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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended December 31, 2022

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number: 001-36290

MALIBU BOATS, INC.

(Exact Name of Registrant as specified in its charter)

Delaware	**5075 Kimberly Way, Loudon, Tennessee 37774**	**46-4024640**
(State or other jurisdiction of incorporation or organization)	*(Address of principal executive offices, including zip code)*	*(I.R.S. Employer Identification No.)*

(865) 458-5478
(Registrant's telephone number, including area code)

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Class A Common Stock, par value $0.01	MBUU	Nasdaq Global Select Market

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer,"

"smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act:

Large Accelerated Filer	☑	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☑

Class A Common Stock, par value $0.01, outstanding as of February 3, 2023:	20,476,587 shares
Class B Common Stock, par value $0.01, outstanding as of February 3, 2023:	10 shares

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements. All statements other than statements of historical facts contained in this Form 10-Q are forward-looking statements, including statements regarding demand for our products and expected industry trends, our business strategy and plans, our prospective products or products under development, our vertical integration initiatives, our acquisition strategy; the effects of macroeconomic conditions and the COVID-19 pandemic on us. In particular, many of the statements under the heading "Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations" constitute forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "should," "expects," "plans," "anticipates," "believes," "estimates," "predicts," "potential," "continue," the negative of these terms, or by other similar expressions that convey uncertainty of future events or outcomes to identify these forward-looking statements. These statements are only predictions, involving known and unknown risks, uncertainties and other factors that may cause our or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. Such factors include, but are not limited to: general industry, economic and business conditions; our large fixed cost base; increases in the cost of, or unavailability of, raw materials, component parts and transportation costs; disruptions in our suppliers' operations; our reliance on third-party suppliers for raw materials and components and any interruption of our informal supply arrangements; our reliance on certain suppliers for our engines and outboard motors; our ability to meet our manufacturing workforce needs; exposure to workers' compensation claims and other workplace liabilities; our ability to grow our business through acquisitions and integrate such acquisitions to fully realize their expected benefits; our growth strategy which may require us to secure significant additional capital; our ability to protect our intellectual property; disruptions to our network and information systems; our success at developing and implementing a new enterprise resource planning system; risks inherent in operating in foreign jurisdictions; the effects of the COVID-19 pandemic on us; a natural disaster, global pandemic or other disruption at our manufacturing facilities; increases in income tax rates or changes in income tax laws; our dependence on key personnel; our ability to enhance existing products and market new or enhanced products; the continued strength of our brands; the seasonality of our business; intense competition within our industry; increased consumer preference for used boats or the supply of new boats by competitors in excess of demand; competition with other activities for consumers' scarce leisure time; changes in currency exchange rates; inflation and increases in interest rates; an increase in energy and fuel costs; our reliance on our network of independent dealers and increasing competition for dealers; the financial health of our dealers and their continued access to financing; our obligation to repurchase inventory of certain dealers; our exposure to claims for product liability and warranty claims; changes to U.S. trade policy, tariffs and import/export regulations; any failure to comply with laws and regulations including environmental, workplace safety and other regulatory requirements; our holding company structure; covenants in our credit agreement governing our revolving credit facility which may limit our operating flexibility; our variable rate indebtedness which subjects us to interest rate risk; our obligation to make certain payments under a tax receivables agreement; and any failure to maintain effective internal control over financial reporting or disclosure controls or procedures. We discuss many of these factors, risks and uncertainties in greater detail under the heading "Item 1A. Risk Factors" in our Form 10-K for the year ended June 30, 2022, filed with the Securities and Exchange Commission on August 25, 2022, as such disclosures may be amended, supplemented or superseded from time to time by other reports we file with the Securities and Exchange Commission, including subsequent annual reports on Form 10-K and quarterly reports on Form 10-Q.

You should not rely on forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Actual results may differ materially from those suggested by the forward-looking statements for various reasons. Except as required by law, we assume no obligation to update forward-looking statements for any reason after the date of this Form 10-Q to conform these statements to actual results or to changes in our expectations.

Part I - Financial Information

Item 1. Financial Statements

MALIBU BOATS, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Operations and Comprehensive Income (Unaudited)
(In thousands, except share and per share data)

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Net sales	$ 338,732	$ 263,887	$ 640,943	$ 517,384
Cost of sales	263,078	200,336	490,684	394,081
Gross profit	75,654	63,551	150,259	123,303
Operating expenses:				
Selling and marketing	6,198	5,658	11,384	10,775
General and administrative	19,057	15,987	38,277	32,078
Amortization	1,715	1,719	3,431	3,575
Operating income	48,684	40,187	97,167	76,875
Other expense, net:				
Other expense (income), net	193	(10)	263	(23)
Interest expense	910	656	2,195	1,340
Other expense, net	1,103	646	2,458	1,317
Income before provision for income taxes	47,581	39,541	94,709	75,558
Provision for income taxes	11,185	8,562	22,208	16,646
Net income	36,396	30,979	72,501	58,912
Net income attributable to non-controlling interest	1,234	1,088	2,456	2,077
Net income attributable to Malibu Boats, Inc.	$ 35,162	$ 29,891	$ 70,045	$ 56,835
Comprehensive income:				
Net income	$ 36,396	$ 30,979	$ 72,501	$ 58,912
Other comprehensive income (loss):				
Change in cumulative translation adjustment	1,227	138	(209)	(697)
Other comprehensive income (loss)	1,227	138	(209)	(697)
Comprehensive income	37,623	31,117	72,292	58,215
Less: comprehensive income attributable to non-controlling interest	1,276	1,093	2,449	2,052
Comprehensive income attributable to Malibu Boats, Inc.	$ 36,347	$ 30,024	$ 69,843	$ 56,163
Weighted-average shares outstanding used in computing net income per share:				
Basic	20,404,583	20,900,201	20,432,216	20,875,091
Diluted	20,516,025	21,148,871	20,559,752	21,133,413
Net income available to Class A Common Stock per share:				
Basic	$ 1.73	$ 1.43	$ 3.43	$ 2.72
Diluted	$ 1.72	$ 1.41	$ 3.41	$ 2.69

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements (Unaudited).

MALIBU BOATS, INC. AND SUBSIDIARIES

Condensed Consolidated Balance Sheets (Unaudited)
(In thousands, except share and per share data)

	December 31, 2022	June 30, 2022
Assets		
Current assets		
Cash	$ 49,848	$ 83,744
Trade receivables, net	55,444	51,598
Inventories, net	185,553	157,002
Prepaid expenses and other current assets	10,772	6,155
Total current assets	301,617	298,499
Property, plant and equipment, net	183,305	170,718
Goodwill	100,737	100,804
Other intangible assets, net	224,860	228,304
Deferred tax assets	40,441	42,314
Other assets	9,706	10,687
Total assets	$ 860,666	$ 851,326
Liabilities		
Current liabilities		
Current maturities of long-term obligations	$ —	$ 1,563
Accounts payable	41,052	44,368
Accrued expenses	85,823	87,742
Income taxes and tax distribution payable	1,276	1,670
Payable pursuant to tax receivable agreement, current portion	3,958	3,958
Total current liabilities	132,109	139,301
Deferred tax liabilities	27,647	26,965
Other liabilities	10,766	11,855
Payable pursuant to tax receivable agreement, less current portion	41,583	41,583
Long-term debt	70,179	118,054
Total liabilities	282,284	337,758
Commitments and contingencies (See Note 15)		
Stockholders' Equity		
Class A Common Stock, par value $0.01 per share, 100,000,000 shares authorized; 20,475,418 shares issued and outstanding as of December 31, 2022; 20,501,081 issued and outstanding as of June 30, 2022	203	203
Class B Common Stock, par value $0.01 per share, 25,000,000 shares authorized; 10 shares issued and outstanding as of December 31, 2022; 10 shares issued and outstanding as of June 30, 2022	—	—
Preferred Stock, par value $0.01 per share; 25,000,000 shares authorized; no shares issued and outstanding as of December 31, 2022 and June 30, 2022	—	—
Additional paid in capital	79,207	85,294
Accumulated other comprehensive loss	(3,716)	(3,507)
Accumulated earnings	491,229	421,184
Total stockholders' equity attributable to Malibu Boats, Inc.	566,923	503,174
Non-controlling interest	11,459	10,394
Total stockholders' equity	578,382	513,568
Total liabilities and stockholders' equity	$ 860,666	$ 851,326

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements (Unaudited).

MALIBU BOATS, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Stockholders' Equity (Unaudited)
(In thousands, except number of Class B shares)

	Class A Common Stock		Class B Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Loss	Accumulated Earnings	Non-controlling Interest in LLC	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at June 30, 2022	20,501	$ 203	10	$ —	$ 85,294	$ (3,507)	$ 421,184	$ 10,394	$ 513,568
Net income	—	—	—	—	—	—	34,883	1,222	36,105
Stock based compensation, net of withholding taxes on vested equity awards	(12)	—	—	—	743	—	—	—	743
Issuances of equity for services	—	—	—	—	67	—	—	—	67
Repurchase and retirement of common stock	(144)	(1)	—	—	(7,867)	—	—	—	(7,868)
Distributions to LLC Unit holders	—	—	—	—	—	—	—	(696)	(696)
Foreign currency translation adjustment	—	—	—	—	—	(1,436)	—	(43)	(1,479)
Balance at September 30, 2022	20,345	$ 202	10	$ —	$ 78,237	$ (4,943)	$ 456,067	$ 10,877	$ 540,440
Net income	—	—	—	—	—	—	35,162	1,234	36,396
Stock based compensation, net of withholding taxes on vested equity awards	128	1	—	—	22	—	—	—	23
Issuances of equity for services	2	—	—	—	948	—	—	—	948
Distributions to LLC Unit holders	—	—	—	—	—	—	—	(688)	(688)
Foreign currency translation adjustment	—	—	—	—	—	1,227	—	36	1,263
Balance at December 31, 2022	20,475	$ 203	10	$ —	$ 79,207	$ (3,716)	$ 491,229	$ 11,459	$ 578,382

	Class A Common Stock		Class B Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Loss	Accumulated Earnings	Non-controlling Interest in LLC	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at June 30, 2021	20,847	$ 207	10	$ —	$ 111,308	$ (1,639)	$ 263,552	$ 7,726	$ 381,154
Net income	—	—	—	—	—	—	26,944	989	27,933
Stock based compensation, net of withholding taxes on vested equity awards	(7)	—	—	—	728	—	—	—	728
Issuances of equity for services	—	—	—	—	58	—	—	—	58
Distributions to LLC Unit holders	—	—	—	—	—	—	—	(558)	(558)
Foreign currency translation adjustment	—	—	—	—	—	(835)	—	(24)	(859)
Balance at September 30, 2021	20,840	$ 207	10	$ —	$ 112,094	$ (2,474)	$ 290,496	$ 8,133	$ 408,456
Net income	—	—	—	—	—	—	29,891	1,088	30,979
Stock based compensation, net of withholding taxes on vested equity awards	101	1	—	—	53	—	—	—	54
Issuances of equity for services	1	—	—	—	948	—	—	—	948
Issuances of equity for exercise of stock options	35	—	—	—	971	—	—	—	971
Repurchase and retirement of common stock	(78)	(1)	—	—	(5,227)	—	—	—	(5,228)
Distributions to LLC Unit Holders	—	—	—	—	—	—	—	(452)	(452)
Foreign currency translation adjustment	—	—	—	—	—	138	—	4	142
Balance at December 31, 2021	20,899	$ 207	10	$ —	$ 108,839	$ (2,336)	$ 320,387	$ 8,773	$ 435,870

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements (Unaudited).

MALIBU BOATS, INC. AND SUBSIDIARIES

Condensed Consolidated Statements of Cash Flows (Unaudited)
(In thousands)

	Six Months Ended December 31,	
	2022	**2021**
Operating activities:		
Net income	$ 72,501	$ 58,912
Adjustments to reconcile net income to net cash provided by operating activities:		
Non-cash compensation expense	3,651	2,856
Non-cash compensation to directors	579	485
Depreciation	10,684	9,531
Amortization	3,431	3,575
Deferred income taxes	2,556	3,665
Other items, net	792	344
Change in operating assets and liabilities:		
Trade receivables	(3,846)	28,057
Inventories	(28,569)	(35,613)
Prepaid expenses and other assets	(4,287)	(5,473)
Accounts payable	(4,151)	(2,788)
Income taxes payable	501	(2,899)
Accrued expenses	(1,924)	289
Other liabilities	(1,106)	(2,975)
Net cash provided by operating activities	50,812	57,966
Investing activities:		
Purchases of property, plant and equipment	(22,339)	(26,226)
Net cash used in investing activities	(22,339)	(26,226)
Financing activities:		
Proceeds from revolving credit facility	141,700	—
Principal payments on long-term borrowings	(23,125)	(625)
Payments on revolving credit facility	(167,000)	(20,000)
Payment of deferred financing costs	(1,362)	—
Proceeds received from exercise of stock options	—	971
Cash paid for withholding taxes on vested restricted stock	(2,866)	(2,027)
Distributions to LLC Unit holders	(1,741)	(1,244)
Repurchase and retirement of common stock	(7,868)	(5,228)
Net cash used in financing activities	(62,262)	(28,153)
Effect of exchange rate changes on cash	(107)	(231)
Changes in cash	(33,896)	3,356
Cash—Beginning of period	83,744	41,479
Cash—End of period	$ 49,848	$ 44,835
Supplemental cash flow information:		
Cash paid for interest	$ 1,219	$ 1,043
Cash paid for income taxes	20,168	16,655

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements (Unaudited).

MALIBU BOATS, INC. AND SUBSIDIARIES

Notes to Unaudited Condensed Consolidated Financial Statements
(Dollars in thousands, except per unit and per share data)

1. Organization, Basis of Presentation, and Summary of Significant Accounting Policies

Organization

Malibu Boats, Inc. (together with its subsidiaries, the “Company” or "Malibu"), a Delaware corporation formed on November 1, 2013, is the sole managing member of Malibu Boats Holdings, LLC, a Delaware limited liability company (the "LLC"). The Company operates and controls all of the LLC's business and affairs and, therefore, pursuant to Financial Accounting Standards Board ("FASB") Accounting Standards Codification (“ASC”) Topic 810, *Consolidation,* consolidates the financial results of the LLC and its subsidiaries, and records a non-controlling interest for the economic interest in the Company held by the non-controlling holders of units in the LLC ("LLC Units"). The LLC was formed in 2006. The LLC, through its wholly owned subsidiary, Malibu Boats, LLC, (“Boats LLC”), is engaged in the design, engineering, manufacturing and marketing of innovative, high-quality, recreational powerboats that are sold through a world-wide network of independent dealers. The Company sells its boats under eight brands -- Malibu, Axis, Pursuit, Maverick, Cobia, Pathfinder, Hewes and Cobalt brands. The Company reports its results of operations under three reportable segments -- Malibu, Saltwater Fishing and Cobalt.

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements of the Company have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim condensed financial statements and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all information and disclosures of results of operations, financial position and changes in cash flow in conformity with GAAP for complete financial statements. Such statements should be read in conjunction with the audited consolidated financial statements and notes thereto of Malibu and subsidiaries for the year ended June 30, 2022, included in the Company's Annual Report on Form 10-K. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Units and shares are presented as whole numbers while all dollar amounts are presented in thousands, unless otherwise noted.

Principles of Consolidation

The accompanying unaudited interim condensed consolidated financial statements include the operations and accounts of the Company and all subsidiaries thereof. All intercompany balances and transactions have been eliminated upon consolidation.

Recent Accounting Pronouncements

In March 2020, the FASB issued Accounting Standards Update ("ASU") 2020-04, *Reference Rate Reform (Topic 848): Facilitation of Effects of Reference Rate Reform on Financial Reporting,* which provides practical expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The elective amendments provide expedients to contract modification, affected by reference rate reform if certain criteria are met. The expedients and exceptions provided by this guidance apply only to contracts, hedging relationships, and other transactions that reference the London interbank offered rate (“LIBOR”) or another reference rate expected to be discontinued as a result of reference rate reform. Per ASU 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848,* this guidance is not applicable to contract modifications made and hedging relationships entered into or evaluated after December 31, 2024. The guidance can be applied immediately through December 31, 2024. The Company will adopt this standard when LIBOR is discontinued and does not expect a material impact to its financial condition, results of operations or disclosures based on the current debt portfolio and capital structure.

There are no other new accounting pronouncements that are expected to have a significant impact on the Company's consolidated financial statements and related disclosures.

2. Revenue Recognition

The following tables disaggregate the Company's revenue by major product type and geography:

	Three Months Ended December 31, 2022				Six Months Ended December 31, 2022			
	Malibu	Saltwater Fishing	Cobalt	Consolidated	Malibu	Saltwater Fishing	Cobalt	Consolidated
Revenue by product:								
Boat and trailer sales	$ 155,011	$ 105,363	$ 73,830	$ 334,204	$ 295,174	$ 197,256	$ 137,460	$ 629,890
Part and other sales	3,155	222	1,151	4,528	8,160	562	2,331	11,053
Net Sales	$ 158,166	$ 105,585	$ 74,981	$ 338,732	$ 303,334	$ 197,818	$ 139,791	$ 640,943
Revenue by geography:								
North America	$ 140,924	$ 104,154	$ 71,986	$ 317,064	$ 271,574	$ 193,095	$ 134,267	$ 598,936
International	17,242	1,431	2,995	21,668	31,760	4,723	5,524	42,007
Net Sales	$ 158,166	$ 105,585	$ 74,981	$ 338,732	$ 303,334	$ 197,818	$ 139,791	$ 640,943

	Three Months Ended December 31, 2021				Six Months Ended December 31, 2021			
	Malibu	Saltwater Fishing	Cobalt	Consolidated	Malibu	Saltwater Fishing	Cobalt	Consolidated
Revenue by product:								
Boat and trailer sales	$ 130,351	$ 75,012	$ 54,667	$ 260,030	$ 243,962	$ 151,421	$ 112,500	$ 507,883
Part and other sales	3,102	229	526	3,857	7,743	547	1,211	9,501
Net Sales	$ 133,453	$ 75,241	$ 55,193	$ 263,887	$ 251,705	$ 151,968	$ 113,711	$ 517,384
Revenue by geography:								
North America	$ 115,273	$ 74,203	$ 51,801	$ 241,277	$ 218,492	$ 147,915	$ 106,440	$ 472,847
International	18,180	1,038	3,392	22,610	33,213	4,053	7,271	44,537
Net Sales	$ 133,453	$ 75,241	$ 55,193	$ 263,887	$ 251,705	$ 151,968	$ 113,711	$ 517,384

Boat and Trailer Sales

Consists of sales of boats and trailers to the Company's dealer network, net of sales returns, discounts, rebates and free flooring incentives. Boat and trailer sales also includes optional boat features. Sales returns consist of boats returned by dealers under the Company's warranty program. Rebates, free flooring and discounts are incentives that the Company provides to its dealers based on sales of eligible products.

Part and Other Sales

Consists primarily of parts and accessories sales, royalty income and clothing sales. Parts and accessories sales include replacement and aftermarket boat parts and accessories sold to the Company's dealer network. Royalty income is earned from license agreements with various boat manufacturers, including Nautique, Chaparral, Mastercraft, and Tige related to the use of the Company's intellectual property.

3. Non-controlling Interest

The non-controlling interest on the unaudited interim condensed consolidated statements of operations and comprehensive income represents the portion of earnings or loss attributable to the economic interest in the Company's subsidiary, the LLC, held by the non-controlling LLC Unit holders. Non-controlling interest on the unaudited interim condensed consolidated balance sheets represents the portion of net assets of the Company attributable to the non-controlling LLC Unit holders, based

on the portion of the LLC Units owned by such Unit holders. The ownership of the LLC is summarized as follows:

	As of December 31, 2022		As of June 30, 2022	
	Units	Ownership %	Units	Ownership %
Non-controlling LLC Unit holders ownership in Malibu Boats Holdings, LLC	600,919	2.9 %	600,919	2.8 %
Malibu Boats, Inc. ownership in Malibu Boats Holdings, LLC	20,475,418	97.1 %	20,501,081	97.2 %
	21,076,337	100.0 %	21,102,000	100.0 %

Issuance of Additional LLC Units

Under the first amended and restated limited liability company agreement of the LLC, as amended (the "LLC Agreement"), the Company is required to cause the LLC to issue additional LLC Units to the Company when the Company issues additional shares of Class A Common Stock. Other than in connection with the issuance of Class A Common Stock in connection with an equity incentive program, the Company must contribute to the LLC net proceeds and property, if any, received by the Company with respect to the issuance of such additional shares of Class A Common Stock. The Company must cause the LLC to issue a number of LLC Units equal to the number of shares of Class A Common Stock issued such that, at all times, the number of LLC Units held by the Company equals the number of outstanding shares of Class A Common Stock. During the six months ended December 31, 2022, the Company caused the LLC to issue a total of 160,100 LLC Units to the Company in connection with (i) the Company's issuance of Class A Common Stock to a non-employee director for her services, (ii) the issuance of Class A Common Stock for the vesting of awards granted under the Malibu Boats, Inc. Long-Term Incentive Plan (the "Incentive Plan") and (iii) the issuance of restricted Class A Common Stock granted under the Incentive Plan. During the six months ended December 31, 2022, 38,598 LLC Units were canceled in connection with the vesting of share-based equity awards to satisfy employee tax withholding requirements, 3,406 LLC Units were canceled in connection with the vesting of stock awards with a market condition that were deemed to not be achieved and the retirement of 42,004 treasury shares in accordance with the LLC Agreement. Also during the six months ended December 31, 2022, 143,759 LLC Units were redeemed and canceled by the LLC in connection with the purchase and retirement of 143,759 treasury shares under the Company's stock repurchase program that expired on November 8, 2022.

Distributions and Other Payments to Non-controlling Unit Holders

Distributions for Taxes

As a limited liability company (treated as a partnership for income tax purposes), the LLC does not incur significant federal, state or local income taxes, as these taxes are primarily the obligations of its members. As authorized by the LLC Agreement, the LLC is required to distribute cash, to the extent that the LLC has cash available, on a pro rata basis, to its members to the extent necessary to cover the members' tax liabilities, if any, with respect to their share of LLC earnings. The LLC makes such tax distributions to its members based on an estimated tax rate and projections of taxable income. If the actual taxable income of the LLC multiplied by the estimated tax rate exceeds the tax distributions made in a calendar year, the LLC may make true-up distributions to its members, if cash or borrowings are available for such purposes. As of December 31, 2022 and June 30, 2022, tax distributions payable to non-controlling LLC Unit holders were $688 and $1,045, respectively. During the six months ended December 31, 2022 and 2021, tax distributions paid to the non-controlling LLC Unit holders were $1,741 and $1,244, respectively.

Other Distributions

Pursuant to the LLC Agreement, the Company has the right to determine when distributions will be made to LLC members and the amount of any such distributions. If the Company authorizes a distribution, such distribution will be made to the members of the LLC (including the Company) pro rata in accordance with the percentages of their respective LLC Units.

4. Inventories

Inventories, net consisted of the following:

	As of December 31, 2022	As of June 30, 2022
Raw materials	$ 153,505	$ 129,233
Work in progress	24,301	20,929
Finished goods	7,747	6,840
Total inventories	$ 185,553	$ 157,002

5. Property, Plant and Equipment

Property, plant and equipment, net consisted of the following:

	As of December 31, 2022	As of June 30, 2022
Land	$ 4,905	$ 4,905
Building and leasehold improvements	98,706	81,030
Machinery and equipment	87,515	82,469
Furniture and fixtures	11,847	10,805
Construction in process	52,181	52,852
	255,154	232,061
Less: Accumulated depreciation	(71,849)	(61,343)
Property, plant and equipment, net	$ 183,305	$ 170,718

Depreciation expense was $5,388 and $4,613 for the three months ended December 31, 2022 and 2021, respectively, and $10,684 and $9,531 for the six months ended December 31, 2022 and 2021, respectively, substantially all of which was recorded in cost of sales.

6. Goodwill and Other Intangible Assets

Changes in the carrying amount of goodwill for the six months ended December 31, 2022 were as follows:

	Malibu	Saltwater Fishing	Cobalt	Consolidated
Goodwill as of June 30, 2022	$ 12,299	$ 68,714	$ 19,791	$ 100,804
Effect of foreign currency changes on goodwill	(67)	—	—	(67)
Goodwill as of December 31, 2022	$ 12,232	$ 68,714	$ 19,791	$ 100,737

The components of other intangible assets were as follows:

	As of December 31, 2022	As of June 30, 2022	Estimated Useful Life (in years)	Weighted-Average Remaining Useful Life (in years)
Definite-lived intangibles:				
Dealer relationships	$ 131,781	$ 131,806	15-20	16.1
Patent	2,600	2,600	15	9.5
Trade name	100	100	15	7.5
Non-compete agreement	48	48	10	1.8
Total	134,529	134,554		
Less: Accumulated amortization	(27,869)	(24,450)		
Total definite-lived intangible assets, net	106,660	110,104		
Indefinite-lived intangible:				
Trade name	118,200	118,200		
Total other intangible assets, net	$ 224,860	$ 228,304		

Amortization expense recognized on all amortizable intangibles was $1,715 and $1,719 for the three months ended December 31, 2022 and 2021, respectively, and $3,431 and $3,575 for the six months ended December 31, 2022 and 2021, respectively.

The estimated future amortization of definite-lived intangible assets is as follows:

Fiscal years ending June 30:	Amount
Remainder of 2023	$ 3,378
2024	6,810
2025	6,807
2026	6,805
2027	6,805
2028 and thereafter	76,055
	$ 106,660

7. Accrued Expenses

Accrued expenses consisted of the following:

	As of December 31, 2022	As of June 30, 2022
Warranties	$ 40,513	$ 38,673
Dealer incentives	17,270	16,357
Accrued compensation	15,978	21,076
Current operating lease liabilities	2,201	2,121
Accrued legal and professional fees	2,151	1,939
Customer deposits	4,958	4,851
Other accrued expenses	2,752	2,725
Total accrued expenses	$ 85,823	$ 87,742

8. Product Warranties

Malibu and Axis brand boats have a limited warranty for a period up to five years. Cobalt brand boats have (1) a structural warranty of up to ten years which covers the hull, deck joints, bulkheads, floor, transom, stringers, and motor mount and (2) a five year bow-to-stern warranty on all components manufactured or purchased (excluding hull and deck structural components), including canvas and upholstery. Gelcoat is covered up to three years for Cobalt and one year for Malibu and Axis. Pursuit brand boats have (1) a limited warranty for a period of up to five years on structural components such as the hull, deck and defects in the gelcoat surface of the hull bottom and (2) a bow-to-stern warranty of two years (excluding hull and deck structural components). Maverick, Pathfinder and Hewes brand boats have (1) a limited warranty for a period of up to five years on structural components such as the hull, deck and defects in the gelcoat surface of the hull bottom and (2) a bow-to-stern warranty of one year (excluding hull and deck structural components). Cobia brand boats have (1) a limited warranty for a period of up to ten years on structural components such as the hull, deck and defects in the gelcoat surface of the hull bottom and (2) a bow-to-stern warranty of three years (excluding hull and deck structural components). For each boat brand, there are certain materials, components or parts of the boat that are not covered by the Company's warranty and certain components or parts that are separately warranted by the manufacturer or supplier (such as the engine). Engines that the Company manufactures for Malibu and Axis models have a limited warranty of up to five years or five-hundred hours.

The Company's standard warranties require it or its dealers to repair or replace defective products during the warranty period at no cost to the consumer. The Company estimates warranty costs it expects to incur and records a liability for such costs at the time the product revenue is recognized. The Company utilizes historical claims trends and analytical tools to develop the estimate of its warranty obligation on a per boat basis, by brand and warranty year. Factors that affect the Company's warranty liability include the number of units sold, historical and anticipated rates of warranty claims and cost per claim. The Company assesses the adequacy of its recorded warranty liabilities and adjusts the amounts as necessary. Beginning in model year 2016, the Company increased the term of its limited warranty for Malibu brand boats from three years to five years and for Axis brand boats from two years to five years. Beginning in model year 2018, the Company increased the term of its bow-to-stern warranty for Cobalt brand boats from three years to five years. As a result of these changes, all of the Company's Malibu, Axis and Cobalt brand boats with historical claims experience that are no longer covered under warranty had warranty terms shorter than the current warranty term of five years. Accordingly, the Company has limited historical claims experience for warranty years four and five, and as such, these estimates give rise to a higher level of estimation uncertainty. Future warranty claims may differ from the Company's estimate of the warranty liability, which could lead to changes in the Company's warranty liability in future periods.

Changes in the Company's product warranty liability, which is included in accrued expenses on the unaudited interim condensed consolidated balance sheets, were as follows:

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Beginning balance	$ 39,399	$ 35,697	$ 38,673	$ 35,035
Add: Warranty expense	6,682	4,966	13,087	9,708
Less: Warranty claims paid	(5,568)	(4,267)	(11,247)	(8,347)
Ending balance	$ 40,513	$ 36,396	$ 40,513	$ 36,396

9. Financing

Outstanding debt consisted of the following:

	As of December 31, 2022	As of June 30, 2022
Term loans	$ —	$ 23,125
Revolving credit loan	71,700	97,000
Less unamortized debt issuance costs	(1,521)	(508)
Total debt	70,179	119,617
Less current maturities	—	1,563
Long-term debt less current maturities	$ 70,179	$ 118,054

Long-Term Debt

As of December 31, 2022, the Company had a revolving credit facility with borrowing capacity of up to $350,000. As of December 31, 2022, the Company had $71,700 outstanding under its revolving credit facility and $1,529 in outstanding letters of credit, with $276,771 available for borrowing. The revolving credit facility matures on July 8, 2027.

On July 8, 2022, Boats LLC entered into a Third Amended and Restated Credit Agreement (the "Credit Agreement") that amended and restated its second amended and restated credit agreement dated as of June 28, 2017 (the "Prior Credit Agreement"). The Credit Agreement increased the borrowing capacity of the revolving credit facility from $170,000 to $350,000. Boats LLC has the option to request that lenders increase the amount available under the revolving credit facility by, or obtain incremental term loans of, up to $200,000, subject to the terms of the Credit Agreement and only if existing or new lenders choose to provide additional term or revolving commitments.

The obligations of Boats LLC under the Credit Agreement are guaranteed by the LLC, and, subject to certain exceptions, the present and future domestic subsidiaries of Boats LLC, and all such obligations are secured by substantially all of the assets of the LLC, Boats LLC and such subsidiary guarantors. Malibu Boats, Inc. is not a party to the Credit Agreement.

Borrowings under the Credit Agreement bear interest at a rate equal to either, at the Company's option, (i) the highest of the prime rate, the Federal Funds Rate (as defined in the Credit Agreement) plus 0.5%, or one-month Term SOFR (as defined in the Credit Agreement) plus 1% (the "Base Rate") or (ii) SOFR (as defined in the Credit Agreement), in each case plus an applicable margin ranging from 1.25% to 2.00% with respect to SOFR borrowings and 0.25% to 1.00% with respect to Base Rate borrowings. The applicable margin will be based upon the consolidated leverage ratio of the LLC and its subsidiaries. As of December 31, 2022, the interest rate on the Company's term loans and revolving credit facility was 5.55%. The Company is required to pay a commitment fee for any unused portion of the revolving credit facility which will range from 0.15% to 0.30% per annum, depending on the LLC's and its subsidiaries' consolidated leverage ratio.

The Credit Agreement contains certain customary representations and warranties, and notice requirements for the occurrence of specific events such as the occurrence of any event of default or pending or threatened litigation. The Credit Agreement also requires compliance with certain customary financial covenants consisting of a minimum ratio of EBITDA to interest expense and a maximum ratio of total debt to EBITDA. The Credit Agreement contains certain customary restrictive covenants regarding indebtedness, liens, fundamental changes, investments, dividends and distributions, disposition of assets, transactions with affiliates, negative pledges, hedging transactions, certain prepayments of indebtedness, accounting changes

and governmental regulation. For example, the Credit Agreement generally prohibits the LLC, Boats LLC and the subsidiary guarantors from paying dividends or making distributions, including to the Company. The credit facility permits, however, (i) distributions based on a member's allocated taxable income, (ii) distributions to fund payments that are required under the LLC's tax receivable agreement, (iii) purchase of stock or stock options of the LLC from former officers, directors or employees of loan parties or payments pursuant to stock option and other benefit plans up to $5,000 in any fiscal year, and (iv) repurchases of the Company's outstanding stock and LLC Units. In addition, the LLC may make unlimited dividends and distributions if its consolidated leverage ratio is 2.75 or less and certain other conditions are met, subject to compliance with certain financial covenants.

The Credit Agreement also contains customary events of default. If an event of default has occurred and continues beyond any applicable cure period, the administrative agent may (i) accelerate all outstanding obligations under the Credit Agreement or (ii) terminate the commitments, amongst other remedies. Additionally, the lenders are not obligated to fund any new borrowing under the Credit Agreement while an event of default is continuing.

Covenant Compliance

As of December 31, 2022, the Company was in compliance with the financial covenants contained in the Credit Agreement.

10. Leases

The Company leases certain manufacturing facilities, warehouses, office space, land, and equipment. The Company determines if a contract is a lease or contains an embedded lease at the inception of the agreement. Leases with an initial term of 12 months or less are not recorded on the unaudited interim condensed consolidated balance sheets. The Company does not separate non-lease components from the lease components to which they relate, and instead accounts for each separate lease and non-lease component associated with that lease component as a single lease component for all underlying asset classes. The Company's lease liabilities do not include future lease payments related to options to extend or terminate lease agreements as it is not reasonably certain those options will be exercised.

Other information concerning the Company's operating leases accounted for under ASC Topic 842, *Leases* is as follows:

Classification		As of December 31, 2022	As of June 30, 2022
Assets			
Right-of-use assets	Other assets	$ 9,662	$ 10,659
Liabilities			
Current operating lease liabilities	Accrued expenses	$ 2,201	$ 2,121
Long-term operating lease liabilities	Other liabilities	8,937	10,062
Total lease liabilities		$ 11,138	$ 12,183

Classification		Three Months Ended December 31, 2022	Three Months Ended December 31, 2021	Six Months Ended December 31, 2022	Six Months Ended December 31, 2021
Operating lease costs [1]	Cost of sales	$ 646	$ 621	$ 1,313	$ 1,263
	Selling and marketing, and general and administrative	237	215	456	431
Sublease income	Other expense (income), net	9	9	19	19
Cash paid for amounts included in the measurement of operating lease liabilities	Cash flows from operating activities	622	631	1,245	1,259

[1] Includes short-term leases, which are insignificant, and are not included in the lease liability.

The lease liability for operating leases that contain variable escalating rental payments with scheduled increases that are based on the lesser of a stated percentage increase or the cumulative increase in an index, are determined using the stated percentage increase.

The weighted-average remaining lease term as of December 31, 2022 and 2021 was 5.08 years and 5.97 years, respectively. As of December 31, 2022 and 2021, the weighted-average discount rate determined based on the Company's incremental borrowing rate is 3.64% and 3.62%, respectively.

Future annual minimum lease payments for the following fiscal years as of December 31, 2022 are as follows:

	Amount
Remainder of 2023	$ 1,271
2024	2,576
2025	2,307
2026	2,255
2027	2,255
2028 and thereafter	1,504
Total	12,168
Less: imputed interest	(1,030)
Present value of lease liabilities	$ 11,138

11. Tax Receivable Agreement Liability

The Company has a Tax Receivable Agreement with the pre-IPO owners of the LLC that provides for the payment by the Company to the pre-IPO owners (or their permitted assignees) of 85% of the amount of the benefits, if any, that the Company is deemed to realize as a result of (i) increases in tax basis and (ii) certain other tax benefits related to the Company entering into the Tax Receivable Agreement, including those attributable to payments under the Tax Receivable Agreement. These contractual payment obligations are obligations of the Company and not of the LLC. The Company's Tax Receivable Agreement liability was determined on an undiscounted basis in accordance with ASC 450, *Contingencies*, since the contractual payment obligations were deemed to be probable and reasonably estimable.

For purposes of the Tax Receivable Agreement, the benefit deemed realized by the Company is computed by comparing the actual income tax liability of the Company (calculated with certain assumptions) to the amount of such taxes that the Company would have been required to pay had there been no increase to the tax basis of the assets of the LLC as a result of the purchases or exchanges, and had the Company not entered into the Tax Receivable Agreement.

The following table reflects the changes to the Company's tax receivable agreement liability:

	As of December 31, 2022	As of June 30, 2022
Beginning fiscal year balance	$ 45,541	$ 48,214
Additions (reductions) to tax receivable agreement:		
Adjustment for change in estimated tax rate	—	1,025
Payments under tax receivable agreement	—	(3,698)
	45,541	45,541
Less: current portion under tax receivable agreement	(3,958)	(3,958)
Ending balance	$ 41,583	$ 41,583

The Tax Receivable Agreement further provides that, upon certain mergers, asset sales or other forms of business combinations or other changes of control, the Company (or its successor) would owe to the pre-IPO owners of the LLC a lump-sum payment equal to the present value of all forecasted future payments that would have otherwise been made under the Tax Receivable Agreement that would be based on certain assumptions, including a deemed exchange of LLC Units and that the Company would have sufficient taxable income to fully utilize the deductions arising from the increased tax basis and other tax benefits related to entering into the Tax Receivable Agreement. The Company also is entitled to terminate the Tax Receivable

Agreement, which, if terminated, would obligate the Company to make early termination payments to the pre-IPO owners of the LLC. In addition, a pre-IPO owner may elect to unilaterally terminate the Tax Receivable Agreement with respect to such pre-IPO owner, which would obligate the Company to pay to such existing owner certain payments for tax benefits received through the taxable year of the election.

When estimating the expected tax rate to use in order to determine the tax benefit expected to be recognized from the Company's increased tax basis as a result of exchanges of LLC Units by the pre-IPO owners of the LLC, the Company continuously monitors changes in its overall tax posture, including changes resulting from new legislation and changes as a result of new jurisdictions in which the Company is subject to tax.

As of December 31, 2022 and June 30, 2022, the Company recorded deferred tax assets of $115,952 associated with basis differences in assets upon acquiring an interest in the LLC and pursuant to making an election under Section 754 of the Internal Revenue Code of 1986 (the "Internal Revenue Code"), as amended. The aggregate Tax Receivable Agreement liability represents 85% of the tax benefits that the Company expects to receive in connection with the Section 754 election. In accordance with the Tax Receivable Agreement, the next annual payment is anticipated approximately 75 days after filing the federal tax return due by April 15, 2023.

12. Income Taxes

The Company is taxed as a C corporation for U.S. income tax purposes and is therefore subject to both federal and state taxation at a corporate level. The LLC continues to operate in the United States as a partnership for U.S. federal income tax purposes. Maverick Boat Group is separately subject to U.S. federal and state income tax with respect to its net taxable income.

Income taxes are computed in accordance with ASC Topic 740, *Income Taxes*, and reflect the net tax effects of temporary differences between the financial reporting carrying amounts of assets and liabilities and the corresponding income tax amounts. The Company has deferred tax assets and liabilities and maintains valuation allowances where it is more likely than not that all or a portion of deferred tax assets will not be realized. To the extent the Company determines that it will not realize the benefit of some or all of its deferred tax assets, such deferred tax assets will be adjusted through the Company's provision for income taxes in the period in which this determination is made.

As of December 31, 2022 and June 30, 2022, the Company maintained a total valuation allowance of $15,792 and $15,663, respectively, against deferred tax assets related to state net operating losses and future amortization deductions (with respect to the Section 754 election) that are reported in the Tennessee corporate tax return without offsetting income, which is taxable at the LLC. These also include a valuation allowance in the amount of $580 related to foreign tax credit carryforward that is not expected to be utilized in the future.

The Company's consolidated interim effective tax rate is based upon expected annual income from operations, statutory tax rates and tax laws in the various jurisdictions in which the Company operates. Significant or unusual items, including those related to the change in U.S. tax law as well as other adjustments to accruals for tax uncertainties, are recognized in the quarter in which the related event occurs. On August 16, 2022, the Inflation Reduction Act of 2022 (the "Inflation Reduction Act") was signed into law. The Inflation Reduction Act contains significant business tax provisions, including an excise tax on stock buybacks (1% for transactions beginning January 1, 2023), increased funding for IRS tax enforcement, expanded energy incentives promoting clean energy investment, and a 15% corporate minimum tax on certain large corporations. The effects of the new legislation are recognized upon enactment. The Company did not recognize any significant impact to income tax expense for the six months ended December 31, 2022 relating to the Inflation Reduction Act.

For the three months ended December 31, 2022 and 2021, the Company's effective tax rate was 23.5% and 21.7%, respectively. For the six months ended December 31, 2022 and 2021, the Company's effective tax rate was 23.4% and 22.0%, respectively. For the three and six months ended December 31, 2022 and 2021, the Company's effective tax rate exceeded the statutory federal income tax rate of 21% primarily due to the impact of U.S. state taxes. For the three months ended December 31, 2022, the increase in the effective tax rate over the statutory federal income tax rate was partially offset by a windfall benefit generated by certain stock-based compensation, the benefits from the foreign derived intangible income deduction, the research and development tax credit, and the impact of non-controlling interests in the LLC. For the three months ended December 31, 2021, the increase in the effective tax rate over the statutory federal income tax rate was partially offset by a windfall benefit generated by certain stock-based compensation. For the six months ended December 31, 2022 and 2021, the increase in the effective tax rate over the statutory federal income tax rate was partially offset by a windfall benefit generated by certain stock-based compensation as well as the benefits from the foreign derived intangible income deduction, the research and development tax credit, and the impact of non- controlling interests in the LLC.

13. Stock-Based Compensation

The Company adopted a long term incentive plan which became effective on January 1, 2014, and reserves for issuance up to 1,700,000 shares of Malibu Boats, Inc. Class A Common Stock for the Company's employees, consultants, members of its board of directors and other independent contractors at the discretion of the compensation committee. Incentive stock awards authorized under the Incentive Plan include unrestricted shares of Class A Common Stock, stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalent awards and performance awards. As of December 31, 2022, 328,944 shares remain available for future issuance under the long term incentive plan.

On November 3, 2022, under the Incentive Plan, the Company granted approximately 61,000 restricted service based stock units and 35,000 restricted service based stock awards to key employees under the Incentive Plan. The grant date fair value of these awards was $5,028 based on a stock price of $52.25 per share on the date of grant. Approximately 64% of the awards vest ratably over three years and approximately 36% of the awards vest ratably over four years. Stock-based compensation expense attributable to the service based units and awards is amortized on a straight-line basis over the requisite service period.

On November 3, 2022, under the Incentive Plan, the Company granted to key employees a target amount of approximately 26,000 restricted stock awards with a performance condition. The number of shares that will ultimately be issued, if any, is based on the attainment of a specified amount of earnings during the fiscal year ending June 30, 2025. The maximum number of shares that can be issued if an elevated earnings target is met is approximately 40,000. The grant date fair value of the awards were estimated to be $1,380, based on a stock price of $52.25. Compensation costs associated with the performance awards are recognized over the requisite service period based on probability of achievement in accordance with ASC Topic 718, *Compensation—Stock Compensation*.

On November 3, 2022, under the Incentive Plan, the Company granted to key employees a target amount of approximately 26,000 stock awards with a market condition. The number of shares that will ultimately be issued, if any, is based on a total shareholder return ("TSR") computation that involves comparing the movement in the Company's stock price to movement in a market index from the grant date through November 3, 2025. The maximum number of shares that can be issued if an elevated TSR target is met is approximately 53,000. The grant date fair value of the awards were estimated to be $1,808, which is estimated using a Monte Carlo simulation. The Monte Carlo simulation model utilizes multiple input variables that determine the probability of satisfying the market condition stipulated in the award grant and calculates the fair market value for the stock award. Compensation costs are recognized over the requisite service period based on probability of achievement in accordance with ASC Topic 718, *Compensation—Stock Compensation*.

The following is a summary of the changes in the Company's stock options for the six months ended December 31, 2022:

	Shares	Weighted-Average Exercise Price/Share
Total outstanding options as of June 30, 2022	49,223	$ 40.46
Options granted	—	—
Options exercised	—	—
Outstanding options as of December 31, 2022	49,223	40.46
Exercisable as of December 31, 2022	44,230	$ 40.79

The following is a summary of the changes in non-vested restricted stock units and restricted stock awards for the six months ended December 31, 2022:

	Number of Restricted Stock Units and Restricted Stock Awards Outstanding	Weighted-Average Grant Date Fair Value
Total Non-vested Restricted Stock Units and Restricted Stock Awards as of June 30, 2022	369,649	$ 55.75
Granted	206,079	52.22
Vested	(162,681)	45.94
Forfeited	(7,652)	49.69
Total Non-vested Restricted Stock Units and Restricted Stock Awards as of December 31, 2022	405,395	$ 58.01

Stock-based compensation expense attributable to the Company's share-based equity awards was $2,016 and $1,598 for the three months ended December 31, 2022 and 2021, respectively, and $3,651 and $2,856 for the six months ended December 31, 2022 and 2021, respectively. Stock-based compensation expense attributed to share-based equity awards issued under the Incentive Plan is recognized on a straight-line basis over the terms of the respective awards and is included in general and administrative expense in the Company's unaudited interim condensed consolidated statements of operations and comprehensive income. Awards vesting during the three and six months ended December 31, 2022 include 16,146 and 17,417 fully vested restricted stock units issued to non-employee directors for their service as directors for the Company.

14. Net Earnings Per Share

Basic net income per share of Class A Common Stock is computed by dividing net income attributable to the Company's earnings by the weighted-average number of shares of Class A Common Stock outstanding during the period. The weighted-average number of shares of Class A Common Stock outstanding used in computing basic net income per share includes fully vested restricted stock units awarded to directors that are entitled to participate in distributions to common stockholders through receipt of additional units of equivalent value to the dividends paid to Class A Common Stock holders.

Diluted net income per share of Class A Common Stock is computed similarly to basic net income per share except the weighted-average shares outstanding are increased to include additional shares from the assumed exercise of any common stock equivalents using the treasury method, if dilutive. The Company's LLC Units and non-qualified stock options are considered common stock equivalents for this purpose. The number of additional shares of Class A Common Stock related to these common stock equivalents and stock options are calculated using the treasury stock method.

Stock awards with a performance condition that are based on the attainment of a specified amount of earnings are only included in the computation of diluted earnings per share to the extent that the performance condition would be achieved based on the current amount of earnings, and only if the effect would be dilutive.

Stock awards with a market condition that are based on the performance of the Company's stock price in relation to a market index over a specified time period are only included in the computation of diluted earnings per share to the extent that the shares would be issued based on the current market price of the Company's stock in relation to the market index, and only if the effect would be dilutive.

Basic and diluted net income per share of Class A Common Stock has been computed as follows (in thousands, except share and per share amounts):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Basic:				
Net income attributable to Malibu Boats, Inc.	$ 35,162	$ 29,891	$ 70,045	$ 56,835
Shares used in computing basic net income per share:				
Weighted-average Class A Common Stock	20,149,634	20,663,227	20,182,696	20,641,925
Weighted-average participating restricted stock units convertible into Class A Common Stock	254,949	236,974	249,520	233,166
Basic weighted-average shares outstanding	20,404,583	20,900,201	20,432,216	20,875,091
Basic net income per share	$ 1.73	$ 1.43	$ 3.43	$ 2.72
Diluted:				
Net income attributable to Malibu Boats, Inc.	$ 35,162	$ 29,891	$ 70,045	$ 56,835
Shares used in computing diluted net income per share:				
Basic weighted-average shares outstanding	20,404,583	20,900,201	20,432,216	20,875,091
Restricted stock units granted to employees	49,725	105,143	64,419	112,896
Stock options granted to employees	11,889	72,991	13,289	74,890
Market performance awards granted to employees	49,828	70,536	49,828	70,536
Diluted weighted-average shares outstanding [1]	20,516,025	21,148,871	20,559,752	21,133,413
Diluted net income per share	$ 1.72	$ 1.41	$ 3.41	$ 2.69

[1] The Company excluded (i) 761,150 and 661,162 potentially dilutive shares from the calculation of diluted net income per share for the three months ended December 31, 2022 and 2021, respectively, and (ii) 761,150 and 661,162 potentially dilutive shares from the calculation of diluted net income per share for the six months ended December 31, 2022 and 2021, respectively.

The shares of Class B Common Stock do not share in the earnings or losses of Malibu Boats, Inc. and are therefore not included in the calculation. Accordingly, basic and diluted net income per share of Class B Common Stock have not been presented.

15. Commitments and Contingencies

Repurchase Commitments

In connection with its dealers' wholesale floor plan financing of boats, the Company has entered into repurchase agreements with various lending institutions. The reserve methodology used to record an estimated expense and loss reserve in each accounting period is based upon an analysis of likely repurchases based on current field inventory and likelihood of repurchase. Subsequent to the inception of the repurchase commitment, the Company evaluates the likelihood of repurchase and adjusts the estimated loss reserve accordingly. When a potential loss reserve is recorded, it is presented in accrued liabilities in the accompanying unaudited interim condensed consolidated balance sheets. If the Company were obligated to repurchase a significant number of units under any repurchase agreement, its business, operating results and financial condition could be adversely affected. The total amount financed under the floor financing programs with repurchase obligations was $355,785 and $183,953 as of December 31, 2022 and June 30, 2022, respectively.

Repurchases and subsequent sales are recorded as a revenue transaction. The net difference between the repurchase price and the resale price is recorded against the loss reserve and presented in cost of sales in the accompanying unaudited interim condensed consolidated statements of operations and comprehensive income. During the three and six months ended December 31, 2022 and 2021, there were no repurchases and as of December 31, 2022, the Company has not been notified about any probable repossessions. Therefore, the Company did not carry a reserve for repurchases as of December 31, 2022 consistent with June 30, 2022.

The Company has collateralized receivables financing arrangements with a third-party floor plan financing provider for

European dealers. Under terms of these arrangements, the Company transfers the right to collect a trade receivable to the financing provider in exchange for cash but agrees to repurchase the receivable if the dealer defaults. Since the transfer of the receivable to the financing provider does not meet the conditions for a sale under ASC Topic 860*, Transfers and Servicing*, the Company continues to report the transferred trade receivable in other current assets with an offsetting balance recorded as a secured obligation in accrued expenses in the Company's unaudited interim condensed consolidated balance sheets. As of December 31, 2022 and June 30, 2022, the Company had no financing receivables recorded in other current assets and accrued expenses related to these arrangements.

Contingencies

Product Liability

The Company is engaged in a business that exposes it to claims for product liability and warranty claims in the event the Company's products actually or allegedly fail to perform as expected or the use of the Company's products results, or is alleged to result, in property damage, personal injury or death. Although the Company maintains product and general liability insurance of the types and in the amounts that the Company believes are customary for the industry, the Company is not fully insured against all such potential claims. The Company may have the ability to refer claims to its suppliers and their insurers to pay the costs associated with any claims arising from the suppliers' products. The Company's insurance covers such claims that are not adequately covered by a supplier's insurance and provides for excess secondary coverage above the limits provided by the Company's suppliers.

The Company may experience legal claims in excess of its insurance coverage or claims that are not covered by insurance, either of which could adversely affect its business, financial condition and results of operations. Adverse determination of material product liability and warranty claims made against the Company could have a material adverse effect on its financial condition and harm its reputation. In addition, if any of the Company's products are, or are alleged to be, defective, the Company may be required to participate in a recall of that product if the defect or alleged defect relates to safety. These and other claims that the Company faces could be costly to the Company and require substantial management attention. Refer to Note 8 for discussion of warranty claims. The Company insures against product liability claims and except as disclosed below, believes there are no product liability claims as of December 31, 2022 that will have a material adverse impact on the Company's results of operations, financial condition or cash flows.

Litigation

Certain conditions may exist which could result in a loss, but which will only be resolved when future events occur. The Company, in consultation with its legal counsel, assesses such contingent liabilities, and such assessments inherently involve an exercise of judgment. If the assessment of a contingency indicates that it is probable that a loss has been incurred, the Company accrues for such contingent loss when it can be reasonably estimated. If the assessment indicates that a potentially material loss contingency is not probable but reasonably estimable, or is probable but cannot be estimated, the nature of the contingent liability, together with an estimate of the range of possible loss if determinable and material, is disclosed. If the assessment of a contingency deemed to be both probable and reasonably estimable involves a range of possible losses, the amount within the range that appears at the time to be a better estimate than any other amount within the range would be accrued. When no amount within the range is a better estimate than any other amount, the minimum amount in the range is accrued even though the minimum amount in the range is not necessarily the amount of loss that will be ultimately determined. Estimates of potential legal fees and other directly related costs associated with contingencies are not accrued but rather are expensed as incurred. Except as disclosed below, management does not believe there are any pending claims (asserted or unasserted) as of December 31, 2022 that would have a material adverse impact on the Company's results of operations, financial condition or cash flows.

Legal Proceedings

Batchelder Matters

The Company and its indirect subsidiary Boats LLC are defendants in the product liability case Batchelder et al. v. Malibu Boats, LLC, f/k/a Malibu Boats, Inc.; Malibu Boats West, Inc., et. al., Superior Court of Rabun County, Georgia, Civil Action Case No. 2016-CV-0114-C (the "Batchelder I Matter"), brought by, among others, Stephan Paul Batchelder and Margaret Mary Batchelder as Administrators of the Estate of Ryan Paul Batchelder, deceased ("Batchelder I Plaintiffs"). The Batchelder I Plaintiffs also sued the manufacturer of the boat at issue in the case, Malibu Boats West, Inc. ("West"). West is not, and has never been, a subsidiary of the Company but was a separate legal entity whose assets were purchased by Boats LLC in 2006. The case involves a personal injury accident in 2014 involving a 2000 model year boat that was manufactured by West. On August 28, 2021, the jury rejected the Batchelder I Plaintiffs' design defect claims and found that the driver of the boat was 75% at fault for the accident. Notwithstanding those findings, the jury found that Boats LLC and West negligently failed to

warn of a hazard posed by the boat and that such failure was a proximate cause of the death of the decedent. The jury also found that Boats LLC is a legal successor of, and responsible for the liabilities of, West. The jury awarded compensatory damages of $80,000 and apportioned 15% of such damages to Boats LLC and 10% of such damages to West. In addition, the jury awarded $80,000 of punitive damages against Boats LLC and $40,000 of punitive damages against West. Based on the jury's finding of successor liability, the trial court entered judgment for the full amount of the verdict against Boats LLC, with a potential maximum liability to Boats LLC of $140,000, plus post-judgment interest at a rate of 6.25% per annum.

The Batchelder I Plaintiffs also filed motions, after the judgment, seeking orders requiring Boats LLC to pay pre-judgment interest and a portion of their attorney fees. They claimed they are owed attorneys' fees of approximately $56,000. The Company opposed both motions, arguing that the Batchelder I Plaintiffs have no right either to pre-judgment interest or to reimbursement of their attorneys' fees, and in the alternative that the amount of attorneys' fees sought was unreasonable. The trial court denied the Batchelder I Plaintiffs' motion for prejudgment interest and held that ruling on the Batchelder I Plaintiffs' motion for attorneys' fees would be premature, indicating that it would decide whether the Batchelder I Plaintiffs have the right to attorneys' fees, and if so what amount is reasonable, if still necessary upon the resolution of the Company's post-trial motions and any related appeals. The Batchelder I Plaintiffs have appealed the trial court's order denying their motion for prejudgment interest, which amount totals approximately $8,000.

On July 17, 2022, the trial court denied Boats LLC's post-trial motions. Boats LLC has since filed a notice of appeal. Pending resolution of the appeals process, the payment of any damages in this matter is stayed. Based on the current status of the process, the Company believes a loss is reasonably possible and that the potential range of loss could be from $0 to $140,000, plus post-judgment interest at 6.25% per annum. The Company may also be required to pay prejudgment interest of approximately $8,000, if the Batchelder I Plaintiffs are successful on their appeal for such interest, and an award of reasonable attorneys' fees to the Batchelder I Plaintiffs, which the Batchelder I Plaintiffs claim should be approximately $56,000. As noted above, the trial court postponed any ruling on the Batchelder I Plaintiffs' contested motion for attorneys' fees pending the resolution of the Company's post-trial motions and any related appeals. The Company and Boats LLC maintain product liability insurance applicable to this case with coverage limits of $26,000. At least one insurer has asserted potential coverage defenses and may dispute the scope of its obligation to the Company and Boats LLC. In addition, the Company and Boats LLC have potential claims against the insurers that they may decide to pursue with respect to this matter, but the Company cannot provide any assurance that it will pursue those claims or be successful if it does. The Company did not carry a reserve for loss as of December 31, 2022.

The Company is also a defendant in a related product liability case, Stephan Paul Batchelder and Margaret Mary Batchelder, as Natural Guardians of Josh Patrick Batchelder, a minor; Darin Batchelder, individually, and as Natural Guardian of Zach Batchelder, a minor; and Kayla Batchelder (the "Batchelder II Plaintiffs") v. Malibu Boats, LLC v. Dennis Michael Ficarra; State Court of Rabun County, Civil Action File No. 2022-CV-0034. The complaint was filed on February 9, 2022 as a purported renewal of earlier claims by the Batchelder II Plaintiffs that were dismissed without prejudice. The case involves claims by the Batchelder II Plaintiffs of their own alleged bodily injury and emotional distress stemming from the same accident involving the alleged swamping of the boat manufactured and sold by West that is the subject of the Batchelder I Matter. As noted above, West is not, and has never been, a subsidiary of the Company but was a separate legal entity whose assets were purchased by the Company in 2006. Four Batchelder II Plaintiffs (including three children) seek damages for personal injury and punitive damages, alleging that the accident was caused by a design defect and a failure to warn. The Batchelder II Plaintiffs were all dismissed without prejudice from the Batchelder I Matter shortly before the trial for the Batchelder I Matter, however, and thus the new complaint is a renewal action of the original complaint. The Company believes that the allegations in this case are unfounded and denies that there was a design defect or a duty to warn, that the Batchelder II Plaintiffs suffered the alleged injuries, or that any defect in the boat or failure to warn was a legal cause of the alleged injuries. The Company also contends that the incident was caused by the negligence of the driver of the boat and has filed a Third-Party Complaint against the driver, Dennis Ficarra, based on his negligence. The Company is unable to provide any reasonable evaluation of the likelihood that a loss will be incurred or any reasonable estimate of the range of possible loss.

16. Segment Reporting

The Company has three reportable segments, Malibu, Saltwater Fishing and Cobalt. The Malibu segment participates in the manufacturing, distribution, marketing and sale of Malibu and Axis performance sports boats throughout the world. The Saltwater Fishing segment participates in the manufacturing, distribution, marketing and sale throughout the world of Pursuit boats and the Maverick Boat Group brand boats (Maverick, Cobia, Pathfinder and Hewes). The Cobalt segment participates in the manufacturing, distribution, marketing and sale of Cobalt boats throughout the world.

There is no country outside of the United States from which the Company (a) derived net sales equal to 10% of total net sales for the three and six months ended December 31, 2022, or (b) attributed assets equal to 10% of total assets as of December 31, 2022. Net sales are attributed to countries based on the location of the dealer. The following tables present

financial information for the Company's reportable segments for the three and six months ended December 31, 2022 and 2021, respectively, and the Company's financial position at December 31, 2022 and June 30, 2022, respectively:

	Three Months Ended December 31, 2022				Six Months Ended December 31, 2022			
	Malibu	Saltwater Fishing	Cobalt	Consolidated	Malibu	Saltwater Fishing	Cobalt	Total
Net sales	$ 158,166	$ 105,585	$ 74,981	$ 338,732	$ 303,334	$ 197,818	$ 139,791	$ 640,943
Income before provision for income taxes	$ 29,055	$ 11,021	$ 7,505	$ 47,581	$ 56,971	$ 21,281	$ 16,457	$ 94,709

	Three Months Ended December 31, 2021				Six Months Ended December 31, 2021			
	Malibu	Saltwater Fishing	Cobalt	Consolidated	Malibu	Saltwater Fishing	Cobalt	Total
Net sales	$ 133,453	$ 75,241	$ 55,193	$ 263,887	$ 251,705	$ 151,968	$ 113,711	$ 517,384
Income before provision for income taxes	$ 27,668	$ 5,348	$ 6,525	$ 39,541	$ 48,777	$ 12,340	$ 14,441	$ 75,558

	As of December 31, 2022	As of June 30, 2022
Assets		
Malibu	$ 232,843	$ 264,551
Saltwater Fishing	413,249	384,684
Cobalt	214,574	202,091
Total assets	$ 860,666	$ 851,326

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

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with the unaudited interim condensed consolidated financial statements and notes thereto included herein.

Malibu Boats, Inc. is a Delaware corporation with its principal offices in Loudon, Tennessee. We use the terms "Malibu," the "Company," "we," "us," "our" or similar references to refer to Malibu Boats, Inc., its subsidiary, Malibu Boats Holdings, LLC, or the LLC, and its subsidiary Malibu Boats, LLC, or Boats, LLC and its consolidated subsidiaries, including Cobalt Boats, LLC, PB Holdco, LLC, through which we acquired the assets of Pursuit, and MBG Holdco, Inc., through which we acquired all of the outstanding stock of Maverick Boat Group, Inc.

Overview

We are a leading designer, manufacturer and marketer of a diverse range of recreational powerboats, including performance sport boats, sterndrive and outboard boats. Our product portfolio of premium brands are used for a broad range of recreational boating activities including, among others, water sports, general recreational boating and fishing. Our passion for consistent innovation, which has led to propriety technology such as Surf Gate, has allowed us to expand the market for our products by introducing consumers to new and exciting recreational activities. We design products that appeal to an expanding range of recreational boaters and water sports enthusiasts whose passion for boating and water sports is a key component of their active lifestyle and provide consumers with a better customer-inspired experience. With performance, quality, value and multi-purpose features, our product portfolio has us well positioned to broaden our addressable market and achieve our goal of increasing our market share in the expanding recreational boating industry.

We currently sell our boats under eight brands as shown in the table below, and we report our results of operations under three reportable segments (Malibu, Saltwater Fishing and Cobalt). See Note 16 to our unaudited interim condensed consolidated financial statements for more information about our reporting segments.

		% of Net Sales	
Segment	**Brands**	**Six Months Ended December 31, 2022**	**Fiscal year ended June 30, 2022**
Malibu	Malibu Axis	47.3%	50.0%
Saltwater Fishing	Pursuit Maverick Cobia Pathfinder Hewes	30.9%	28.1%
Cobalt	Cobalt	21.8%	21.9%

Our Malibu segment participates in the manufacturing, distribution, marketing and sale throughout the world of Malibu and Axis performance sports boats. Our flagship Malibu boats offer our latest innovations in performance, comfort and convenience, and are designed for consumers seeking a premium performance sport boat experience. We are the market leader in the United States in the performance sport boat category through our Malibu and Axis Wake Research boat brands. Our Axis boats appeal to consumers who desire a more affordable performance sport boat product but still demand high performance, functional simplicity and the option to upgrade key features. Retail prices of our Malibu and Axis boats typically range from $70,000 to $225,000.

Our Saltwater Fishing segment participates in the manufacturing, distribution, marketing and sale throughout the world of Pursuit boats and the Maverick Boat Group family of boats (Maverick, Cobia, Pathfinder and Hewes). Our Pursuit boats expand our product offerings into the saltwater outboard fishing market and include center console, dual console and offshore models. In December 2020, we acquired Maverick Boat Group and added Maverick, Cobia, Pathfinder and Hewes to our brands. Our Maverick Boat Group family of boats are highly complementary to Pursuit, expanding our saltwater outboard offerings with a strong focus in length segments under 30 feet. We are among the market leaders in the fiberglass outboard fishing boat category with the brands in our Saltwater Fishing segment. Retail prices for our Saltwater Fishing boats typically range from $45,000 to $1,300,000.

Our Cobalt segment participates in the manufacturing, distribution, marketing and sale throughout the world of Cobalt boats. Our Cobalt boats consist of mid to large-sized luxury cruisers and bowriders that we believe offer the ultimate experience in comfort, performance and quality. We are the market leader in the United States in the 20’ - 40’ segment of the sterndrive boat category through our Cobalt brand. Retail prices for our Cobalt boats typically range from $65,000 to $525,000.

We sell our boats through a dealer network that we believe is the strongest in the recreational powerboat category. As of July 1, 2022, our worldwide distribution channel consisted of over 400 dealer locations globally. Our dealer base is an important part of our consumers’ experience, our marketing efforts and our brands. We devote significant time and resources to find, develop and improve the performance of our dealers and believe our dealer network gives us a distinct competitive advantage.

Since fiscal year 2020, our operations have been impacted by a variety of external factors, including COVID-19 and supply chain disruptions that we believe were driven by numerous factors, such as labor shortages, ongoing domestic logistical constraints, West Coast port challenges and rising prices for our suppliers, in part due to inflationary pressures. Such supply chain disruptions along with increased costs for raw materials, parts and components, shipping and labor, are having industry-wide impacts affecting us and our suppliers, dealers and customers. We have implemented various initiatives during the time period to combat these factors including plant shut-downs, constrained production levels and surcharges.

Dealer inventories were lower than historical levels throughout fiscal years 2021 and 2022, as a result of an increase in retail sales during fiscal year 2021, constrained production in the first half of fiscal year 2021, and our lower wholesale shipment levels during the second half of fiscal year 2020. Fiscal year 2022 retail demand continued at a strong pace, albeit at lower levels than the record fiscal year 2021 levels, in spite of limited inventory. During fiscal year 2022, year-over-year increases in wholesale production and decreases in retail demand levels relative to fiscal year 2021 combined to increase inventory levels modestly at our Malibu and Cobalt segment dealers by the end of the fiscal year. Dealer inventories continue to be below historical levels and a full recovery to historical inventory levels will depend on the ability of our supply chain to provide materials to us timely and the level of retail demand during the upcoming year.

The future impact of ongoing supply chain disruptions on our financial condition and results of operations may result in further constrained production and increased costs and will depend on a number of factors, including factors that we may not be able to forecast at this time. See the risk factors around COVID-19 impact, supply chain disruptions and increases in costs under Part I. Item 1A on our Form 10- K for the year ended June 30, 2022.

On a consolidated basis, we achieved second quarter fiscal 2023 net sales, gross profit, net income and adjusted EBITDA of $338.7 million, $75.7 million, $36.4 million and $57.6 million, respectively, compared to $263.9 million, $63.6 million, $31.0 million and $48.1 million, respectively, for the second quarter of fiscal 2022. For the second quarter of fiscal 2023, net sales increased 28.4%, gross profit increased 19.0%, net income increased 17.5% and adjusted EBITDA increased 19.7% as compared to the second quarter of fiscal 2022. For the definition of adjusted EBITDA and a reconciliation to net income, see “GAAP Reconciliation of Non-GAAP Financial Measures.”

Outlook

During the COVID-19 pandemic, domestic retail demand for recreational powerboats increased to the highest levels seen by the industry in decades as consumers turned to boating as a form of outdoor, socially-distanced, recreation. Retail registration activity in the recreational powerboat market, however, began declining meaningfully in the second half of calendar year 2021 as a result of limited available inventory due to the strong sales activity during the pandemic and supply chain disruptions that began impacting production levels. During calendar year 2022, retail registration activity continued to decline at a lower year-over-year rate than the second half of calendar year 2021. The declines in retail registration activity in the recreational powerboat market during calendar year 2022 were also impacted by the increased retail demand in calendar year 2021, resulting in an abnormally high comparative period.

We and our dealers have experienced similar impacts in retail demand, supply chain disruption and resulting low inventory levels as the industry. The combination of strong retail market activity in calendar years 2020 and 2021 along with supply chain

disruptions in calendar year 2021 that continued through calendar year 2022 depleted inventory levels at our dealers in calendar year 2022 below pre-COVID levels. Some of the operational challenges and supply chain disruptions we experienced included labor shortages, domestic logistical constraints, West Coast port challenges and rising prices for our suppliers, in part due to inflationary pressures. These operational challenges and supply chain constraints delayed our ability to add to depleted inventory levels throughout fiscal year 2022. While retail activity at our dealers was strong during much of fiscal year 2022, it may have been higher but for a lack of inventory.

Current inventory levels at our dealers are still below pre-pandemic levels. The primary drivers for our restocking timing will be the retail demand for our products and our ability to increase production in light of ongoing supply chain challenges. Any meaningful increases or decreases in retail demand and improvements or degradations in supply chain logistics will be the key drivers of the speed of inventory restocking that will drive our wholesale production in the second half of fiscal year 2023. While retail activity at our dealers trended lower during the first half of fiscal year 2023, given low inventory levels at the beginning of the fiscal year, we expect wholesale demand to continue through the end of fiscal year 2023 and, with respect to certain brands, potentially beyond, in order to restock our dealer inventories. With respect to supply, we believe supply chain disruptions will continue to challenge some of our production output through at least the remainder of fiscal year 2023, with the ultimate duration and magnitude of these supply chain challenges being unknown. However, we have begun to notice incremental improvements across our supply chain. As a result, we believe our dealer inventory levels may begin to normalize in the second half of fiscal year 2023 for our Malibu and Cobalt segments and in the first half of fiscal 2024 for our Saltwater Fishing segment.

We aim to increase our market share across the boating categories in which we compete through new product development, improved distribution, new models, and innovative features. Our industry however is highly competitive, and our competitors have become more aggressive in their product introductions, expanded their distribution capabilities, and launched surf systems competitive with our patented Surf Gate system. Further, our ability to increase inventory levels at our dealers will be important to maintain and grow our market share across our brands. We believe our new product pipeline, strong dealer network and ability to increase production will allow us to maintain and potentially expand our leading market position in performance sports boats. We also believe that our track record of expanding our market share with our Malibu and Axis brands is directly transferable to our Cobalt, Pursuit and Maverick Boat Group brands. While Cobalt, Pursuit and the Maverick Boat Group brands are market leaders in certain areas, we believe that enhancing new product development combined with diligent management of the Cobalt, Pursuit and Maverick Boat Group dealer networks will position us to meaningfully improve our share of the sterndrive and outboard markets over time. We have seen the impact of this strategy at Cobalt already as we have gained market share with the introduction of eight new products in the last twenty-four months. Our new product development efforts at Pursuit have begun to take shape and influence market share. We have begun the processes to improve product development efforts at Maverick Boat Group but those initiatives will take time and our ability to influence the number of near-term model introductions will be limited.

As discussed above, our financial results and operations have been, and will continue to be, impacted by events outside of our control. For example, we have experienced elevated raw material, components and transportation costs, partly due to inflationary pressures, and we anticipate those costs to remain at elevated levels for the remainder of fiscal year 2023 and likely beyond. To combat this, we implemented surcharges across all brands in fiscal year 2022 that were made permanent price increases at the beginning of fiscal year 2023, while working aggressively to minimize incremental price increases to lessen any volume impact associated with increased prices. Numerous other variables also have the potential to impact our volumes, both positively and negatively. For instance, increasing interest rates, which we are currently experiencing, could reduce retail consumer appetite for our product or reduce the appetite or availability for credit for our dealers and retail consumers. Further, we believe a substantial increase or decrease in the price of oil, strength or weakness of the U.S. dollar and tariffs can result in greater or reduced demand for our boats in certain markets. Consumer confidence, expanded or eroded, is a variable that can also impact demand for our products in both directions. Other challenges that could impact demand for recreational powerboats include, fuel costs, a meaningful reduction in the value of global or domestic equity markets, the continued acceptance of our new products in the recreational boating market, our ability to compete in the competitive power boating industry, and the costs of labor and certain of our raw materials and key components. An additional variable that could affect our volumes is weather related events. For example, we recently shut down production in all of our Florida facilities as a precaution during hurricanes that made landfall in Florida during the first half of fiscal 2023. The downtime related to Hurricane Ian impacted the number of boats that we were able to ship at the end of the first quarter of fiscal year 2023. Our facilities were ultimately not meaningfully impacted by the hurricane, and we were able to restart production and shipments in the second fiscal quarter as we normally would. Retail demand may also be negatively impacted as a result of increasing interest rates and continuing concerns over inflation, all of which are outside of our control.

Factors Affecting Our Results of Operations

We believe that our results of operations and our growth prospects are affected by a number of factors, such as the economic environment and consumer demand for our products, our ability to develop new products and innovate, our product mix, our ability to manage manufacturing costs, sales cycles and inventory levels, the strength of our dealer network, our ability to offer dealer financing and incentives and our vertical integration efforts. We discuss each of these factors in more detail under the heading “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations--Factors Affecting Our Results of Operations” in our Form 10-K for the year ended June 30, 2022. While we do not have control of all factors affecting our results from operations, we work diligently to influence and manage those factors which we can impact to enhance our results of operations.

Components of Results of Operations

Net Sales

We generate revenue from the sale of boats to our dealers. The substantial majority of our net sales are derived from the sale of boats, including optional features included at the time of the initial wholesale purchase of the boat. Net sales consists of the following:

- Gross sales from:
  - *Boat and trailer sales*—consists of sales of boats and trailers to our dealer network. Nearly all of our boat sales include optional feature upgrades purchased by the consumer, which increase the average selling price of our boats; and
  - *Parts and other sales*—consists of sales of replacement and aftermarket boat parts and accessories to our dealer network; and consists of royalty income earned from license agreements with various boat manufacturers, including Nautique, Chaparral, Mastercraft, and Tige related to the use of our intellectual property.
- Net sales are net of:
  - *Sales returns*—consists primarily of contractual repurchases of boats either repossessed by the floor plan financing provider from the dealer or returned by the dealer under our warranty program; and
  - *Rebates and free flooring*—consists of incentives, rebates and free flooring, we provide to our dealers based on sales of eligible products. For our Malibu and Cobalt segments, if a domestic dealer meets its monthly or quarterly commitment volume, as well as other terms of the dealer performance program, the dealer is entitled to a specified rebate. For our Saltwater Fishing segment, if a dealer meets its quarterly or annual retail volume goals, the dealer is entitled to a specific rebate applied to their wholesale volume purchased. For Malibu, Cobalt and select Saltwater Fishing models, our dealers that take delivery of current model year boats in the offseason, typically July through April in the U.S., are also entitled to have us pay the interest to floor the boat until the earlier of (1) the sale of the unit or (2) a date near the end of the current model year, which incentive we refer to as “free flooring.” From time to time, we may extend the flooring program to eligible models beyond the offseason period.

Cost of Sales

Our cost of sales includes all of the costs to manufacture our products, including raw materials, components, supplies, direct labor and factory overhead. For components and accessories manufactured by third-party vendors, such costs represent the amounts invoiced by the vendors. Shipping costs and depreciation expense related to manufacturing equipment and facilities are also included in cost of sales. Warranty costs associated with the repair or replacement of our boats under warranty are also included in cost of sales.

Operating Expenses

Our operating expenses include selling and marketing, general and administrative costs and amortization costs. Each of these items includes personnel and related expenses, supplies, non-manufacturing overhead, third-party professional fees and various other operating expenses. Further, selling and marketing expenditures include the cost of advertising and various promotional sales incentive programs. General and administrative expenses include, among other things, salaries, benefits and other personnel related expenses for employees engaged in product development, engineering, finance, information technology, human resources and executive management. Other costs include outside legal and accounting fees, investor relations, risk management (insurance) and other administrative costs. General and administrative expenses also include product development expenses associated with our vertical integration initiative and acquisition or integration related expenses. Amortization expenses are associated with the amortization of intangibles.

Other Expense (Income), Net

Other expense (income), net consists of interest expense and other income or expense, net. Interest expense consists of interest charged under our outstanding debt and amortization of deferred financing costs on our credit facilities. Other income or expense includes adjustments to our tax receivable agreement liability and sublease income.

Income Taxes

Malibu Boats, Inc. is subject to U.S. federal and state income tax in multiple jurisdictions with respect to our allocable share of any net taxable income of the LLC. The LLC is a pass-through entity for federal purposes but incurs income tax in certain state jurisdictions. Maverick Boat Group is separately subject to U.S. federal and state income tax with respect to its net taxable income.

Net Income Attributable to Non-controlling Interest

As of each of December 31, 2022 and 2021, we had a 97.1% and a 97.2%, respectively, controlling economic interest and 100% voting interest in the LLC and, therefore, we consolidate the LLC's operating results for financial statement purposes. Net income attributable to non-controlling interest represents the portion of net income attributable to the non-controlling LLC members.

Results of Operations

The table below sets forth our unaudited interim consolidated results of operations, expressed in thousands (except unit volume and net sales per unit) and as a percentage of net sales, for the periods presented. Our unaudited interim consolidated financial results for these periods are not necessarily indicative of the consolidated financial results that we will achieve in future periods. Certain totals for the table below will not sum to exactly 100% due to rounding.

	Three Months Ended December 31,				Six Months Ended December 31,			
	2022		2021		2022		2021	
	$	% Revenue	$	% Revenue	$	% Revenue	$	% Revenue
Net sales	338,732	100.0 %	263,887	100.0 %	640,943	100.0 %	517,384	100.0 %
Cost of sales	263,078	77.7 %	200,336	75.9 %	490,684	76.6 %	394,081	76.2 %
Gross profit	75,654	22.3 %	63,551	24.1 %	150,259	23.4 %	123,303	23.8 %
Operating expenses:								
Selling and marketing	6,198	1.8 %	5,658	2.1 %	11,384	1.8 %	10,775	2.1 %
General and administrative	19,057	5.6 %	15,987	6.1 %	38,277	6.0 %	32,078	6.2 %
Amortization	1,715	0.5 %	1,719	0.7 %	3,431	0.5 %	3,575	0.7 %
Operating income	48,684	14.4 %	40,187	15.2 %	97,167	15.1 %	76,875	14.8 %
Other expense, net:								
Other expense (income), net	193	0.1 %	(10)	— %	263	— %	(23)	— %
Interest expense	910	0.3 %	656	0.2 %	2,195	0.3 %	1,340	0.2 %
Other expense, net	1,103	0.4 %	646	0.2 %	2,458	0.3 %	1,317	0.2 %
Income before provision for income taxes	47,581	14.0 %	39,541	15.0 %	94,709	14.8 %	75,558	14.6 %
Provision for income taxes	11,185	3.3 %	8,562	3.3 %	22,208	3.5 %	16,646	3.2 %
Net income	36,396	10.7 %	30,979	11.7 %	72,501	11.3 %	58,912	11.4 %
Net income attributable to non-controlling interest	1,234	0.3 %	1,088	0.4 %	2,456	0.4 %	2,077	0.4 %
Net income attributable to Malibu Boats, Inc.	35,162	10.4 %	29,891	11.3 %	70,045	10.9 %	56,835	11.0 %

	Three Months Ended December 31,				Six Months Ended December 31,			
	2022		2021		2022		2021	
	Unit Volumes	% Total	Unit Volumes	% Total	Unit Volumes	% Total	Unit Volumes	% Total
Volume by Segment								
Malibu	1,318	54.0 %	1,179	56.9 %	2,536	54.2 %	2,238	54.6 %
Saltwater Fishing	593	24.3 %	469	22.6 %	1,141	24.4 %	954	23.3 %
Cobalt	528	21.7 %	425	20.5 %	999	21.4 %	905	22.1 %
Total units	2,439	100.0 %	2,073	100.0 %	4,676	100.0 %	4,097	100.0 %
Net sales per unit	$ 138,882		$ 127,297		$ 137,071		$ 126,284	

Comparison of the Three Months Ended December 31, 2022 to the Three Months Ended December 31, 2021

Net Sales

Net sales for the three months ended December 31, 2022 increased $74.8 million, or 28.4%, to $338.7 million as compared to the three months ended December 31, 2021. The increase in net sales was driven primarily by increased unit volumes across all three segments and inflation-driven year-over-year price increases, slightly offset by increased dealer flooring program costs resulting from higher interest rates and increased inventory levels as inventory levels began to move towards pre-COVID

levels. Unit volume for the three months ended December 31, 2022, increased 366 units, or 17.7%, to 2,439 units as compared to the three months ended December 31, 2021. Our unit volume increased primarily due to strong wholesale restocking demand across all segments.

Net sales attributable to our Malibu segment increased $24.7 million, or 18.5%, to $158.1 million for the three months ended December 31, 2022, compared to the three months ended December 31, 2021. Unit volumes attributable to our Malibu segment increased 139 units for the three months ended December 31, 2022, compared to the three months ended December 31, 2021. The increase in net sales was driven by increased volume, inflation-driven year-over-year price increases and a favorable model mix, slightly offset by increased dealer flooring program costs.

Net sales attributable to our Saltwater Fishing segment increased $30.3 million, or 40.3%, to $105.6 million, for the three months ended December 31, 2022, compared to the three months ended December 31, 2021. Unit volume increased 124 units for the three months ended December 31, 2022 compared to the three months ended December 31, 2021. The increase in net sales was driven by increased volume, inflation-driven year-over-year price increases and a favorable model mix.

Net sales attributable to our Cobalt segment increased $19.8 million, or 35.9%, to $75.0 million for the three months ended December 31, 2022, compared to the three months ended December 31, 2021. Unit volumes attributable to Cobalt increased 103 units for the three months ended December 31, 2022 compared to the three months ended December 31, 2021. The increase in net sales was driven primarily by increased volume and inflation-driven year-over-year price increases, partially offset by increased dealer flooring program costs.

Overall consolidated net sales per unit increased 9.1% to $138,882 per unit for the three months ended December 31, 2022, compared to the three months ended December 31, 2021. Net sales per unit for our Malibu segment increased 6.0% to $120,005 per unit for the three months ended December 31, 2022, compared to the three months ended December 31, 2021, driven by inflation-driven year-over-year price increases and a favorable model mix, partially offset by increased dealer flooring program costs. Net sales per unit for our Saltwater Fishing segment increased 11.0% to $178,052 per unit for the three months ended December 31, 2022 driven by inflation-driven year-over-year price increases and a favorable model mix. Net sales per unit for our Cobalt segment increased 9.4% to $142,009 per unit for the three months ended December 31, 2022, compared to the three months ended December 31, 2021, driven by inflation-driven year-over-year price increases, partially offset by increased dealer flooring program costs.

Cost of Sales

Cost of sales for the three months ended December 31, 2022 increased $62.7 million, or 31.3%, to $263.1 million as compared to the three months ended December 31, 2021. The increase in cost of sales was primarily driven by a 17.7% increase in volumes and increased prices due to inflationary pressures that have impacted prices on parts and components. In the Malibu segment, higher per unit material and labor costs contributed $7.9 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures and by an increased mix of larger models that corresponded with higher net sales per unit. Within our Saltwater Fishing segment, higher per unit material and labor costs contributed $7.3 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures and by an increased mix of larger models that corresponded with higher net sales per unit. In the Cobalt segment, higher per unit material and labor costs contributed $6.7 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures and by an increased mix of larger models that corresponded with higher net sales per unit.

Gross Profit

Gross profit for the three months ended December 31, 2022 increased $12.1 million, or 19.0%, to $75.7 million compared to the three months ended December 31, 2021. The increase in gross profit was driven primarily by higher sales revenue partially offset by the increased cost of sales for the reasons noted above. Gross margin for the three months ended December 31, 2022 decreased 180 basis points from 24.1% to 22.3% driven primarily by increased dealer flooring program costs and increased mix of Cobalt and Saltwater Fishing segments and partially offset by better year-over-year performance in our Saltwater Fishing segment.

Operating Expenses

Selling and marketing expenses for the three months ended December 31, 2022 increased $0.5 million, or 9.5% to $6.2 million compared to the three months ended December 31, 2021. The increase was driven primarily by increased promotional events. As a percentage of sales, selling and marketing expenses decreased 30 basis points to 1.8% for the three months ended December 31, 2022 compared to 2.1% for the three months ended December 31, 2021. General and administrative expenses for the three months ended December 31, 2022 increased $3.1 million, or 19.2%, to $19.1 million as compared to the three months ended December 31, 2021 driven primarily by an increase in compensation and personnel-related expenses, an increase in

professional fees and an increase in travel related expenses. As a percentage of sales, general and administrative expenses decreased 50 basis points to 5.6% for the three months ended December 31, 2022 compared to 6.1% for the three months ended December 31, 2021. Amortization expense remained flat at $1.7 million for the three months ended December 31, 2022.

Other Expense (Income), Net

Other expense (income), net for the three months ended December 31, 2022 increased by $0.5 million, or 70.7% to $1.1 million, compared to the three months ended December 31, 2021. The increase in other expense (income) resulted primarily from increased interest expense due a higher average interest rate during the three months ended December 31, 2022 compared to the three months ended December 31, 2021.

Provision for Income Taxes

Our provision for income taxes for the three months ended December 31, 2022, increased $2.6 million, or 30.6%, to $11.2 million compared to the three months ended December 31, 2021. The increase primarily resulted from increased pre-tax earnings and increased state taxes. For the three months ended December 31, 2022 and 2021, our effective tax rate of 23.5% and 21.7%, respectively, exceeded the statutory federal income tax rate of 21% primarily due to the impact of U.S. state taxes. For the three months ended December 31, 2022, this increase in the effective tax rate over the statutory rate was partially offset by a windfall benefit generated by certain stock-based compensation, the benefits from the foreign derived intangible income deduction, the research and development tax credit, and the impact of non-controlling interests in the LLC. For the three months ended December 31, 2021, the increase in the effective tax rate over the statutory rate was partially offset by a windfall benefit generated by certain stock-based compensation.

Non-controlling Interest

Non-controlling interest represents the ownership interests of the members of the LLC other than us and the amount recorded as non-controlling interest in our unaudited interim condensed consolidated statements of operations and comprehensive income is computed by multiplying pre-tax income for the applicable period, by the percentage ownership in the LLC not directly attributable to us. For the three months ended December 31, 2022 and 2021, the weighted-average non-controlling interest attributable to ownership interests in the LLC not directly attributable to us was 2.9% and 2.8%, respectively.

Comparison of the Six Months Ended December 31, 2022 to the Six Months Ended December 31, 2021

Net Sales

Net sales for the six months ended December 31, 2022 increased $123.6 million, or 23.9%, to $640.9 million as compared to the six months ended December 31, 2021. The increase in net sales was driven by increased unit volumes across all three segments, inflation-driven year-over-year price increases and a favorable model mix, slightly offset by increased dealer flooring program costs resulting from higher interest rates and increased inventory levels as inventory levels began to move towards pre-COVID levels. Unit volume for the six months ended December 31, 2022, increased 579 units, or 14.1%, to 4,676 units as compared to the six months ended December 31, 2021. Our unit volume increased primarily due to strong wholesale restocking demand across all segments.

Net sales attributable to our Malibu segment increased $51.6 million, or 20.5%, to $303.3 million for the six months ended December 31, 2022, compared to the six months ended December 31, 2021. Unit volumes attributable to our Malibu segment increased 298 units for the six months ended December 31, 2022, compared to the six months ended December 31, 2021. The increase in net sales was driven primarily by increased volume and inflation-driven year-over-year price increases, slightly offset by increased dealer flooring program costs.

Net sales attributable to our Saltwater Fishing segment increased $45.9 million, or 30.2%, to $197.8 million, for the six months ended December 31, 2022, compared to the six months ended December 31, 2021. Unit volume increased 187 units for the six months ended December 31, 2022 compared to the six months ended December 31, 2021. The increase in net sales was driven by increased volume, inflation-driven year-over-year price increases and a favorable model mix.

Net sales attributable to our Cobalt segment increased $26.1 million, or 22.9%, to $139.8 million for the six months ended December 31, 2022, compared to the six months ended December 31, 2021. Unit volumes attributable to Cobalt increased 94 units for the six months ended December 31, 2022 compared to the six months ended December 31, 2021. The increase in net sales was driven by increased volume, inflation-driven year-over-year price increases and a favorable model mix, partially offset by increased dealer flooring program costs.

Overall consolidated net sales per unit increased 8.5% to $137,071 per unit for the six months ended December 31, 2022, compared to the six months ended December 31, 2021. Net sales per unit for our Malibu segment increased 6.4% to $119,611 per unit for the six months ended December 31, 2022, compared to the six months ended December 31, 2021, driven by inflation-driven year-over-year price increases, slightly offset by increased dealer flooring program costs. Net sales per unit for our Saltwater Fishing segment increased 8.8% to $173,372 per unit for the six months ended December 31, 2022 driven by inflation-driven year-over-year price increases and a favorable model mix. Net sales per unit for our Cobalt segment increased 11.4% to $139,931 per unit for the six months ended December 31, 2022, compared to the six months ended December 31, 2021, driven by inflation-driven year-over-year price increases and a favorable model mix, slightly offset by increased dealer flooring program costs.

Cost of Sales

Cost of sales for the six months ended December 31, 2022 increased $96.6 million, or 24.5%, to $490.7 million as compared to the six months ended December 31, 2021. The increase in cost of sales was primarily driven by a 14.1% increase in volumes and increased prices due to inflationary pressures that have impacted prices on parts and components. In the Malibu segment, higher per unit material and labor costs contributed $11.8 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures. Within our Saltwater Fishing segment, higher per unit material and labor costs contributed $9.6 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures and by an increased mix of larger models that corresponded with higher net sales per unit. In the Cobalt segment, higher per unit material and labor costs contributed $11.8 million to the increase in cost of sales and were driven by increased prices due to inflationary pressures and by an increased mix of larger models that corresponded with higher net sales per unit.

Gross Profit

Gross profit for the six months ended December 31, 2022 increased $27.0 million, or 21.9%, to $150.3 million compared to the six months ended December 31, 2021. The increase in gross profit was driven primarily by higher sales revenue partially offset by the increased cost of sales for the reasons noted above. Gross margin for the six months ended December 31, 2022 decreased 40 basis points from 23.8% to 23.4% driven primarily by increased dealer flooring program costs and partially offset by better year-over-year performance in our Saltwater Fishing segment.

Operating Expenses

Selling and marketing expenses for the six months ended December 31, 2022 increased $0.6 million, or 5.7% to $11.4 million compared to the six months ended December 31, 2021. The increase was driven primarily by increased promotional events. As a percentage of sales, selling and marketing expenses decreased 30 basis points to 1.8% for the six months ended December 31, 2022 compared to 2.1% for the six months ended December 31, 2021. General and administrative expenses for the six months ended December 31, 2022 increased $6.2 million, or 19.3%, to $38.3 million as compared to the six months ended December 31, 2021 driven primarily by an increase in compensation and personnel-related expenses, an increase in professional fees and an increase in travel related expenses. As a percentage of sales, general and administrative expenses decreased 20 basis points to 6.0% for the six months ended December 31, 2022 compared to 6.2% for the six months ended December 31, 2021. Amortization expense for the six months ended December 31, 2022 decreased $0.1 million, or 4.0% to $3.4 million compared to the six months ended December 31, 2021 due to a decrease of amortization expense related to fully amortized intangibles.

Other Expense (Income), Net

Other expense (income), net for the six months ended December 31, 2022 increased by $1.1 million, or 86.6% to $2.5 million, compared to the six months ended December 31, 2021. The increase in other expense (income) resulted primarily from increased interest expense due to a higher average interest rate during the six months ended December 31, 2022 compared to the six months ended December 31, 2021.

Provision for Income Taxes

Our provision for income taxes for the six months ended December 31, 2022, increased $5.6 million, or 33.4%, to $22.2 million compared to the six months ended December 31, 2021. The increase primarily resulted from increased pre-tax earnings and increased state taxes. For the six months ended December 31, 2022 and 2021, our effective tax rate of 23.4% and 22.0%, respectively, exceeded the statutory federal income tax rate of 21% primarily due to the impact of U.S. state taxes. For the six months ended December 31, 2022 and 2021, this increase in the effective tax rate over the statutory rate was partially offset by a windfall benefit generated by certain stock-based compensation as well as the benefits from the foreign derived intangible income deduction, the research and development tax credit, and the impact of non-controlling interests in the LLC.

Non-controlling Interest

Non-controlling interest represents the ownership interests of the members of the LLC other than us and the amount recorded as non-controlling interest in our unaudited interim condensed consolidated statements of operations and comprehensive income is computed by multiplying pre-tax income for the applicable period, by the percentage ownership in the LLC not directly attributable to us. For the six months ended December 31, 2022 and 2021, the weighted-average non-controlling interest attributable to ownership interests in the LLC not directly attributable to us was 2.9% and 2.8%, respectively.

GAAP Reconciliation of Non-GAAP Financial Measures

Adjusted EBITDA

Adjusted EBITDA and adjusted EBITDA margin are non-GAAP financial measures that are used by management as well as by investors, commercial bankers, industry analysts and other users of our financial statements.

We define adjusted EBITDA as net income before interest expense, income taxes, depreciation, amortization and non-cash, non-recurring or non-operating expenses, including non-cash compensation expense. We define adjusted EBITDA margin as adjusted EBITDA divided by net sales. Adjusted EBITDA and adjusted EBITDA margin are not measures of net income as determined by GAAP. Management believes adjusted EBITDA and adjusted EBITDA margin allow investors to evaluate the Company's operating performance and compare our results of operations from period to period on a consistent basis by excluding items that management does not believe are indicative of our core operating performance. Management uses adjusted EBITDA to assist in highlighting trends in our operating results without regard to our financing methods, capital structure and non-recurring or non-operating expenses. We exclude the items listed above from net income in arriving at adjusted EBITDA because these amounts can vary substantially from company to company within our industry depending upon accounting methods and book values of assets, capital structures, the methods by which assets were acquired and other factors. Adjusted EBITDA has limitations as an analytical tool and should not be considered as an alternative to, or more meaningful than, net income as determined in accordance with GAAP or as an indicator of our liquidity. Certain items excluded from adjusted EBITDA are significant components in understanding and assessing a company's financial performance, such as a company's cost of capital and tax structure, as well as the historical costs of depreciable assets. Our presentation of adjusted EBITDA and adjusted EBITDA margin should not be construed as an inference that our results will be unaffected by unusual or non-recurring items. Our computations of adjusted EBITDA and adjusted EBITDA margin may not be comparable to other similarly titled measures of other companies.

The following table sets forth a reconciliation of net income as determined in accordance with GAAP to adjusted EBITDA and presentation of net income margin and adjusted EBITDA margin for the periods indicated (dollars in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Net income	$ 36,396	$ 30,979	$ 72,501	$ 58,912
Provision for income taxes	11,185	8,562	22,208	16,646
Interest expense	910	656	2,195	1,340
Depreciation	5,388	4,613	10,684	9,531
Amortization	1,715	1,719	3,431	3,575
Stock-based compensation expense [1]	2,016	1,598	3,651	2,856
Adjusted EBITDA	$ 57,610	$ 48,127	$ 114,670	$ 92,860
Net Sales	$ 338,732	$ 263,887	$ 640,943	$ 517,384
Net Income Margin [2]	10.7 %	11.7 %	11.3 %	11.4 %
Adjusted EBITDA Margin [2]	17.0 %	18.2 %	17.9 %	17.9 %

(1) Represents equity-based incentives awarded to certain of our employees under the Malibu Boats, Inc. Long-Term Incentive Plan and profit interests issued under the previously existing limited liability company agreement of the LLC. See Note 13 to our unaudited interim condensed consolidated financial statements included elsewhere in this Quarterly Report.

(2) We calculate net income margin as net income divided by net sales and we define adjusted EBITDA margin as adjusted EBITDA divided by net sales.

Adjusted Fully Distributed Net Income

We define Adjusted Fully Distributed Net Income as net income attributable to Malibu Boats, Inc. (i) excluding income tax expense, (ii) excluding the effect of non-recurring or non-cash items, (iii) assuming the exchange of all LLC Units into shares of Class A Common Stock, which results in the elimination of non-controlling interest in the LLC, and (iv) reflecting an adjustment for income tax expense on fully distributed net income before income taxes at our estimated effective income tax rate. Adjusted Fully Distributed Net Income is a non-GAAP financial measure because it represents net income attributable to Malibu Boats, Inc., before non-recurring or non-cash items and the effects of non-controlling interests in the LLC.

We use Adjusted Fully Distributed Net Income to facilitate a comparison of our operating performance on a consistent basis from period to period that, when viewed in combination with our results prepared in accordance with GAAP, provides a more complete understanding of factors and trends affecting our business than GAAP measures alone.

We believe Adjusted Fully Distributed Net Income assists our board of directors, management and investors in comparing our net income on a consistent basis from period to period because it removes non-cash or non-recurring items, and eliminates the variability of non-controlling interest as a result of member owner exchanges of LLC Units into shares of Class A Common Stock.

In addition, because Adjusted Fully Distributed Net Income is susceptible to varying calculations, the Adjusted Fully Distributed Net Income measures, as presented in this Quarterly Report, may differ from and may, therefore, not be comparable to similarly titled measures used by other companies.

The following table shows the reconciliation of the numerator and denominator for net income available to Class A Common Stock per share to Adjusted Fully Distributed Net Income per Share of Class A Common Stock for the periods presented (in thousands except share and per share data):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Reconciliation of numerator for net income available to Class A Common Stock per share to Adjusted Fully Distributed Net Income per Share of Class A Common Stock:				
Net income attributable to Malibu Boats, Inc.	$ 35,162	$ 29,891	$ 70,045	$ 56,835
Provision for income taxes	11,185	8,562	22,208	16,646
Acquisition related expenses [1]	1,677	1,677	3,354	3,354
Stock-based compensation expense [2]	2,016	1,598	3,651	2,856
Net income attributable to non-controlling interest [3]	1,234	1,088	2,456	2,077
Fully distributed net income before income taxes	51,274	42,816	101,714	81,768
Income tax expense on fully distributed income before income taxes [4]	12,441	10,190	24,717	19,461
Adjusted fully distributed net income	$ 38,833	$ 32,626	$ 76,997	$ 62,307

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Reconciliation of denominator for net income available to Class A Common Stock per share to Adjusted Fully Distributed Net Income per Share of Class A Common Stock:				
Weighted-average shares outstanding of Class A Common Stock used for basic net income per share:	20,404,583	20,900,201	20,432,216	20,875,091
Adjustments to weighted-average shares of Class A Common Stock:				
Weighted-average LLC Units held by non-controlling unit holders [5]	600,919	600,919	600,919	600,919
Weighted-average unvested restricted stock awards issued to management [6]	284,830	248,129	269,806	236,147
Adjusted weighted-average shares of Class A Common Stock outstanding used in computing Adjusted Fully Distributed Net Income per Share of Class A Common Stock:	21,290,332	21,749,249	21,302,941	21,712,157

The following table shows the reconciliation of net income available to Class A Common Stock per share to Adjusted Fully Distributed Net Income per Share of Class A Common Stock for the periods presented:

	Three Months Ended December 31,		Six Months Ended December 31,	
	2022	2021	2022	2021
Net income available to Class A Common Stock per share	$ 1.73	$ 1.43	$ 3.43	$ 2.72
Impact of adjustments:				
Provision for income taxes	0.55	0.41	1.09	0.80
Acquisition related expenses [1]	0.08	0.08	0.16	0.16
Stock-based compensation expense [2]	0.10	0.08	0.18	0.14
Net income attributable to non-controlling interest [3]	0.06	0.05	0.12	0.10
Fully distributed net income per share before income taxes	2.52	2.05	4.98	3.92
Impact of income tax expense on fully distributed income before income taxes [4]	(0.61)	(0.49)	(1.21)	(0.93)
Impact of increased share count [7]	(0.08)	(0.06)	(0.15)	(0.12)
Adjusted Fully Distributed Net Income per Share of Class A Common Stock	$ 1.83	$ 1.50	$ 3.62	$ 2.87

(1) For the three and six months ended December 31, 2022 and 2021, represents amortization of intangibles acquired in connection with the acquisitions of Maverick Boat Group, Pursuit and Cobalt.

(2) Represents equity-based incentives awarded to certain of our employees under the Malibu Boats, Inc. Long-Term Incentive Plan and profit interests issued under the previously existing limited liability company agreement of the LLC. See Note 13 to our unaudited interim condensed consolidated financial statements included elsewhere in this Quarterly Report.

(3) Reflects the elimination of the non-controlling interest in the LLC as if all LLC members had fully exchanged their LLC Units for shares of Class A Common Stock.

(4) Reflects income tax expense at an estimated normalized annual effective income tax rate of 24.3% and 23.8% of income before income taxes for the three and six months ended December 31, 2022 and 2021, respectively, assuming the conversion of all LLC Units into shares of Class A Common Stock. The estimated normalized annual effective income tax rate for fiscal year 2023 is based on the federal statutory rate plus a blended state rate adjusted for the research and development tax credit, the foreign derived intangible income deduction, and foreign income taxes attributable to our Australian subsidiary.

(5) Represents the weighted-average shares outstanding of LLC Units held by non-controlling interests assuming they were exchanged into Class A Common Stock on a one-for-one basis.

(6) Represents the weighted-average unvested restricted stock awards included in outstanding shares during the applicable period that were convertible into Class A Common Stock and granted to members of management.

(7) Reflects impact of increased share counts assuming the exchange of all weighted-average shares outstanding of LLC Units into shares of Class A Common Stock and the conversion of all weighted-average unvested restricted stock awards included in outstanding shares granted to members of management.

Liquidity and Capital Resources

Overview and Primary Sources of Cash

Our primary uses of cash have been for funding working capital and capital investments, repayments under our debt arrangements, acquisitions, cash distributions to members of the LLC, cash payments under our tax receivable agreement and stock repurchases under our stock repurchase program. For both the short term and the long term, our sources of cash to meet these needs have primarily been operating cash flows, borrowings under our revolving credit facility and short and long-term debt financings from banks and financial institutions. We believe that our cash on hand, cash generated by operating activities and funds available under our revolving credit facility will be sufficient to finance our operating activities for at least the next twelve months and beyond.

Material Cash Requirements

Capital Expenditures. For fiscal year 2022, we incurred approximately $55.1 million in capital expenditures related to the expansion of our Florida facility used for Maverick Boats Group as well as new models, capacity enhancements and vertical integration initiatives. We expect capital expenditures between $65.0 million and $70.0 million for fiscal year 2023 primarily for investments in new models, capacity enhancements and vertical integration initiatives. Other investment opportunities, such as potential strategic acquisitions, may require additional funding.

Principal and Interest Payments. On July 8, 2022, we entered into a Third Amended and Restated Credit Agreement (the “Credit Agreement”). The Credit Agreement provides us with a revolving credit facility in an aggregate principal amount of up to $350.0 million. As of December 31, 2022, we had $71.7 million outstanding under our revolving credit facility and $1.5 million in outstanding letters of credit, with $276.8 million available for borrowing. The revolving credit facility matures on July 8, 2027. Assuming no additional repayments or borrowings on our revolving credit facility after December 31, 2022, our interest payments would be approximately $4.0 million within the next 12 months based on the interest rate at December 31, 2022 of 5.55%. See below under “Revolving Credit Facility” for additional information regarding our revolving credit facility, including the interest rate applicable to any borrowing under such facility.

Tax Receivable Agreement. We entered into a tax receivable agreement with our pre-IPO owners at the time of our initial public offering. Under the tax receivables agreement, we pay the pre-IPO owners (or any permitted assignees) 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax or franchise tax that we actually realize, or in some circumstances are deemed to realize, as a result of an expected increase in our share of tax basis in LLC’s tangible and intangible assets, including increases attributable to payments made under the tax receivable agreement. These obligations will not be paid if we do not realize cash tax savings. We estimate that approximately $4.0 million will be due under the tax receivable agreement within the next 12 months. In accordance with the tax receivable agreement, the next payment is anticipated to occur approximately 75 days after filing the federal tax return which is due on April 15, 2023.

Operating Lease Obligations. Lease commitments consist principally of leases for our manufacturing facilities. Our expected operating lease payments due within the next 12 months are $2.6 million and our total committed lease payments are $12.2 million as of December 31, 2022. Additional information regarding our operating leases is available in Note 10 of our unaudited interim condensed consolidated financial statements included elsewhere in this Quarterly Report.

Purchase Obligations. In the ordinary course of business, we enter into purchase orders from a variety of suppliers, primarily for raw materials, in order to manage our various operating needs. The orders are expected to be purchased throughout fiscal year 2023. We or the vendor can generally terminate the purchase orders at any time. These purchase orders do not contain any termination payments or other penalties if cancelled. As of December 31, 2022, we had purchase orders in the amount of $148.5 million due within the next 12 months.

Stock Repurchase Program. On November 3, 2021, our Board of Directors authorized a stock repurchase program to allow for the repurchase of up to $70.0 million of our Class A Common Stock and the LLC's LLC Units (the “2021 Repurchase Program”) for the period from November 8, 2021 to November 8, 2022. During the six months ended December 31, 2022, we repurchased 143,759 shares of Class A Common Stock for $7.9 million in cash including related fees and expenses under the 2021 Repurchase Program which expired on November 8, 2022. On November 3, 2022, our Board of Directors authorized a stock repurchase program to allow for the repurchase of up to $100.0 million of our Class A Common Stock and the LLC's LLC Units (the “2022 Repurchase Program”) for the period from November 8, 2022 to November 8, 2023. As of December 31, 2022, $100.0 million was available to repurchase shares of Class A Common Stock and LLC Units under the 2022 Repurchase Program. We may repurchase shares of our common stock at any time or from time to time, without prior notice, subject to market conditions and other considerations. We have no obligation to repurchase any shares of our common stock under the share repurchase program. We intend to fund repurchases under the 2022 Repurchase Program from cash on hand.

Our future capital requirements beyond the next 12 months will depend on many factors, including the general economic environment in which we operate and our ability to generate cash flow from operations, which are more uncertain as a result of inflation, increasing interest rates, increasing fuel prices, ongoing supply chain disruptions and the continuing impact of COVID-19. Our liquidity needs during this uncertain time will depend on multiple factors, including our ability to continue operations and production of boats, the performance of our dealers and suppliers, the impact of the general economy on our dealers, suppliers and retail customers, the availability of sufficient amounts of financing, and our operating performance. In addition, as noted elsewhere, a jury recently found that our subsidiary, Malibu Boats, LLC, and another entity that was the manufacturer of the boat at issue, Malibu Boats West, Inc., negligently failed to warn of a hazard posed by the boat and that such failure was a proximate cause of the death of a passenger in the boat. Based on the jury's finding of successor liability, the trial court entered judgment for the full amount of the verdict against Malibu Boats, LLC, with a potential maximum liability to Malibu Boats, LLC of $140.0 million, plus post-judgment interest at a rate of 6.25% per annum. Malibu Boats, LLC may also be required to pay prejudgment interest of approximately $8.0 million, if the Batchelder I Plaintiffs are successful on their appeal for such interest, and an award of reasonable attorneys' fees to the plaintiffs, which the plaintiffs claim should be approximately $56.0 million. The trial court postponed any ruling on the plaintiffs' contested motion for attorneys' fees pending the resolution of our post-trial motions and related appeals. On July 17, 2022, the trial court denied the post-trial motions of Malibu Boats, LLC, and we have since filed a notice of appeal. Pending resolution of the appeals process, the payment of any damages in this matter is stayed. We maintain product liability insurance applicable to this case with coverage limits of $26.0 million. At least one insurer has asserted potential coverage defenses and may dispute the scope of its obligation to us. In addition, we have potential claims against the insurers that we may decide to pursue with respect to this matter, but we cannot provide any assurance that we will pursue those claims or be successful if we do. If the outcome of the case is ultimately unfavorable to us after appeal, we would need to pay for any final judgment in excess of the amount paid by our insurance providers.

The following table summarizes the cash flows from operating, investing and financing activities (dollars in thousands):

	Six Months Ended December 31,	
	2022	2021
Total cash provided by (used in):		
Operating activities	$ 50,812	$ 57,966
Investing activities	(22,339)	(26,226)
Financing activities	(62,262)	(28,153)
Impact of currency exchange rates on cash balances	(107)	(231)
(Decrease) increase in cash	$ (33,896)	$ 3,356

Operating Activities

Net cash provided by operating activities was $50.8 million for the six months ended December 31, 2022, compared to $58.0 million for the six months ended December 31, 2021, a decrease of $7.2 million. The decrease in cash provided by operating activities resulted from an increase of $14.8 million in net income (after consideration of non-cash items included in net income, primarily related to depreciation, amortization, deferred tax assets and non-cash compensation) offset by a net decrease in operating assets and liabilities of $22.0 million related to the timing of collections of accounts receivables, payments for accruals and payables, and purchases of inventory.

Investing Activities

Net cash used in investing activities was $22.3 million for the six months ended December 31, 2022, and $26.2 million for the six months ended December 31, 2021. Net cash used for investing activities for the six months ended December 31, 2022 was primarily related to decreased capital expenditures compared to the six months ended December 31, 2021.

Financing Activities

Net cash used in financing activities was $62.3 million for the six months ended December 31, 2022, compared to net cash used in financing activities of $28.2 million for the six months ended December 31, 2021, a change of $34.1 million. During the six months ended December 31, 2022, we repaid $23.1 million on our term loans and repaid $167.0 million of borrowings under our revolving credit facility and repurchased $7.9 million of our Class A Common Stock under our 2021 Repurchase Program. We also paid $2.9 million on taxes for shares withheld upon the vesting of restricted stock awards, paid $1.7 million in distributions to LLC Unit holders and paid $1.4 million in deferred financing costs. We received proceeds of $141.7 million under our amended revolving credit facility noted below. During the six months ended December 31, 2021, we repaid $20.0

million of borrowings under our revolving credit facility, we repurchased $5.2 million of our Class A Common Stock under our previously announced stock repurchase program. We repaid $0.6 million on our term loan, paid $2.0 million on taxes for shares withheld upon the vesting of restricted stock awards, and paid $1.2 million in distributions to LLC Unit holders and we received $1.0 million in proceeds from the exercise of stock options.

Revolving Credit Facility

We have a revolving credit facility in an aggregate principal amount of up to $350.0 million with a maturity date of July 8, 2027. As of December 31, 2022, we had $71.7 million outstanding under our revolving credit facility and $1.5 million in outstanding letters of credit, with $276.8 million available for borrowing.

On July 8, 2022, we entered into our Credit Agreement with Truist Bank, as the administrative agent, swingline lender and issuing bank, that amended and restated our Prior Credit Agreement. The Credit Agreement increased the borrowing capacity of the revolving credit facility from $170.0 million to $350.0 million. We have the option to request that lenders increase the amount available under the revolving credit facility by, or obtain incremental term loans of, up to $200.0 million, subject to the terms of the Credit Agreement and only if existing or new lenders choose to provide additional term or revolving commitments.

Our indirect subsidiary, Malibu Boats, LLC is the borrower under the Credit Agreement and its obligations are guaranteed by the LLC and, subject to certain exceptions, the present and future domestic subsidiaries of Malibu Boats, LLC, and all such obligations are secured by substantially all of the assets of the LLC, Malibu Boats, LLC and such subsidiary guarantors. Malibu Boats, Inc. is not a party to the Credit Agreement.

All borrowings under the Credit Agreement bear interest at a rate equal to either, at our option, (i) the highest of the prime rate, the Federal Funds Rate plus 0.5%, or one-month Term SOFR plus 1% (the “Base Rate”) or (ii) SOFR, in each case plus an applicable margin ranging from 1.25% to 2.00% with respect to SOFR borrowings and 0.25% to 1.00% with respect to Base Rate borrowings. The applicable margin will be based upon the consolidated leverage ratio of the LLC and its subsidiaries. We are required to pay a commitment fee for the unused portion of the revolving credit facility, which will range from 0.15% to 0.30% per annum, depending on the LLC’s and its subsidiaries’ consolidated leverage ratio.

The Credit Agreement contains certain customary representations and warranties, and notice requirements for the occurrence of specific events such as the occurrence of any event of default or pending or threatened litigation. The Credit Agreement also requires compliance with certain customary financial covenants consisting of a minimum ratio of EBITDA to interest expense and a maximum ratio of total debt to EBITDA. The Credit Agreement contains restrictive covenants regarding indebtedness, liens, fundamental changes, investments, dividends and distributions, disposition of assets, transactions with affiliates, negative pledges, hedging transactions, certain prepayments of indebtedness, accounting changes and governmental regulation.

The Credit Agreement also contains customary events of default. If an event of default has occurred and continues beyond any applicable cure period, the administrative agent may (i) accelerate all outstanding obligations under the Credit Agreement or (ii) terminate the commitments, amongst other remedies. Additionally, the lenders are not obligated to fund any new borrowing under the Credit Agreement while an event of default is continuing.

Repurchase Commitments

Our dealers have arrangements with certain finance companies to provide secured floor plan financing for the purchase of our boats. These arrangements indirectly provide liquidity to us by financing dealer purchases of our products, thereby minimizing the use of our working capital in the form of accounts receivable. A majority of our sales are financed under similar arrangements, pursuant to which we receive payment within a few days of shipment of the product. We have agreed to repurchase products repossessed by the finance companies if a dealer defaults on its debt obligations to a finance company and the boat is returned to us, subject to certain limitations. Our financial exposure under these agreements is limited to the difference between the amounts unpaid by the dealer with respect to the repossessed product plus costs of repossession and the amount received on the resale of the repossessed product. During the six months ended December 31, 2022 and 2021, we did not repurchase any boats under our repurchase agreements. An adverse change in retail sales could require us to repurchase repossessed units upon an event of default by any of our dealers, subject to the annual limitation.

Potential Impact of LIBOR Transition

Malibu Boats, Inc. is required to make a good faith effort to ensure that it has sufficient cash available to make any required payments under the tax receivable agreement. The limited liability company agreement of the LLC requires the LLC to make “tax distributions” which, in the ordinary course, will be sufficient to pay the actual tax liability of Malibu Boats, Inc. and to fund required payments under the tax receivable agreement. If for any reason the LLC is not able to make a tax distribution in

an amount that is sufficient to make any required payment under the tax receivable agreement or we otherwise lack sufficient funds, interest would accrue on any unpaid amounts at LIBOR, plus 500 basis points until they are paid. Recent actions taken by the Chief Executive of the U.K. Financial Conduct Authority (the "FCA"), which regulates LIBOR, indicate that the continuation of U.S. LIBOR on the current basis cannot and will not be guaranteed after June 30, 2023. Moreover, it is possible that U.S. LIBOR will be discontinued or modified prior to June 30, 2023. Our tax receivable agreement, however, does not provide for an alternative reference rate to LIBOR and, while we do not currently anticipate failing to pay any amounts owed under our tax receivable agreement, it is unclear how we would determine interest on any such amounts should we fail to pay as required under our tax receivable agreement.

Critical Accounting Policies

As of December 31, 2022, there were no other significant changes in the application of our critical accounting policies or estimation procedures from those presented in our Annual Report on Form 10-K for the fiscal year ended June 30, 2022.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Refer to our Annual Report on Form 10-K for the year ended June 30, 2022, for a complete discussion on the Company's market risk. There have been no material changes in market risk from those disclosed in the Company's Form 10-K for the year ended June 30, 2022.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives.

As of the end of the period covered by this Quarterly Report, we carried out an evaluation under the supervision and with the participation of our management, including our chief executive officer and chief financial officer, of the effectiveness of our disclosure controls and procedures. Based upon this evaluation, our chief executive officer and chief financial officer have concluded that our disclosure controls and procedures were effective at a reasonable assurance level as of December 31, 2022.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the quarter ended December 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information

Item 1. Legal Proceedings

The discussion of legal matters under the section entitled "Legal Proceedings" is incorporated by reference from Note 15 of our unaudited interim condensed consolidated financial statements included elsewhere in this Quarterly Report.

Item 1A. Risk Factors

During the quarter ended December 31, 2022, there were no material changes to the risk factors discussed in Part I, Item 1A. "Risk Factors" of our Annual Report on Form 10-K for the year ended June 30, 2022.

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

Unregistered Sales of Equity Securities

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not Applicable.

Item 5. Other Information

On February 2, 2023, the Board of Directors (the "Board") of the Company approved and adopted an amendment and restatement of the Company's bylaws (as so amended, the "Bylaws"), which became effective immediately upon approval. The amendment and restatement included the following principal amendments to the Company's prior bylaws:

Advance Notice – Informational and Disclosure Requirements. The amendments revise the advance notice disclosure requirements contained in the Bylaws to require that the stockholder proposing business or nominating directors provide certain additional information regarding the stockholder and the proposal or nominee, as applicable. Additionally, the Bylaws require any candidate for the Board nominated by a stockholder to provide certain additional information and representations, including regarding the absence of certain voting commitments, disclosure of compensation for service, compliance with the Company's corporate governance and other policies, and intent to serve the entire term. The Bylaws also clarify the Company's authority to reasonably request additional information from such stockholders and director nominees. All disclosures must be updated as of the record date for stockholders entitled to vote at the meeting and as of the date that is five business days prior to the meeting.

Advance Notice – Other. The amendments require that all documents or other information (including notices) required to be delivered to the Company pursuant to the advance notice provisions be delivered exclusively in writing (and not in an electronic transmission) and exclusively by hand or by certified or registered mail to the Company's principal offices. Further, the amendments prohibit stockholders from submitting more nominees than the number of directors up for election at the applicable meeting.

Advance Notice – Universal Proxy. The amendments address the universal proxy rules adopted by the U.S. Securities and Exchange Commission by requiring that any stockholder soliciting proxies in support of a nominee other than the Board's nominees must comply with Rule 14a-19 under the Exchange Act, including applicable notice and solicitation requirements. Further, any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, with the white proxy card being reserved for the exclusive use by the Board.

Exclusive Forum. The Bylaws also adopt an exclusive forum provision designating the U.S. federal courts as the exclusive forum for all claims arising under the Securities Act.

Other Updates. The amendments to the Bylaws also include the following additional updates: (i) revisions relating to adjournment procedures for meetings of stockholders, including to address recent amendments to the Delaware General Corporation Law ("DGCL"), (ii) elimination of the requirement to make a stockholder list available for examination at meetings of stockholders to conform with recent DGCL amendments, (iii) revisions to the indemnification provisions to update, modernize and clarify certain indemnification rights and certain procedures related thereto, (iv) revisions to change the default for stock issuances from certificated to uncertificated shares, and (v) elimination of the fixed size range of the Board. The amendments also include certain technical, conforming, or clarifying changes to the Bylaws.

The foregoing description of the changes contained in the Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Bylaws, a copy of which is attached hereto as Exhibit 3.2 and incorporated herein by reference.

Item 6. Exhibits

Exhibit No.	Description
3.1	Certificate of Incorporation of Malibu Boats, Inc. [1]
3.2	Amended and Restated Bylaws of Malibu Boats, Inc.
3.3	Certificate of Formation of Malibu Boats Holdings, LLC [1]
3.4	First Amended and Restated Limited Liability Company Agreement of Malibu Boats Holdings, LLC, dated as of February 5, 2014 [2]
3.4.1	First Amendment, dated as of February 5, 2014, to First Amended and Restated Limited Liability Company Agreement of Malibu Boats Holdings, LLC [3]
3.4.2	Second Amendment, dated as of June 27, 2014, to First Amended and Restated Limited Liability Company Agreement of Malibu Boats Holdings, LLC [4]
4.1	Description of Class A Common Stock [5]
4.2	Form of Class A Common Stock Certificate [1]
4.3	Form of Class B Common Stock Certificate [1]
4.4	Exchange Agreement, dated as of February 5, 2014, by and among Malibu Boats, Inc. and Affiliates of Black Canyon Capital LLC and Horizon Holdings, LLC [2]
4.5	Exchange Agreement, dated as of February 5, 2014, by and among Malibu Boats, Inc. and the Members of Malibu Boats Holdings, LLC [2]
4.6	Tax Receivable Agreement, dated as of February 5, 2014, by and among Malibu Boats, Inc., Malibu Boats Holdings, LLC and the Other Members of Malibu Boats Holdings, LLC [2]
31.1	Certificate of the Chief Executive Officer of Malibu Boats, Inc. pursuant to Rule 13a-14 or 15d-14 of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certificate of the Chief Financial Officer of Malibu Boats, Inc. pursuant to Rule 13a-14 or 15d-14 of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32	Certification of the Chief Executive Officer and Chief Financial Officer of Malibu Boats, Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101	The following financial statements from the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2022 were formatted in Inline XBRL: (i) Condensed Consolidated Statements of Operations and Comprehensive Income, (ii) Condensed Consolidated Balance Sheets, (iii) Condensed Consolidated Statements of Stockholders' Equity, (iv) Condensed Consolidated Statements of Cash Flows, and (v) the Notes to Condensed Consolidated Financial Statements, tagged as blocks of text and including detailed tags.
104	The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2022, formatted in Inline XBRL (Included as Exhibit 101).

(1) Filed as an exhibit to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-192862) filed on January 8, 2014.

(2) Filed as an exhibit to the Company's Current Report on Form 8-K (File No. 001-36290) filed on February 6, 2014.

(3) Filed as an exhibit to the Company's Quarterly Report on Form 10-Q/A (File No. 001-36290) filed on May 13, 2014.

(4) Filed as an exhibit to the Company's Current Report on Form 8-K (File No. 001-36290) filed on June 27, 2014.

(5) Filed as an exhibit to the Company's Annual Report on Form 10-K (File No. 001-36290) filed on August 26, 2021.

SIGNATURES

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

February 7, 2023

MALIBU BOATS, INC.

By: /s/ Jack Springer

Jack Springer,
Chief Executive Officer

(Principal Executive Officer)

By: /s/ Wayne Wilson

Wayne Wilson,
Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

Exhibit 3.2

AMENDED & RESTATED

BYLAWS

OF

MALIBU BOATS, INC.

(a Delaware corporation)

Article 1
OFFICES

Section 1.01 Registered Office. The registered office of Malibu Boats, Inc. (the "Corporation") in the State of Delaware shall be set forth in the Certificate of Incorporation of the Corporation, as the same may be amended or restated from time to time (the "Certificate of Incorporation").

Section 1.02 Other Offices. The Corporation may have an office or offices other than its registered office at such place or places, either within or outside the State of Delaware, as the Board of Directors of the Corporation (the "Board of Directors") may from time to time determine or the business of the Corporation may require.

Article 2
MEETINGS OF STOCKHOLDERS

Section 2.01 Place of Meetings. Any annual meeting or special meeting of stockholders of the Corporation shall be held at such time and place, within or outside the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that any meeting of the stockholders shall not be held at any place, but may instead be held solely by means of remote communication in accordance with Section 211(a)(2) of the General Corporation Law of the State of Delaware (the "DGCL").

Section 2.02 Notice of Meetings. Except as otherwise provided by applicable law, the Certificate of Incorporation or these Bylaws, notice, in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Such notice shall be given in the manner provided in Section 232 of the DGCL and shall specify the date, time, place, if any, in the case of special meetings, the purpose or purposes of the meeting, the record date for determining stockholders entitled to vote at the meeting, if such record date is different from the record date for determining stockholders entitled to notice of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at any such meeting.

Section 2.03 Waiver of Notice. Notice of the date, time, place, if any, and purpose of any meeting of stockholders (to the extent required) may be waived in writing, signed by the person entitled to notice thereof, or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by such stockholder's attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given. Neither the business to be transacted at nor the purpose of any regular or special meeting of the stockholders need be specified in a waiver of notice.

Section 2.04 List of Stockholders. The Corporation shall prepare, no later than the tenth day before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (or, if the record date for determining the stockholders entitled to vote is less than ten days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order and showing the address of each such stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this Section 2.04 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of ten days ending on the day before the meeting date: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the Corporation. In the event the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.04 or to vote in person or by proxy at any meeting of stockholders.

Section 2.05 Quorum. The holders of a majority of the voting power of all issued and outstanding shares of capital stock entitled to vote, present in person, by remote communication, if applicable, or represented by proxy, shall constitute a quorum at all meetings of the stockholders for all purposes, unless or except to the extent that the presence of a larger number may be required by the DGCL, the Certificate of Incorporation, these Bylaws or the rules of any stock exchange upon which the Corporation's securities are listed. When a specified item of business requires a separate vote by a class or series (if the Corporation shall then have outstanding shares of more than one class or series) voting as a class or series, the holders of a majority of the voting power of the issued and outstanding shares of such class or series, present in person or represented by proxy, shall constitute a quorum (as to such class or series) for the transaction of such item of business, unless or except to the extent that the presence of a larger number may be required by the DGCL, the Certificate of Incorporation, these Bylaws or the rules of any stock exchange upon which the Corporation's securities are listed. If a quorum is not present or represented at any meeting of stockholders, then the person presiding over the meeting or the holders of a majority in voting power of the stock entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time in accordance with Section 2.06. If a quorum initially is present at any meeting of stockholders, the stockholders may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum, but if a quorum is not present at least initially, no business other than adjournment may be transacted.

Section 2.06 Adjourned Meetings. When a meeting is adjourned to another time and place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), notice need not be given of the adjourned meeting if the time and place, if any, thereof and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are (a) announced at the meeting at which the adjournment is taken, (b) displayed, during the time scheduled for the meeting, on the same electronic network used to enable stockholder and proxy holders to participate in the meeting by means of remote communication, (c) set forth in the notice of meeting given in accordance with these Bylaws or (d) are provided in any other manner permitted by the DGCL; provided, however, that if the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 2.12 of these Bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting.

Section 2.07 Vote Required. Except as otherwise provided by law, the Certificate of Incorporation or Bylaws, directors shall be elected by a plurality of the votes cast. Unless a different or minimum vote is required by law, the applicable stock exchange rules, or by the Certificate of Incorporation or Bylaws, in which case such different or minimum vote shall be the applicable vote on the matter, all matters, other than the election of directors, shall be decided by a majority of the votes cast on such matter (excluding abstentions and broker non-votes). Where a separate vote by a class or classes or series is required on a matter, unless a different or minimum vote is required by law or by the Certificate of Incorporation or the Bylaws or any applicable stock exchange rules, in which case such different or minimum vote shall be the applicable vote on the matter, the matter shall be decided by a majority (or plurality, in the case of the election of directors) of the votes cast on such matter (excluding abstention and broker non-votes). Voting at meetings of stockholders need not be by written ballot.

Section 2.08 Voting Rights. For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders or adjournment thereof, except as otherwise provided by applicable law, only persons in whose names shares stand on the stock records of the Corporation on the record date shall be entitled to vote at any meeting of stockholders. Except as otherwise provided by the DGCL, the Certificate of Incorporation (including any certificates of designation relating to any outstanding class or series of preferred stock) or these Bylaws, every stockholder shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of capital stock held by such stockholder.

Section 2.09 Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The authorization of a person to act as proxy may be documented, signed, and delivered in accordance with Section 116 of the DGCL provided that such authorization shall set forth, or be delivered with, information enabling the Corporation to determine the identity of the stockholder granting such authorization. An agent so appointed need not be a stockholder of the Corporation. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 2.10 Annual Meetings.

(a) The annual meeting of the stockholders of the Corporation, for the purpose of election of directors and for such other business as may properly come before it, shall be held on such date, time and place, if any, as may be determined from time to time by the Board of Directors. Any annual meeting of stockholders previously scheduled by the Board of Directors may be postponed, rescheduled or cancelled by the Board of Directors or any director or officer of the Corporation to whom the Board of Directors delegates such authority. Nominations of persons for election to the Board of Directors and proposals of other business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) by or at the direction of the Board of Directors or a duly authorized committee thereof; or (ii) by any stockholder of the Corporation who was a stockholder of record at the time of giving the stockholder's notice provided for in Section 2.10(b) of these Bylaws and who is a stockholder of record at the time of the annual meeting of stockholders, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 2.10. For the avoidance of doubt, clause (ii) above shall be the exclusive means for a stockholder to make nominations and submit other business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) before an annual meeting of stockholders.

(b) At an annual meeting of the stockholders, only such business shall be conducted as is a proper matter for stockholder action under applicable law and only such nominations shall be made and such business shall be conducted as shall have been properly brought before the meeting in accordance with the procedures below.

(i) For nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (ii) of Section 2.10(a), the stockholder must deliver written notice to the Secretary at the principal executive offices of the Corporation on a timely basis as set forth in Section 2.10(b)(iii) and must update and supplement the information contained in such written notice on a timely basis as set forth in Section 2.10(c). Such stockholder's notice shall include: (A) as to each nominee such stockholder proposes to nominate at the meeting: (1) the name, age, business address and residence address of such nominee, (2) the principal occupation or employment of such nominee (present and for the past five years), (3) the class or series and number of shares of each class or series of capital stock of the Corporation that are owned of record and beneficially by such nominee and list of any pledge of or encumbrances on such shares, (4) the date or dates on which such shares were acquired and the investment intent of such acquisition, (5) such person's written consent to be named in a proxy statement and accompanying proxy card as a nominee and to serve as a director if elected, (6) the questionnaire, representation and agreement required by Section 2.10(b)(iii), completed and signed by such nominee, (7) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings (whether written or oral) during the past three years, and any other material relationships, between or among (x) the stockholder, the beneficial owner, if any, on whose behalf the nomination is being made and the respective affiliates and associates of, or others acting in concert with, such stockholder and such beneficial owner, on the one hand, and (y) each proposed nominee, and his or her respective affiliates and associates, on the other hand, including all information that would be required to be disclosed pursuant to Item 404 of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act") if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made or any affiliate or associate thereof were the "registrant" for purposes of such Item and the proposed nominee were a director or executive officer of such registrant and (8) all other information concerning such nominee as would be required to be disclosed or provided to the Corporation in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved and whether or not proxies are being or will be solicited), or that is otherwise required to be disclosed pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder; and (B) all of the information required by Section 2.10(b)(iv). The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation (as such term is used in any applicable stock exchange listing requirements or applicable law) or on any committee or sub-committee of the Board of Directors under any applicable stock exchange listing requirements or applicable law, or that the Board of Directors determines, in its sole discretion, could be material to a reasonable stockholder's understanding of the background, qualifications, experience, or independence, or lack thereof, of such proposed nominee and shall provide such additional information within ten (10) days after it has been requested by the Board of Directors. The Board of Directors may require any proposed nominee to submit to interviews with the Board of Directors or any committee thereof, and such proposed candidate shall make himself or herself available for any such interviews within ten (10) business days after such interviews have been requested by the Board of Directors or any committee thereof. The number of nominees a stockholder may nominate for election at the annual meeting on its own behalf (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.

(ii) Other than proposals sought to be included in the Corporation's proxy materials pursuant to Rule 14a-8 under the 1934 Act, for business other than nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (ii) of Section 2.10(a), the stockholder must deliver written notice to the Secretary at the principal executive

offices of the Corporation on a timely basis as set forth in Section 2.10(b)(iii), and must update and supplement such written notice on a timely basis as set forth in Section 2.10(c). Such stockholder's notice shall include: (A) as to each matter such stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these Bylaws, the language of the proposed amendment), the reasons for conducting such business at the meeting, and any material interest (including any anticipated benefit of such business to any Proponent (as defined below) other than solely as a result of its ownership of the Corporation's capital stock, that is material to any Proponent individually, or to the Proponents in the aggregate) in such business of any Proponent; and (B) all of the information required by Section 2.10(b)(iv).

(iii) To be timely, the written notice required by Section 2.10(b)(i) or Section 2.10(b)(ii) must be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 90th day, nor earlier than the 120th day, prior to the first anniversary of the immediately preceding year's annual meeting; provided, however, that, subject to the last sentence of this Section 2.10(b)(iii), in the event that the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 70 days after the anniversary of the preceding year's annual meeting, or if no annual meeting was held (or deemed to have been held), notice by the stockholder to be timely must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall an adjournment or postponement of an annual meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Notwithstanding anything in this Section 2.10(b)(iii) to the contrary, in the event that the number of directors to be elected to the Board of Directors at the next annual meeting is increased effective after the time period for which nominations would otherwise be due under this Section 2.10(b)(iii) and there is no public announcement by the Corporation naming all of the nominees for the new positions created by such increase at least 100 days before the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.10 and that complies with the requirements in Section 2.10(b)(i), other than the timing requirements in this Section 2.10(b)(iii), shall also be considered timely, but only with respect to nominees for the new positions created by such increase, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation

(iv) The written notice required by Section 2.10(b)(i) or Section 2.10(b)(ii) shall also include, as of the date of the notice and as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (each, a "Proponent" and collectively, the "Proponents"): (A) the name and address of each Proponent, including, if applicable, such name and address as they appear on the Corporation's books and records; (B) the class, series and number of shares of each class or series of the capital stock of the Corporation that are, directly or indirectly, owned of record or beneficially (within the meaning of Rule 13d-3 under the Exchange Act) by each Proponent (provided, that for purposes of this Section 2.10(b)(iv), such Proponent shall in all events be deemed to beneficially own all shares of any class or series of capital stock of the Corporation as to which such Proponent has a right to acquire beneficial ownership at any time in the future); (C) a description of any agreement, arrangement or understanding (whether oral or in writing) with respect to such nomination or proposal (and/or the voting of shares of any class or series of capital stock of the Corporation) between or among any Proponent and any of its affiliates or associates, and any other persons (including their names), including any person who may participate in the solicitation of proxies or any of their respective affiliates or associates (each of the foregoing, a "Stockholder Associated Person", including, in the case of a nominee, the nominee), including any agreement, arrangement or understanding (whether oral or in writing) relating to any compensation or payments to be paid to any such proposed nominees(s); (D) a representation that the stockholder is a holder of record of shares of the Corporation at the time of giving notice, will be entitled to vote at the meeting, and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice (with respect to a notice under Section 2.10(b)(i)) or to propose the business that is specified in the notice (with respect to a notice under Section 2.10(b)(ii)); (E) a representation as to whether the Proponents intend, or are part of a group which intends, (x) to solicit proxies or votes in support of any proposed nominee in accordance with and as required by Rule 14a-19 promulgated under the Exchange Act (with respect to a notice under Section 2.10(b)(i)), (y) to deliver, or make available, a proxy statement and form of proxy to such number of the Corporation's voting shares that would be sufficient to carry such proposal or otherwise solicit proxies or votes from stockholders in support of such proposal (with respect to a notice under Section 2.10(b)(ii)) and or (z) to otherwise solicit proxies or votes from stockholders in support of such proposal or nomination; (F) a description of any proxy (other than a revocable proxy given in response to a public proxy solicitation made pursuant to, and in accordance with, the Exchange Act), agreement, arrangement, understanding or relationship pursuant to which such stockholder or beneficial owner has or shares a right, directly or indirectly, to vote any shares of any class or series of capital stock of the Corporation; (G) to the extent known by any Proponent, the name and address of any other stockholder supporting the proposal on the date of such stockholder's notice; (H) a description of all Derivative Transactions (as defined below) by each Proponent during the previous 12-month period, including the date

of the transactions and the class, series and number of securities involved in, and the material economic and voting terms of, such Derivative Transactions; (I) a description of any material pending or threatened legal proceeding in which a Proponent is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation; (J) a description of any other material relationship between a Proponent, on the one hand, and the Corporation, or an affiliate of the Corporation, on the other hand, including any direct or indirect material interest in any material contract or agreement; (K) a certification that each Proponent has complied with all applicable federal, state and other legal requirements in connection with such Proponent's acquisition of shares of capital stock or other securities of the Corporation and/or such Proponent's acts or omissions as a stockholder or beneficial owner of the Corporation; (L) any other information relating to a Proponent, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder; and (M) a representation that such Proponent will comply with the requirements of Section 2.10(c).

(c) A stockholder, beneficial owner, or nominee providing the written notice or information required by Section 2.10(b)(i) or (ii) shall update and supplement the information contained in such notice (other than the representation required by Section 2.10(b)(iv)(E)) in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct as of (i) the record date for the determination of stockholders entitled to notice of the meeting and (ii) the date that is five Business Days (as defined below) prior to the meeting and, in the event of any adjournment or postponement thereof, five Business Days prior to such adjourned or postponed meeting; provided, that no such update or supplement shall cure or affect the accuracy (or inaccuracy) of any representations made by any Proponent, any Stockholder Associated Person, or a nominee or the validity (or invalidity) of any nomination or proposal that failed to comply with this Section 2.10 or is rendered invalid as a result of any inaccuracy therein. In the case of an update and supplement pursuant to clause (i) of this Section 2.10(c), such update and supplement must be received by the Secretary at the principal executive offices of the Corporation not later than five Business Days after the later of the record date for the determination of stockholders entitled to notice of the meeting or the public announcement of such record date. In the case of an update and supplement pursuant to clause (ii) of this Section 2.10(c), such update and supplement shall be received by the Secretary at the principal executive offices of the Corporation not later than two Business Days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, two Business Days prior to such adjourned or postponed meeting.

(d) To be eligible to be a nominee for election or re-election as a director of the Corporation pursuant to a nomination under clause (ii) of Section 2.10(a), each Proponent must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.10(b)(i) or Section 2.10(b)(iii), as applicable) to the Secretary at the principal executive offices of the Corporation a written questionnaire (in the form provided by the Secretary upon written request) signed by the proposed nominee with respect to the background, qualifications, stock ownership and independence of such proposed nominee and a written representation and agreement (in the form provided by the Secretary upon written request) that the proposed nominee (i) is not and will not become a party to (A) any agreement, arrangement or understanding (whether written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation in the questionnaire or (B) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law; (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed in such questionnaire; (iii) would be in compliance, if elected as a director of the Corporation, and will comply with, all applicable rules of the exchanges upon which the securities of the Corporation are listed and all applicable publicly disclosed corporate governance, code of conduct and ethics, conflict of interest, confidentiality, corporate opportunities, stock ownership and trading and any other policies and guidelines of the Corporation applicable to directors and (iv) if elected as director of the Corporation, intends to serve the entire term until the next meeting at which such candidate would face re-election.

(e) A person shall not be eligible for election or re-election as a director at an annual or special meeting, unless the person is nominated in accordance with Section 2.10(a) and in accordance with the procedures set forth in Section 2.10(b), Section 2.10(c) or Section 2.10(d), as applicable. Only such business shall be conducted at any annual meeting of the stockholders of the Corporation as shall have been brought before the meeting in accordance with Section 2.10(a) and in accordance with the procedures set forth in Section 2.10(b) and Section 2.10(c), as applicable. Notwithstanding anything to the contrary in these Bylaws, unless otherwise required by applicable law, in the event that any Proponent or Stockholder Associated Person (i) provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act with respect to one or more proposed nominees and (ii) subsequently (x) fails to comply with the requirements of Rule 14a-19 promulgated under the Exchange Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proponent has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the next sentence) or (y) fails to inform the Corporation that they no longer plan to solicit proxies in accordance with Rule 14a-19 under the Exchange Act by delivering written notice to the Secretary at the principal executive offices of the Corporation within two (2) business days after the occurrence of such change, then the nomination of each such proposed nominee shall be disregarded, notwithstanding that such nomination is set forth in the Corporation's proxy

statement, notice of meeting or other proxy materials and notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). If any Proponent or Stockholder Associated Person provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such Proponent or Stockholder Associated Person shall deliver to the Corporation, no later than five Business Days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act. Except as otherwise required by applicable law, the person presiding over the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures and requirements set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws (including, without limitation, compliance with Rule 14a-19), or the Proponent does not act in accordance with the representations in this Section 2.10, to declare that such proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded, or that such business shall not be transacted, notwithstanding that such proposal or nomination is set forth in the Corporation's proxy statement, notice of meeting or other proxy materials and notwithstanding that proxies or votes in respect of such nomination or such business may have been solicited or received. Notwithstanding the foregoing provisions of this Section 2.10, unless otherwise required by applicable law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that such nomination or business is set forth in the Corporation's proxy statement, notice of meeting or other proxy materials and notwithstanding that proxies or votes in respect of such vote may have been received by the Corporation. For purposes of this Section 2.10, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(f) Certain Definitions.

(i) "affiliates" and "associates" shall have the meanings set forth in Rule 405 under the Securities Act;

(ii) "Business Day" means any day other than Saturday, Sunday or a day on which banks are closed in New York City, New York;

(iii) "close of business" means 6:00 p.m. local time at the principal executive offices of the Corporation on any calendar day, whether or not the day is a Business Day;

(iv) "Derivative Transaction" means any agreement, arrangement, interest or understanding entered into by, or on behalf or for the benefit of, any Proponent or any of its affiliates or associates, whether record or beneficial: (A) the value of which is derived in whole or in part from the value of any class or series of shares or other securities of the Corporation; (B) that otherwise provides any direct or indirect opportunity to gain or share in any gain derived from a change in the value of securities of the Corporation; (C) the effect or intent of which is to mitigate loss, manage risk or benefit from changes in value or price with respect to any securities of the Corporation; or (D) that provides the right to vote or increase or decrease the voting power of, such Proponent, or any of its affiliates or associates, directly or indirectly, with respect to any securities of the Corporation, which agreement, arrangement, interest or understanding may include, without limitation, any option, warrant, debt position, note, bond, convertible security, swap, stock appreciation or similar right, short position, profit interest, hedge, right to dividends, voting agreement, performance-related fee or arrangement to borrow or lend shares (whether or not subject to payment, settlement, exercise or conversion in any such class or series), and any proportionate interest of such Proponent in the securities of the Corporation held by any general or limited partnership, or any limited liability company, of which such Proponent is, directly or indirectly, a general partner or managing member; and

(v) "public announcement" means disclosure in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, GlobeNewswire or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act or by such other means reasonably designed to inform the public or security holders in general of such information, including, without limitation, posting on the Corporation's investor relations website.

(g) Notwithstanding the foregoing provisions of this Section 2.10, a stockholder must also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 2.10; provided, however, that, to the fullest extent not prohibited by applicable law, any references in these Bylaws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 2.10(a)(ii). Nothing in these Bylaws shall be deemed to (i) affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, (ii) confer upon any stockholder a right to have a nominee or any proposed business included in the

Corporation's proxy statement, or (iii) affect any rights of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Section 2.11 Special Meetings.

(a) Special meetings of the stockholders of the Corporation may only be called in the manner provided in the Certificate of Incorporation. Any special meeting of stockholders previously scheduled may be postponed, rescheduled or cancelled by the Board of Directors or any director or officer to whom the Board of Directors has delegated such authority.

(b) The Board of Directors or the Chair of the Board shall determine the date, time and place, if any, of such special meeting. Upon determination of the date, time and place, if any, of the meeting, the Secretary shall cause a notice of meeting to be given to the stockholders entitled to vote, in accordance with the provisions of Section 2.02.

(c) Only such business (including the election of specific individuals to fill vacancies or newly created directorships on the Board of Directors) shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. At any time that stockholders are not prohibited from filling vacancies or newly created directorships on the Board of Directors, nominations of persons for election to the Board of Directors to fill any vacancy or unfilled newly created directorship may be made at a special meeting of stockholders at which any proposal to fill any vacancy or unfilled newly created directorship is to be presented to the stockholders (i) by or at the direction of the Board of Directors or a duly authorized committee thereof or (ii) by any stockholder of the Corporation who is a stockholder of record at the time of giving notice provided for in this paragraph, who is entitled to vote at the meeting and who complies with Section 2.10(b)(i), Section 2.10(b)(iii), Section 2.10(b)(iv), Section 2.10(c), and Section 2.10(d). The number of nominees a stockholder may nominate for election at the special meeting on its own behalf (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the special meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting. In the event the Corporation calls a special meeting of stockholders for the purpose of submitting a proposal to stockholders for the election of one or more directors to fill any vacancy or newly created directorship on the Board of Directors, any such stockholder of record may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if written notice setting forth the information required by Section 2.10(b)(i) and Section 2.10(b)(iv) shall be received by the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the later of the close of business on the 90th day prior to such meeting or the tenth day following the day on which the Corporation first makes a public announcement of the date of the special meeting at which directors are to be elected. The stockholder shall also update and supplement such information as required under Section 2.10(c) and comply with the requirements of Section 2.10(b)(i) and Section 2.10(d). In no event shall an adjournment or a postponement of a special meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(d) A person shall not be eligible for election as a director at the special meeting unless the person is nominated either in accordance with clause (i) or clause (ii) of Section 2.11(c). Except as otherwise required by applicable law, the person presiding over the meeting shall have the power and duty to determine whether a nomination was made in accordance with the procedures and requirements set forth in these Bylaws and, if any proposed nomination is not in compliance with these Bylaws, or if the Proponent does not act in accordance with the representations required in Section 2.10, to declare that such nomination shall not be presented for stockholder action at the meeting and shall be disregarded, notwithstanding that the nomination is set forth in the notice of meeting and notwithstanding that proxies or votes in respect of such nomination may have been solicited or received. Notwithstanding the foregoing provisions of this Section 2.11, unless otherwise required by applicable law, if the stockholder (or a qualified representative of the stockholder (meeting the requirements specified in Section 2.10(e))) does not appear at the special meeting of stockholders of the Corporation to present a nomination, such nomination shall be disregarded, notwithstanding that the nomination is set forth in the Corporation's proxy statement, notice of meeting, or other proxy materials and notwithstanding that proxies or votes in respect of such nomination may have been received by the Corporation.

(e) Notwithstanding the foregoing provisions of this Section 2.11, a stockholder must also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 2.11; provided, however, that, to the fullest extent not prohibited by applicable law, any references in these Bylaws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 2.11(c). Nothing in these Bylaws shall be deemed to (i) affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, (ii) confer upon any stockholder a right to have a nominee or any proposed business included in the Corporation's proxy statement, or (iii) affect any rights of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation

Section 2.12 Fixing a Record Date for Stockholder Meetings. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by applicable law, not be more than 60 days nor less than ten days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be the close of business on the day next preceding the day on which notice is first given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however,* that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

Section 2.13 Conduct of Meetings.

(a) Generally. Meetings of stockholders shall be presided over by the Chair of the Board or, if he or she is unavailable, by the Lead Director (as defined below), if any, or if he or she is unavailable, by the Chief Executive Officer, if any, or if he or she is unavailable, by the President, if any, or if he or she is unavailable, by another person designated by the Board of Directors. The Secretary or, if he or she is unavailable, an Assistant Secretary or, if he or she is unavailable, a person whom the chair of the meeting shall appoint, shall act as secretary of the meeting and keep a record of the proceedings thereof.

(b) Rules, Regulations and Procedures. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chair of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the person presiding over the meeting, may include, without limitation, the following: (i) an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as shall be determined by the person presiding over the meeting; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The person presiding over the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted. The chair shall have the power to convene and (for any reason or for no reason) to recess or adjourn the meeting to another place, if any, date and time. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered.

(c) Participation in Meetings by Remote Communication. If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication (a) participate in a meeting of stockholders and (b) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, *provided* that (i) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder; (ii) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and (iii) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

(d) Inspectors of Elections. The Corporation may and shall, if required by applicable law, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the chairperson of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspectors shall: (1) ascertain the number of shares outstanding and the voting power of each; (2) determine the shares represented at a meeting and the validity of proxies and ballots; (3) count all votes and ballots; (4) determine and retain for a reasonable period a record of the disposition of

any challenges made to any determination by the inspectors; and (5) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with Sections 211(e) or 212(c)(2) of the DGCL, or any information provided pursuant to Sections 211(a)(2)b.(i) or (iii) of the DGCL, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to Section 231(b)(5) of the DGCL shall specify the precise information considered by them including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable. No person who is a candidate for an office at an election may serve as an inspector at such election.

Section 2.14 Joint Owners of Stock. If shares or other securities having voting power stand of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one votes, his or her act binds all; (b) if more than one votes, the act of the majority so voting binds all; (c) if more than one votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in Section 217(b) of the DGCL. If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest.

Section 2.15 Delivery to the Corporation. Whenever Section 2.10 or Section 2.11 of this Article 2 requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered to the principal offices of the Corporation exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the Corporation expressly opts out of Section 116 of the DGCL with respect to the delivery of information and documents to the Corporation required by Section 2.10 or Section 2.11 of this Article 2.

Article 3
DIRECTORS

Section 3.01 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to such powers as are herein and in the Certificate of Incorporation expressly conferred upon it, the Board of Directors shall have and may exercise all the powers of the Corporation and do all such lawful acts and things as are not by the provisions of the laws of the State of Delaware, the Certificate of Incorporation and these Bylaws required to be exercised or done by the stockholders of the Corporation.

Section 3.02 Number and Qualifications. The Board of Directors shall consist of such number of directors as determined from time to time by resolution of the Board of Directors. Directors need not be stockholders of the Corporation.

Section 3.03 Terms of Directors. The directors shall serve for such terms as set forth in the Certificate of Incorporation. Each director shall serve until his or her successor is elected and qualified or until his or her earlier death, retirement, resignation or removal. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

Section 3.04 Vacancies and Newly Created Directorships. Vacancies on the Board of Directors, however created, and newly created directorships shall be filled as provided in the Certificate of Incorporation.

Section 3.05 Resignation. Any director may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective.

Section 3.06 Removal. Subject to the rights of holders of any series of preferred stock to elect additional directors under specified circumstances, the Board of Directors or any individual director may be removed only in the manner specified in the Certificate of Incorporation, except as otherwise required by applicable law.

Section 3.07 Regular Meetings and Special Meetings. Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at such date, time and at such place, if any, as shall from time to time be determined by the Board of Directors and publicized among all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, or by electronic mail or other electronic means. A notice of each regular meeting shall not be required. Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at such time and at such place, if any, as shall from time to time be determined by the Chair of the Board, if any, the Chief Executive Officer, if any, the Lead Director, if any, or upon the written request of at least a majority of the directors then in office.

Section 3.08 Notice of Meetings. Notice of regular meetings of the Board of Directors need not be given except as otherwise required by law or these Bylaws. Notice of each special meeting of the Board of Directors, and of each regular meeting of the Board of Directors for which notice shall be required by these Bylaws, shall be given by the Secretary as hereinafter provided in this Section 3.08, in which notice shall be stated the date, time and place, if any, of the meeting. Notice of any special meeting, and of any regular meeting for which notice is required, shall be given to each director at least (a) 24 hours before the meeting if by telephone or by being personally delivered or sent by electronic transmission (including facsimile, electronic mail or similar means) or (b) three days before the meeting if delivered by mail to the director's residence or usual place of business. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage prepaid, or when transmitted if sent by electronic transmission (including telex, telecopy, electronic mail or similar means). Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 3.09 Waiver of Notice. Any director may waive notice of any meeting by a writing signed by the director or by electronic transmission, whether before or after the meeting, from the director entitled to the notice and filed with the minutes of the meeting or corporate records. Any member of the Board of Directors or any committee thereof who is present at a meeting shall be conclusively presumed to have waived notice of such meeting except when such member attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though it had been transacted at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission.

Section 3.10 Participation in Meetings by Electronic Communications Equipment. Unless restricted by the Certificate of Incorporation, any one or more members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at a meeting.

Section 3.11 Chair of the Board and Independent Lead Director. The Board of Directors may elect a Chair of the Board of Directors (the "Chair of the Board"). Subject to the provisions of these Bylaws and the direction of the Board of Directors, the Chair of the Board shall perform all duties and have all powers which are commonly incident to the position of Chair of the Board or which are delegated to him or her by the Board of Directors, shall preside at all meetings of the stockholders and Board of Directors at which he or she is present and shall have such powers and perform such duties as the Board of Directors may from time to time prescribe. If the Chair of the Board is not present at a meeting of or the Board of Directors, the Lead Director (as defined below), if any, or in his or her absence, the Chief Executive Officer, if any and if a director, or in his or her absence, a director elected by a majority of the directors present at such meeting shall so preside. The Chair of the Board, or if the Chair is not an independent director, one of the independent directors, may be designated by the Board of Directors as independent lead director to serve until replaced by the Board of Directors ("Lead Director"). The Lead Director will preside over meetings of the independent directors and perform such other duties as may be established or delegated by the Board of Directors or the Chair of the Board.

Section 3.12 Quorum; Required Vote and Adjournment. Unless otherwise required by applicable law, the Certificate of Incorporation or these Bylaws, a majority of the directors then in office (but no fewer than 1/3 of total authorized number of directors) shall constitute a quorum for the transaction of business. Unless by express provision of an applicable law, the Certificate of Incorporation or these Bylaws a different vote is required, the affirmative vote of a majority of directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. At any meeting of the Board of Directors, business shall be transacted in such order and manner as the Board of Directors may from time to time determine. At any meeting, whether a quorum be present or otherwise, the directors present thereat may, to the fullest extent permitted by law, adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At any adjourned

meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.13 Committees. The Board of Directors (a) may designate one or more committees, including an executive committee, consisting of one or more of the directors of the Corporation and (b) shall, during such period of time as any securities of the Corporation are listed on any exchange, designate all committees required by the rules and regulations of such exchange. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Except to the extent restricted by applicable law or the Certificate of Incorporation, each such committee, to the extent provided in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval or (b) adopting, amending or repealing any bylaw of the Corporation. Each such committee shall serve at the pleasure of the Board of Directors as may be determined from time to time by resolution adopted by the Board of Directors or as required by the rules and regulations of such exchange, if applicable. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors upon request.

Section 3.14 Committee Rules. Each committee of the Board of Directors may fix its own rules of procedure and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee or as otherwise provided herein or required by law or the Certificate of Incorporation. To the extent not otherwise provided by resolution of the Board or fixed by the applicable committee, meetings and action of committees of the Board of Directors shall be governed by, and held and taken in accordance with, the provisions of Section 3.07 (regular meetings and special meetings), Section 3.08 (notice of meetings), Section 3.09 (waiver of notice), Section 3.11 (participation in meetings by electronic communications equipment), Section 3.12 (quorum; required vote and adjournment) and Section 3.16 (action by written consent), with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members.

Section 3.15 Committee Terms. The Board of Directors may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his or her death or voluntary resignation or removal from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal, or increase in the number of members of the committee.

Section 3.16 Action by Written Consent. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission. Such consent or consents shall be filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.17 Compensation. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors or any duly authorized committee thereof shall have the authority to fix the compensation, including fees and reimbursement of expenses, of directors for services to the Corporation in any capacity, including for attendance of meetings of the Board of Directors or participation on any committees. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Article 4
OFFICERS

Section 4.01 Number. The officers of the Corporation shall be appointed by the Board of Directors and shall consist of, if and when designated by the Board of Directors, a Chief Executive Officer, a President, a Chief Financial Officer, a Secretary and such other officers and assistant officers as may be deemed necessary or desirable by the Board of Directors, each to have such authority, functions or duties as set forth in these Bylaws or as determined by the Board of Directors. Any number of offices may be held by the same person, unless otherwise prohibited by law. In its discretion, the Board of Directors may choose not to fill any office for any period as it may deem advisable.

Section 4.02 Election and Term of Office. The officers of the Corporation shall be appointed by the Board of Directors. Each officer shall hold such title and office for such term and shall exercise such powers and

perform such duties as may be prescribed by the Board of Directors and until a successor is duly elected and qualified or until his or her earlier death, resignation or removal as hereinafter provided.

Section 4.03 Removal and Resignation. Any officer or agent may be removed, with or without cause, by the Board of Directors (or any duly authorized committee thereof) at its discretion, or by the Chief Executive Officer or by other superior offices upon whom such power of removal has been conferred by the Board of Directors, without prejudice to the rights, if any, of such officer under any contract to which it is party. Any officer may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors, the Chair of the Board, the Chief Executive Officer, or the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract with the resigning officer.

Section 4.04 Vacancies. Any vacancy occurring in any office because of death, resignation, removal, disqualification or otherwise or new offices created by the Board of Directors may be filled by the Board of Directors.

Section 4.05 Compensation. Compensation of all officers shall be approved by the Board of Directors, a duly authorized committee thereof or by such officers as may be designated by resolution of the Board of Directors, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a director of the Corporation.

Section 4.06 Chief Executive Officer. The Chief Executive Officer shall have the powers and perform the duties incident to that position. Subject to the powers of the Board of Directors and the Chair of the Board, the Chief Executive Officer shall be in general and active charge of the entire business and affairs of the Corporation, and shall be its chief policy making officer. The Chief Executive Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or provided in these Bylaws. The Chief Executive Officer is authorized to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation. The Chief Executive Officer shall have general supervision and direction of all of the other officers, employees and agents of the Corporation, subject in all cases to the orders and resolutions of the Board of Directors. To the extent that a Chief Executive Officer has been appointed and no President has been appointed, all references in these Bylaws to the President shall be deemed references to the Chief Executive Officer. In the absence or disability of the Chair of the Board and Lead Director, or if there be none, the Chief Executive Officer, provided that the Chief Executive Officer is also a director, shall preside at all meetings of the Board of Directors.

Section 4.07 President. At the request of the Chief Executive Officer or in the Chief Executive Officer's absence or in the event of the Chief Executive Officer's inability or refusal to act, the President shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer. The President shall perform such other duties and have such other powers as the Board of Directors, the Chair of the Board, the Chief Executive Officer or these Bylaws from time to time may prescribe.

Section 4.08 Chief Financial Officer. The Chief Financial Officer shall have the custody of the corporate funds and securities; shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation as shall be necessary or desirable in accordance with applicable law or generally accepted accounting principles; shall deposit all monies and other valuable effects in the name and to the credit of the Corporation as may be ordered by the Chair of the Board or the Board of Directors; shall receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; shall cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements; and shall render to the Board of Directors, at its regular meeting or when the Board of Directors so requires, an account of the Corporation; shall have such powers and perform such duties as the Board of Directors, the Chair of the Board, the Chief Executive Officer or these Bylaws may, from time to time, prescribe. The Chief Financial Officer shall have the powers and perform the duties incident to that position.

Section 4.09 Secretary and Assistant Secretaries. The Secretary shall attend all meetings of the Board of Directors (other than executive sessions thereof) and all meetings of the stockholders and record all the proceedings of the meetings in a book or books to be kept for that purpose or shall ensure that his or her designee attends each such meeting to act in such capacity. Under the Board of Directors' supervision, the Secretary shall give, or cause to be given, all notices required to be given by these Bylaws or by law, and shall have such powers and perform such duties as the Board of Directors, the Chair of the Board, the Chief Executive Officer or these Bylaws may, from time to time, prescribe. The Assistant Secretary, or if there be more than one, any of the assistant secretaries, shall in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors, the Chair of the Board, the Chief Executive Officer or the Secretary may, from time to time, prescribe. The Secretary and any Assistant Secretary shall have the powers and perform the duties incident to those positions.

Section 4.10 Other Officers, Assistant Officers and Agents. Officers, assistant officers and agents, if any, other than those whose duties are provided for in these Bylaws, shall have such authority and perform such duties as may from time to time be prescribed by resolution of the Board of Directors.

Section 4.11 Delegation of Authority. Notwithstanding any provision hereof, the Board of Directors may by resolution delegate the powers and duties of any officer to any other officer or to any director, or to any other person whom it may select.

Article 5
CERTIFICATES OF STOCK

Section 5.01 Form. Except as otherwise provided in a resolution approved by the Board of Directors, all shares of the Corporation issued shall be uncertificated shares. Every holder of stock represented by certificates, if any, shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the corporation (it being understood that each of the Chair of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary and any Assistant Secretary shall be an authorized officer for such purpose), certifying the number of shares owned by such holder in the Corporation. Any or all of the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issuance.

Section 5.02 Lost Certificates. The Corporation may issue or direct a new certificate or certificates to be issued or issue an uncertificated share in place of any certificate or certificates previously issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates or uncertificated shares, the Corporation may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his or her legal representative, to give the Corporation a bond in such sum as the Corporation may direct, sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

Section 5.03 Transfers.

(a) Transfers of record of shares of stock of the Corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized in writing, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(b) The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes or series of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes or series owned by such stockholders in any manner not prohibited by the DGCL.

Section 5.04 Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends, to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner. The Corporation shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by the laws of Delaware.

Section 5.05 Fixing a Record Date for Purposes Other Than Stockholder Meetings. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action (other than stockholder meetings which is expressly governed by Section 2.12 hereof), the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5.06 Additional Powers of the Board of Directors. In addition to, and without limiting the powers set forth in these Bylaws, the Board of Directors shall have power and authority to make all such rules and regulations as it shall deem expedient concerning the issue, transfer, conversion and registration of certificates for shares of stock of the Corporation, including the use of uncertificated shares of stock, subject to the provisions of the DGCL, other applicable law, the Certificate of Incorporation, and these Bylaws. The Board of Directors may appoint

and remove transfer agents and registrars of transfers, and may require all stock certificates to bear the signature of any such transfer agent and/or any such registrar of transfers.

Article 6
GENERAL PROVISIONS

Section 6.01 Dividends. Subject to the provisions of the DGCL and the Certificate of Incorporation, dividends upon the shares of capital stock of the Corporation may be declared by the Board of Directors, in accordance with applicable law. Dividends may be paid in cash, in property or in shares of the capital stock or other securities of the Corporation, subject to the provisions of applicable law and the Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, determines proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors may determine to be conducive to the interests of the Corporation. The Board of Directors may modify or abolish any such reserves in the manner in which they were created.

Section 6.02 Checks, Notes, Drafts, Etc. All checks, notes, drafts or other orders for the payment of money of the Corporation shall be signed, endorsed or accepted in the name of the Corporation by such officer, officers, person or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.

Section 6.03 Contracts. In addition to the powers otherwise granted to officers pursuant to Article 4 hereof, the Board of Directors may authorize any officer or officers, or any agent or agents, in the name and on behalf of the Corporation to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts and other obligations or instruments, and such authority may be general or confined to specific instances. Unless otherwise specifically determined by the Board of Directors or otherwise required by applicable law, the execution, signing or endorsement of any corporate instrument or document may be effected manually, by facsimile or (to the extent permitted by applicable law and subject to such policies and procedures as the Corporation may have in effect from time to time) by electronic signature. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 6.04 Fiscal Year. The fiscal year of the Corporation shall be July 1 to June 30 or such other year as shall be fixed by resolution of the Board of Directors.

Section 6.05 Corporate Seal. The Corporation may adopt a corporate seal, which shall be adopted and which may be altered by the Board of Directors. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words “Corporate Seal, Delaware”. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 6.06 Voting Securities Owned by Corporation. The Chair of the Board, the Chief Executive Officer, the President and the Chief Financial Officer shall each have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of security holders of or with respect to any action of security holders of any other corporation, limited liability company, limited partnership or other entity in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other entity, unless the Board of Directors specifically confers authority to vote or act with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with general power of substitution.

Section 6.07 Section Headings. Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 6.08 Inconsistent Provisions. In the event that any provision of these Bylaws is or becomes inconsistent with any provision of the Certificate of Incorporation, the DGCL or any other applicable law, the provision of these Bylaws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

Section 6.09 Construction. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural and the plural number includes the singular.

Article 7
INDEMNIFICATION

Section 7.01 Directors and Officers. The Corporation will indemnify each person who was or is a party or is threatened to be made a party to any Proceeding , by reason of the fact that such person is or was a director or

officer of the Corporation, or while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise (in each case, an "indemnitee") to the fullest extent permitted by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such person in connection therewith; provided, however, that the Corporation will not be required to indemnify or advance expenses to any director or officer in connection with any Proceeding (or part thereof) initiated by such person unless (a) the Proceeding was authorized by the Board of Directors or (b) the Proceeding is initiated to enforce rights to indemnification or advancement of expenses as provided under Section 7.04 or is a compulsory counterclaim brought by such person.

Any reference to an officer of the Corporation in this Article 7 shall be deemed to refer exclusively to the Chief Executive Officer, President, Chief Financial Officer, Secretary and any Assistant Secretary or other officer of the Corporation appointed by the Board of Directors pursuant to Article 4 of these Bylaws, and any reference to an officer of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be deemed to refer exclusively to an officer appointed by the Board of Directors or equivalent governing body of such other entity pursuant to the certificate of incorporation and bylaws or equivalent organizational documents of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The fact that any person who is or was an employee of the Corporation or an employee of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, but not an officer thereof as described in the preceding sentence, has been given or has used the title of "Vice President" or any other title that could be construed to suggest or imply that such person is or may be such an officer of the Corporation or of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall not result in such person being constituted as, or being deemed to be, such an officer of the Corporation or of such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise for purposes of this Article 7.

Section 7.02 Employees and Other Agents. The Corporation shall have power to indemnify and advance expenses to employees and other agents to the fullest extent of the provisions of this Article 7.

Section 7.03 Expenses. The Corporation shall to the fullest extent permitted by law advance to any person who was or is a party or is threatened to be made a party to any Proceeding, by reason of the fact that such person is or was a director or officer of the Corporation, or while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, prior to the final disposition of the Proceeding, promptly following request therefor, all expenses incurred by any director or officer in defending a Proceeding, or in connection with a Proceeding brought to establish or enforce a right to indemnification or advancement of expenses under Section 7.04; provided, however, that, if the DGCL requires, or in the case of an advance of expenses made in a Proceeding brought to establish or enforce a right to indemnification or advancement, an advancement of expenses will be made only upon delivery to the Corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it is ultimately determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified or entitled to advancement for such expenses under this Article 7 or otherwise.

Section 7.04 Enforcement. Without the necessity of entering into an express contract, all rights to indemnification and advancement of expenses to directors and officers under this Article 7 will be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the Corporation and the director or officer. Any right to indemnification or advancement of expenses granted by this Article 7 to a director or officer will be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (a) the claim for indemnification or advancement of expenses is denied, in whole or in part, (b) a request for indemnification under Section 7.01 is not paid in full by the Corporation within 45 days after request therefor, or (c) if a request for an advancement of expenses under Section 7.03 is not paid in full by the Corporation within 20 days after a written request has been received by the Corporation. The claimant in such enforcement action, if successful in whole or in part, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, will be entitled to be paid also the expense of prosecuting or defending the claim to the fullest extent permitted by the DGCL. In (x) any suit brought to enforce a right to indemnification hereunder (but not in a suit brought to enforce a right to an advancement of expenses), and (y) any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its independent legal counsel, its stockholders or the Board of Directors) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because such person has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its independent legal counsel, its stockholders or the Board of Directors) that the claimant has not met such applicable standard of conduct, will be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or officer to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an

advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the director or officer is not entitled to be indemnified, or to such advancement of expenses, under this Article 7 or otherwise is on the Corporation.

Section 7.05 Non-Exclusivity of Rights. The rights conferred on any person by this Article 7 are not exclusive of any other right that such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or any other applicable law.

Section 7.06 Survival of Rights. The rights conferred on any person by this Article 7 will continue as to a person who has ceased to be a director or officer and will inure to the benefit of the heirs, executors and administrators of such a person.

Section 7.07 Insurance. To the fullest extent permitted by the DGCL or any other applicable law, the Corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Article 7.

Section 7.08 Amendments. Any repeal or modification of this Article 7 is only prospective and does not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the subject of any Proceeding for which indemnification or advancement of expenses is sought.

Section 7.09 Saving Clause. If this Article 7 or any portion hereof is invalidated on any ground by any court of competent jurisdiction, then the Corporation will nevertheless indemnify and advance expenses to each director and officer to the full extent not prohibited by any applicable portion of this Article 7 that has not been invalidated, or by any other applicable law. If this Article 7 is invalid due to the application of the indemnification and advancement provisions of another jurisdiction, then the Corporation will indemnify and advance expenses to each director and officer to the full extent under applicable law.

Section 7.10 Reliance. Persons who after the date of the adoption of this provision become or remain directors or officers of the Corporation or who, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise, shall be conclusively presumed to have relied on the rights to indemnity, advance of expenses and other rights contained in this Article 7 in entering into or continuing such service. The rights to indemnification and to the advance of expenses conferred in this Article 7 shall apply to claims made against an indemnitee arising out of acts or omissions which occurred or occur both prior and subsequent to the adoption hereof. Any amendment, alteration or repeal of this Article 7 that adversely affects any right of an indemnitee or his or her successors shall be prospective only and shall not limit, eliminate or impair any such right with respect to any Proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

Section 7.11 Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee, or agent of another corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise shall be reduced by any amount such person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise.

Section 7.12 Certain Definitions. For the purposes of this Article 7, the following definitions apply:

(a) The term "Proceeding" is to be broadly construed and includes, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, legislative or investigative, whether brought by or in the right of the Corporation or otherwise.

(b) The term "expenses" is to be broadly construed and includes, without limitation, court costs, attorneys' fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any Proceeding.

(c) The term the "Corporation" includes, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger that, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, stands in the same position under the provisions of this Article 7 with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

(d) References to "fines" include any excise taxes assessed on a person with respect to an employee benefit plan.

Article 8
EXCLUSIVE FORUM

Section 8.01 Exclusive Forum for Corporate Law Matters. The Court of Chancery in the State of Delaware shall be the sole and exclusive forum for certain actions as specified in the Certificate of Incorporation.

Section 8.02 Exclusive Forum for Securities Act Claims. Unless the Corporation consents in writing to the selection of an alternative forum, to the fullest extent permitted by applicable law, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Section 8.03 Consent to Terms of these Bylaws. Any person or entity holding, owning or otherwise acquiring any interest in any security of the Corporation shall be deemed to have notice of and consented to the provisions of these Bylaws.

Section 8.04 Severability. If any provision or provisions of this Article 8 shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever, (a) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article 8 (including, without limitation, each portion of any paragraph of this Article 8 containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (b) the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

Article 9
NOTICES

Section 9.01 Notice to Stockholders. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the Corporation. Notice shall be given (i) if mailed, when deposited in the United States mail, postage prepaid, (ii) if delivered by courier service, the earlier of when the notice is received or left at the stockholder's address, or (iii) if given by electronic mail, when directed to such stockholder's electronic mail address (unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by the DGCL to be given by electronic transmission). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation. A notice by electronic mail will include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the Corporation who is available to assist with accessing such files or information. Any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws provided by means of electronic transmission (other than any such notice given by electronic mail) may only be given in a form consented to by such stockholder, and any such notice by such means of electronic transmission shall be deemed to be given as provided by the DGCL. The terms "electronic mail," "electronic mail address," "electronic signature" and "electronic transmission" as used herein shall have the meanings ascribed thereto in the DGCL.

Section 9.02 Affidavit of Mailing. An affidavit of mailing, executed by the Secretary or an Assistant Secretary or the transfer agent or other agent, stating that notice has been given, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

Section 9.03 Methods of Notice. It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

Section 9.04 Notice to Person with Whom Communication is Unlawful. Whenever notice is required to be given, under applicable law or any provision of the DGCL, the Certificate of Incorporation or these Bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting that shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

Section 9.05 Notice to Stockholders Sharing an Address. Except as otherwise prohibited under the DGCL, any notice given under the provisions of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the Corporation within 60 days of having been given notice by the Corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the Corporation. Notice shall be deemed to have been given to all stockholders of record who share an address if notice is given in accordance with the "householding" rules set forth in Rule 14a-3(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Section 233 of the DGCL.

Article 10
AMENDMENTS

These Bylaws may be amended, altered, changed or repealed or new Bylaws adopted only in accordance with the Certificate of Incorporation.

The foregoing Bylaws were adopted by the Board of Directors on February 2, 2023 and are effective February 2, 2023.

Exhibit 31.1

CERTIFICATION PURSUANT TO RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934

AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jack Springer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the fiscal quarter ended December 31, 2022 of Malibu Boats, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: February 7, 2023

/s/ Jack Springer

Jack Springer
Chief Executive Officer

Exhibit 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934

AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Wayne Wilson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the fiscal quarter ended December 31, 2022 of Malibu Boats, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: February 7, 2023

/s/ Wayne Wilson

Wayne Wilson
Chief Financial Officer

Exhibit 32

CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350

AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Jack Springer, Chief Executive Officer of Malibu Boats, Inc. (the "Company"), and Wayne Wilson, Chief Financial Officer of the Company, each hereby certifies that, to the best of his knowledge:

(1) The Company's Quarterly Report on Form 10-Q for the fiscal quarter ended December 31, 2022, to which this Certification is attached as Exhibit 32 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act, and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

In Witness Whereof, the undersigned have set their hands hereto as of the 7th day of February, 2023.

/s/ Wayne R. Wilson	/s/ Jack D. Springer
Wayne R. Wilson	Jack D. Springer
Chief Financial Officer	Chief Executive Officer

This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Malibu Boats, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.