other systems which are used to change the home environment.
- o Nonprescription eyeglasses.

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- o Oversized lenses special tinting, special polishing and special lens coatings.
- o Cosmetic surgery.
- o Food supplements and all nutritional products.
- o Physical examinations that are otherwise covered under the Executive Physical Program.
- o Weight reduction clinic expenses unless medically necessary.
- o Charges for health trips not related to emergency ambulance transportation, even if medically prescribed.
- o Charges for health facilities, such as whirlpool or health clubs, swimming clubs, or tennis clubs, even if medically prescribed.
- o Charges made by or incurred in an institution owned or operated by a national government or any agency thereof.
- o Charges made by or incurred in an institution owned or operated by a state government unless the insured individual would be required to pay such charges in the absence of insurance.
- o Charges incurred in connection with sickness, disease, or bodily injury resulting from war or any act incident to war, whether the war be declared or undeclared.
- o Charges incurred in a hospital for television, telephone, newspapers and other nonmedical expenses.
- o Charges for custodial care, including babysitting.
- o Charges for housekeeper or domestic labor not directly related to medical care and treatment.
- o Charges incurred in connection with accidental bodily injury which arises out of or in the course of an employee's or dependent's employment with any employer or self-employment.
- o Charges incurred for failure to satisfy the provisions set forth in the Second Surgical Opinion Program and/or Pre-Admission Certification (CAPP Care) of the LB. Foster Comprehensive Medical Plan.
- o Charges incurred for medical treatment which is outside of and not directed by an employee's selected Health Maintenance Organization (HMO).

Mileage to and from medical care facilities.

- o Charges which are paid by any other employer-sponsored plan.
- o Parking fees.
- o Other than charges specifically included above, eligible expenses are limited to those identified in the LB Foster Comprehensive Medical Plan and the Dental Plan.

How do you submit a claim?

You submit your claim form according to the guidelines outlined in the Basic Medical and Dental Plans. Once Acordia has processed your claim under the Basic Plan, any remaining eligible charges will automatically be considered under the MRP. Therefore two checks will be issued - one representing the Basic Plan benefit and one representing the MRP benefit.

Since eye wear is not covered under the Basic Plan, be sure your bills include the patients full name, date of treatment or purchase, type of supply provided and itemized charges of each expense comprising the total bill.

Claims must be submitted no later than 15 months following the date the service is provided.

Is there a limit on the amount of MRP benefits?

Yes. Employees at or above job level 15, including all dependents, are limited to a maximum benefit of \$6,000 per calendar year. Level 12 through 14, including dependents, are limited to \$3,000 per calendar year.

When does your coverage end?

Coverage under the Plan for you and your dependents will end when:

- o Your employment ends or the Plan ends.
- o You do not make the required contribution to the Plan.
- o You have exhausted any salary continuance benefits.
- o You are on a personal leave of absence.
- o Your dependent reaches the age limit or is otherwise ineligible.
- o Your Basic coverage terminates.

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Can coverage for you and your dependent be continued beyond the termination date of your employment?

If the coverage under this Plan ceases because of any of the following qualifying events:

- o Your employment ends (except in the case of gross misconduct) or
- o Your work hours are reduced;
- o Your death;
- o Your marriage is dissolved;
- o You become legally separated from your spouse (where applicable);
- o Your dependent child stops being an eligible dependent or
- o Your leave of absence (in compliance with USERRA) by reason of active service in the uniformed services;

you, your spouse, your former spouse (or legally separated spouse) or your ineligible dependent child, as qualified beneficiaries, may elect to continue coverage subject to the provisions below. The continuation coverage will be identical to the coverage provided to persons similarly situated to whom a qualifying event has not occurred.

It will continue for at least the period starting on the date of the qualifying event and ending not earlier than the earliest of:

- o The date which is at least 36 months (18 months in the case of your employment stopping or your work hours being reduced; or your Leave of absence for active service in the uniformed services under the USERRA) after the qualifying event.
- o The date this policy stops being in force.
- o The date a qualified beneficiary fails to make the required monthly payments to the Employer for the coverage.
- o The date a qualified beneficiary becomes either:
  - (a) covered as an employee under any other group health plan, or (b) entitled to benefits under Medicare.
- o The date your former spouse remarries and becomes covered under another group.
- o The day after the date on which you fail to apply for or return to a position of employment following a leave of absence in accordance with the USERRA for active service in the uniformed services.

Election Period





A qualified beneficiary must elect continuation coverage within the 60-day notice period. The 60 day period begins on the later of:

- \* The date coverage stops due to the qualifying event or

- \* The date the person receives notice of the right to continue coverage.

Your election to continue coverage will be considered an election on behalf of your spouse and dependent children who would also lose coverage because of the same qualifying event. Also, a former spouse's election to continue coverage will be considered an election for dependent children who would also lose coverage because of the same qualifying event.

NOTE 1: If a child is born to, or placed for adoption with, a covered beneficiary while the covered beneficiary is on COBRA, then the covered beneficiary is permitted to add such child as a dependent under the Plan's generally applicable rules for adding newborn or adopted children and the added child will be treated as a qualified beneficiary.

NOTE 2: If the Social Security Administration determines a qualified beneficiary is disabled at any time during the first 60 days of COBRA coverage (beginning on the day after termination of employment or reduction in hours) an 11-month extension, after the initial 18 months, is available to the qualified beneficiary.

#### Notification Requirements

The employee or a qualified beneficiary must notify the Human Resource Department within 60 days when any of the following qualifying events happen:

2 Your marriage is dissolved;

- 2 You become legally separated from your spouse;
- 2 A child stops being an eligible dependent; or

- 2 The Social Security Administration determines you to be disabled within the first 60 days of a COBRA coverage period.

The Human Resource Department will send the appropriate election form to the qualified beneficiary within 14 days after receiving this notice.

Can the Plan be amended or terminated?



Although the Company intends to continue the MRP, the Plan is entirely voluntary on the part of the Company and may be amended or terminated at any time.

Amendments made by the Company shall be made by resolution of the Company's board of directors adopted in accordance with the Company's by-laws and applicable corporation law. Alternatively amendments may be adopted by any one or more officers of the Company if authority to amend the plan has been delegated to them by the board of directors in accordance with the Company's by-laws and applicable corporation law. A delegation may be general (by way of describing the general duties and responsibilities of the officers) or specific with regard to employee benefit plans such as this and is not invalid merely because it was made before this plan was established. An officer exercising delegated authority to amend the plan shall memorialize that exercise in writing signed by the officer.

What if you have additional questions?

For more information about the Plan and its benefits, contact the Human Resource Department. For other details about the Plan and your rights as a Plan member, see the GENERAL section of this manual.

SUPPLEMENTAL

EXECUTIVE RETIREMENT PLAN

ESTABLISHMENT AND PURPOSE

WHEREAS, on December 14, 1994 the Board of Directors of L.B. Foster Company (the "Company") adopted the SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN (the "Plan") effective as of January 1, 1994. The Plan was established to pay supplemental benefits to certain executive employees who qualify for benefits under the Voluntary Investment Plan (the "VIP").

WHEREAS, the Plan is unfunded, and the Company will make the Plan benefit payments solely from its general assets on a current disbursement basis.

WHEREAS, the provisions of this Plan shall apply only to employees who are employed by the Company on or after January 1, 1994.

WHEREAS, the principal objective of this Plan is to ensure the payment of a competitive level of benefits in order to attract, retain and motivate selected executives. This Plan was designed to provide retirement benefits lost due to Internal Revenue Code ("IRC") Sections 401(a) 17, 402(g), and 401(a)(4), as well as any other code section(s) limiting the amount the Company can contribute under the VIP.

WHEREAS, the Plan shall become effective January 1, 1994. Any employee whose employment terminated prior to January 1, 1994 shall have no rights under this Plan.

SECTION I  
DEFINITIONS

1.1 "Affiliated Company" means any subsidiary or affiliate of the Company, whether or not such entities have adopted the Plan, and any other entity which is a member of a Controlled Group as defined under the IRC.

1.2 "Board of Directors" means the Board of Directors of L.B. Foster Company.

1.3 "Committee" means the Personnel and Compensation Committee of the Board of Directors.

1.4 "Company" means the L.B. Foster Company, a corporation organized and existing under the laws of the State of Delaware, as well as any Affiliated Company which the Board of Directors has designated as eligible to adopt the Plan.

1.5 "Compensation" means the earnings paid by the Company to the Participant during the Plan Year in the form of base salary, vacation pay, bonuses or cash incentive pay, commissions, and any other elective deferrals under Section(s) 401(k) or 125, but excluding all other payments.

1.6 "Disability" means disability as defined in the Company's long term disability plan, as it may be, from time to time, amended.

1.7 "Disability Date" means the first day of the sixth month following the month in which the Participant's Disability commenced, but not later than his normal retirement date.

1.8 "Early Retirement Date" means the earlier of 1) the first of the month following attainment of age 55, or 2) the first day of the month coincident with or following the participants involuntary termination of employment.

1.9 "Effective Date" means January 1, 1994.

1.10 "IRC" means Internal Revenue Code.

1.11 "Normal Retirement Date" means the first of the month following attainment of age 65.

1.12 "Participant" means an employee of the Company who becomes and remains a Participant as provided in Section II.

1.13 "Plan" means the Supplemental Executive Retirement Plan.

1.14 "Plan Administrator" means the Committee.

1.15 "Plan Sponsor" means L.B. Foster Company.



1.16 "Spouse" means the lawful spouse of the Participant at the earlier of date of death or the date benefits commence to the Participant under the Plan.  
the Participant's

1.17 "VIP" means the Voluntary Investment Plan for Employees of L.B. Foster Company and any successor thereto.

1.18 The masculine gender, where appearing in the Plan, will be deemed to include the feminine gender, and the singular may include the plural, unless the context clearly indicates the contrary.

## SECTION II

### PARTICIPATION

2.1 Eligibility for participation in the Plan shall be limited to individuals who comprise a select group of management or highly compensated employees within the meaning of Section 201(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including only individuals who have the ability to affect or substantially influence, through negotiation or otherwise, the design and operation of the Plan, taking into consideration any risks attendant thereto, and therefore do not need the substantive rights and protections of ERISA.

2.2 Participation in the Plan is solely within the discretion of the Committee. The Committee shall individually select and name by resolution each eligible employee for participation in the Plan. An employee shall become a Participant as of the date specified in the resolution.

2.3 A Participant shall remain a Participant only for so long as he continues in the employ of the Company, or the Committee, in its sole discretion determines that the Participant shall no longer be a Participant.

### SECTION III

#### ELIGIBILITY FOR RETIREMENT BENEFITS

3.1 Each Participant who terminates his employment with the Company on or after the month in which he attains age 65 shall be eligible to receive a retirement benefit on his Normal Retirement Date.

3.2 Each Participant who terminates his employment with the Company on or after the date he attains age 55 and has received approval of the Committee to retire under the Plan (but before the month in which he attains age 65) shall be eligible to receive a retirement benefit beginning on his Early Retirement Date (or beginning on the first day of any month thereafter but not later than his Normal Retirement Date.)

3.3 The beneficiary of a Participant who dies while a Participant shall be eligible to receive such Participant's retirement benefit the first day of any month following the date of such Participant's death but in any event not later than what would have been the Participant's Normal Retirement Date had he lived.

3.4 Each Participant who leaves his employment due to disability shall be eligible to receive a retirement benefit beginning on his Disability Date (or beginning on the first day of any month thereafter but not later than his Normal Retirement Date.)

3.5 Each Participant who is terminated involuntarily by the Company, other than for cause, shall be eligible to receive a retirement benefit beginning on the first day of the month following such termination.

SECTION IV

AMOUNT AND PAYMENT OF RETIREMENT BENEFIT

4.1 The retirement benefit payable at retirement shall be the sum of (a) minus (b), plus (c) below.

(a) the Company under the VIP

For each year or portion of a year in which the employee is a Participant shall calculate the amount which the Company would have contributed for the benefit of such Participant but for IRC limits

(b) For each year or portion of a year in which the employee is a Participant the Company shall calculate the amount which is the greater of

(i) the Company's actual contributions to the VIP for the benefit of such Participant, or

(U) the amount which the Company would have contributed to the VIP for the benefit of such Participant if the Participant had made all permissible elective contributions to the VIP, but subject to IRC limits.

(c) The Company shall apply interest each December 31 to the amount of benefit, determined by subtracting (b) from (-a), as well as to any previous year's accumulated balance under this Plan, at the greater of

(i) The calendar year `s rate of return of Fidelity's Managed Income Portfolio as of December 31 of such year, or





ported for the last Friday each year.

4.2 The Committee will determine in its sole discretion whether benefit payment(s) to the Participant will be made in 1) a single lump sum payment, or 2) in five annual installments commencing on the dates referred to in Section III.

## SECTION V

### MISCELLANEOUS

5.1 Amendments to this Plan shall be made by resolution of the Board of Directors of the Company adopted in accordance with the by-laws of the Company and applicable corporation law. Alternatively, amendments may be adopted by any one or more officers of the Company if authority to amend the Plan has been delegated to them by the Board of Directors in accordance with the by-laws of the Company and applicable corporation law. A delegation may be general (by way of describing the general duties and responsibilities of the officers) or specific with regard to employee benefit plans such as this and is not valid merely because it was made before this Plan was established. An officer exercising delegated authority to amend the Plan shall memorialize that exercise in writing signed by the officer.

5.2 Nothing contained herein will confer upon any Participant the right to be retained in the service of the Company, nor will it interfere with the right of the Company to discharge or otherwise deal with Participant(s) without regard to the existence of this Plan.

5.3 This plan is unfunded and has no assets. There is no trust or insurance. All payments made under the Plan are made from the general assets of the Company. Participation in the Plan gives the employee nothing more than the Company's contractual promise to pay deferred compensation when due in accordance with the terms of this Plan.

5.4 The Company is not required to segregate, maintain or invest any portion of its assets by reason of its contractual commitment to pay deferred compensation under this Plan. If the Company nevertheless chooses to establish a reserve, such reserve remains an asset of the Company in which no participating employee has any right, title or interest. Employees entitled to deferred compensation under this Plan have the status of general unsecured creditors of the Company.

5.5 If a Participant is discharged by the Company for cause (conduct that is injurious to the Company, or conduct which intentionally violates either the Company's written policies or the reasonable directives of the Company's Chief Executive Officer; or the commission of a felony) such Participant's rights to any benefit under this Plan shall be forfeited.

5.6 If the Committee determines that any Participant is engaged in any trade, profession or business which is, or likely to be, detrimental to the best interests of the Company, or if the Committee determines that such Participant has used or is using trade secrets or other confidential information gained while in the employ of the Company, the Committee may, upon written notice to the Participant, suspend or forfeit the Participant(s) right to any benefit under this Plan.

5.7 No benefits are payable under this Plan if a Participant terminates his employment for any reason other than those specifically referred to in Section III.

5.8 The Plan Administrator has all rights, duties and powers necessary or appropriate for the administration of the Plan.

5.9 The Plan Administrator shall have and shall exercise complete discretionary authority to construe, interpret and apply all of the terms of the Plan, including all matters relating to eligibility for benefits, amount, time or form of payment, and any disputed or allegedly doubtful terms. In exercising such discretion, the Plan Administrator shall give controlling weight to the intent of the Sponsor of the Plan.

5.10 All decisions of the Plan Administrator in the exercise of its authority under the Plan shall be binding on the Plan, the Plan Sponsor and all participants and beneficiaries if not appealed in accordance with the appeal procedure. All decisions of the Plan Administrator on appeal shall be final and binding on the Plan, the Plan Sponsor and all participants and beneficiaries.

5.11 Each Participant shall receive a copy of this Plan and the Committee will make available for each Participant a copy of any rules and regulations used by the Committee administering the Plan.

5.12 Each Participant will be provided an annual summary of the amount of retirement benefit allocated under the Plan.

5.13 This Plan is established under and will be construed according to the laws of the Commonwealth of Pennsylvania to the extent not pre-empted by federal law.

## SECTION VI

### CLAIMS AND APPEAL PROCEDURES

6.1 There should be no need to file a claim for benefits. The Company is expected to pay each participating employee automatically, in accordance with the terms of this Plan. Nevertheless, a participating employee may claim benefits under this plan by filing a written claim with the Plan Administrator.

6.2 As required by the Internal Revenue Service, a participating employee's right to benefits under this Plan is not subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the employee or the employee's beneficiary.

6.3 If a claim is denied and the employee disagrees and wants to pursue the matter, the employee must file an appeal in accordance with the following procedure. An employee cannot take any other steps unless and until the appeal procedure has been exhausted. For example, if a claim is denied and the employee does not use the appeal procedure, the denial is conclusive and cannot be challenged, even in court.

6.4 An appeal is filed by writing to the Plan Administrator stating the reasons why the employee disagrees with the denial. An appeal must be made within 60 days after the claim was denied. In the appeal process, the employee has the right to review the pertinent documents, to be represented by anyone else, including a lawyer, and to present evidence and arguments in support of the appeal.

6.5 The Plan Administrator will issue a written decision on the appeal within 60 days. The Plan Administrator may, in its sole discretion, decide to hold a hearing, in which case it will issue its decision within 120 days. The decision will explain the reasoning of the Plan Administrator and refer to the specific provisions of this Plan on which the decision is based.

Name of the Plan: L.B. Foster Company Supplemental Executive Retirement Plan



Plan Administrator: Personnel and Compensation Committee of the Board  
of Directors do L.B. Foster Company, 415 Holiday Drive, Pittsburgh, Pa. 15220

Plan Sponsor: L.B. Foster Company, 415 Holiday Drive, Pittsburgh, Pa. 15220

Employer Identification Number: 25-1 324733

L.B. FOSTER COMPANY  
OUTSIDE DIRECTORS STOCK  
AWARD PLAN

I. Purpose

To compensate L.B. Foster Company's outside directors, in part, with the value of the Company's common stock and to further align the interests of the Company's outside directors with the interests of the Company's shareholders.

II. Administration

- a. Up to 120,000 shares of the Company's common stock may be issued under this Plan. The common stock so issued shall be restricted and may be either treasury stock or authorized, but previously unissued, common stock.
- b. Commencing with the Company's 2003 Annual Shareholders' Meeting, each outside director elected at an annual shareholders' meeting shall be awarded 2,500 shares of the Company's common stock as of each date such outside director is elected (or re-elected).
- c. This Plan shall be effective only if it is approved by the Company's shareholders at the 2003 Annual Shareholders' Meeting. This Plan shall terminate upon the earliest to occur of (a) May 30, 2012, (b) the issuance of 120,000 shares of common stock under the Plan; or (c) the termination of the Plan by the Company's Board of Directors.

III. Outside Directors

For the purposes of this Plan, an outside director shall be a director of the Company who is not also an employee of the Company on the date the director is elected (or re-elected) as a director of the Company at an annual shareholders' meeting.

This stock compensation plan replaces the Company's practice, prior to January 15, 2003, of granting common stock twice a year to the Company's outside directors.

Approved by the Board of Directors  
of L.B. Foster Company on  
March 3, 2003



RESOLVED, that in addition to the options awarded under the 1998 Long-Term Incentive Plan, as Amended and Restated, the annual fee paid to each of the Corporation's outside directors, effective May 15, 2002, shall be paid the sum of (i) a \$7,000 annual base fee, plus \$1,000 for each non-telephonic Board of Directors meeting attended, \$500 for each telephonic Board of Directors meeting attended, \$500 for each non-telephonic Committee meeting attended and \$250 for each telephonic Committee meeting attended, payable quarterly in arrears; and (ii) two annual distributions of the Corporation's common stock, each valued at \$3,500, distributed on or about July 1 and January 1, with such stock being valued based on its closing price on the last trading day preceding the applicable distribution date.

Adopted by the Board of Directors on 5/15/02

RESOLVED, that effective October 1, 2002 that the compensation of the Chairperson of the Audit Committee be, and the same hereby is, increased by \$2,500 per annum, with such increase being payable on a quarterly basis.

RESOLVED, that \$500 shall be paid for outside director's participation and/or attendance at each meeting of the Audit Committee, Personnel and Compensation Committee, Executive Committee and Option Committee, including telephonic meetings, when such director is a member of such Committee, and for participation in and/or attendance at telephonic meetings of the Board of Directors.

Adopted by the Board of Directors on 10/15/02

Consent of Independent Auditors

We consent to the incorporation by reference of our report dated January 28, 2003, with respect to the consolidated financial statements and schedule of L.B. Foster Company, included in this Form 10-K for the year ended December 31, 2002 and in the Prospectus part of the Registration Statements Nos. 33-17073, 33-35152, 33-79450, 333-65885, 333-81535, and 333-60488.

/s/Ernst & Young LLP  
Pittsburgh, Pennsylvania  
March 25, 2003