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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 10-K**

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

For the fiscal year ended December 31, 2021

OR

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

Commission file number: 001-38835

**DESKTOP METAL, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State of Other Jurisdiction of incorporation or Organization)

**63 3rd Avenue, Burlington, MA**  
(Address of principal executive offices)

**83-2044042**  
(I.R.S. Employer Identification No.)

**01803**  
(Zip code)

Registrant's telephone number, including area code: (978) 224-1244

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

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name Of Each Exchange On Which Registered</u>
Common Stock, \$0.0001 Par Value per Share	DM	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes  No

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 (§232.0405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

Based on the closing price as reported on the New York Stock Exchange, the aggregate market value of the Registrant's Common Stock held by non-affiliates on June 30, 2021 (the last business day of the Registrant's most recently completed second fiscal quarter) was approximately \$3.0 billion. Shares of Common Stock held by each executive officer and director and by each shareholder affiliated with a director or an executive officer have been excluded from this calculation because such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes. The number of outstanding shares of the Registrant's Common Stock as of March 11, 2022 was 312,491,730.

**Documents Incorporated by Reference**

Portions of the Registrant's Definitive Proxy Statement relating to the 2022 Annual Meeting of Stockholders to be filed pursuant to Regulation 14A with the Securities Exchange Commission are incorporated by reference into Part III of this report. Such proxy statement will be filed with the Securities and Exchange Commission not later than 120 days following the end of the Registrant's fiscal year ended December 31, 2021.

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## BASIS OF PRESENTATION

On December 9, 2020, we consummated the business combination, or the Business Combination, contemplated by the Agreement and Plan of Merger, dated August 26, 2020, by and among our company (formerly known as Trine Acquisition Corp.), Desktop Metal Operating, Inc. (formerly known as Desktop Metal, Inc.) and Sparrow Merger Sub, Inc., pursuant to which Sparrow Merger Sub, Inc. merged with and into Desktop Metal Operating, Inc., with Desktop Metal Operating, Inc. becoming our wholly owned subsidiary. Upon the closing of the Business Combination, we changed our name to Desktop Metal, Inc.

Unless otherwise indicated or the context otherwise requires, references in this Annual Report on Form 10-K to “we,” “us,” “the company” and “Desktop Metal” refer to the consolidated operations of Desktop Metal, Inc. and its subsidiaries. References to “Trine” refer to the company prior to the consummation of the Business Combination and references to “Legacy Desktop Metal” refer to Desktop Metal Operating, Inc. prior to the consummation of the Business Combination.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

*This Annual Report on Form 10-K, including “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in Item 7, contains forward-looking statements. All statements contained in this Annual Report on Form 10-K other than statements of historical fact, including statements regarding our future operating results and financial position, our business strategy and plans, market growth, trends, events, and our objectives for future operations, are forward-looking statements. The words “may,” “will,” “expect,” “anticipate,” “believe,” “intend,” “project,” “could,” “would,” “estimate,” “potential,” “continue,” “plan,” “target,” or the negative of these words or similar expressions are intended to identify forward-looking statements.*

*The forward-looking statements included herein are based on current expectations of management. Actual results may differ from those expressed in forward-looking statements due to additional factors, including those set forth in Part I, Item 1A. “Risk Factors” elsewhere in this Annual Report on Form 10-K. Although we believe that expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, performance, or achievements. The events and circumstances reflected in our forward-looking statements may not be achieved or occur, and actual results could differ materially from those projected in the forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for management to predict all risk factors and uncertainties. As a result of these factors, we cannot assure you that the forward-looking statements in this Annual Report on Form 10-K will prove to be accurate. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances, or otherwise.*

*You should read this Annual Report on Form 10-K completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.*

## PART I

### Item 1. Business

#### Business Overview

Desktop Metal is pioneering a new generation of additive manufacturing technologies focused on Additive Manufacturing 2.0, the volume production of end-use parts. We offer a comprehensive portfolio of integrated additive manufacturing solutions comprised of hardware, software, materials and services with support for metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials. Our solutions span use cases across the product life cycle, from product development to mass production and aftermarket operations, and they address an array of industries, including automotive, healthcare and dental, consumer products, heavy industry, aerospace, machine design and research and development.

At Desktop Metal, we believe additive manufacturing, commonly referred to as 3D printing, is one of the most exciting and transformational technology innovations of our time. According to the Wohlers Report 2021 and management estimates, the global additive manufacturing market, which includes spending on systems, materials, parts and other 3D printing software and services, is expected to grow from \$13 billion in 2020 to more than \$100 billion in 2030 at a compound annual growth rate of approximately 22%.

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Additive manufacturing has the capacity to change the way parts of nearly all materials are designed, manufactured and sold around the world, and it provides businesses of all sizes the means to make high performance products faster, more sustainably, and at costs and volumes competitive with conventional manufacturing processes. Our mission is to enable high volume production, while making additive manufacturing accessible to all engineers, designers and manufacturers. In doing so, we believe we will empower businesses to adopt radical, new approaches to design and production and enable the success of many of the high growth industries that will drive global economic growth in the years to come.

Our growth strategy begins with a commitment to research and development. Since our founding in 2015, we have invested significant resources in research and development towards building an extensive portfolio of proprietary and differentiated technologies with a focus on making additive manufacturing an easy-to-use, economic and scalable solution. These technologies represent the cornerstones of our future product introductions, are critical to enhancing our existing offerings and are supported by over 650 patents or pending patent applications. Our additive manufacturing platforms, which leverage these technologies for the production of tools and end-use parts, enable businesses to address their specific goals through a range of solutions that span price points, throughput levels and operating environments.

Our product platforms offer several key advantages over competitive additive manufacturing systems including breakthrough print speeds, competitive part costs, accessible workflows and software, turnkey solutions and support for an extensive library of qualified materials, the sale of which represent a recurring revenue stream from customers of our additive manufacturing solutions in addition to system consumables and other services, such as installation, training and technical support. As a result of these strengths, our solutions are lowering the barriers to adopting additive manufacturing and unlocking new applications where conventional manufacturing has customarily held cost and volume advantages. Across printers, parts and materials, we intend to continue investing to advance our current technology portfolio and develop new technologies that allow us to serve a broader customer base and reach new verticals, thereby expanding our addressable market and driving adoption of Additive Manufacturing 2.0.

We leverage our core competencies in technology innovation and product development by marketing and selling our Additive Manufacturing 2.0 solutions through a leading global distribution network, managed and augmented by our own internal sales and marketing teams. This distribution network, which covers over 65 countries around the world, is composed of sales and distribution professionals with decades of experience in digital manufacturing technologies and works alongside our direct sales force to market and sell products across a range of industries and price points. Similarly, our internal manufacturing and supply chain teams work collaboratively with our internal engineering department and third-party contract manufacturers to scale up initial prototypes for commercialization and volume commercial shipments. Together, our hybrid distribution and manufacturing approaches allow us to produce, sell and service our products at-scale in global markets and create substantial operating leverage as we execute our strategy.

Our proprietary technology solutions also serve as the foundation for product parts offerings in which we directly manufacture parts for sale to our customers with a focus on key applications and verticals in which additive manufacturing can provide significant design, performance, cost and supply chain advantages relative to conventional manufacturing. These offerings will enable us to provide a more holistic suite of solutions for our customers and enable the accelerated adoption of our Additive Manufacturing 2.0 solutions across select high-value production applications, which we refer to as “killer apps”, including, but not limited to, medical and dental devices, fluid power systems, and sustainable, end-use wood parts. We believe such offerings will not only create a high-margin revenue stream, but will also facilitate lead generation for our additive manufacturing systems at scale and enable high-performance and specialized applications using new materials ahead of broader market introduction.

We are led by visionary technologists and a team of proven leaders with experience bringing emerging technologies to market across the hardware, materials and software sectors. Our technologies have the potential to empower engineers and designers to easily access additive manufacturing and drive new application discovery as well as provide manufacturers with reliable and high-performance solutions that facilitate the production of innovative designs in high volumes. We believe that, taken together, these core competencies will propel us towards helping businesses realize the true promise of Additive Manufacturing 2.0.

### **Industry Background**

#### ***Conventional manufacturing processes have numerous shortcomings.***

Historically, processes such as casting, stamping, molding and machining have dominated global manufacturing, which is a \$12 trillion industry, according to estimates by A.T. Kearney. These conventional and subtractive manufacturing techniques have

numerous limitations. Most require high upfront expenses in the form of tools, such as molds, dies, jigs or fixtures. Designing and manufacturing these tools can result in long lead times for parts as well as minimum volume requirements in order to achieve cost efficiencies.

Tooling requirements associated with casting, stamping, and injection molding also leave little room for design iteration without increasing time-to-market and development costs. New parts and design changes often require a new tool, thereby slowing the pace at which businesses can introduce new products and react to shifts in market preferences and making it difficult to compete effectively. Computer numerical controlled machining, or CNC machining, is an alternative to stamping, casting and molding that does not require a mold or die, enabling lower-volume production with reduced lead times. However, because CNC machining is a subtractive process in which material is removed from a solid block to create a part, it typically results in higher part costs and significant material waste. In addition, the CNC machining process often requires heavy involvement from specialist technicians, and machine programming can be time intensive. Each of these conventional manufacturing processes also creates design restrictions that can result in significantly higher part weights and costs or require assemblies, adversely impacting performance in favor of manufacturability and driving additional manufacturing and supply chain complexity.

***Additive manufacturing has the potential to address the limitations of conventional manufacturing.***

Additive manufacturing addresses many of the limitations of conventional manufacturing through a combination of flexibility, ease of use and cost, making it an efficient and effective process across the product life cycle, from design and prototyping to production. Additive manufacturing is a digital manufacturing process that produces 3D objects from digital models through the repeated deposition of thin layers of material. This process eliminates the need for tooling inputs and provides a range of benefits including:

- **Accelerated time-to-market.** Businesses can manufacture design files at the push of a button with no tooling required. While design cycles for conventional manufacturing can take weeks or months, additive manufacturing can shorten this cycle to days due to the ability to rapidly switch between or iterate on designs without excessive delay. Such improvements in time-to-market for new products can help businesses react more rapidly to shifts in customer demand.
- **Design flexibility.** Conventional manufacturing can force design compromises as a result of subtractive manufacturing processes or the use of tools. While 3D printing may involve design guidelines primarily to reduce dependency on supports and optimize process success, designers generally have freedom to produce geometries not possible or economically feasible with conventional manufacturing. As an example, with additive manufacturing, designers can produce intricate organic or complex, lattice shapes that are optimized for strength and functional performance to reduce weight and material usage.
- **Assembly consolidation.** Improved design flexibility enables the consolidation of sub-assemblies into single parts, which can improve reliability by reducing the number of failure points in a product. Decreasing part quantity is also a productivity breakthrough for many businesses. With fewer unique parts to fabricate, procure, store and assemble, businesses can drastically simplify their supply chains.
- **Mass customization.** Additive manufacturing enables the customization and production of designs at scale, eliminating costs traditionally associated with multiple tools and tooling changeover as well as reducing the risk of excess inventory and material obsolescence. Each part printed using additive manufacturing can be identical to or radically different from the other parts within a given print. Several end markets, including audiology and dental, have already leveraged mass customization through additive manufacturing to improve the aesthetics and performance of parts.
- **Supply chain re-engineering.** Additive manufacturing suitable for end-use parts production can improve supply chains by enabling on-demand manufacturing in distributed locations. Decentralized networks of additive manufacturing systems with low tooling and set-up costs can replace centralized facilities with conventional manufacturing equipment in locations frequently selected because of lower cost of labor. In addition, producing parts near the point and time of demand can significantly reduce lead times, inventories, and dependencies on forecasting without incurring additional costs related to logistics and customs.
- **Sustainable manufacturing.** Additive manufacturing is a more efficient production process than subtractive techniques, such as CNC machining. It requires fewer material inputs and reduces material waste. By enabling optimized geometries

lighter than conventionally manufactured counterparts, additive manufacturing can also lead to downstream sustainability benefits, including reduced fuel consumption in industries such as automotive and aerospace. In addition, by reducing supply chain complexity, additive manufacturing can reduce emissions from transporting physical goods around the world.

***Many businesses are motivated to deploy additive manufacturing to improve production processes at-scale.***

Many businesses faced with increased global competition and rapidly changing market preferences are turning to additive manufacturing to overcome the limitations of conventional manufacturing and provide a competitive advantage. According to an Ernst & Young global survey, 83% of industrial businesses in 2019 were either already applying or considering applying additive manufacturing technologies, a significant increase from 36% in 2016. According to the Wohlers Report 2021, spending on additive manufacturing products and services roughly doubled from \$6 billion to \$12 billion during this same period. While many businesses still value the rapid prototyping benefits of additive manufacturing, they are also eager to realize benefits largely related to end-use part production. According to Ernst & Young, over 50% of industrial businesses expect to use additive manufacturing to produce products that better meet customer requirements; reduce logistics efforts, transport and inventories; and manufacture existing products at lower costs.

***Most existing additive manufacturing technologies primarily focus on design & prototyping applications.***

Additive manufacturing technologies face stringent business requirements for use in production with respect to accuracy, surface finish, material properties and throughput, all of which must meet or exceed the standards set by more mature conventional manufacturing alternatives. Most commercially available 3D printers leverage legacy additive manufacturing technologies including fused filament fabrication, or FFF, stereolithography, or SLA, and powder bed fusion, or PBF. These first-generation 3D printing technologies build parts by tracing each layer using a single point or multiple points, such as an extrusion nozzle in FFF printers or a laser in SLA and PBF systems. While these technologies have evolved significantly since the early 2000s, and have mostly overcome initial deficiencies around accuracy, surface finish and material properties, their throughput and the resulting production economics have continued to present a challenge. Such technologies can typically only increase part throughput with additional time or systems, which limits customers' ability to increase production without also increasing their equipment costs. Many existing additive manufacturing solutions consequently continue to focus on design and prototyping use cases or other low volume production applications where design flexibility and turnaround time are important to customers, but costs and part throughput are not, and where other key performance measures, including accuracy, surface finish and material properties are also less critical.

***As a result, businesses still face hurdles in adopting legacy additive manufacturing for end-use production.***

While the growth of additive manufacturing has accelerated in recent years, many companies still hesitate to fully adopt the existing, legacy technologies to produce end-use parts in volume, preventing them from realizing the full benefits of additive manufacturing. Ernst & Young found that only 18% of industrial businesses in 2019 used additive manufacturing for end-use parts, lagging other use cases such as rapid prototyping. Because these existing, legacy technologies are better suited to design and prototyping applications, businesses pursuing additive manufacturing solutions face significant barriers to adopting these technologies for end-use applications. Using legacy additive manufacturing technologies to make end-use parts can be expensive, particularly for businesses under margin pressure. This is due to the high costs of legacy additive manufacturing equipment and related consumable materials, which are often priced at high levels by vendors to compensate for the low productivity of their systems. When combined with the limited throughput of these legacy additive manufacturing technologies, high upfront and operating costs result in part costs that typically cannot compete with conventional manufacturing. Consequently, industries that require inexpensive parts in large quantities, such as automotive and consumer products, face challenges in adopting additive manufacturing for end-use parts production.

**Our Market Opportunity**

In part as a result of the drawbacks of these legacy additive manufacturing technologies, businesses of all sizes are engaging Desktop Metal to begin their deployment of additive manufacturing for scalable, end-use parts production. We believe our product portfolio enables customers to capture value at every stage in the product lifecycle, from research and development to the mass production of tools and end-use parts. We provide easy-to-use, high-throughput, and integrated additive manufacturing solutions comprised of hardware, software, materials, and services. Our solutions expand the addressable market for additive manufacturing by facilitating applications in vertical markets that have been restricted from adopting additive manufacturing due to cost and

productivity hurdles, such as automotive, consumer products, heavy industry and machine design. As a result, we believe we are at the forefront of the next generation of companies that will drive the accelerated adoption of Additive Manufacturing 2.0, whereas legacy additive manufacturing technologies are primarily focused on enabling rapid prototyping and tooling applications. According to the Wohlers Report 2021 and management estimates, this market is expected grow from \$13 billion in 2020 to more than \$100 billion in 2030 at a compound annual growth rate of approximately 22%, as additive manufacturing displaces conventional manufacturing across a growing range of applications.

## **Our Growth Strategy**

The key elements of our strategy for growth include the following:

### ***Expand our product offerings with a focus on integrated solutions that make additive manufacturing suitable for production applications and accessible to a broad audience.***

We believe the adoption of additive manufacturing, particularly for end-use parts, is driven by the availability of solutions that offer a tool-free, digital path to producing large quantities of parts that are both higher performance and lower cost than achievable through conventional manufacturing processes. Our product portfolio is focused on additive manufacturing printer platforms designed for Additive Manufacturing 2.0, or the volume production of end-use parts, and we intend to continue investing significant resources in enhancing these solutions and developing technologies with breakthrough advances in print speed and other process parameters to deliver the highest throughput systems and lowest part costs in the additive manufacturing market. We believe such improvements will encourage customer investment in additive manufacturing across a range of industrial applications and vertical markets where conventional manufacturing has customarily held cost and volume advantages. Improved system productivity and economics will expand our market opportunity and enable customers to enjoy the benefits of additive manufacturing at-scale, including lighter, more sustainable parts and a digital supply chain. Our Additive Manufacturing 2.0 solutions also enable us to capture recurring revenue streams through the sales of consumables and service contracts. We are also committed to lowering the barriers to adopting such additive manufacturing solutions by providing integrated, turnkey experiences that improve performance while reducing workflow complexity and include all the software, hardware and materials required to produce end-use parts. To accomplish this, we intend to continue investing in software, materials and sintering technologies complementary to our 3D printers that enable ease of use and broad adoption across a wide set of customers with varying levels of experience with additive manufacturing.

### ***Qualify additional materials to reach new verticals and expand our addressable market***

Our current product portfolio supports 3D printing using an extensive library of materials, including metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials, and we are in the process of qualifying additional materials for printing that meet or exceed the properties achievable through conventional manufacturing processes. Our metal additive manufacturing systems are designed using sintering-based, powder metallurgy processes, for which hundreds of well-characterized metal alloys and ceramics are available, offering a broad set of materials for us to evaluate and qualify for use with these platforms. Several of these solutions also provide open platforms for customers to develop and print with specialized materials that are either proprietary to them or not included on our internal development roadmap while others offer a full, turnkey experience including metal powders which we qualify and distribute for customer use. Our photopolymer systems support a wide range of both proprietary and third-party, industry-validated resins through a selectively open business model. By developing or qualifying additional industrial materials on our systems and enabling customers and partners to do the same, we believe we can serve a broader customer base and address new applications and vertical markets, thereby expanding market share of our solutions and helping drive adoption of additive manufacturing.

### ***Develop robust produced parts offerings focused on “killer apps” for additive manufacturing***

We are establishing produced parts offerings in which we directly manufacture parts for sale to our customers with a focus on key, high-value applications and verticals in which additive manufacturing can provide significant design, performance, cost and supply chain advantages relative to conventional manufacturing. These offerings will enable us to provide a more holistic suite of solutions for our customers and enable the accelerated adoption of our Additive Manufacturing 2.0 solutions across select high-value and high margin production applications, which we refer to as “killer apps”, including, but not limited to, medical and dental devices, fluid power systems, and sustainable, end-use wood parts. For example, we offer turnkey design and parts production services enabled by additive manufacturing for fluid power system applications through our Aidro subsidiary, and we are building Desktop Labs, a

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dental and biofabrication platform focused on leveraging our proprietary additive manufacturing solutions to vertically integrate into digital solutions, design services and parts production capabilities for dental and biofabrication applications. By leveraging additive manufacturing, we believe we can provide improved delivery timelines, higher performance parts, and a more integrated, end-to-end customer experience relative to manufacturers that leverage conventional processes, enabling pricing power and accelerating our customer acquisition capabilities. Providing produced parts also enables customers to leverage our technology for these “killer apps” with a lower initial capital expenditure investment before bringing their production in-house when they are ready to purchase our additive manufacturing systems. We believe such services will facilitate lead generation for our additive manufacturing systems at scale and enable high-performance and specialized applications using new materials ahead of broader market introduction.

### ***Pursue strategic acquisitions and partnerships***

We intend to continue to selectively pursue acquisitions and/or equity investments in businesses that represent a strategic fit and are consistent with our overall focus on technologies and solutions that enable Additive Manufacturing 2.0 across printers, materials and killer apps. We believe such transactions would allow us to accelerate market penetration of our additive manufacturing solutions by enabling expansion of our product portfolio, access to new markets and key applications for additive manufacturing, and a stronger value proposition for our customers while delivering margin improvements and increased customer lifetime value. We believe that because of our core focus on engineering and technology development as well as our unique distribution network, we will be able to successfully integrate and drive adoption of new technologies and capabilities acquired via strategic transactions.

### ***Extend our distribution channels and reach***

We have a leading global distribution network for our additive manufacturing technology solutions consisting of over 200 resellers, covering more than 65 countries around the world. Our direct sales force augments the reach of our distribution network, focusing primarily on selling our higher priced solutions, cross-selling our solutions across materials, serving major accounts and expanding our footprint within multinational and Fortune 500 organizations. We intend to extend this hybrid distribution approach by adding further geographic coverage and sales capacity across both reseller and direct sales channels as well as developing industry-specific expertise to drive penetration in vertical markets such as automotive, aerospace, healthcare and dental, and consumer products. We also expect to continue building out a high-velocity sales channel for lower price point products by partnering with additional volume distributors of software and hardware as well as expanding our internal sales infrastructure and online sales presence.

### ***Build a diverse, global customer base across industries and applications***

We believe that our success depends, in part, on our ability to develop a diverse, global customer base to reduce risks associated with revenue concentration in any single geographic region or industry. Our customers today include businesses of all sizes, ranging from small and medium enterprises to Fortune 500 organizations and span many industries and applications, including automotive, healthcare and dental, consumer products, heavy industry, aerospace, machine design and research and development. We aim to leverage our global distribution network to reach new customers broadly as well as opportunities in targeted industries and geographies. We believe this diversification will also allow us to identify new applications for which our solutions are appropriate and provide us with customer feedback to assist our product development efforts and ensure we are addressing a broad range of market needs. For example, in 2021 we launched Desktop Health, a business focused on developing new solutions built on and commercializing our portfolio of additive manufacturing solutions for personalized patient care across a range of healthcare and dental applications spanning dentistry, orthodontics, dermatology, orthopedics, cardiology, plastic surgery and printed regenerative tissues and grafts. Our produced parts offerings, including Aidro and Desktop Labs, further our application diversification efforts by providing us with a direct, internal feedback loop with users of our additive manufacturing solutions so we can continue to identify new use cases where our proprietary technologies deliver a compelling value proposition and accelerate our customer acquisition and account expansion capabilities.

### ***Promote awareness through training and education***

As businesses increasingly embrace additive manufacturing over the next decade, we intend to educate the market on best practices for adoption of the technology across the entire product life cycle. Our leadership position provides a platform to deliver this education both for our existing customers and the market as a whole. Such education is a critical component of our sales and marketing efforts. We believe businesses that are well-informed or that have firsthand experience of the benefits of our additive



manufacturing solutions relative to conventional manufacturing are more likely to purchase and expand their use of our products and services over time. To drive such awareness, we are developing rich additive manufacturing content and curricula for delivery through both online and in-person media, including classes, programs, certifications, and professional services. We are developing global centers of excellence, leveraging our own headquarters and network of adoption centers in conjunction with our distribution network's presences, to serve as showrooms for our solutions, learning facilities and focal points for additive manufacturing-focused professional services.

## **Our Competitive Strengths**

We are a pioneer in the additive manufacturing industry with a mission to make the technology accessible to all designers, engineers, and manufacturers. We believe our collective expertise coupled with the following competitive strengths, will allow us to maintain and extend a leadership position in next-generation additive manufacturing and expand our market opportunity:

### ***Differentiated and proprietary technology platform focused on area-wide print technologies***

We have invested significant resources in developing proprietary technologies that serve as the foundation of our solutions across hardware, software and materials science to accelerate the widespread adoption of additive manufacturing. A majority of these proprietary technologies are innovations on binder jetting or digital light processing, or DLP, which are area-wide 3D printing processes that use inkjet printheads or DLP projectors, respectively, to print an entire layer or large sections of a layer at one time and are consequently more efficient than point processes, such as FFF, SLA and PBF, which trace each layer over time using single (or multiple) points of energy or material deposition. Several of our key print process innovations include:

- **Single Pass Jetting, or SPJ.** An area-wide powder metallurgy-based process in which all the sequential steps of conventional binder jetting are combined and applied with each pass of a single print carriage over the “build box”, dramatically reducing print time and increasing mechanical efficiency, leading to significant increases in throughput and improvements in part costs.
- **Triple Advanced Compaction Technology, or Triple ACT.** An area-wide powder metallurgy-based process for binder jetting that leverages a unique ultrasonic hopper in combination with a dual roller approach featuring a knurl design on one roller for spreading powder and a special surface finish on a separate roller for compacting powder, leading to high powder bed densities with minimal variability.
- **Continuous Digital Light Manufacturing, or CDLM.** An area-wide photopolymer printing process built on top of DLP technology that allows for continuous motion of the build plate to deliver exceptional build speeds and parts with isotropic properties and high accuracy, leading to improvements in part costs while also enabling new resin chemistries with strong functional characteristics.
- **Projection Arrays.** An area-wide photopolymer printing process that combines multiple high-resolution DLP projectors into a single exposure using advance multi-image calibration to increase power density and resolution during curing, improving print speeds and enabling large format build areas to support the production of large parts.
- **Bound Metal Deposition, or BMD.** A powder metallurgy-based process in which loose powders and dangerous lasers commonly associated with 3D printing are eliminated in favor of bound metal rods to shape parts layer-by-layer, leading to reductions in requirements for special facilities.
- **Micro Automated Fiber Placement, or Micro AFP.** A process in which tape pre-impregnated with continuous fiber, or continuous fiber prepreg tape, is deposited along a part's critical load paths in combination with chopped fiber filament to build high-strength and high-resolution parts with aerospace and industrial-grade materials.

In addition to these print process innovations, we have developed purpose-built, proprietary sintering technology that delivers industrial-strength sintering in an office-friendly package as well as breakthrough sintering process simulation software, designed to facilitate metal parts production on our platforms with high accuracy while reducing trial-and-error. These fundamental technologies represent the cornerstones of our future product introductions and are critical to enhancing our existing offerings. Elements of these technologies and processes are protected by our know-how and by over 650 patents or pending patent applications.

***High printer throughput***

We believe that our proprietary SPJ, Triple ACT, CDLM and Projection Array technologies and each of our binder jet and DLP product platforms enables the highest rate of parts production per unit of time among competing additive manufacturing systems for a given layer resolution. The Production System P-50, which is designed to achieve print speeds of up to 12,000 cubic centimeters per hour at a 65-micron printed layer height, can enable customers to manufacture up to hundreds of thousands or even millions of parts per year using additive manufacturing, unlocking new applications due to improved part costs and enhanced design flexibility. The Xtreme 8K uses patented Projection Array technology to support printing large photopolymer parts at build speeds up to 100 times those of legacy thermoplastic FFF printers. Our additive manufacturing solutions employ additional, proprietary technology innovations as a means to overcome some of the challenges that arise with high-speed 3D printing and ensure part consistency, accuracy, and resolution. Through continued advances in underlying hardware and our own technology and processes, we believe that our products' print speeds will continue to increase, driving down the cost of parts produced on our additive manufacturing systems. This will further differentiate our solutions from competitors while also improving our ability to compete with conventional manufacturing processes at larger quantities of parts and across a wider range of applications.

***Integrated, turnkey solutions***

We aim to provide our customers with easy-to-use and end-to-end, turnkey solutions for additive manufacturing without the need for additional third-party equipment. We believe our compelling user experience across our product portfolio begins with cohesive and modern software applications for efficient printer build preparation and communication with our additive manufacturing systems, which receive feature enhancements via over-the-air or offline firmware updates. For our solutions related to metal additive manufacturing, which is a complex process that involves multiple steps to go from a digital file to a metal part, we have developed a furnace using proprietary technology purpose-built to provide industrial strength, partial-pressure and vacuum-enabled sintering in an office-friendly package. Sintering is a critical step for powder metallurgy-based metal additive manufacturing processes. Our furnace enables customers of our Studio System and metal binder jetting solutions with minimal additive manufacturing experience or materials expertise to process high-density, complex metal parts entirely in-house without third-party equipment required. Similarly, we provide cleaning and curing solutions for our photopolymer additive manufacturing systems, enabling customers to fully process parts post-print to achieve exceptional material properties, resolution and accuracy. We also provide a range of proprietary and third-party consumables and materials optimized for use with our additive manufacturing systems and designed to enable high-quality parts with consistency.

***Broad product portfolio and material library***

Every organization has a different challenge or application that drives its consideration of additive manufacturing. We offer our customers a range of solutions spanning multiple price points, throughput levels, operating environments, and technologies to enable businesses to find the solution that solves their specific pain point and achieves their goals across an extensive library of qualified materials. Our broad product portfolio covers a spectrum of use cases, scaling with customer needs from entry-level, office-friendly additive manufacturing systems for low volume production of metal, polymer, composite or biocompatible parts to high-end, industrial additive manufacturing systems for mass production of low-cost metal, polymer, elastomer, ceramic, sand or wood parts. In addition, this portfolio eliminates the need for customers to source products for different applications from multiple third-party vendors, giving us a market advantage relative to competitors with a more limited set of solutions.

***Global presence and distribution capabilities***

We have developed an industry-leading global distribution network for our additive manufacturing solutions consisting of over 200 resellers covering over 65 countries around the world and within a short drive of a significant portion of worldwide manufacturing sector locations. Our resellers, who have extensive experience across digital modeling, 3D printing, and metal and polymer manufacturing processes, provide marketing, sales, application engineering, and local support services for end users across an array of vertical markets, such as healthcare and dental. They also bring an existing base of customers into which we can drive awareness of and ultimately sell our additive manufacturing solutions. Our direct sales force augments the reach of our global distribution network, serving major accounts and expanding our footprint within multinational and Fortune 500 organizations. To support both our reseller and direct sales channels, we leverage an experienced team of application engineers who help customers identify and develop compelling use cases for additive manufacturing in their organizations to drive adoption of our solutions. We believe this hybrid

distribution approach allows us to scale across a range of price points, solution complexities and deployment sizes while enabling a tight and ongoing relationship with customers of all sizes.

We have also established adoption centers in each of the Americas, the Europe, the Middle East and Asia, or EMEA region, and the Asia-Pacific, or APAC region, through which we offer sales and marketing and delivery of support and printing services to our customers. These adoption centers provide us with physical presence alongside our reseller locations in or near areas where many global industrial businesses have manufacturing facilities, providing potential customers with the ability to see our additive manufacturing systems in operation and evaluate their production capabilities prior to ordering such solutions to bring production in-house.

#### ***Visionary and experienced management team***

Our management team has deep operational experience bringing emerging technologies to market across the hardware and software sectors. In engineering, we are led by accomplished and visionary technologists across the additive manufacturing, robotics, and materials science industries, including lead inventors of binder jetting and DLP technologies and an industry authority in powder metallurgy. Our commercialization efforts are managed by individuals with prior successes in building and growing indirect, channel-driven sales organizations.

#### **Our Product Platforms**

We offer a comprehensive portfolio of integrated additive manufacturing solutions comprised of hardware, software, materials and services with support for metals, polymers, elastomers, ceramics, sands, composites, wood, and biocompatible materials. Our additive manufacturing systems, which are based on our proprietary technologies, are described below.

#### ***Metal Additive Manufacturing Systems***

Our metal additive manufacturing systems are designed using sintering-based, powder metallurgy processes, in which metal powder is bound together in a printer and sintered in a furnace to form a dense metal part. Hundreds of metal alloys are available to such powder metallurgy processes, many with well-characterized and high-quality material properties.

The Production System is an industrial manufacturing platform powered by patent-pending SPJ binder jetting technology designed to be the fastest way to 3D print metal parts at scale. The Production System platform consists of two printer models, the P-1 and the P-50, enabling customers to scale from process and materials development in a smaller form factor solution to mass production of low-cost, end-use parts on the same print engine. On the Production System P-50, which commenced shipments during the first quarter of 2022, SPJ technology offers dramatic increases in print speeds up to 100 times those of legacy PBF additive manufacturing technologies. This throughput is reinforced by an open material platform that allows customers to use low-cost, third-party metal injection molding, or MIM, powders. As a result, the Production System P-50 can produce high-resolution parts at costs competitive with conventional mass production techniques for quantities up to hundreds of thousands of units, addressing the needs of original equipment and third-party contract manufacturers seeking cost-effective additive manufacturing solutions. In addition, both Production System printer models feature an inert, chemically inactive processing environment, enabling support for a range of both non-reactive and reactive metals in a controlled fashion while also promoting consistent characteristics and quality across printed parts.

The Shop System platform introduces mid-volume binder jetting with rich feature detail and exceptional surface finish to the machine shop market. With the Shop System, businesses can produce serial batches of hundreds or thousands of complex, end-use metal parts in a fraction of the time and cost of conventional manufacturing and comparably priced additive manufacturing technologies. The Shop System, which can achieve build speeds up to 10 times those of legacy PBF additive manufacturing technologies, also features a configurable build volume from 4 liters to 16 liters designed to scale to a customer's desired throughput. It is an affordable, turnkey solution that facilitates the full manufacturing process from digital file to sintered metal part, and includes a powder station for part depowdering prior to sintering, closed-loop powder recycling and our proprietary furnace technology with software and profiles optimized for mid-volume production. While the Shop System was initially designed for metal parts production, we also are qualifying and commercializing this solution for new materials that can leverage binder jetting, such as wood and ceramics.

The X-series platform is designed for serial production binder jet 3D printed metal, ceramic, or composite parts, balancing speed and quality while offering broad material compatibility for a full spectrum of academics, researchers and manufacturers. The X-series consists of three printer models, including the X160Pro, X25Pro and InnoventX. The models differ primarily in print speed and build volume but leverage the same patented Triple ACT technology and advanced, piezoelectric printhead engine to support easy scaling from research and development to volume production with industry-leading final part accuracy, density and part variability as low as 0.3% across large build areas. Each of these printer models also features an open material system and significant process flexibility, enabling the use of a diverse range of ultra-fine, third-party MIM powders. At 160 liters in build volume, the X160Pro is the largest commercially available binder jet system in the market and large enough to batch process investment cast parts for applications in industries such as automotive, aerospace and defense. The X160Pro also features Industry 4.0 cloud connectivity and process-linking capabilities enabled by Siemens MindSphere. The X25Pro features a mid-sized 25-liter build volume, making it large enough to accommodate production of most metal parts manufactured today. The InnoventX is a compact, entry-level binder jetting solution aimed at academics, researchers, and manufacturers seeking to conduct materials research and produce low volumes of functional parts quickly, affordably, and sustainably. It also includes enhanced safety features for reliably producing high-quality parts with excellent surface finish across a wide range of materials. This system's process flexibility and easy-to-manage build volume of just under 1 liter make it ideal for educating students, use in labs for research and development, or getting started with binder jetting without the need for large volumes of powder.

The Studio System platform, now in its second generation, is designed for office-friendly 3D printing. Integrated through Desktop Metal's cloud-based Fabricate software, this turnkey, easy-to-use solution delivers a streamlined and automated workflow for producing low volumes of complex metal parts in house via additive manufacturing technology. Through BMD, the Studio System minimizes requirements for special facilities or expensive EHS equipment as compared to legacy PBF additive manufacturing technologies and improves ease-of-use while enabling new features such as use of closed-cell triply periodic minimal surface, or TPMS, infill for lightweight strength. Parts produced using the Studio System 2 also feature our Separable Supports technology, which enables simplified post-processing and support removal relative to legacy PBF additive manufacturing technologies.

We also offer a sintering furnace, that can be paired with the Studio System and our entry-level binder jetting solutions to create turnkey metal additive manufacturing solutions that are simple to install and easy to use. The Desktop Metal furnace is fully-automated, sized to fit through ADA-compliant doors and built using proprietary technology that provides industrial-strength, vacuum-enabled sintering in an office-friendly package. It is designed to achieve temperatures up to 1,400 degrees Celsius and to ensure uniform heating and cooling without the residual stresses introduced into parts by legacy PBF additive manufacturing processes, which can result in poor part performance.

### ***Photopolymer Additive Manufacturing Systems***

Our photopolymer additive manufacturing systems are designed using advanced, area-wide photopolymer print processes, such as DLP and CDLM, in which liquid photopolymer resin is cured using light from a high-resolution projector system to produce precision polymer parts with smooth surface finish and properties in line with or exceeding conventionally manufactured thermoplastics.

The Xtreme 8K platform features the largest build area among production-grade DLP systems. It is designed for industrial, high-temperature production of end-use photopolymer parts and uses high-powered light sources coupled with a water-cooled DLP chip for extended life on the factory floor. Leveraging patented Projection Array technology, the Xtreme 8K combines its two high-powered 4K projectors into a single exposure using multi-image calibration to drive power density during curing and enable the high-speed production of exceptionally large photopolymer parts within the 71 liters build envelope without sacrificing quality or accuracy. Projection Array technology, which supports build speeds on the Xtreme 8K up to 100 times those of legacy thermoplastic FFF printers, is also capable of printing parts with up to 16K resolution using patented pixel shifting technology. With the speed and resolution enabled by the Xtreme 8K, businesses can achieve superior price performance for large volumes of end-use parts versus comparable polymer additive manufacturing systems.

The Einstein series, designed for dental professionals, offers key features essential to superior 3D printing in the dental market, including accuracy, speed and versatility. The series consists of three models, including Einstein, Einstein Pro, and Einstein Pro XL, each of which offer progressively larger build volumes up to 5.7 liters, faster build speeds, and higher-resolution printing. All Einstein printers leverage proprietary NanoFit 385 technology built on industrial 385 nanometer projectors to enable dental applications with stunning clarity, exceptional accuracy, and natural looking finishes. The printers are also equipped with Hyperprint technology, which leverages closed-loop processing in combination with a heated resin vat to fabricate a variety of dental applications, such as models,

dentures and crowns, with improved accuracy, speeds up to 50% faster, and a wider range of materials than predecessor dental photopolymer solutions.

The P4K platform offers a series of advanced DLP printer models designed for volume production in precision applications. With four available build envelopes up to 5.9 liters in volume, the P4K platform leverages industrial 385 nanometer projectors combined with patented pixel tuning technology that uses artificial intelligence to deliver parts with extremely high-quality surface finish. P4K printers eliminate the use of a vat used to hold the liquid photopolymer resin, and instead use a shallow tray filled with the exact volume of resin required for a given print, minimizing waste, saving material costs and making material changeovers fast and easy.

The Envision One platform leverages patented CDLM technology for high-volume production of end-use photopolymer parts at an affordable upfront price, offering exceptional price performance. Envision One printers are built with industrial projectors with 4K resolution and 385 nanometer wavelength that deliver high-intensity light uniformly and with high precision across the entire build surface. Paired with proprietary domeless basement technology for the material tray, which reinforces precision and part accuracy, CDLM technology on the Envision One enables the continuous motion of the build plate to deliver high build speeds and parts with isotropic properties, leading to cost-effective end-use parts. The Envision One platform consists of several models, including a large format solution, the Envision One XL, which supports printing large parts up to 330 millimeters tall, and the Envision One HT, which uses a high-accuracy, closed loop infrared heating system to enable a new generation of high-temperature, high-viscosity resin chemistries with strong functional characteristics.

The D4K Pro platform, designed for jewelry and chairside settings, offers professional-grade photopolymer printing for end-use parts in a desktop form factor. Equipped with an industrial 385 nanometer and 4K resolution projector, the D4K Pro platform uses proprietary DLP technology to deliver exceptionally fast print speeds. The platform offers build envelopes up to 1.4 liters in volume, resolution down to 25 microns, and exceptionally smooth surface finish that minimizes post-processing requirements.

Across each of these platforms, we have a large library of qualified materials suitable for healthcare and dental, consumer products, and industrial applications. In addition, we offer cleaning and curing accessories to facilitate post-processing of photopolymer parts produced on our printer platforms. The PWA 2000 and PWA 2000 XL automated rinsing solution facilitates cleaning uncured resin from parts with the convenience of a removable basket for ease-of-use when dipping or extracting parts from the tank. A selection of available automated programs ensures accurate, and efficient cleaning of delicate and larger, complex parts alike while minimizing liquid use to reduce costs and environmental impact. The PCA 2000 and PCA 4000 are solutions for curing parts printed using our CDLM or DLP platforms and utilize a unique system of ultraviolet light emitting diode (LED) light sources that uses both 385 nanometer wavelengths to deep cure and 405 nanometer wavelengths to achieve smooth surface on each part.

### ***Digital Casting Additive Manufacturing Systems***

Our digital casting additive manufacturing systems leverage binder jetting technology to print large-scale molds, mold cores, and investment casting patterns with high precision across a variety of sand materials for foundry applications to enable our customers to innovate through enhanced design solutions and improved turnaround times for their clients.

The S-Max platform is a high-performance digital casting solution designed for fast, precise and reliable production of sand molds and cores for metal casting applications, making it an ideal choice for industrial production of high-complexity castings that range in size for automotive, aerospace, energy, and other heavy industries. The platform consists of two models, the S-Max and S-Max Pro. Both models offer two large job boxes of 1,260 liters each, as well as a fully automated and adjustable printhead that supports a wide range of binder systems, providing the versatility to print cores and molds compatible with a range of ferrous and nonferrous metals. The S-Max printer offers a robust and reliable solution for the majority of our available sand printing binders, including all cold hardening binder systems, making it suitable for a common and wide range of casting materials. The S-Max Pro offers an additional inorganic binder option, which can deliver high-quality aluminum castings popular among automotive foundries. These models also vary in print speed, with the S-Max offering a build rate of up to 100 liters per hour and the S-Max Pro offering faster serial production speeds of up to 125 liters per hour. Designed for high-volume production, the S-Max Pro also leverages Siemens control systems with Industry 4.0 integration, cloud connectivity, and real-time process controls with early print error detection via integrated cameras. It is available as a standalone solution but can also be connected with optional auxiliary equipment to create a fully automated, turnkey production line for 3D sand printing. The S-Max Pro also offers an optional “box-in-box” system that uses transport shuttles for automated loading and removal of build boxes immediately after printing as well as an automated or semi-automated desanding station, which features state-of-the-art PLC controls and integrated sensors to reduce processing time by up

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to 95%, providing customers with the ability to support 24/7 continuous production on up to four S-Max Pro printers. A modular setup allows this system to be extended to robotic removal of cores and finishing, creating greater flexibility and future-proofing customer investment.

The Robotic Additive Manufacturing, or RAM, platform is designed to be the fastest and most flexible robotic 3D printing solution with an initial focus on sand and ceramic 3D printing for digital casting applications. Using patent-pending technology, a print carriage attached to a third-party, multi-axis robot uses high-speed binder jetting technology to deposit, spread, and compact powder and deposit binder in a single pass over the build box to produce high quality components for foundry applications at scale. The RAM platform consists of several standard models, which offer a variety of build envelopes up to 1,529 liters in volume, although the industrial robot and modular print carriage architecture allows configurations for a variety of build sizes, resolutions, accuracies and materials, such as wood or polymers.

The S-Print is an ideal entry-level solution for prototypes and small series production in digital casting applications. With a 160-liter build volume, it combines a compact footprint with the flexibility to use the full range of available sand printing binder systems to accommodate a variety of casting materials for rapid product development and short-run production.

### ***Composite Additive Manufacturing Systems***

The Fiber platform offers the world's first desktop 3D printer to fabricate high-resolution parts with aerospace- and industrial-grade continuous fiber composite tape materials used in industrial Automated Fiber Placement, or AFP, processes. Through proprietary Micro AFP technology, Fiber supports materials up to two times stronger than steel at one-fifth its weight and up to 75 times stiffer and 60 times stronger than standard FFF polymer materials. Micro AFP uses a robotic tool changer architecture in which one printhead deposits a continuous fiber prepreg tape while a second printhead extrudes chopped fiber filament to build high-resolution parts with reinforced sections along critical load paths. To enable applications ranging from consumer electronics to automotive, Fiber is designed to support a number of fiberglass and carbon fiber-reinforced composites, including Polyetheretherketone, or PEEK, Polyetherketoneketone, or PEKK, and Nylon (Polyamide 6, or PA6) composites, which exhibit excellent mechanical properties and are temperature, chemical, and corrosion resistant, and electrostatic discharge, or ESD, compliant.

### ***Biofabrication Additive Manufacturing Systems***

The 3D-Bioplotter platform is a versatile and user-friendly biofabrication solution that processes biocompatible materials for potential computer-aided tissue engineering applications such as bone regeneration, cartilage regeneration, soft tissue fabrication, drug release and organ printing. It is one of the most widely referenced biofabrication platforms in the industry today and is being used for groundbreaking medical research and development. Designed to enable flexibility and combinations of different materials and temperatures, the platform leverages a modular architecture, including sterilized heating and cooling cartridges and a robotic tool changer to switch between one of up to five syringes, each of which has individual temperature control, and which use air or mechanical pressure to dispense liquid, melt, paste or gels from a cartridge. The 3D-Bioplotter can fabricate parts using a wide range of open-source and standard materials, from soft hydrogels to polymer melts or hard ceramics and even metals. Software-designed complex inner patterns enable researchers and manufacturers to precisely control mechanical properties.

### ***Consumable materials***

We sell an array of consumable materials, or consumables, for use with several of our additive manufacturing systems. The sales of these materials provide us with a recurring revenue stream from customers of our additive manufacturing solutions. These materials consist of:

- **Binder jetting materials.** For use with our binder jetting platforms, we sell a combination of proprietary binders engineered in-house by our materials team and third-party binders both to support a broad array of MIM alloys, sands and ceramics, and to maximize success through each stage of the binder jetting process, resulting in high-resolution parts with exceptional surface finish and strong material properties. While we offer an open platform that is compatible with third-party powders across many of our binder jetting solutions, we sell a range of powders qualified for use with the Shop System, with numerous additional materials in various stages of qualification.

- **DLP and CDLM photopolymer resins.** For use with our area-wide photopolymer print platforms, we sell proprietary resins engineered in-house by our materials team to achieve high-performance material properties and support a broad range of applications across healthcare and dental, consumer products and industrial verticals. This extensive library of materials also includes biocompatible resins as well as several Food and Drug Administration, or FDA, cleared resins for use in medical and dental applications. In addition to our proprietary resins, we sell third-party, industry-validated materials that have been qualified for use with our platforms through a selectively open business model.
- **BMD materials.** For use with the Studio System, we sell metal and ceramic materials, including stainless steels, carbon steels, tool steels, titanium and copper. We also continue to develop additional materials to meet our customers' needs for new applications and vertical markets. These office-friendly materials are delivered in our unique cartridge-based, rod format, which is a key differentiator for the Studio System as it allows for high metal loading and high-force extrusion during printing, resulting in high density parts with strong mechanical properties, as well as quick and easy material changeovers.
- **Micro AFP materials.** For use with Fiber, we sell both continuous and chopped fiber-reinforced composite materials. Fiber's Micro AFP tape head deposits aerospace- and industrial-grade continuous fiber prepreg tape while the FFF printhead deposits chopped fiber filament. Fiber is designed to carbon fiber and fiberglass reinforcement options along with several thermoplastics, including PEEK, PEKK, and Nylon (PA6). This selection of materials enables a range of customer applications requiring high strength, low weight, temperature or chemical resistance, and ESD compliance.
- **Bioprinting materials.** For use with 3D-Bioplotter, we sell several biocompatible materials for potential use in tissue engineering applications.

In addition, depending on the product, our consumables may include wear components for our additive manufacturing systems, such as printheads, build plates or material trays, which require replacement after a specified usage amount or in accordance with predetermined replacement cycles, in order to maintain the proper operations of the equipment.

### *Software*

Software is a key component of our additive manufacturing solutions and is at the core of their accessibility and ease-of-use. Built on cloud, desktop, and mobile technologies, our build preparation software applications, Fabricate, Envision One RP, XPrep and Viriprint, streamline the process of setting up prints and provides a cohesive, modern user interface and experience across our product portfolio. In addition to basic features such as automatic and custom support generation, part scaling and positioning, our software also enables the unique features of each of our additive manufacturing systems, such as the ability to configure the placement and orientation of continuous fiber tape for Fiber, to adjust closed-cell infill for the Studio System, to leverage automated dental model preparation for Einstein printers and to densely nest multiple parts into a build across all our binder jetting, DLP and CDLM platforms. These software applications natively read commonly used 3D CAD file formats as well as traditional 3D printing file formats, such as STLs.

Our systems also feature onboard, color touchscreen controls and a user-friendly experience consistent with our build preparation software applications. For our cloud-enabled systems, these onboard controls facilitate remote over-the-air updates delivered directly to the equipment, allowing for continuous improvement via new features and enhancements. Several of our systems are integrated with third-party internet-of-things platforms such as Siemens Mindsphere, which enables real-time, cloud-based monitoring of print status, including live information on key system metrics and alerts for out-of-range issues, and for which we are developing closed-loop quality assurance systems to automatically detect and correct errors during printing.

In addition, we offer Live Sinter, a proprietary sintering process simulation software designed to improve part accuracy, reduce sintering support structures and associated costs and minimizing printing trial and error for binder jet additive manufacturing processes. This software dynamically simulates the results of the sintering process by leveraging a GPU-accelerated, multi-physics engine in combination with finite element analysis, or FEA, and artificial intelligence. It also automates the compensation of geometries for the distortion and shrinkage that typically occurs during sintering, further optimizing the printing process to create high-accuracy parts.



### ***Desktop Labs: Our Dental and Biofabrication Platform***

Dental and biofabrication represent important emerging killer apps for additive manufacturing because the parts in these market segments are typically patient-specific. Traditional production methods in these industries include labor- and resource-intensive conventional manufacturing processes. As a result, we believe this market is poised to rapidly adopt additive manufacturing. To address these applications and accelerate their adoption of additive manufacturing, we are building Desktop Labs, a produced parts offering under Desktop Health that vertically integrates into digital solutions, design services and parts production capabilities. To support the Desktop Labs platform, we have acquired several businesses engaged in the production of a range of high-performance dental parts and devices, including, but not limited to, restorations such as dentures or crowns, splints and guards, and surgical guides.

We intend to establish a competitive advantage for Desktop Labs relative to dental industry peers by elevating the dental clinician practice experience and the standard of care through improved quality of restorations, faster turnaround times, and customized chairside solutions enabled by high-throughput 3D printers, breakthrough materials, and innovative software workflows. We are focused on rapidly digitizing Desktop Labs properties using these proprietary additive manufacturing solutions to enhance their profitability, expanding margins through efficient production capabilities while delivering improved patient outcomes. Through additive manufacturing-enabled digital workflows, Desktop Labs can not only realize significant cost reductions within key restorative dental device categories but also provide end-to-end solutions for private dental practices, dental services organizations (DSOs), dental hospitals, dental institutions, and manufacturing support for dental labs. In particular, we intend to use such additive manufacturing-enabled digital workflows and technology-enhanced support services to facilitate the expansion of the chairside printing ecosystem inside dental practices. These efforts will create new, digital-first treatment options for dental clinicians, resulting in reductions in patient visits, dental device remakes, real-time issue resolution, and an overall positive impact on dental practice economics, efficiency, and resource management.

Over time, we also intend to leverage this platform to provide biofabrication solutions leveraging proprietary materials currently in the advanced stages of research and development. We believe Desktop Labs can develop into an industry-leading business that provides printers, materials and end-use parts for dental and biofabrication customers with additive manufacturing at its core.

### **Customers**

Our customers range from small and medium sized enterprises to Fortune 500 companies and represent a broad array of industries, including automotive, aerospace, healthcare, consumer products, heavy industry, machine design, research and development, and others. No single customer has accounted for more than 10% of our total revenue in 2021. One customer accounted for 24% of total accounts receivable in 2021.

### **Research and Development**

The additive manufacturing market is undergoing rapid technological advancements across hardware, software, and materials. We invest significant resources into ongoing research and development programs because we believe our ability to maintain and extend our market position depends, in part, on breakthrough technologies that offer a unique value proposition for our customers and differentiation versus our competitors. Our research and development team, which is responsible for both the development of new products and improvements to our existing product portfolio, consists of talented and dedicated engineers, technicians, scientists, and professionals with experience from a wide variety of the world's leading additive manufacturing, robotics, materials, and technology organizations. Our primary areas of focus in research and development include, but are not limited to:

- Printing technologies for metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials, focused on driving improvements to speed, ease of use, and part size;
- Binder and resin formulation to enhance the support for additional materials and new applications;
- Sintering technology and powder metallurgy techniques to increase materials compatibility and part quality;
- Powder processing technology to ensure reliable and repeatable printing at scale; and
- Simulation and artificial intelligence-based software tools to maximize part quality and accuracy.



## **Sales and Marketing**

We sell our additive manufacturing solutions through a global distribution network consisting of over 200 resellers, covering over 65 countries around the world. Our resellers purchase and resell our products to our customers, for whom they also perform installation, application engineering, and local support and maintenance services, with backup services provided by our internal applications engineering and support teams. Our resellers are overseen by Desktop Metal regional channel managers, and most operate on an exclusive basis with respect to the additive manufacturing technologies that we offer. Many resellers offer third-party digital manufacturing software and/or CNC machines in their respective regions, which provides an opportunity to cross-sell our additive manufacturing solutions to a broad, existing customer base that has purchased these other products. Our direct sales force augments the reach of our distribution network, focusing primarily on selling our higher priced solutions, cross-selling our solutions across materials, serving major accounts and expanding our footprint within multinational or Fortune 500 organizations. We believe this hybrid distribution approach not only broadens our global reach, but also creates a tight and ongoing relationship between us and our customers.

Our marketing strategies are focused on supporting sales growth by (i) driving awareness; (ii) developing comprehensive sales and marketing content, tools, and campaigns for each stage of the sales process; and (iii) scaling those campaigns via our global distribution network and direct sales force. We drive awareness for Desktop Metal, our additive manufacturing solutions, and our customers' successes through public relations and communications efforts that span mainstream, business, and trade press across the manufacturing sector generally and in key verticals such as automotive, aerospace, healthcare, consumer products, heavy industry and machine design. Our internal marketing team develops compelling, high-fidelity content in multiple formats and delivery methods to facilitate marketing campaigns and sales enablement.

## **Manufacturing and Suppliers**

Depending on the platform and volume requirements, our hardware products are either manufactured in-house or via third-party contract manufacturers with international quality certifications, such as ISO 9001, ISO 13485, and ISO/TS 16949. We design our products and internally manufacture initial engineering prototypes and low to medium volumes of products where applicable. Our internal manufacturing and supply chain teams work collaboratively with our engineering department and our third-party contract manufacturers to scale up the prototypes for commercialization through a phase gate product launch process. Our third-party contract manufacturers provide a variety of services including sourcing off-the-shelf components, manufacturing custom components/assemblies, final product assembly and integration, end of line testing and quality assurance per our specifications. Key consumables used in various print processes, such as proprietary resins and binders, are developed and produced either in-house or with core partners to ensure protection of intellectual property and production that meets our formula and specifications.

Across our solutions, we initially manage the supply chain for key components and materials, and then set up supply agreements to ensure stable supply and redundancy where applicable. When working with third-party contract manufacturers, depending on the criticality of the component, our internal supply chain group may continue to manage the supplier relationship throughout the life of the product. In addition, commodity hardware items are managed by our contract manufacturers' sourcing teams under a vendor list approved by us to leverage the buying power of their global scale. Commodity consumables are qualified and purchased directly from known industry leaders and provided to the customer to properly support equipment operation. Inventory levels are managed with our manufacturing partners to ensure an adequate supply is on hand to meet business forecasts with the ability to produce at multiple locations.

Our raw materials and components are derived from several suppliers and, except as set forth below, the loss of an individual supplier would not have a material adverse effect on our business. Each of our binder jet additive manufacturing systems has a single supplier of certain printhead components, and several of our photopolymer DLP systems has a single supplier of certain projector components. While we believe that these component suppliers are each replaceable, in the event of the loss of any one of these suppliers, we could experience delays and interruptions that might adversely affect the financial performance of our business.

## **Intellectual Property**

Our ability to drive innovation in the additive manufacturing market depends in part upon our ability to protect our core technology and intellectual property. We attempt to protect our intellectual property rights, both in the United States and abroad,

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through a combination of patent, trademark, copyright and trade secret laws, as well as nondisclosure and invention assignment agreements with our consultants and employees and through nondisclosure agreements with our vendors and business partners. Unpatented research, development, know-how and engineering skills make an important contribution to our business, but we pursue patent protection when we believe it is possible and consistent with our overall strategy for safeguarding intellectual property.

As of December 31, 2021, we own or co-own over 650 patents and pending patent applications in the United States and in various foreign countries. Desktop Metal's patents and patent applications are directed to, among other things, additive manufacturing and related technologies.

### **Human Capital**

Our employees are critical to our success. As of December 31, 2021, we had 1,370 employees. We also engage numerous consultants and contractors to supplement our permanent workforce. A majority of our employees are engaged in research and development and related functions. To date, we have not experienced any work stoppages and consider our relationship with our employees to be in good standing. None of our employees are subject to a collective bargaining agreement or represented by a labor union.

We believe that developing a diverse, equitable and inclusive culture is critical to continuing to attract and retain the top talent necessary for our long-term success and strategy. We value diversity at all levels and continue to focus on extending our diversity and inclusion initiatives across our entire workforce, including the expansion of individuals with diverse backgrounds in leadership.

Our principles of accountability, honesty, integrity and customer-focused, serve as our cultural pillars. We focus our efforts on creating a collaborative environment where our colleagues feel respected and valued. We provide our employees with competitive compensation, opportunities for equity ownership and a robust employment package, including health care, disability and long-term planning insurance, retirement planning and paid time off. In addition, we regularly interact with our employees to gauge employee satisfaction and identify areas of focus.

### **Government Regulations**

We are subject to various laws, regulations and permitting requirements of federal, state and local authorities, including related to environmental, health and safety; anti-corruption and export controls; and FDA regulation. We believe that we are in material compliance with all such laws, regulations and permitting requirements.

On November 4, 2021, the Audit Committee of the Board of Directors engaged a third party to conduct an independent internal investigation as a result of a whistleblower complaint relating to manufacturing and product compliance practices at our EnvisionTEC US LLC facility in Dearborn, Michigan. In response, and to address the issues identified in the investigation, we implemented changes in the management of the Dearborn facility and improvements in manufacturing and compliance policies and procedures for the applicable products. Following notification to the FDA, we also initiated voluntary recalls of certain shipments of Flexcera resins and the PCA4000 curing box. The investigation is now closed, and the matters subject to the investigation and our responsive actions did not have, and are not anticipated to have, a material impact on our financial statements or business.

### ***Environmental Matters***

We are subject to domestic and foreign environmental laws and regulations governing our operations, including, but not limited to, emissions into the air and water and the use, handling, disposal and remediation of hazardous substances. A certain risk of environmental liability is inherent in our production activities.

These laws and regulations govern, among other things, the generation, use, storage, registration, handling and disposal of chemicals and waste materials, the presence of specified substances in electrical products, the emission and discharge of hazardous materials into the ground, air or water, the cleanup of contaminated sites, including any contamination that results from spills due to our failure to properly dispose of chemicals and other waste materials and the health and safety of our employees. We are required to obtain environmental permits from governmental authorities for certain operations.

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The export of our products internationally from our production facilities subjects us to environmental laws and regulations concerning the import and export of chemicals and hazardous substances such as TSCA and REACH. These laws and regulations require the testing and registration of some chemicals that we ship along with, or that form a part of, our systems and other products.

*See “Risk Factors — We are subject to environmental, health and safety laws and regulations related to our operations and the use of our additive manufacturing systems and consumable materials, which could subject us to compliance costs and/or potential liability in the event of non-compliance” for additional information about the environmental, health and safety laws and regulations that apply to our business.*

### **Export and Trade Matters**

We are subject to anti-corruption laws and regulations imposed by governments around the world with jurisdiction over our operations, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act 2010, as well as the laws of the countries where we do business. We are also subject to various trade restrictions, including trade and economic sanctions and export controls, imposed by governments around the world with jurisdiction over our operations. For example, in accordance with trade sanctions administered by the Office of Foreign Assets Control and the U.S. Department of Commerce, we are prohibited from engaging in transactions involving certain persons and certain designated countries or territories, including Cuba, Iran, Syria, North Korea and the Crimea Region of Ukraine. In addition, our products are subject to export regulations that can involve significant compliance time and may add additional overhead cost to our products. In recent years the United States government has a renewed focus on export matters. For example, the Export Control Reform Act of 2018 and regulatory guidance thereunder have imposed additional controls and may result in the imposition of further additional controls, on the export of certain “emerging and foundational technologies.” Our current and future products may be subject to these heightened regulations, which could increase our compliance costs.

*See “Risk Factors — Failure of our global operations to comply with anti-corruption laws and various trade restrictions, such as sanctions and export controls, could have an adverse effect on our business” for additional information about the environmental, health and safety laws and regulations that apply to our business.*

### **Medical Devices**

Our Desktop Health products and services, and its healthcare provider customers and distributors, are and will be subject to extensive federal, state, local and foreign regulations (including those of the U.S. Food and Drug Administration and its foreign equivalents), including, without limitation, regulations with respect to approvals and clearances for products, design, manufacturing and testing, labeling, marketing, sales, quality control, and privacy.

*See “Risk Factors — Compliance with regulations for medical devices and solutions is expensive and time-consuming, and failure to obtain or maintain approvals, clearances, or compliance could impact financial projections and/or subject us to penalties or liabilities” for additional information about the environmental, health and safety laws and regulations that apply to our business.*

### **Competition**

Desktop Metal has experienced, and expects to continue to experience, competition from a number of companies, including other vendors of additive manufacturing systems. A variety of additive manufacturing technologies compete with our proprietary technologies, including, but not limited to: binder jetting, FFF, DLP, SLA, selective laser sintering, or SLS, PBF, and directed energy deposition, or DED.

We believe that we provide the only additive manufacturing solutions addressing customer requirements around both productivity and ease of use. We are well-positioned to compete in our industry based on these core competencies and on the following competitive strengths:

- Highest rates of parts production among competing additive manufacturing systems for a given layer resolution, enabled by our proprietary SPJ, Triple ACT, CDLM and Projection Array technologies;

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- Extensive library of supported materials, including metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials, with additional materials in the process of qualification for use with our additive manufacturing systems;
- Cost-effective, industrial sintering technology designed to be office-friendly, easily serviceable by a global distribution network, and more gas and power efficient than industrial sintering equipment;
- Integrated software experiences with a cohesive, modern user interface for efficient print preparation and simplified system operations; and
- Global distribution capabilities in over 65 countries around the world, featuring world-class levels of support and applications engineering services.

In addition, our broad product portfolio offers customers a variety of capabilities and price points that can scale with customer needs, and we believe that this enables us to compete across a wide range of vertical markets. It also eliminates the need for customers to source products for different applications from multiple third-party vendors, giving us a significant market advantage relative to vendors with a more limited product portfolio.

We also compete with established organizations selling conventional manufacturing solutions and services, such as casting, injection molding, forming, extrusion and CNC machining. Such businesses typically primarily address volume production applications. We believe we compete favorably against such offerings and are well-positioned to drive adoption of additive manufacturing across an expanding set of applications given the benefits our solutions provide around lead time reductions, improved design flexibility and performance, supply chain efficiencies, and part costs, which we expect to decrease over time as our technologies and system productivity improves as a result of our research and development efforts.

### **Company Formation**

Trine was a blank check company incorporated under the laws of the State of Delaware in September 2018 and Legacy Desktop Metal was incorporated under the laws of the State of Delaware in 2015. On December 9, 2020, we consummated the Business Combination and Trine was renamed to Desktop Metal, Inc. Our principal executive offices are located at 63 Third Avenue in Burlington, Massachusetts 01803. Our website address is [www.desktopmetal.com](http://www.desktopmetal.com). We have included our website address in this report solely as an inactive textual reference.

### **Available Information**

Copies of the periodic reports that we file with the Securities and Exchange Commission, or SEC, such as our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any other filings may be obtained by the public, free of charge, by visiting the Investors section of our website at [ir.desktopmetal.com](http://ir.desktopmetal.com), or by contacting our Investor Relations department at our office address listed above. The SEC also maintains a website that contains periodic reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at [www.sec.gov](http://www.sec.gov). The contents of these websites are not incorporated into this filing. Further, our references to the URLs for these websites are intended to be inactive textual references only.

### **Item 1A. Risk Factors**

#### **Summary of Risk Factors**

*Our business is subject to numerous risks. Below is a summary of the principal factors that could cause our actual results to differ materially from those expressed in forward-looking statements made by us or on our behalf. This summary does not address all of the risks that we face. Additional discussion of the risks summarized in this risk factor summary, and other risks that we face, can be found under the heading "Risk Factors" immediately following this section and should be carefully considered, together with other information in this Annual Report on Form 10-K and our other filings with the SEC, before making an investment decision regarding our Class A common stock.*

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- We may experience significant delays in the design, production and launch of our additive manufacturing solutions, and we may be unable to successfully commercialize products on our planned timelines.
- If demand for our products does not grow as expected, or if market adoption of additive manufacturing does not continue to develop, or develops more slowly than expected, our revenues may stagnate or decline, and our business may be adversely affected.
- The additive manufacturing industry in which we operate is characterized by rapid technological change, which requires us to continue to develop new products and innovations to meet constantly evolving customer demands and which could adversely affect market adoption of our products.
- As part of our growth strategy, we intend to acquire or make investments in other businesses, patents, technologies, products or services. Our efforts to do so, or our failure to do so successfully could disrupt our business and have an adverse impact on our financial condition.
- We may experience difficulties in integrating the operations of ExOne, EnvisionTEC and other acquired companies into our business and in realizing the expected benefits of these acquisitions.
- We are an early-stage company with a history of losses. We have not been profitable historically and may not achieve or maintain profitability in the future.
- Future sales, or the perception of future sales, of our Class A common stock by us or our existing stockholders in the public market could cause the market price for our Class A common stock to decline.

### **Risk Factors**

*Our business is subject to numerous risks. You should carefully consider the risks and uncertainties described below and the other information in this Annual Report on Form 10-K before making an investment decision regarding our Class A common stock. Our business, financial condition, results of operations, or prospects could be materially and adversely affected if any of these risks occurs, and as a result, the market price of our Class A common stock could decline, and you could lose all or part of your investment. This Annual Report on Form 10-K also contains forward-looking statements that involve risks and uncertainties. See "Cautionary Note Regarding Forward-Looking Statements." Our actual results could differ materially and adversely from those anticipated in these forward-looking statements as a result of certain factors, including those set forth below.*

### **Risks Related to Our Business and Industry**

***We may experience significant delays in the design, production and launch of our additive manufacturing solutions, and we may be unable to successfully commercialize products on our planned timelines.***

Several of our announced additive manufacturing solutions are yet to be commercially released. There are often delays in the design, testing, manufacture and commercial release of new products, and any delay in the launch of our products could materially damage our brand, business, growth prospects, financial condition and operating results. Even if we successfully complete the design, testing and manufacture for one or all of our products under development, we may fail to develop a commercially successful product on the timeline we expect for a number of reasons, including:

- misalignment between the products and customer needs;
- lack of innovation of the product;
- failure of the product to perform in accordance with the customer's expectations or industry standards;
- ineffective distribution and marketing;
- delay in obtaining any required regulatory approvals;

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- unexpected production costs; or
- release of competitive products.

Our success in the market for the products we develop will depend largely on our ability to prove our products' capabilities in a timely manner. Upon demonstration, our customers may not believe that our products and/or technology have the capabilities they were designed to have or that we believe they have. Furthermore, even if we do successfully demonstrate our products' capabilities, potential customers may be more comfortable doing business with another larger and more established company or may take longer than expected to make the decision to order our products. Significant revenue from new product investments may not be achieved for a number of years, if at all. If the timing of our launch of new products and/or of our customers' acceptance of such products is different than our assumptions, our revenue and results of operations may be adversely affected.

***We may experience significant delays or other obstacles in the design, production, launch and/or maintenance of produced parts offerings, and we may be unable to successfully commercialize said offerings.***

We are building out produced parts offerings for customers, and produced parts is an existing offering of some of our recently-acquired businesses. These offerings present similar challenges and risks to those outlined herein with respect to the design, production, launch and profitability of new additive manufacturing solutions. We have a limited history operating in the direct manufacturing and produced parts businesses, and as a result we may face challenges in designing or delivering parts that meet customer specifications, both on time and cost-effectively. Additionally, our produced parts in the healthcare and dental industry may be subject to regulatory approvals and controls, which may delay the design, production or launch of products. In particular, we may fail to develop commercially successful produced parts offerings if we are unable to meet customer needs or industry standards, if we fail to meet our desired gross margins or customer price expectations, or if our marketing and distribution strategy proves ineffective. If we are unsuccessful in establishing such offerings, sales of our additive manufacturing solutions and our overall operating results could suffer.

***Our business activities may be disrupted due to the ongoing impact of the COVID-19 pandemic.***

We face various risks and uncertainties related to the ongoing impact of the COVID-19 pandemic, including the delta and omicron variants, recent resurgences, public health measures and related government-imposed restrictions. The COVID-19 pandemic has led to disruption and volatility in the global economy and capital markets, which increases the cost of capital and adversely impacts access to capital. Government-enforced travel bans and business closures around the world have significantly impacted our ability to sell, install and service our additive manufacturing systems at customers around the world. It has, and may continue to, disrupt our third-party contract manufacturers and supply chain. We currently anticipate customer payment delays for our products which could negatively impact our results of operations. We also expect some delays in installation of our products at customers' facilities, which could lead to postponed revenue recognition for those transactions. In addition, installation delays could prevent us from achieving anticipated consumables revenues due to systems being put into operation later, or at lower utilization, than expected. Furthermore, if significant portions of our workforce are unable to work effectively, including because of illness, quarantines, government actions, facility closures, remote working or other restrictions in connection with the COVID-19 pandemic, our operations will likely be adversely impacted.

If the COVID-19 pandemic continues for a prolonged duration, we or our customers may be unable to perform fully on our contracts, which will likely result in increases in costs and reduction in revenue. These cost increases may not be fully recoverable or adequately covered by insurance. The long-term effects of COVID-19 to the global economy and to us are difficult to assess or predict and may include a further decline in the market prices of our products, risks to employee health and safety, risks for the deployment of our products and services and reduced sales in geographic locations impacted. Any prolonged restrictive measures put in place in order to control COVID-19 or other adverse public health developments in any of our targeted markets may have a material and adverse effect on our business operations and results of operations.

***Changes in our product mix may impact our gross margins and financial performance.***

Our financial performance may be affected by the mix of products and services we sell during a given period. Our products are sold, and will continue to be sold, at different price points. Sales of certain of our products have, or are expected to have, higher gross margins than others. If our product mix shifts too far into lower gross margin products, and we are not able to sufficiently reduce the

engineering, production and other costs associated with those products or substantially increase the sales of our higher gross margin products, our profitability could be reduced. Additionally, the introduction of new products or services may further heighten quarterly fluctuations in gross profit and gross profit margins due to manufacturing ramp-up and start-up costs. We may experience significant quarterly fluctuations in gross profit margins or operating income or loss due to the impact of the mix of products, channels or geographic areas in which we sell our products from period to period. Our financial performance also depends on the portion of our produced parts revenue supplied using additive manufacturing processes, which may enable higher gross margins and operational efficiencies as compared to conventional manufacturing technologies.

***If we fail to meet our customers' price expectations, demand for our products and product lines could be negatively impacted and our business and results of operations could suffer.***

Demand for our product lines is sensitive to price. We believe our competitive pricing has been an important factor in our results to date. Therefore, changes in our pricing strategies can have a significant impact on our business and ability to generate revenue. Many factors, including our production and personnel costs and our competitors' pricing and marketing strategies, can significantly impact our pricing strategies. If we fail to meet our customers' price expectations in any given period, demand for our products and product lines could be negatively impacted and our business and results of operations could suffer.

***If demand for our products does not grow as expected, or if market adoption of additive manufacturing does not continue to develop, or develops more slowly than expected, our revenues may stagnate or decline, and our business may be adversely affected.***

The industrial manufacturing market, which today is dominated by conventional manufacturing processes that do not involve 3D printing technology, is undergoing a shift towards additive manufacturing. We may not be able to develop effective strategies to raise awareness among potential customers of the benefits of additive manufacturing technologies or our products may not address the specific needs or provide the level of functionality or economics required by potential customers to encourage the continuation of this shift towards additive manufacturing. If additive manufacturing technology does not continue to gain broader market acceptance as an alternative to conventional manufacturing processes, or does so more slowly than anticipated, or if the marketplace adopts additive manufacturing technologies that differ from our technologies, we may not be able to increase or sustain the level of sales of our products, and our operating results would be adversely affected as a result.

***Declines in the prices of our products and services, or in our volume of sales, together with our relatively inflexible cost structure, may adversely affect our financial results.***

Our business is subject to price competition. Such price competition may adversely affect our results of operation, especially during periods of decreased demand. Decreased demand also adversely impacts the volume of our systems sales. If our business is not able to offset price reductions resulting from these pressures, or decreased volume of sales due to contractions in the market, by improved operating efficiencies and reduced expenditures, then our operating results will be adversely affected.

Certain of our operating costs are fixed and cannot readily be reduced, which diminishes the positive impact of our restructuring programs on our operating results. To the extent the demand for our products slows, or the additive manufacturing market contracts, we may be faced with excess manufacturing capacity and related costs that cannot readily be reduced, which will adversely impact our financial condition and results of operations.

***Our business model is predicated, in part, on building a customer base that will generate a recurring stream of revenues through the sale of our consumables and service contracts. If that recurring stream of revenues does not develop as expected, or if our business model changes as the industry evolves, our operating results may be adversely affected.***

Our business model is dependent, in part, on our ability to maintain and increase sales of our proprietary consumables and service contracts as they generate recurring revenues. Existing and future customers of our systems may not purchase our consumables or related service contracts at the rate we expect for certain product lines or at the same rate at which customers currently purchase those consumables and services. In addition, our entry-level systems focused on low-volume production generally use a lower volume of consumables relative to our volume throughput systems focused on high-volume production. If our current and future customers purchase a lower volume of our consumable materials or service contracts, or if our entry-level systems represent an increasing percentage of our future installed customer base, resulting overall in lower purchases of consumables and service contracts

on average than our current installed customer base or than we expect, our recurring revenue stream relative to our total revenues would be reduced and our operating results would be adversely affected.

***Reservations for our Production System P-50 solution may not convert to purchase orders.***

Prior to commencing shipments of our Production System P-50 in the first quarter of 2022, we accepted reservations for the product, most of which are accompanied by a financial deposit. Given the anticipated lead times between reservations and the date of delivery of the Production System P-50s, there is a risk that customers who have placed reservations may ultimately decide not to convert such reservations into purchase orders and take delivery of their reserved Production System P-50 due to potential changes in customer preferences, competitive developments or other factors. As a result, no assurance can be made that reservations will result in the purchase of our Production System P-50s, and any such failure to convert these reservations could harm our business, prospects, financial condition and operating results.

***Defects in new products or in enhancements to our existing products that give rise to product returns or warranty or other claims could result in material expenses, diversion of management time and attention and damage to our reputation.***

Our additive manufacturing solutions are complex and may contain undetected defects or errors when first introduced or as enhancements are released that, despite testing, are not discovered until after a machine has been used. This could result in delayed market acceptance of those products or claims from resellers, customers or others, which may result in litigation, increased end user warranty, support and repair or replacement costs, damage to our reputation and business, or significant costs and diversion of support and engineering personnel to correct the defect or error. We may from time to time become subject to warranty or product liability claims related to product quality issues that could lead us to incur significant expenses.

We attempt to include provisions in our agreements with customers that are designed to limit our exposure to potential liability for damages arising from defects or errors in our products. However, it is possible that these limitations may not be effective as a result of unfavorable judicial decisions or laws enacted in the future.

The sale and support of our products entails the risk of product liability claims. Any product liability claim brought against us, regardless of its merit, could result in material expense, diversion of management time and attention, damage to our business and reputation and brand, and cause us to fail to retain existing customers or to fail to attract new customers.

***Our operations could suffer if we are unable to attract and retain key management or other key employees.***

We believe our success has depended, and continues to depend, on the efforts and talents of our senior management and other key personnel, including, in particular, our Co-Founder, Chief Executive Officer, and Chairman, Ric Fulop. Our executive team is critical to the management of our business and operations, as well as to the development of our strategy. Members of our senior management team may resign at any time. The loss of the services of any members of our senior management team, especially Mr. Fulop, could delay or prevent the successful implementation of our strategy or our commercialization of new applications for our systems or other products, or could otherwise adversely affect our ability to manage our company effectively and carry out our business plan. There is no assurance that if any senior executive leaves in the future, we will be able to rapidly replace him or her and transition smoothly towards his or her successor, without any adverse impact on our operations.

To support the continued growth of our business, we must also effectively recruit, hire, integrate, develop, motivate and retain additional new employees. High demand exists for senior management and other key personnel (including scientific, technical, engineering, financial and sales personnel) in the additive manufacturing industry, and there can be no assurance that we will be able to retain our current key personnel. We experience intense competition for qualified personnel. While we intend to continue to provide competitive compensation packages to attract and retain key personnel, some of our competitors for these employees have greater resources and more experience, making it difficult for us to compete successfully for key personnel. Moreover, new employees may not become as productive as we expect since we may face challenges in adequately integrating them into our workforce and culture. If we cannot attract and retain sufficiently qualified technical employees for our research product development activities, as well as experienced sales and marketing personnel, we may be unable to develop and commercialize new products or new applications for existing products. Furthermore, possible shortages of key personnel, including engineers, in the regions surrounding our Boston facility could require us to pay more to hire and retain key personnel, thereby increasing our costs. Since March 2020, we have had many employees working remotely to protect the health and safety of our employees, contractors, customers and visitors. We also



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shifted customer, industry and other stakeholder events to virtual-only experiences, and may similarly alter, postpone or cancel other events in the future. Given our limited history with remote operations, the long-term impacts are uncertain.

Departing employees' knowledge of our business and industry can be extremely difficult to replace and provides their future employers with a competitive advantage. Where applicable law permits, we generally enter into non-competition agreements with our employees. These agreements prohibit our employees from competing directly with us or working for our competitors or clients while they work for us, and in some cases, for a limited period after they cease working for us. We may be unable to enforce these agreements under the laws of the jurisdictions in which our employees work, and it may be difficult for us to restrict our competitors from benefiting from the expertise that our former employees or consultants developed while working for us. If we cannot demonstrate that our legally protectable interests will be harmed, we may be unable to prevent our competitors from benefiting from the expertise of our former employees or consultants and our ability to remain competitive may be diminished.

***If we fail to grow our business as anticipated, our net sales, gross margin and operating margin will be adversely affected. If we grow as anticipated but fail to manage our growth and expand our operations accordingly, our business may be harmed and our results of operation may suffer.***

Over the past several years, we have experienced rapid growth, and we are attempting to continue to grow our business substantially. To this end, we have made, and expect to continue to make, significant investments in our business, including investments in our infrastructure, technology, marketing and sales efforts. These investments include dedicated facilities expansion and increased staffing, both domestic and international. If our business does not generate the level of revenue required to support our investment, our net sales and profitability will be adversely affected.

Our ability to effectively manage our anticipated growth and expansion of our operations will also require us to enhance our operational, financial and management controls and infrastructure, human resources policies and reporting systems. These enhancements and improvements will require significant capital expenditures, investments in additional headcount and other operating expenditures and allocation of valuable management and employee resources. Our future financial performance and our ability to execute on our business plan will depend, in part, on our ability to effectively manage any future growth and expansion. There are no guarantees we will be able to do so in an efficient or timely manner, or at all.

***We may experience significant delays or obstacles to realizing the success of our newly-launched Desktop Health business line.***

In March 2021, we launched our Desktop Health business, which aims to leverage our proprietary additive manufacturing technologies and materials to grow the market for existing applications in the healthcare and dental markets and identify, develop and/or commercialize future solutions for personalized patient care spanning dentistry, orthodontics, dermatology, orthopedics, cardiology, plastic surgery and printed regenerative tissues and grafts. This business operates in a highly competitive space which may make it difficult for us to implement business plans and expectations and identify and realize opportunities. In addition, this business and its technology, products, materials and applications may be subject to strict regulatory requirements in the United States and other countries. The regulatory approval or clearance process may be lengthy and costly, and regulatory requirements may impact the timing of, or our ability to, commercialize the regulated technology, products, materials and applications. The success of this business will also depend on our ability to attract, hire and retain qualified personnel, establish sales, marketing and distribution infrastructure, and establish and maintain supply and manufacturing relationships.

***Our existing and planned global operations subject us to a variety of risks and uncertainties that could adversely affect our business and operating results. Our business is subject to risks associated with selling machines and other products in non-United States locations.***

Our products and services are distributed in more than 65 countries around the world, and we derive a substantial percentage of our sales from these international markets. In 2021, we derived approximately 32% of our revenues from countries outside the United States. Accordingly, we face significant operational risks from doing business internationally.

Our operating results may be affected by volatility in currency exchange rates and our ability to effectively manage our currency transaction risks. We incur currency transaction risks if we were to enter into either a purchase or a sale transaction using a different currency from the currency in which we report revenues. In such cases we may suffer an exchange loss because we do not currently engage in currency swaps or other currency hedging strategies to address this risk. As we realize our strategy to expand

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internationally, our exposure to currency risks may increase. Given the volatility of exchange rates, we can give no assurance that we will be able to effectively manage our currency transaction risks or that any volatility in currency exchange rates will not have an adverse effect on our results of operations.

Other risks and uncertainties we face from our global operations include:

- difficulties in staffing and managing foreign operations;
- limited protection for the enforcement of contract and intellectual property rights in certain countries where we may sell our products or work with suppliers or other third parties;
- potentially longer sales and payment cycles and potentially greater difficulties in collecting accounts receivable;
- costs and difficulties of customizing products for foreign countries;
- challenges in providing solutions across a significant distance, in different languages and among different cultures;
- laws and business practices favoring local competition;
- being subject to a wide variety of complex foreign laws, treaties and regulations and adjusting to any unexpected changes in such laws, treaties and regulations;
- specific and significant regulations, including the European Union's General Data Protection Regulation, or GDPR, which imposes compliance obligations on companies who possess and use data of EU residents;
- uncertainty and resultant political, financial and market instability arising from the United Kingdom's exit from the European Union;
- compliance with U.S. laws affecting activities of U.S. companies abroad, including the U.S. Foreign Corrupt Practices Act;
- tariffs, trade barriers and other regulatory or contractual limitations on our ability to sell or develop our products in certain foreign markets;
- operating in countries with a higher incidence of corruption and fraudulent business practices;
- changes in regulatory requirements, including export controls, tariffs and embargoes, other trade restrictions, competition, corporate practices and data privacy concerns;
- potential adverse tax consequences arising from global operations;
- seasonal reductions in business activity in certain parts of the world, particularly during the summer months in Europe and at year end globally;
- rapid changes in government, economic and political policies and conditions; and
- political or civil unrest or instability, terrorism or epidemics and other similar outbreaks or events.

In addition, additive manufacturing has been identified by the U.S. government as an emerging technology and is currently being further evaluated for national security impacts. We expect additional regulatory changes to be implemented that will result in increased and/or new export controls related to 3D printing technologies, components and related materials and software. These changes, if implemented, may result in our being required to obtain additional approvals and/or licenses to sell 3D printers in the global market.

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Additionally, we have teams that are engaged in marketing, selling, and supporting our products internationally, and we must hire and train experienced personnel to staff and manage our foreign operations. To the extent that we experience difficulties in recruiting, training, managing and retaining international employees, particularly managers and other members of our international sales team, we may experience difficulties in sales productivity in international markets.

Our failure to effectively manage the risks and uncertainties associated with our global operations could limit the future growth of our business and adversely affect our business and operating results.

***In the future, some of our arrangements for additive manufacturing solutions may contain customer-specific provisions that may impact the period in which we recognize the related revenues under GAAP.***

Some customers that purchase additive manufacturing solutions from us may require specific, customized factors relating to their intended use of the solution or the installation of the product in the customers' facilities. These specific, customized factors are occasionally required by the customers to be included in our commercial agreements relating to the purchases. As a result, our responsiveness to our customers' specific requirements has the potential to impact the period in which we recognize the revenue relating to that additive manufacturing system sale.

Similarly, some of our customers must build or prepare facilities to install a subset of our additive manufacturing solutions, and the completion of such projects can be unpredictable, which can impact the period in which we recognize the revenue relating to that additive manufacturing solution sale.

***We rely on our information technology systems to manage numerous aspects of our business and a disruption of these systems could adversely affect our business.***

We rely on our information technology systems to manage numerous aspects of our business, including to efficiently purchase products from our suppliers, provide procurement and logistic services, ship products to our customers, manage our accounting and financial functions, including our internal controls, and maintain our research and development data. Our information technology systems are an essential component of our business and any disruption could significantly limit our ability to manage and operate our business efficiently. A failure of our information technology systems to perform properly could disrupt our supply chain, product development and customer experience, which may lead to increased overhead costs and decreased sales and have an adverse effect on our reputation and our financial condition. In addition, during the COVID-19 pandemic, a substantial portion of our employees have conducted work remotely, making us more dependent on potentially vulnerable communications systems and making us more vulnerable to cyberattacks.

Although we take steps and incur significant costs to secure our information technology systems, including our computer systems, intranet and internet sites, email and other telecommunications and data networks, our security measures may not be effective and, our systems may be vulnerable to damage or interruption. Disruption to our information technology systems could result from power outages, computer and telecommunications failures, computer viruses, cyber-attack or other security breaches, catastrophic events such as fires, floods, earthquakes, tornadoes, hurricanes, acts of war, terrorism and usage errors by our employees.

Our reputation and financial condition could be adversely affected if, as a result of a significant cyber-event or otherwise:

- our operations are disrupted or shut down;
- our confidential, proprietary information is stolen or disclosed;
- we incur costs or are required to pay fines in connection with stolen customer, employee or other confidential information;
- we must dedicate significant resources to system repairs or increase cyber security protection; or
- we otherwise incur significant litigation or other costs.

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If our computer systems are damaged or cease to function properly, or, if we do not replace or upgrade certain systems, we may incur substantial costs to repair or replace them and may experience an interruption of our normal business activities or loss of critical data. Any such disruption could adversely affect our reputation and financial condition.

Additionally, some of the companies we acquire may not have the same level of information technology systems which may require that we invest significant resources to get those systems to the level of security we require.

We also rely on information technology systems maintained by third parties, including third-party cloud computing services and the computer systems of our suppliers for both our internal operations and our customer-facing infrastructure related to our additive manufacturing solutions. These systems are also vulnerable to the types of interruption and damage described above but we have less ability to take measures to protect against such disruptions or to resolve them if they were to occur. Information technology problems faced by third parties on which we rely could adversely impact our business and financial condition as well as negatively impact our brand reputation.

***If we fail to implement or are delayed in the implementation of our new ERP system platform, we may not be able to effectively transact our business or produce our financial statements on a timely basis and without incurrence of additional costs, which would adversely affect our business, results of operations and cash flows.***

We are currently implementing Oracle Enterprise Resource Planning, or ERP, to manage enterprise functions for our significant subsidiaries. This integration involves significant complexity, requiring us to move and reconfigure all of our current system processes, transactions, data and controls to a new platform. Due to this complexity and the scope and volume of changes involved in this implementation, we may experience delays and higher than planned resource needs in our migration efforts. Although we will conduct testing, assessments and validation to ensure that our internal financial and accounting controls will be effective post-implementation, we may nevertheless experience difficulties in transacting our business due to system challenges, delays or process deficiencies following the initial launch of the system, which could impair our ability to conduct our business or to produce accurate financial statements on a timely basis. If our ability to conduct our business or to produce accurate financial statements on a timely basis is impaired, our business, results of operations and cash flows would be adversely affected.

***Our current levels of insurance may not be adequate for our potential liabilities.***

We maintain insurance to cover our potential exposure for most claims and losses, including potential product and non-product related claims, lawsuits and administrative proceedings seeking damages or other remedies arising out of our commercial operations. However, our insurance coverage is subject to various exclusions, self-retentions and deductibles. We may be faced with types of liabilities that are not covered under our insurance policies, such as environmental contamination or terrorist attacks, or that exceed our policy limits. Even a partially uninsured claim of significant size, if successful, could have an adverse effect on our financial condition.

In addition, we may not be able to continue to obtain insurance coverage on commercially reasonable terms, or at all, our existing policies may be cancelled or otherwise terminated by the insurer, and/or the companies that we acquire may not be eligible for certain types or limits of insurance. Maintaining adequate insurance and successfully accessing insurance coverage that may be due for a claim can require a significant amount of our management's time, and we may be forced to spend a substantial amount of money in that process.

Due to our acquisition activity, the existing information technology systems and cyber controls of the acquired entities and integration efforts with respect thereto, as well as the state of the cyber insurance market generally, the costs for our cyber insurance increased significantly in 2021, and the cost of such insurance could continue to increase for future policy periods. Our cyber insurance coverage does not extend to all of our group companies and while we are working to implement better cyber controls and infrastructure for these entities, we may continue to be unable to secure cyber risk coverage for them for future periods. Moreover, the scope and limits of our cyber insurance coverage may not be sufficient or available to cover all expenses or other losses, including fines, or all types of claims that may arise in connection with cyberattacks, security compromises, and other related incidents.

***Global economic, political and social conditions and uncertainties in the markets that we serve may adversely impact our business.***

Our performance depends on the financial health and strength of our customers, which in turn is dependent on the economic conditions of the markets in which we and our customers operate. A decline in the global economy, difficulties in the financial services sector and credit markets, continuing geopolitical uncertainties and other macroeconomic factors all affect the spending behavior of potential customers. The economic uncertainty in Europe, the United States, India, China and other countries may cause end-users to further delay or reduce technology purchases.

We also face risks from financial difficulties or other uncertainties experienced by our suppliers, distributors or other third parties on which we rely. If third parties are unable to supply us with required materials or components or otherwise assist us in operating our business, our business could be harmed.

For example, the possibility of an ongoing trade war between the United States and China may impact the cost of raw materials, finished products or components used in our products and our ability to sell our products in China. Other changes in U.S. social, political, regulatory and economic conditions or in laws and policies governing foreign trade, manufacturing, development and investment could also adversely affect our business. In addition, the United Kingdom's exit from the European Union on January 31, 2020 may result in the imposition of tariffs or other trade barriers that could have an adverse impact on our results of operation. Additionally, uncertainty surrounding this transition may have an effect on global economic conditions and the stability of global financial markets, which in turn could have a material adverse effect on our business, financial condition and results of operations. In extreme cases, we could experience interruptions in production due to the processing of customs formalities or reduced customer spending in the wake of weaker economic performance. If global economic conditions remain volatile for a prolonged period or if European economies experience further disruptions, our results of operations could be adversely affected.

***Uncertainty and instability resulting from the conflict between Russia and Ukraine could negatively impact our business, financial condition and operations.***

Russia's recent invasion of Ukraine and the uncertainty surrounding the escalating conflict could negatively impact global and regional financial markets which could result in businesses postponing spending in response to tighter credit, higher unemployment, financial market volatility, negative financial news, and other factors. In addition, our suppliers and contractors may have staff, operations, materials or equipment located in the Ukraine or Russia which could impact our supply chain or services being provided to us. Moreover, we outsource some of our software development and design to third-party contractors that have employees and consultants located in Ukraine, Russia and/or Belarus. Poor relations between the United States and Russia, sanctions by the United States and the European Union against Russia, and any escalation of political tensions or economic instability in the area could have an adverse impact on our third-party contractors. In particular, Russia's invasion of Ukraine and the increased tensions among the United States, the North Atlantic Treaty Organization and Russia could increase the threat of armed conflict, cyberwarfare and economic instability that could disrupt or delay the operations of these resources in Russia, Belarus and/or Ukraine, disrupt or delay communication with such resources or the flow of funds to support their operations, or otherwise render our resources unavailable.

***The additive manufacturing industry in which we operate is characterized by rapid technological change, which requires us to continue to develop new products and innovations to meet constantly evolving customer demands and which could adversely affect market adoption of our products.***

Our revenues are derived from the sale of additive manufacturing systems, produced parts, and consumables and services. We have encountered and will continue to encounter challenges experienced by growing companies in a market subject to rapid innovation and technological change. While we intend to invest substantial resources to remain on the forefront of technological development, continuing advances in additive manufacturing technology, changes in customer requirements and preferences and the emergence of new standards, regulations and certifications could adversely affect adoption of our products either generally or for particular applications. Our ability to compete in the additive manufacturing market depends, in large part, on our success in developing and introducing new additive manufacturing systems and technology, in improving our existing products and technology and qualifying new materials which our systems can support. We believe that we must continuously enhance and expand the functionality and features of our products and technologies in order to remain competitive. However, we may not be able to:

- develop cost effective new products and technologies that address the increasingly complex needs of prospective customers;

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- enhance our existing products and technologies;
- respond to technological advances and emerging industry standards and certifications on a cost-effective and timely basis;
- adequately protect our intellectual property as we develop new products and technologies;
- identify the appropriate technology or product to which to devote our resources; or
- ensure the availability of cash resources to fund research and development.

Even if we successfully introduce new additive manufacturing products and technologies and enhance our existing products and technologies, it is possible that these will eventually supplant our existing products or that our competitors will develop new products and technologies that will replace our own. As a result, any of our products may be rendered obsolete or uneconomical by our or our competitors' technological advances, leading to a loss in market share, decline in revenue and adverse effects to our business and prospects.

***The additive manufacturing industry is competitive. We expect to face increasing competition in many aspects of our business, which could cause our operating results to suffer.***

The additive manufacturing industry in which we operate is fragmented and competitive. We compete for customers with a wide variety of producers of additive manufacturing and/or 3D printing equipment that creates 3D objects and end-use parts, as well as with providers of materials and services for this equipment. Some of our existing and potential competitors are researching, designing, developing and marketing other types of products and services that may render our existing or future products obsolete, uneconomical or less competitive. Existing and potential competitors may also have substantially greater financial, technical, marketing and sales, manufacturing, distribution and other resources than we do, including name recognition, as well as experience and expertise in intellectual property rights and operating within certain international markets, any of which may enable them to compete effectively against us. For example, a number of companies that have substantial resources have announced that they are beginning production of 3D printing systems, which will further enhance the competition we face.

Future competition may arise from the development of allied or related techniques for equipment, materials and services that are not encompassed by our patents, from the issuance of patents to other companies that may inhibit our ability to develop certain products and from improvements to existing technologies.

We intend to continue to follow a strategy of continuing product development and distribution network expansion to enhance our competitive position to the extent practicable. But we cannot assure you that we will be able to maintain our current position or continue to compete successfully against current and future sources of competition. If we do not keep pace with technological change and introduce new products and technologies, demand for our products may decline, and our operating results may suffer.

***Because the additive manufacturing market is rapidly evolving, forecasts of market growth in this Annual Report on Form 10-K may not be accurate.***

Market opportunity estimates and growth forecasts included in this Annual Report on Form 10-K are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. The forecasts and estimates in this Annual Report on Form 10-K relating to the expected size and growth of the markets for additive manufacturing technology and other markets in which we participate may prove to be inaccurate. Even if these markets experience the forecasted growth described in this Annual Report on Form 10-K, we may not grow our business at similar rates, or at all. Our future growth is subject to many factors, including market adoption of our products, which is subject to many risks and uncertainties. Accordingly, the forecasts and estimates of market size and growth described in this Annual Report on Form 10-K, including our estimates that the size of the total addressable market is expected to be more than \$100 billion in 2030, should not be taken as indicative of our future growth. In addition, these forecasts do not consider the impact of the current global COVID-19 pandemic, and we cannot assure you that these forecasts will not be materially and adversely affected as a result.

## Risks Related to Acquisitions

***The failure to successfully integrate the businesses and operations of Desktop Metal and ExOne in the expected time frame may adversely affect the combined company's future results.***

In November 2021, we acquired The ExOne Company, or ExOne, pursuant to an Agreement and Plan of Merger dated August 11, 2021, or the ExOne Acquisition. The success of the ExOne Acquisition will depend in part on our ability to realize the anticipated business opportunities from integrating the operations of ExOne with our business in an efficient and effective manner. It is possible that the integration process could result in the loss of key Desktop Metal or ExOne employees, the loss of customers, the disruption of our ongoing businesses, inconsistencies in standards, controls, procedures and policies, unexpected integration issues, higher than expected integration costs and an overall integration process that takes longer than originally anticipated. Specifically, our ability to address the following issues, among others, in integrating the operations of Desktop Metal and ExOne may impact realization of the anticipated benefits of the ExOne Acquisition:

- combining the companies' operations and corporate functions;
- combining the businesses of Desktop Metal and ExOne and meeting the capital requirements of the combined company, in a manner that permits the combined company to achieve any cost savings or other synergies anticipated to result from the ExOne Acquisition, the failure of which would result in the anticipated benefits of the ExOne Acquisition not being realized in the time frame currently anticipated or at all;
- integrating personnel from the two companies, especially in the COVID-19 environment which has required many Desktop Metal and ExOne employees to work remotely across several locations;
- integrating and unifying the offerings and services available to customers;
- identifying and eliminating redundant and underperforming functions, product lines and assets;
- harmonizing the companies' operating practices, employee development and compensation programs, internal controls and other policies, procedures and processes;
- maintaining existing agreements with customers, suppliers, distributors and vendors, avoiding delays in entering into new agreements with prospective customers, suppliers, distributors and vendors, and leveraging relationships with such third parties for the benefit of the combined company;
- addressing possible differences in business backgrounds, corporate cultures and management philosophies;
- consolidating the companies' administrative and information technology infrastructure;
- coordinating distribution and marketing efforts;
- coordinating geographically dispersed organizations; and
- effecting actions that may be required in connection with obtaining regulatory or other governmental approvals.

In addition, at times the attention of certain management individuals may be focused on the integration of the businesses of the two companies and diverted from day-to-day business operations or other opportunities that may have been beneficial to us, which may disrupt our ongoing business.

***Following the ExOne Acquisition, customers, suppliers, distributors, or other third parties may seek to modify or terminate contractual or other business relationships with us, which could have an adverse effect on our business and operations.***

As a result of the ExOne Acquisition, the combined company may experience impacts on relationships with customers, suppliers and distributors that may harm our business and results of operations. Certain customers, suppliers or distributors may seek to

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terminate or modify contractual obligations whether or not contractual rights are triggered as a result of the ExOne Acquisition. There can be no guarantee that customers, suppliers and distributors will remain with or continue to have a relationship with the combined company or do so on the same or similar contractual terms. If any customers, suppliers or distributors seek to terminate or modify contractual obligations or discontinue the relationship with the combined company, then our business and results of operations may be harmed. Furthermore, we will not have long-term arrangements with many of the significant suppliers to the combined company. If suppliers were to seek to terminate or modify an arrangement with us, then the combined company may be unable to procure necessary supplies from other suppliers in a timely and efficient manner and on acceptable terms, or at all.

Prior to the closing of the ExOne Acquisition, Desktop Metal and ExOne also each had contracts with vendors, landlords, licensors and other business partners which may contain consent requirements or limitations applicable to such contracts as result of the ExOne Acquisition. If these consents cannot be obtained, the combined company may suffer a loss of potential future revenue, incur costs and lose rights that may be material to our business.

***The ExOne Acquisition may not be accretive, and may be dilutive, to our earnings per share, which may negatively affect the market price of our Class A common stock.***

We currently anticipate that the ExOne Acquisition will be initially dilutive to our forecasted earnings per share on a standalone basis. This expectation is based on preliminary estimates, which may materially change. We may also have additional transaction-related costs, may fail to realize all of the benefits anticipated in the ExOne Acquisition or may be subject to other factors that affect preliminary estimates or our ability to realize operational efficiencies or other anticipated synergies. Any of these factors could cause a decrease in our earnings per share or decrease or delay the expected effect of the ExOne Acquisition and contribute to a decrease in the price of our Class A common stock.

***Our future results following the ExOne Acquisition may be adversely impacted if we do not effectively manage our expanded operations.***

As a result of the ExOne Acquisition, the size of our business is significantly larger than prior to the acquisition. Our ability to successfully manage this expanded business will depend, in part, upon management's ability to implement an effective integration of the two companies and its ability to manage a combined business with significantly larger size and scope with the associated increased costs and complexity. Our management may not be successful, and we may not realize the expected operating efficiencies, cost savings and other benefits that were anticipated from the ExOne Acquisition.

***As part of our growth strategy, we intend to continue to acquire or make investments in other businesses, patents, technologies, products or services. Our efforts to do so, or our failure to do so successfully, could disrupt our business and have an adverse impact on our financial condition.***

As part of our business strategy, we are acquiring and investing in other companies, patents, technologies, products and/or services. To the extent we seek to grow our business through acquisitions, we may not be able to successfully identify attractive acquisition opportunities or consummate any such acquisitions if we cannot reach an agreement on commercially favorable terms, if we lack sufficient resources to finance the transaction on our own and cannot obtain financing at a reasonable cost or if regulatory authorities prevent such transaction from being consummated. The identification of potential targets, negotiation with targets and due diligence may divert management's attention from their day-to-day responsibilities and require the incurrence of related costs. In addition, competition for acquisitions in the markets in which we operate during recent years has increased, and may continue to increase, which may result in an increase in the costs of acquisitions or cause us to refrain from making certain acquisitions. We may not be able to complete future acquisitions on favorable terms, if at all.

If we do complete future acquisitions, we cannot assure you that they will ultimately strengthen our competitive position or that they will be viewed positively by customers, financial markets or investors. Furthermore, future acquisitions could pose numerous additional risks to our operations, including:

- diversion of management's attention from their day-to-day responsibilities;
- unanticipated costs or liabilities associated with the acquisition;



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- incurrence of acquisition-related costs, which would be recognized as a current period expense;
- problems integrating the purchased business, products or technologies;
- challenges in achieving strategic objectives, cost savings and other anticipated benefits;
- inability to maintain relationships with key customers, suppliers, vendors and other third parties on which the purchased business relies;
- the difficulty of incorporating acquired technology and rights into our platform and of maintaining quality and security standards consistent with our brand;
- difficulty in maintaining controls, procedures and policies during the transition and integration;
- challenges in integrating the new workforce and the potential loss of key employees, particularly those of the acquired business; and
- use of substantial portions of our available cash or the incurrence of debt to consummate the acquisition.

If we proceed with a particular acquisition, we may have to use cash, issue new equity securities with dilutive effects on existing shareholders, incur indebtedness, assume contingent liabilities or amortize assets or expenses in a manner that might have a material adverse effect on our financial condition and results of operations. Acquisitions will also require us to record certain acquisition-related costs and other items as current period expenses, which would have the effect of reducing our reported earnings in the period in which an acquisition is consummated. In addition, we could also face unknown liabilities or write-offs due to our acquisitions, which could result in a significant charge to our earnings in the period in which they occur. We will also be required to record goodwill or other long-lived asset impairment charges (if any) in the periods in which they occur, which could result in a significant charge to our earnings in any such period.

Achieving the expected returns and synergies from future acquisitions will depend, in part, upon our ability to integrate the products and services, technology, administrative functions and personnel of these businesses into our product lines in an efficient and effective manner. We cannot assure you that we will be able to do so, that our acquired businesses will perform at levels and on the timelines anticipated by our management or that we will be able to obtain these synergies. In addition, acquired technologies and intellectual property may be rendered obsolete or uneconomical by our own or our competitors' technological advances. Management resources may also be diverted from operating our existing businesses to certain acquisition integration challenges. If we are unable to successfully integrate acquired businesses, our anticipated revenues and profits may be lower. Our profit margins may also be lower, or diluted, following the acquisition of companies whose profit margins are less than those of our existing businesses.

***We may experience difficulties in integrating the operations of EnvisionTEC and other acquired companies into our business and in realizing the expected benefits of these acquisitions.***

Acquisition involve numerous risks, any of which could harm our business and negatively affect our financial condition and results of operations. The success of the EnvisionTEC acquisition and other recent acquisitions will depend in part on our ability to realize the anticipated business opportunities from combining the operations of acquired companies with our business in an efficient and effective manner. Ongoing and expanded integration processes could take longer than anticipated and could result in the loss of key employees, the disruption of each company's ongoing businesses, tax costs or inefficiencies, or inconsistencies in standards, controls, information technology systems, procedures and policies, any of which could adversely affect our ability to maintain relationships with customers, employees or other third parties, or our ability to achieve the anticipated benefits of the acquisitions, and could harm our financial performance. If we are unable to successfully or timely integrate the operations of acquired companies with our business, we may incur unanticipated liabilities and be unable to realize the revenue growth, synergies and other anticipated benefits resulting from the acquisitions, and our business, results of operations and financial condition could be materially and adversely affected.

We have incurred significant costs in connection with the recent acquisitions. The substantial majority of these costs are non-recurring acquisition expenses. These non-recurring costs and expenses are reflected in the consolidated financial statements included

in this Annual Report on Form 10-K. We may incur additional costs in the integration of acquired companies, and may not achieve cost synergies and other benefits sufficient to offset the incremental costs of these acquisitions.

#### **Risks Related to Our Financial Position and Need for Additional Capital**

*We are an early-stage company with a history of losses. We have not been profitable historically and may not achieve or maintain profitability in the future.*

We experienced net losses in each year from our inception, including net losses of \$240.3 million and \$34.0 million for the years ended December 31, 2021 and 2020, respectively. We believe we will continue to incur operating losses and negative cash flow in the near-term as we continue to invest significantly in our business, in particular across our research and development efforts and sales and marketing programs. These investments may not result in increased revenue or growth in our business.

In addition, as a public company, we incur significant additional legal, accounting and other expenses. As we acquire and integrate companies, we will also incur additional legal, accounting and other expenses. These increased expenditures may make it harder for us to achieve and maintain future profitability. Revenue growth and growth in our customer base may not be sustainable, and we may not achieve sufficient revenue to achieve or maintain profitability. We may incur significant losses in the future for a number of reasons, including due to the other risks described in this Annual Report on Form 10-K, and we may encounter unforeseen expenses, difficulties, complications and delays and other unknown events. As a result, our losses may be larger than anticipated, we may incur significant losses for the foreseeable future, and we may not achieve profitability when expected, or at all, and even if we do, we may not be able to maintain or increase profitability. Furthermore, if our future growth and operating performance fail to meet investor or securities analyst expectations, or if we have future negative cash flow or losses resulting from our investment in acquiring customers or expanding our operations, this could have a material adverse effect on our business, financial condition and results of operations.

*Our limited operating history and rapid growth makes evaluating our current business and future prospects difficult and may increase the risk of your investment.*

Much of our growth has occurred in recent periods. Our limited operating history may make it difficult for you to evaluate our current business and our future prospects, as we continue to grow our business. Our ability to forecast our future operating results is subject to a number of uncertainties, including our ability to plan for and model future growth. We have encountered, and will continue to encounter, risks and uncertainties frequently experienced by growing companies in rapidly evolving industries, as we continue to grow our business. If our assumptions regarding these uncertainties, which we use to plan our business, are incorrect or change in reaction to changes in our markets, or if we do not address these risks successfully, our operating and financial results could differ materially from our expectations, our business could suffer, and the trading price of our stock may decline.

It is difficult to predict our future revenues and appropriately budget for our expenses, and we have limited insight into trends that may emerge and affect our business. If actual results differ from our estimates or we adjust our estimates in future periods, our operating results and financial position could be materially affected.

*Our operating results and financial condition may fluctuate from period to period.*

Our operating results and financial condition fluctuate from quarter-to-quarter and year-to-year and are likely to continue to vary due to a number of factors, many of which will not be within our control. Both our business and the additive manufacturing industry are changing and evolving rapidly, and our historical operating results may not be useful in predicting our future operating results. If our operating results do not meet the guidance that we provide to the marketplace or the expectations of securities analysts or investors, the market price of our Class A common stock will likely decline. Fluctuations in our operating results and financial condition may be due to a number of factors, including:

- the degree of market acceptance of our products and services;
- our ability to compete with competitors and new entrants into our markets;
- the mix of products and services that we sell during any period;

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- the timing of our sales and deliveries of our products to customers;
- the geographic distribution of our sales;
- changes in our pricing policies or those of our competitors, including our response to price competition;
- changes in the amount that we spend to develop and manufacture new products or technologies;
- changes in the amounts that we spend to promote our products and services;
- changes in the cost of satisfying our warranty obligations and servicing our installed customer base;
- expenses and/or liabilities resulting from litigation;
- delays between our expenditures to develop and market new or enhanced solutions and the generation of revenue from those solutions;
- unforeseen liabilities or difficulties in integrating our acquisitions or newly acquired businesses;
- disruptions to our information technology systems or our third-party contract manufacturers;
- general economic and industry conditions that effect customer demand;
- seasonal reductions in business activity in certain parts of the world, particularly during the summer months in Europe;
- the impact of the COVID-19 pandemic on our customers, suppliers, manufacturers and operations; and
- changes in accounting rules and tax laws.

In addition, our revenues and operating results may fluctuate from quarter-to-quarter and year-to-year due to our sales cycle and seasonality among our customers. Generally, our additive manufacturing solutions are subject to the adoption and capital expenditure cycles of our customers. As a result, we typically conduct a larger portion of our business during the fourth quarter of our fiscal year relative to the other quarters. Our quarterly sales also have often reflected a pattern in which a disproportionate percentage of each quarter's total sales occurs towards the end of the quarter. This uneven sales pattern makes predicting revenue, earnings, cash flow from operations, adjusted EBITDA and working capital for each period difficult, increases the risk of unanticipated variations in our quarterly results and financial condition, and places pressure on our inventory management and logistics systems.

Additionally, for our more complex solutions, which may require customers to make additional facilities investment, potential customers may spend a substantial amount of time performing internal assessments prior to making a purchase decision. This may cause us to devote significant effort in advance of a potential sale without any guarantee of receiving any related revenues. As a result, revenues and operating results for future periods are difficult to predict with any significant degree of certainty, which could lead to adverse effects on our inventory levels and overall financial condition.

Due to the foregoing factors, and the other risks discussed in this Annual Report on Form 10-K, you should not rely on quarter-over-quarter and year-over-year comparisons of our operating results as an indicator of our future performance.

***We may require additional capital to support business growth, and this capital might not be available on acceptable terms, if at all.***

We intend to continue to make investments to support our business growth and may require additional funds to respond to business challenges and opportunities, including the need to develop new features or enhance our products, improve our operating infrastructure or acquire complementary businesses and technologies. Accordingly, we may need to engage in equity or debt financings to secure additional funds if our existing sources of cash and any funds generated from operations do not provide us with sufficient capital. If we raise additional funds through future issuances of equity or convertible debt securities, our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences and privileges

superior to those of holders of our Class A common stock. Any debt financing that we may secure in the future could involve restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. We may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges and opportunities could be significantly impaired, and our business may be adversely affected.

#### **Risks Related to Third Parties**

***We could be subject to personal injury, property damage, product liability, warranty and other claims involving allegedly defective products that we supply.***

The products we supply are sometimes used in potentially hazardous or critical applications, such as the assembled parts of an aircraft, medical device or automobile, that could result in death, personal injury, property damage, loss of production, punitive damages and consequential damages. While we have not experienced any such claims to date, actual or claimed defects in the products we supply could result in our being named as a defendant in lawsuits asserting potentially large claims.

We attempt to include legal provisions in our agreements with customers that are designed to limit our exposure to potential liability for damages arising from defects or errors in our products. However, it is possible that these limitations may not be effective as a result of unfavorable judicial decisions or laws enacted in the future. Any such lawsuit, regardless of merit, could result in material expense, diversion of management time and efforts and damage to our reputation, and could cause us to fail to retain or attract customers, which could adversely affect our results of operations.

***We depend on our network of resellers and our business could be adversely affected if they do not perform as expected.***

We rely heavily on our global network of resellers to sell our products and to provide installation and support services to customers in their respective geographic regions. These resellers may not be as effective in selling our products or installing and supporting our customers as we expect. Further, our contracts with our resellers provide for termination for convenience, and if our contracts with a significant number of resellers, or with the most effective resellers, were to terminate or if they would otherwise fail or refuse to sell certain of our products, we may not be able to find replacements that are as qualified or as successful in a timely manner, if at all. In addition, if our resellers do not perform as anticipated, or if we are unable to secure qualified and successful resellers, our sales will suffer, which would have an adverse effect on our revenues and operating results. Because we also depend upon our resellers to provide installation and support services for products, if our reseller relationship were terminated or limited to certain products, we may face disruption in providing support for our customers, which would adversely affect our reputation and our results of operations. Any failure to offer high-quality technical support services may adversely affect our relationships with our customers and adversely affect our financial results.

Additionally, a default by one or more resellers that have a significant receivables balance could have an adverse financial impact on our financial results. We have reviewed our policies that govern credit and collections and will continue to monitor them in light of current payment status and economic conditions. In addition, we try to reduce the credit exposures of our accounts receivable by instituting credit limits and having credit insurance. However, there can be no assurance that our efforts to identify potential credit risks will be successful. Our inability to timely identify resellers that are credit risks could result in defaults at a time when such resellers have high accounts receivable balances with us. Any such default would result in a significant charge against our earnings and adversely affect our results of operations and financial condition.

***We could face liability if our additive manufacturing solutions are used by our customers to print dangerous objects.***

Customers may use our additive manufacturing systems to print parts that could be used in a harmful way or could otherwise be dangerous. For example, there have been news reports that 3D printers were used to print guns or other weapons. We have little, if any, control over what objects our customers print using our products, and it may be difficult, if not impossible, for us to monitor and prevent customers from printing weapons with our products. While we have never printed weapons on any printers in our offices, there can be no assurance that we will not be held liable if someone were injured or killed by a weapon printed by a customer using one of our products.

***We depend on a limited number of third-party contract manufacturers for a significant portion of our manufacturing needs. If these third-party manufacturers experience any delay, disruption or quality control problems in their operations, including due to the COVID-19 pandemic, we could lose market share and our brand may suffer.***

We depend on third-party contract manufacturers for the production of several of our additive manufacturing systems. While there are several potential manufacturers for most of these products, several of our products are manufactured, assembled, tested and generally packaged by a limited number of third-party manufacturers. In most cases, we rely on these manufacturers to procure components and, in some cases, subcontract engineering work. Our reliance on a limited number of contract manufacturers involves a number of risks, including:

- unexpected increases in manufacturing and repair costs;
- inability to control the quality and reliability of finished products;
- inability to control delivery schedules;
- potential liability for expenses incurred by third-party contract manufacturers in reliance on our forecasts that later prove to be inaccurate;
- potential lack of adequate capacity to manufacture all or a part of the products we require; and
- potential labor unrest affecting the ability of the third-party manufacturers to produce our products.

If any of our third-party contract manufacturers experience a delay, disruption or quality control problems in their operations, including due to the COVID-19 pandemic, or if a primary third-party contract manufacturer does not renew its agreement with us, our operations could be significantly disrupted, and our product shipments could be delayed. Qualifying a new manufacturer and commencing volume production is expensive and time consuming. Ensuring that a contract manufacturer is qualified to manufacture our products to our standards is time consuming. In addition, there is no assurance that a contract manufacturer can scale its production of our products at the volumes and in the quality that we require. If a contract manufacturer is unable to do these things, we may have to move production for the products to a new or existing third-party manufacturer, which would take significant effort and our business, results of operations and financial condition could be materially adversely affected.

As we contemplate moving manufacturing into different jurisdictions, we may be subject to additional significant challenges in ensuring that quality, processes, and costs, among other issues, are consistent with our expectations. For example, while we expect our third-party contract manufacturers to be responsible for penalties assessed on us because of excessive failures of the products, there is no assurance that we will be able to collect such reimbursements from these manufacturers, which causes us to take on additional risk for potential failures of our products.

In addition, because we use a limited number of third-party contract manufacturers, increases in the prices charged may have an adverse effect on our results of operations, as we may be unable to find a contract manufacturer who can supply us at a lower price. As a result, the loss of a limited source supplier could adversely affect our relationships with our customers and our results of operations and financial condition.

All of our products must satisfy safety and regulatory standards and some of our products must also receive government certifications. Our third-party contract manufacturers are primarily responsible for conducting the tests that support our applications for most regulatory approvals for our products. If our third-party contract manufacturers fail to timely and accurately conduct these tests, we may be unable to obtain the necessary domestic or foreign regulatory approvals or certifications to sell our products in certain jurisdictions. As a result, we would be unable to sell our products and our sales and profitability could be reduced, our relationships with our sales channel could be harmed and our reputation and brand would suffer.

***If our suppliers become unavailable or inadequate, our customer relationships, results of operations and financial condition may be adversely affected.***

We acquire certain of our materials, which are critical to the ongoing operation and future growth of our business, from several third parties. If we or one of our contract manufacturers has a supply chain disruption, or our relationship with any of our contract manufacturers or key suppliers terminates, we could experience delays. While most manufacturing equipment and materials for our products are available from multiple suppliers, certain of those items are only available from limited sources. Should any of these suppliers become unavailable or inadequate, or impose terms unacceptable to us, such as increased pricing terms, we could be required to spend a significant amount of time and expense to develop alternate sources of supply, and we may not be successful in doing so on terms acceptable to us, or at all. As a result, the loss of a limited source supplier could adversely affect our relationship with our customers as well as our results of operations and financial condition.

***Our facilities and the facilities of our third-party contract manufacturers, suppliers, and customers, are vulnerable to disruption due to natural or other disasters, strikes and other events beyond our control.***

A major earthquake, fire, tsunami, hurricane, cyclone or other disaster, such as a pandemic, major flood, seasonal storms, nuclear event or terrorist attack affecting our facilities or the areas in which they are located, or affecting those of our customers or third-party manufacturers or suppliers, could significantly disrupt our or their operations and delay or prevent product shipment or installation during the time required to repair, rebuild or replace our or their damaged manufacturing facilities. These delays could be lengthy and costly. If any of our facilities or those of our third-party contract manufacturers, suppliers or customers are negatively impacted by such a disaster, production, shipment and installation of our 3D printing machines could be delayed, which can impact the period in which we recognize the revenue related to that 3D printing machine sale. Additionally, customers may delay purchases of our products until operations return to normal. Even if we are able to respond quickly to a disaster, the continued effects of the disaster could create uncertainty in our business operations. In addition, concerns about terrorism, the effects of a terrorist attack, political turmoil, labor strikes, war or the outbreak of epidemic diseases (including the outbreak of COVID-19) could have a negative effect on our operations and sales.

#### **Risks Related to Our Class A Common Stock**

***Our issuance of additional shares of Class A common stock or convertible securities may dilute your ownership of us and could adversely affect our stock price.***

From time to time, we have issued, and we expect in the future to issue, additional shares of our Class A common stock or securities convertible into our Class A common stock pursuant to a variety of transactions, including acquisitions. Additional shares of our Class A common stock may also be issued upon exercise of outstanding stock options and warrants to purchase our Class A common stock. The issuance by us of additional shares of our Class A common stock or securities convertible into our Class A common stock would dilute your ownership of us and the sale of a significant amount of such shares in the public market could adversely affect prevailing market prices of our Class A common stock. Subject to the satisfaction of vesting conditions and the expiration of lockup agreements, shares issuable upon exercise of options will be available for resale immediately in the public market without restriction.

In the future, we expect to obtain financing or to further increase our capital resources by issuing additional shares of our capital stock or offering debt or other equity securities, including senior or subordinated notes, debt securities convertible into equity, or shares of preferred stock. Issuing additional shares of our capital stock, other equity securities, or securities convertible into equity may dilute the economic and voting rights of our existing stockholders, reduce the market price of our Class A common stock, or both. Debt securities convertible into equity could be subject to adjustments in the conversion ratio pursuant to which certain events may increase the number of equity securities issuable upon conversion. Preferred stock, if issued, could have a preference with respect to liquidating distributions or a preference with respect to dividend payments that could limit our ability to pay dividends to the holders of our Class A common stock. Our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, which may adversely affect the amount, timing or nature of our future offerings. As a result, holders of our Class A common stock bear the risk that our future offerings may reduce the market price of our Class A common stock and dilute their percentage ownership.

***Future sales, or the perception of future sales, of our Class A common stock by us or our existing stockholders in the public market could cause the market price for our Class A common stock to decline.***

The sale of substantial amounts of shares of our Class A common stock in the public market, or the perception that such sales could occur, could harm the prevailing market price of shares of our Class A common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. Certain shares of our common stock are freely tradable without restriction under the Securities Act, except for any shares of our Class A common stock that may be held or acquired by our directors, executive officers, and other affiliates, as that term is defined in the Securities Act, which are restricted securities under the Securities Act. Restricted securities may not be sold in the public market unless the sale is registered under the Securities Act or an exemption from registration is available. Any such sales, including sales of a substantial number of shares or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock. We may also issue shares of our common stock or securities convertible into our common stock from time to time in connection with financings, acquisitions, investments, or otherwise. Any such issuance could result in ownership dilution to you as a stockholder and cause the trading price of our common stock to decline.

***Our directors, executive officers and stockholders affiliated with our directors and executive officers own a significant percentage of our Class A common stock and, if they choose to act together, will be able to exert significant control over matters subject to shareholder approval.***

Our directors, executive officers, and stockholders affiliated with our directors and executive officers exert significant influence on us. As of December 31, 2021, these holders owned approximately 9.4% of our outstanding Class A common stock. As a result, these holders, acting together, have significant control over all matters that require approval of our stockholders, including the election of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transactions. The interests of these holders may not always coincide with our corporate interests or the interests of other stockholders, and they may act in a manner with which you may not agree or that may not be in the best interests of our other stockholders.

***Anti-takeover provisions in our governing documents and under Delaware law could make an acquisition of us more difficult, limit attempts by our stockholders to replace or remove our current management and limit the market price of our Class A common stock.***

Our certificate of incorporation, bylaws, and Delaware law contain provisions that could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by our board of directors. Among other things, our certificate of incorporation and bylaws include the following provisions:

- a staggered board, which means that our board of directors is classified into three classes of directors with staggered three-year terms and directors are only able to be removed from office for cause;
- limitations on convening special stockholder meetings, which could make it difficult for our stockholders to adopt desired governance changes;
- a prohibition on stockholder action by written consent, which means that our stockholders will only be able to take action at a meeting of stockholders and will not be able to take action by written consent for any matter;
- a forum selection clause, which means certain litigation against us can only be brought in Delaware;
- the authorization of undesignated preferred stock, the terms of which may be established and shares of which may be issued without further action by our stockholders; and
- advance notice procedures, which apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management. As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the DGCL, which prevents interested stockholders, such as certain stockholders holding more than 15% of our outstanding Class A common

stock, from engaging in certain business combinations unless (i) prior to the time such stockholder became an interested stockholder, our board of directors approved the transaction that resulted in such stockholder becoming an interested stockholder, (ii) upon consummation of the transaction that resulted in such stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of our Class A common stock, or (iii) following board approval, such business combination receives the approval of the holders of at least two-thirds of our outstanding Class A common stock not held by such interested stockholder at an annual or special meeting of stockholders.

Any provision of our certificate of incorporation, our bylaws or Delaware law that has the effect of delaying, preventing or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our Class A common stock and could also affect the price that some investors are willing to pay for our Class A common stock.

***Our certificate of incorporation and bylaws provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, or employees.***

Our certificate of incorporation and bylaws provide that, unless we consent in writing to the selection of an alternative forum, the (a) Court of Chancery of the State of Delaware (or, in the event that the Chancery Court does not have jurisdiction, the federal district court for the District of Delaware or other state courts of the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for: (i) any derivative action, suit or proceeding brought on our behalf; (ii) any action, suit or proceeding asserting a claim of breach of fiduciary duty owed by any of our directors, officers, or stockholders to us or to our stockholders; (iii) any action, suit or proceeding asserting a claim arising pursuant to the DGCL, our certificate of incorporation or bylaws; or (iv) any action, suit or proceeding asserting a claim governed by the internal affairs doctrine; and (b) subject to the foregoing, 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. Notwithstanding the foregoing, such forum selection provisions shall not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts of the United States have exclusive jurisdiction. The choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage such lawsuits against us and our directors, officers, and other employees. Alternatively, if a court were to find the choice of forum provision contained in our certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations, and financial condition.

Additionally, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. As noted above, our certificate of incorporation and bylaws provide that the federal district courts of the United States of America shall have jurisdiction over any action arising under the Securities Act. Accordingly, there is uncertainty as to whether a court would enforce such provision. Our stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder.

#### **Risks Related to Compliance Matters**

***Failure of our global operations to comply with anti-corruption laws and various trade restrictions, such as sanctions and export controls, could have an adverse effect on our business.***

We operate in a number of countries throughout the world, including countries known to have a reputation for corruption. Doing business on a global basis requires us to comply with anti-corruption laws and regulations imposed by governments around the world with jurisdiction over our operations, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act 2010, as well as the laws of the countries where we do business. We are also subject to various trade restrictions, including trade and economic sanctions and export controls, imposed by governments around the world with jurisdiction over our operations. For example, in accordance with trade sanctions administered by the Office of Foreign Assets Control and the U.S. Department of Commerce, we are prohibited from engaging in transactions involving certain persons and certain designated countries or territories, including Cuba, Iran, Syria, North Korea and the Crimea Region of Ukraine. In addition, our products are subject to export regulations that can involve significant compliance time and may add additional overhead cost to our products. In recent years the U.S. government has had a renewed focus on export matters. For example, the Export Control Reform Act of 2018 and regulatory guidance have imposed additional controls,



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and may result in the imposition of further additional controls, on the export of certain “emerging and foundational technologies.” Our current and future products may be subject to these heightened regulations, which could increase our compliance costs.

We are committed to doing business in accordance with applicable anti-corruption laws and regulations and with applicable trade restrictions. We are subject, however, to the risk that our affiliated entities or our and our affiliates’ respective officers, directors, employees and agents (including distributors of our products) may take action determined to be in violation of such laws and regulations. Any violation by any of these persons could result in substantial fines, sanctions, civil and/or criminal penalties, or curtailment of operations in certain jurisdictions, and might adversely affect our operating results. In addition, actual or alleged violations could damage our reputation and ability to do business.

***We are subject to environmental, health and safety laws and regulations related to our operations and the use of our additive manufacturing systems, produced parts, and consumable materials, which could subject us to compliance costs and/or potential liability in the event of non-compliance.***

We are subject to domestic and foreign environmental laws and regulations governing our operations, including, but not limited to, emissions into the air and water and the use, handling, disposal and remediation of hazardous substances. A certain risk of environmental liability is inherent in our production activities. These laws and regulations govern, among other things, the generation, use, storage, registration, handling and disposal of chemicals and waste materials, the presence of specified substances in electrical products, the emission and discharge of hazardous materials into the ground, air or water, the cleanup of contaminated sites, including any contamination that results from spills due to our failure to properly dispose of chemicals and other waste materials and the health and safety of our employees. Under these laws, regulations and requirements, we could also be subject to liability for improper disposal of chemicals and waste materials, including those resulting from the use of our systems and accompanying materials by end-users. Accidents or other incidents that occur at our facilities or involve our personnel or operations could result in claims for damages against us. In the event we are found to be financially responsible, as a result of environmental or other laws or by court order, for environmental damages alleged to have been caused by us or occurring on our premises, we could be required to pay substantial monetary damages or undertake expensive remedial obligations. If our operations fail to comply with such laws or regulations, we may be subject to fines and other civil, administrative or criminal sanctions, including the revocation of permits and licenses necessary to continue our business activities. In addition, we may be required to pay damages or civil judgments in respect of third-party claims, including those relating to personal injury (including exposure to hazardous substances that we generate, use, store, handle, transport, manufacture or dispose of), property damage or contribution claims. Some environmental laws allow for strict, joint and several liabilities for remediation costs, regardless of fault. We may be identified as a potentially responsible party under such laws. The amount of any costs, including fines or damages payments that we might incur under such circumstances could substantially exceed any insurance we have to cover such losses. Any of these events, alone or in combination, could have a material adverse effect on our business, financial condition and results of operations and could adversely affect our reputation.

The export of our products internationally from our production facilities subjects us to environmental laws and regulations concerning the import and export of chemicals and hazardous substances such as the United States Toxic Substances Control Act and the Registration, Evaluation, Authorization and Restriction of Chemical Substances. These laws and regulations require the testing and registration of some chemicals that we ship along with, or that form a part of, our systems and other products. If we fail to comply with these or similar laws and regulations, we may be required to make significant expenditures to reformulate the chemicals that we use in our products and materials or incur costs to register such chemicals to gain and/or regain compliance. Additionally, we could be subject to significant fines or other civil and criminal penalties should we not achieve such compliance.

The cost of complying with current and future environmental, health and safety laws applicable to our operations, or the liabilities arising from past releases of, or exposure to, hazardous substances, may result in future expenditures. Any of these developments, alone or in combination, could have an adverse effect on our business, financial condition and results of operations.

***Aspects of our business are subject to privacy, data use and data security regulations, which could increase our costs.***

We collect personally identifiable information from our employees, prospects, and our customers. Privacy and security laws and regulations may limit the use and disclosure of certain information and require us to adopt certain cybersecurity and data handling practices that may affect our ability to effectively market our services to current, past or prospective customers. We must comply with privacy laws in the United States, Europe and elsewhere, including GDPR in the European Union, which became effective May 25, 2018 and the retained version of the GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland, and the

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California Consumer Privacy Act of 2018, which was enacted on June 28, 2018 and became effective on January 1, 2020. These laws create new individual privacy rights and impose increased obligations, including disclosure obligations, on companies handling personal data. In many jurisdictions, consumers must be notified in the event of a data security breach, and such notification requirements continue to increase in scope and cost. Privacy and security laws and regulations may limit the use and disclosure of certain information and require us to adopt certain cybersecurity and data handling practices that may affect our ability to effectively market our services to current, past or prospective customers. While we have invested in, and intend to continue to invest in, resources to comply with these standards, we may not be successful in doing so, and any such failure could have an adverse effect on our business, results of operations and reputation.

As privacy, data use and data security laws are interpreted and applied, compliance costs may increase, particularly in the context of ensuring that adequate data protection and data transfer mechanisms are in place. In recent years, there has been increasing regulatory enforcement and litigation activity in this area in the United States, Germany and in various other countries in which we operate.

***Compliance with regulations for medical devices and solutions is expensive and time-consuming, and failure to obtain or maintain approvals, clearances, or compliance could impact financial projections and/or subject us to penalties or liabilities.***

Our Desktop Health products and services, and its healthcare provider customers and distributors, are and will be subject to extensive federal, state, local and foreign regulations, including, without limitation, regulations with respect to approvals and clearances for products, design, manufacturing and testing, labeling, marketing, sales, quality control, and privacy. Unless an exemption applies, we must obtain clearance or approval from the Food and Drug Administration (or comparable foreign regulatory body) before a medical device or solution can be marketed or sold; this process involves significant time, effort and expense. The healthcare market overall is highly regulated and subject to frequent and sudden change. Our failure to secure clearances or approvals or comply with regulations could have an adverse impact on our business and reputation and subject us to lost research and development costs, withdrawal of clearance/approval, operating restrictions, liabilities, fines, penalties and/or litigation.

### **Risks Related to Intellectual Property**

***Third-party lawsuits and assertions alleging our infringement of patents, trade secrets or other intellectual property rights may have a significant adverse effect on our financial condition.***

Third parties may own issued patents and pending patent applications that exist in fields relevant to additive manufacturing. Some of these third parties may assert that we are employing their proprietary technology without authorization. There may be third-party patents or patent applications with claims related to additive manufacturing. Because patent applications can take many years to issue, there may be currently pending patent applications which may later result in issued patents that our additive technologies may infringe. In addition, third parties may obtain patents in the future and claim that our technologies infringe upon these patents. Any third-party lawsuits or other assertion to which we are subject alleging our infringement of patents, trade secrets or other intellectual property rights may have a significant adverse effect on our financial condition.

***We may incur substantial costs enforcing and defending our intellectual property rights.***

We may incur substantial expense and costs in protecting, enforcing and defending our intellectual property rights against third parties. Intellectual property disputes may be costly and can be disruptive to our business operations by diverting attention and energies of management and key technical personnel and by increasing our costs of doing business. Third-party intellectual property claims asserted against us could subject us to significant liabilities, require us to enter into royalty and licensing arrangements on unfavorable terms, prevent us from assembling or licensing certain of our products, subject us to injunctions restricting our sale of products, cause severe disruptions to our operations or the marketplaces in which we compete or require us to satisfy indemnification commitments with our customers, including contractual provisions under various license arrangements. In addition, we may incur significant costs in acquiring the necessary third-party intellectual property rights for use in our products. Any of these could have an adverse effect on our business and financial condition.

***If we are unable to adequately protect or enforce our intellectual property rights, such information may be used by others to compete against us, in particular in developing consumables that could be used with our printing systems in place of our proprietary consumables.***

We have devoted substantial resources to the development of our technology and related intellectual property rights. Our success and future revenue growth will depend, in part, on our ability to protect our intellectual property. We rely on a combination of registered and unregistered intellectual property and protect our rights using patents, licenses, trademarks, trade secrets, confidentiality and assignment of invention agreements and other methods.

Despite our efforts to protect our proprietary rights, it is possible that competitors or other unauthorized third parties may obtain, copy, use or disclose our technologies, inventions, processes or improvements. We cannot assure you that any of our existing or future patents or other intellectual property rights will not be challenged, invalidated or circumvented, or will otherwise provide us with meaningful protection. Our pending patent applications may not be granted, and we may not be able to obtain foreign patents or pending applications corresponding to our U.S. patents. Even if foreign patents are granted, effective enforcement in foreign countries may not be available.

Our trade secrets, know-how and other unregistered proprietary rights are a key aspect of our intellectual property portfolio. While we take reasonable steps to protect our trade secrets and confidential information and enter into confidentiality and invention assignment agreements intended to protect such rights, such agreements can be difficult and costly to enforce or may not provide adequate remedies if violated, and we may not have entered into such agreements with all relevant parties. Such agreements may be breached, and trade secrets or confidential information may be willfully or unintentionally disclosed, including by employees who may leave our company and join our competitors, or our competitors or other parties may learn of the information in some other way. The disclosure to, or independent development by, a competitor of any of our trade secrets, know-how or other technology not protected by a patent or other intellectual property system could materially reduce or eliminate any competitive advantage that we may have over such competitor. This concern could manifest itself in particular with respect to our proprietary consumables that are used with our systems. Portions of our proprietary consumables may not be afforded patent protection. Chemical companies or other producers of raw materials used in our consumables may be able to develop consumables that are compatible to a large extent with our products, whether independently or in contravention of our trade secret rights and related proprietary and contractual rights. If such consumables are made available to owners of our systems, and are purchased in place of our proprietary consumables, our revenues and profitability would be reduced, and we could be forced to reduce prices for our proprietary consumables.

If our patents and other intellectual property do not adequately protect our technology, our competitors may be able to offer products similar to ours. Our competitors may also be able to develop similar technology independently or design around our patents and other intellectual property. Any of the foregoing events would lead to increased competition and reduce our revenue or gross margin, which would adversely affect our operating results.

If we attempt enforcement of our intellectual property rights, we may be, and have been in the past, subject or party to claims, negotiations or complex, protracted litigation. Intellectual property disputes and litigation, regardless of merit, can be costly and disruptive to our business operations by diverting attention and energies of management and key technical personnel and by increasing our costs of doing business. Any of the foregoing could adversely affect our business and financial condition.

As part of any settlement or other compromise to avoid complex, protracted litigation, we may agree not to pursue future claims against a third party, including related to alleged infringement of our intellectual property rights. Part of any settlement or other compromise with another party may resolve a potentially costly dispute but may also have future repercussions on our ability to defend and protect our intellectual property rights, which in turn could adversely affect our business.

***Our additive manufacturing software contains third-party open-source software components, and failure to comply with the terms of the underlying open-source software licenses could restrict our ability to sell our products.***

Our additive manufacturing software contains components that are licensed under so-called “open source,” “free” or other similar licenses. Open source software is made available to the general public on an “as-is” basis under the terms of a non-negotiable license. We currently combine our proprietary software with open source software, but not in a manner that we believe requires the release of the source code of our proprietary software to the public. We do not plan to integrate our proprietary software with open source software in ways that would require the release of the source code of our proprietary software to the public; however, our use and

distribution of open source software may entail greater risks than use of third-party commercial software. Open source licensors generally do not provide warranties or other contractual protections regarding infringement claims or the quality of the code. In addition, if we combine our proprietary software with open source software in a certain manner, we could, under certain open source licenses, be required to release to the public or remove the source code of our proprietary software. We may also face claims alleging noncompliance with open source license terms or infringement or misappropriation of proprietary software. These claims could result in litigation, require us to purchase a costly license or remove the software. In addition, if the license terms for open source software that we use change, we may be forced to re-engineer our solutions, incur additional costs or discontinue the sale of our offerings if re-engineering could not be accomplished on a timely basis. Although we monitor our use of open source software to avoid subjecting our offerings to unintended conditions, there is a risk that these licenses could be construed in a way that could impose unanticipated conditions or restrictions on our ability to commercialize our offerings. We cannot guarantee that we have incorporated open source software in our software in a manner that will not subject us to liability or in a manner that is consistent with our current policies and procedures.

#### **General Risk Factors**

***Our Class A common stock price may be volatile or may decline regardless of our operating performance. You may lose some or all of your investment.***

The trading price of our Class A common stock is likely to be volatile. The stock market recently has experienced extreme volatility. This volatility often has been unrelated or disproportionate to the operating performance of particular companies. You may not be able to resell your shares at an attractive price due to a number of factors such as those listed in this section and the following:

- the impact of the COVID-19 pandemic on our financial condition and the results of operations;
- our operating and financial performance and prospects;
- our quarterly or annual earnings or those of other companies in our industry compared to market expectations;
- conditions that impact demand for our products;
- future announcements concerning our business, our customers' businesses or our competitors' businesses;
- the public's reaction to our press releases, other public announcements and filings with the SEC;
- the size of our public float;
- coverage by or changes in financial estimates by securities analysts or failure to meet their expectations;
- market and industry perception of our success, or lack thereof, in pursuing our growth strategy;
- strategic actions by us or our competitors, such as acquisitions or restructurings;
- changes in laws or regulations which adversely affect our industry or us;
- changes in accounting standards, policies, guidance, interpretations or principles;
- changes in senior management or key personnel;
- issuances, exchanges or sales, or expected issuances, exchanges or sales of our capital stock;
- changes in our dividend policy;
- adverse resolution of new or pending litigation against us; and

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- changes in general market, economic and political conditions in the United States and global economies or financial markets, including those resulting from natural disasters, terrorist attacks, acts of war and responses to such events.

These broad market and industry factors may materially reduce the market price of our Class A common stock, regardless of our operating performance. In addition, price volatility may be greater if the public float and trading volume of our Class A common stock is low. As a result, you may suffer a loss on your investment.

In the past, following periods of market volatility, stockholders have instituted securities class action litigation. If we were involved in securities litigation, it could have a substantial cost and divert resources and the attention of executive management from our business regardless of the outcome of such litigation.

***If securities analysts do not publish research or reports about us, or if they issue unfavorable commentary about us or our industry or downgrade our Class A common stock, the price of our Class A common stock could decline.***

The trading market for our Class A common stock depends, in part, on the research and reports that third-party securities analysts publish about us and the industries in which we operate. We may be unable or slow to attract research coverage and if one or more analysts cease coverage of us, the price and trading volume of our securities would likely be negatively impacted. If any of the analysts that may cover us change their recommendation regarding our Class A common stock adversely, or provide more favorable relative recommendations about our competitors, the price of our Class A common stock would likely decline. If any analyst that may cover us ceases covering us or fails to regularly publish reports on us, we could lose visibility in the financial markets, which could cause the price or trading volume of our Class A common stock to decline. Moreover, if one or more of the analysts who cover us downgrades our Class A common stock, or if our reporting results do not meet their expectations, the market price of our Class A common stock could decline.

***The obligations associated with being a public company involve significant expenses and require significant resources and management attention, which may divert from our business operations.***

We are subject to the reporting requirements of the Exchange Act and the Sarbanes-Oxley Act. The Exchange Act requires that we file annual, quarterly and current reports with respect to our business and financial condition. The Sarbanes-Oxley Act requires, among other things, that we establish and maintain effective internal control over financial reporting. Now that we have ceased to be an “emerging growth company” an attestation report on internal control over financial reporting is required to be issued by our independent registered public accounting firm. As a result, we will incur increased legal, accounting and other expenses that we did not previously incur. Our entire management team and many of our other employees will continue to devote substantial time to compliance and may not effectively or efficiently manage our transition into a public company.

In addition, the need to establish the corporate infrastructure demanded of a public company may also divert management’s attention from implementing our business strategy, which could prevent us from improving our business, results of operations and financial condition. We have made, and will continue to make, changes to our internal control over financial reporting, including IT controls, and procedures for financial reporting and accounting systems to meet our reporting obligations as a public company. However, the measures we take may not be sufficient to satisfy our obligations as a public company. If we do not continue to develop and implement the right processes and tools to manage our changing enterprise and maintain our culture, our ability to compete successfully and achieve our business objectives could be impaired, which could negatively impact our business, financial condition and results of operations. In addition, we cannot predict or estimate the amount of additional costs we may incur to comply with these requirements. We anticipate that these costs will materially increase our general and administrative expenses.

These rules and regulations result in our incurring legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified people to serve on our board of directors, our board committees or as executive officers.

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***As a public reporting company, we will be subject to rules and regulations established from time to time by the SEC regarding our internal control over financial reporting. If we fail to establish and maintain effective internal control over financial reporting and disclosure controls and procedures, we may not be able to accurately report our financial results or report them in a timely manner.***

We are subject to the rules and regulations established from time to time by the SEC and the NYSE. These rules and regulations require, among other things that we establish and periodically evaluate procedures with respect to our internal control over financial reporting. Reporting obligations as a public company are likely to place a considerable strain on our financial and management systems, processes and controls, as well as on our personnel.

In addition, as a public company, we are required to document and test our internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act so that our management can certify as to the effectiveness of our internal control over financial reporting.

***We have identified material weaknesses in our internal controls over financial reporting as of December 31, 2021. Our internal controls over financial reporting currently do not meet all of the standards contemplated by Section 404 of Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, and failure to achieve and maintain effective internal controls over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act could impair our ability to produce timely and accurate financial statements or comply with applicable regulations and have a material adverse effect on our business.***

We are required to maintain internal control over financial reporting and to report any material weaknesses in these controls. The process of designing and implementing effective internal controls is a continuous effort that will require us to anticipate and react to changes in our business and the economic and regulatory environments and to expend significant resources to maintain a system of internal controls that is adequate to satisfy our reporting obligations as a public company. If we are unable to establish or maintain appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations on a timely basis or result in material misstatements in our consolidated financial statements, which could harm our operating results. In addition, we will be required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. The rules governing the standards that must be met for our management to assess our internal control over financial reporting are complex and require significant documentation, testing, and possible remediation. Testing and maintaining internal controls may divert management's attention from other matters that are important to our business. Our independent registered public accounting firm will be required to attest to the effectiveness of our internal control over financial reporting on an annual basis.

In addition to our results determined in accordance with GAAP, we believe certain non-GAAP measures may be useful in evaluating our operating performance. We present certain non-GAAP financial measures in this Annual Report on Form 10-K and intend to continue to present certain non-GAAP financial measures in future filings with the SEC and other public statements. Any failure to accurately report and present our non-GAAP financial measures could cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our Class A common stock.

Matters impacting our internal controls may cause us to be unable to report our financial information on a timely basis and thereby subject us to adverse regulatory consequences, including sanctions by the SEC or violations of applicable NYSE listing rules, which may result in a breach of the covenants under existing or future financing arrangements. There also could be a negative reaction in the financial markets due to a loss of investor confidence in us and the reliability of our financial statements. Confidence in the reliability of our financial statements also could suffer if we or our independent registered public accounting firm continue to report a material weakness in our internal controls over financial reporting. This could materially adversely affect us and lead to a decline in the market price of our Class A common stock.

As of December 31, 2021, our management and auditors determined that material weaknesses existed in our internal control over financial reporting due to the fact that we had not completed an annual or quarterly close under a timeline that would be compatible with public company filing deadlines, and with our limited accounting department personnel, this may not be achievable. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim consolidated financial statements will not be prevented or detected on a timely basis. While we have instituted plans to remediate the issue described above and continue to take remediation steps, including

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hiring additional personnel, including a vice president of accounting with public company experience, we continued to have a limited number of personnel with the level of GAAP accounting knowledge, specifically related to complex accounting transactions, commensurate with our financial reporting requirements.

Although we believe the hiring of additional accounting resources, implementation of additional reviews and processes requiring timely account reconciliations and analysis and implementation of processes and controls to better identify and manage segregation of duties will remediate the material weakness with respect to insufficient personnel, there can be no assurance that the material weakness will be remediated on a timely basis or at all, or that additional material weaknesses will not be identified in the future. If we are unable to remediate the material weakness, our ability to record, process, and report financial information accurately, and to prepare financial statements within the time periods specified by the rules and forms of the SEC, could be adversely affected which, in turn, may adversely affect our reputation and business and the market price of our Class A common stock.

***We are, and have been in the recent past, subject to litigation.***

We are currently, and have been in the recent past, subject to litigation, and we could be subject to further litigation in the future. Although we vigorously pursue favorable outcomes, we can provide no assurance as to the outcome of any current or future lawsuits or allegations, and any such actions may result in judgments against us for significant damages. Resolution of any such matters can be prolonged and costly, and the ultimate results or judgments are uncertain due to the inherent uncertainty in litigation and other proceedings. In addition, the additive manufacturing industry has been, and may continue to be, litigious, particularly with respect to intellectual property claims. Moreover, our potential liabilities are subject to change over time due to new developments, changes in settlement strategy or the impact of evidentiary requirements. Regardless of the outcome, litigation has resulted in the past, and may result in the future, in significant legal expenses and require significant attention and resources of management. As a result, any present or future litigation that may be brought against us by any third party could result in losses, damages and expenses that have a significant adverse effect on our financial condition.

***We do not intend to pay dividends on our Class A common stock for the foreseeable future.***

We currently intend to retain all available funds and any future earnings to fund the development and growth of our business. As a result, we do not anticipate declaring or paying any cash dividends on our Class A common stock in the foreseeable future. Any decision to declare and pay dividends in the future will be made at the discretion of our board of directors and will depend on, among other things, our business prospects, results of operations, financial condition, cash requirements and availability, certain restrictions related to our indebtedness, industry trends and other factors that our board of directors may deem relevant. Any such decision will also be subject to compliance with contractual restrictions and covenants in the agreements governing our current and future indebtedness. In addition, we may incur additional indebtedness, the terms of which may further restrict or prevent us from paying dividends on our Class A common stock. As a result, you may have to sell some or all of your Class A common stock after price appreciation in order to generate cash flow from your investment, which you may not be able to do. Our inability or decision not to pay dividends, particularly when others in our industry have elected to do so, could also adversely affect the market price of our Class A common stock.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

Desktop Metal's corporate headquarters are located in Burlington, Massachusetts. As of December 31, 2021, we leased approximately 110,000 square feet of office and building space for our corporate headquarters and in the surrounding area. We use these facilities primarily for manufacturing, research and development, warehousing, sales, marketing and administration.

As of December 31, 2021, we own or lease approximately 670,000 square feet of building space around the world, with significant locations in the United States, Germany, Italy and Japan. These locations support all aspects of our operations, including manufacturing, research and development, warehousing, sales marketing and administration.

We believe the existing facilities are in good operating condition and adequate to meet our needs for the immediate future. We intend to procure additional space as we add employees and expand geographically, including internationally.

### **Item 3. Legal Proceedings**

We are from time to time subject to various claims, lawsuits and other legal and administrative proceedings arising in the ordinary course of business. Some of these claims, lawsuits and other proceedings may involve highly complex issues that are subject to substantial uncertainties, and could result in damages, fines, penalties, non-monetary sanctions or relief. We recognize provisions for claims or pending litigation when we determine that an unfavorable outcome is probable, and the amount of loss can be reasonably estimated. Due to the inherent uncertain nature of litigation, the ultimate outcome or actual cost of settlement may materially vary from estimates. While the outcome of these claims cannot be predicted with certainty, management does not believe that the outcome of any current legal proceedings will have a material adverse impact on the Company's consolidated financial statements.

On November 4, 2021, the Audit Committee of the Board of Directors engaged a third party to conduct an independent internal investigation as a result of a whistleblower complaint relating to manufacturing and product compliance practices at our EnvisionTEC US LLC facility in Dearborn, Michigan. In response, and to address the issues identified in the investigation, we implemented changes in the management of the Dearborn facility and improvements in manufacturing and compliance policies and procedures for the applicable products. Following notification to the FDA, we also initiated voluntary recalls of certain shipments of Flexcera resins and the PCA4000 curing box. The investigation is now closed, and the matters subject to the investigation and our responsive actions did not have, and are not anticipated to have, a material impact on our financial statements or business.

Between September 2021 and the closing of the ExOne Merger on November 12, 2021, twelve putative class action complaints were filed by purported ExOne shareholders against ExOne and the former ExOne Board of Directors alleging violations of federal securities laws in connection with the S-4 filed by ExOne for the ExOne Merger. All have been dismissed.

On November 8, 2021, another purported stockholder, Leo Lissoq Goldstein, filed a Section 220 complaint in Delaware Chancery Court against ExOne (*Goldstein v. The ExOne Company*, Case No. 2021-0958-KSJM). Mr. Goldstein seeks to discover certain books and records of the company related to the ExOne Merger purportedly in order to investigate, among other things, the events leading up to and the disclosures made in connection with the ExOne Merger. Mr. Goldstein has also moved to intervene and stay the *Campanella* action, discussed below, until his Section 220 action is complete.

On November 22, 2021, purported stockholder Pietro Campanella filed a class action lawsuit against ExOne, Desktop Metal, Inc., and former ExOne directors and officers alleging breach of fiduciary duties and aiding and abetting breach of fiduciary duties in connection with the ExOne Merger (*Campanella v. The ExOne Company et al.*, Case No. 2021-1013, Case No. 2021-1013-LWW). In particular, Mr. Campanella alleges that ExOne's proxy statement and supplemental disclosures did not adequately disclose information related to a whistleblower investigation at one of Desktop Metal's subsidiaries, EnvisionTEC, and the resignation of EnvisionTEC's CEO.

On December 21, 2021, January 14, 2022, February 2, 2022 and February 22, 2022, four alleged shareholders of Desktop Metal stock filed purported securities class action complaints in the United States District Court for the District of Massachusetts. (*Luongo v. Desktop Metal*, D. Mass., Case No. 1:21-cv-12099-IT; *Hathaway v. Desktop Metal*, D. Mass., Case No. 1:22-cv-10059-IT; *Guzman-Martinez v. Desktop Metal*, D. Mass, Case No. 1:22-cv-10173, *Xie v. Desktop Metal*, Case No. 1:22-cv-10297-IT). Each complaint alleges that Desktop Metal and certain of its officers and directors violated Sections 10(b) and 20(a) of the Securities and Exchange Act by making false or misleading statements regarding EnvisionTEC's manufacturing and product compliance practices and procedures. On February 4, 2022, the court issued an order consolidating the first three District of Massachusetts securities class actions.

The Company believes that these complaints are all without merit and intends to defend against them vigorously.

### **Item 4. Mine Safety Disclosures**

Not applicable.



## PART II

### Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

#### Market Information

Our Class A common stock is listed on the New York Stock Exchange under the symbol “DM”.

#### Stockholders

As of March 11, 2022, there were 201 holders of record of our Class A common stock. The actual number of stockholders of our Class A common stock is greater than the number of record holders.

#### Dividend Policy

We have never declared or paid cash dividends on our capital stock. We do not expect to pay dividends on our capital stock for the foreseeable future, instead anticipating that all of our earnings for the foreseeable future will be used for the operation and growth of our business. The payment of any future dividends will be at the discretion of our board of directors and will depend on various factors, including our operating results, financial condition, capital requirements, growth plans, any contractual and legal restrictions on our payment of dividends, and any other factors deemed relevant by our board of directors.

#### Recent Sales of Unregistered Securities

All sales of unregistered securities by us during the year ended December 31, 2021 have been included previously in a Quarterly Report on Form 10-Q or in a Current Report on Form 8-K.

#### Issuer Purchases of Equity Securities

The following table sets forth purchases of our common stock for the three months ended December 31, 2021:

Period	Total number of shares purchased (1)	Average price paid per share	Total number of shares purchased as part of a publicly announced program	Approximate dollar value of shares that may yet be purchased under the program
October 1, 2021 through October 31, 2021	2,674	\$ 7.29	—	—
November 1, 2021 through November 30, 2021	7,895	\$ 7.34	—	—
December 1, 2021 through December 31, 2021	1,458	\$ 5.92	—	—
<b>Total</b>	<b>12,027</b>		<b>—</b>	<b>—</b>

(1) All of the shares were withheld from employees in satisfaction of minimum tax withholding obligations associated with the issuance of shares of Class A common stock in connection with acquisitions during the period.

#### Item 6. Selected Financial Data

Not applicable.

#### Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion and analysis provides information which management believes is relevant to an assessment and understanding of Desktop Metal’s consolidated results of operations and financial condition. The discussion should be read in conjunction with Desktop Metal’s consolidated financial statements and notes thereto included elsewhere in Annual Report on Form*

*10-K. This discussion contains forward-looking statements and involves numerous risks and uncertainties, including, but not limited to, those described under the heading “Risk Factors”. Actual results may differ materially from those contained in any forward-looking statements.*

## **Business Overview**

Desktop Metal is pioneering a new generation of additive manufacturing technologies focused on Additive Manufacturing 2.0, the volume production of end use parts. We offer a comprehensive portfolio of integrated additive manufacturing solutions comprised of hardware, software, materials and services with support for metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials. Our solutions span use cases across the product life cycle, from product development to mass production and aftermarket operations, and they address an array of industries, including automotive, healthcare and dental, consumer products, heavy industry, aerospace, machine design and research and development.

Our growth strategy begins with a commitment to research and development. Since our founding in 2015, we have invested significant resources in research and development towards building an extensive portfolio of proprietary and differentiated technologies with a focus on making additive manufacturing an easy-to-use, economic and scalable solution. These technologies represent the cornerstones of our future product introductions, are critical to enhancing our existing offerings, and are supported by over 650 patents or pending patent applications. Our additive manufacturing platforms, which leverage these technologies for the production of tools and end-use parts, enable businesses to address their specific goals through a range of solutions that span price points, throughput levels and operating environments.

Our product platforms offer several key advantages over competitive additive manufacturing systems including breakthrough print speeds, competitive part costs, accessible workflows and software, turnkey solutions and support for over 250 qualified materials, the sale of which represent a recurring revenue stream from customers of our additive manufacturing solutions in addition to system consumables and other services, such as installation, training and technical support. As a result of these strengths, our solutions are lowering the barriers to adopting additive manufacturing and unlocking new applications where conventional manufacturing has customarily held cost and volume advantages. Across printers, parts and materials, we intend to continue investing to advance our current technology portfolio and develop new technologies that allow us to serve a broader customer base and reach new verticals, thereby expanding our addressable market and driving adoption of Additive Manufacturing 2.0.

We leverage our core competencies in technology innovation and product development by marketing and selling our Additive Manufacturing 2.0 solutions through a leading global distribution network, managed and augmented by our own internal sales and marketing teams. This distribution network, which covers over 65 countries around the world, is composed of sales and distribution professionals with decades of experience in digital manufacturing technologies and works alongside our direct sales force to market and sell products across a range of industries and price points. Similarly, our internal manufacturing and supply chain teams work collaboratively with our internal engineering department and third-party contract manufacturers to scale up initial prototypes for commercialization and volume commercial shipments. Together, our hybrid distribution and manufacturing approaches allow us to produce, sell and service our products at-scale in global markets and create substantial operating leverage as we execute our strategy.

Our proprietary technology solutions also serve as the foundation for product parts offerings in which we directly manufacture parts for sale to our customers with a focus on key applications and verticals in which additive manufacturing can provide significant design, performance, cost and supply chain advantages relative to conventional manufacturing. These offerings will enable us to provide a more holistic suite of solutions for our customers and enable the accelerated adoption of our Additive Manufacturing 2.0 solutions across select high-value production applications, which we refer to as “killer apps”, including, but not limited to, medical and dental devices, fluid power systems, and sustainable, end-use wood parts. We believe such offerings will not only create a high-margin revenue stream, but will also facilitate lead generation for our additive manufacturing systems at scale and enable high-performance and specialized applications using new materials ahead of broader market introduction.

## **Operating Results**

For the year ended December 31, 2021, we recognized revenues of \$112.4 million and used cash in operating activities of \$155.0 million, and we ended the year with \$269.6 million of cash, cash equivalents, and short-term investments. We incurred a net loss of \$240.3 million the year ended December 31, 2021. As of December 31, 2021, we had \$65.0 million in cash and cash equivalents, \$204.6 million in short-term liquid investments, and current liabilities of \$104.1 million.

## **Recent Developments**

### ***Desktop Health***

On March 15, 2021, we announced the launch of Desktop Health, an expanded focus on accelerating the growth of additive manufacturing solutions for dental, orthodontic, otolaryngology and dermatology applications. Enabled by Desktop Metal's proprietary technology infrastructure for end-use parts production, including high-speed photopolymer, metal binder jetting and bioprinting additive manufacturing technologies combined with an extensive library of advanced materials, Desktop Health's mission is to create advanced, patient-specific solutions in the medical field.

### ***Trine Warrants***

On April 12, 2021, the Staff of the SEC issued the "Staff Statement on Accounting and Reporting Considerations for Warrants Issued by Special Purpose Acquisition Companies ("SPACs")", or the Staff Statement". The Staff Statement discussed "certain features of warrants issued in SPAC transactions" that "may be common across many entities." The Staff Statement indicated that when one or more of such features is included in a warrant, the warrant "should be classified as a liability measured at fair value, with changes in fair value each period reported in earnings." The Company has concluded that the warrants purchased by Trine Sponsor IH, LLC in connection with Trine's initial public offering, or the Private Placement Warrants, were to be classified as a liability measured at fair value on the Company's consolidated balance sheet upon the Business Combination on December 9, 2020, with subsequent changes in fair value reported in our statement of operations each reporting period. Effective March 2, 2021, all Private Placement Warrants were exercised and there was no outstanding warrant liability.

### ***Acquisitions***

#### ***EnvisionTEC Acquisition***

On February 16, 2021, pursuant to the Purchase Agreement and Plan of Merger dated January 14, 2021, we consummated the EnvisionTEC Acquisition. We paid \$143.8 million in cash and issued 5,036,142 shares of our Class A Common Stock, or Common Stock, with a fair value of \$159.8 million as of the close of business on the acquisition date. In connection with the transaction, the Company also granted restricted stock awards totaling 475,848 shares of Common Stock, with a fair value of \$4.2 million, to key EnvisionTEC employees in August 2021, which are subject to a three-year vesting period and continued employment.

#### ***Adaptive 3D Acquisition***

On May 7, 2021, we, Diamond US Merger Sub, Inc., Diamond US LLC, Adaptive 3D Holdings, Inc., or Adaptive 3D, and Fortis Advisor LLC entered into an Agreement and Plan of Merger, or the A3D Merger Agreement, pursuant to which we acquired Adaptive 3D. The total purchase price was \$61.8 million, consisting of \$24.1 million paid in cash and 3,133,276 shares of Common Stock with a fair value of \$37.7 million as of the close of business on the acquisition date.

#### ***Beacon Bio Acquisition***

On June 10, 2021, we and Beacon Bio, Inc. entered into a Share Purchase Agreement pursuant to which we acquired all outstanding securities of Beacon Bio, Inc. The aggregate purchase price was \$10.4 million, consisting of \$6.1 million paid in cash and fully vested restricted stock units with an acquisition date fair value of \$4.3 million, subject to certain adjustments and contingencies.

### ***Aerosint Acquisition***

On June 24, 2021, we, DM Belgium BV/SRL, Aerosint SA, or Aerosint, and the sellers named therein and representatives of such sellers, entered into a Share Purchase Agreement pursuant to which we acquired all outstanding shares of Aerosint. The total purchase price was \$23.8 million, consisting of \$6.2 million paid in cash, 879,922 shares of our Common Stock with a fair value of \$11.5 million as of the close of business on the acquisition date and contingent consideration with a fair value of \$6.1 million as of the acquisition date.

### ***Dental Arts Labs Acquisition***

On July 30, 2021, we and Dental Arts Laboratories, Inc., or Dental Arts Labs, entered into a Stock Purchase Agreement of the same date, pursuant to which we acquired all outstanding shares of Dental Arts Labs. The purchase price was \$26.0 million paid in cash. The Company also issued 1,190,468 restricted stock units with a grant date fair value of \$11.0 million, which are subject to a four-year vesting period and continuing employment.

### ***A.I.D.R.O. Acquisition***

On September 7, 2021, we purchased the issued and outstanding capital stock of A.I.D.R.O. Srl and its shareholders, or A.I.D.R.O., pursuant to a Stock Purchase Agreement dated July 2, 2021. The purchase price was \$5.6 million paid in cash. The Company also issued 364,050 restricted stock units with a grant date fair value of \$3.2 million, which are subject to a four-year vesting period and continuing employment.

### ***Meta Additive Acquisition***

On September 9, 2021, we and Meta Additive Ltd, or Meta Additive, entered into a Stock Purchase Agreement of the same date, pursuant to which we acquired Meta Additive. The purchase price consisted of cash consideration of \$15.2 million, including transaction costs of \$0.1 million. In connection with the acquisition, the Company issued 1,101,592 restricted stock units with a fair value of \$9.0 million as of the acquisition date, which are subject to a four-year vesting period and continuing employment.

### ***Brewer Dental Acquisition***

On October 14, 2021, we and Larry Brewer Dental Lab, Inc., or Brewer Dental, entered into a Stock Purchase Agreement of the same date, pursuant to which we acquired all outstanding shares of Brewer Dental. The purchase price was \$7.6 million paid in cash. The Company also issued 252,096 restricted stock units with a grant date fair value of \$1.8 million, which are subject to a four-year vesting period and continuing employment.

### ***May Dental Acquisition***

On October 29, 2021, we and May Dental Lab, Inc., or May Dental, entered into a Stock Purchase Agreement of the same date, pursuant to which we acquired all outstanding shares of May Dental. The purchase price was \$12.5 million paid in cash. The Company also issued 357,642 restricted stock units with a grant date fair value of \$2.5 million, which are subject to a four-year vesting period and continuing employment.

### ***ExOne Acquisition***

On November 12, 2021, we acquired The ExOne Company, or ExOne, pursuant to an Agreement and Plan of Merger dated August 11, 2021. The total purchase price was \$613.0 million consisting of cash consideration of \$201.4 million and 48,218,063 shares of our Common Stock with a fair value of \$411.6 million as of the close of business on the transaction date.

### ***COVID-19***

In March 2020, the World Health Organization declared the outbreak of COVID-19 a pandemic. It is not possible to accurately predict the full impact of the COVID-19 pandemic on our business, financial condition and results of operations due to the evolving nature of the COVID-19 pandemic and the extent of its impact across industries and geographies and numerous other uncertainties.

For example, we face uncertainties about the duration and spread of the outbreak, additional actions that may be taken by governmental entities, and the impact it may have on the ability of us, our customers, our suppliers, our manufacturers and our other business partners to conduct business. Governments in affected regions have implemented, and may continue to implement, safety precautions which include quarantines, travel restrictions, business closures, cancellations of public gatherings and other measures as they deem necessary. Many organizations and individuals, including our company and employees, are taking additional steps to avoid or reduce infections, including limiting travel and staying home from work. These measures are disrupting normal business operations and have had significant negative impacts on businesses and financial markets worldwide. We continue to monitor our operations and government recommendations and have made modifications to our normal operations because of the COVID-19 pandemic, including requiring most non-engineering or operations-related team members to work remotely, utilizing heightened cleaning and sanitization procedures, implementing new health and safety protocols and reducing non-essential travel.

The COVID-19 pandemic has caused us to experience several adverse impacts, including extended sales cycles to close new orders for our products, delays in shipping and installing orders due to closed facilities and travel limitations and delays in collecting accounts receivable. The rapid development and uncertainty of the impacts of the COVID-19 pandemic precludes any prediction as to the ultimate adverse impact of the COVID-19 pandemic on our business. However, the COVID-19 pandemic, and the measures taken to contain it, present material uncertainty and risk with respect to our performance and financial results. In particular, businesses across an array of vertical markets are temporarily reducing capital expenditure budgets globally as they seek to preserve liquidity to ensure the longevity of their own operations, which in turn may lead to reductions in purchases of our additive manufacturing solutions. Further, office closures may prevent organizations from reaching typical utilizations of our additive manufacturing solutions, resulting in reductions in purchases of consumable materials. Additionally, the COVID-19 pandemic may contribute to facility closures at our third-party contract manufacturers and key suppliers, causing delays and disruptions in product manufacturing, which could affect our ability to ship products purchased by our customers in a timely manner. Disruptions in the capital markets as a result of the COVID-19 pandemic may also adversely affect our business if these impacts continue for a prolonged period and we need additional liquidity.

In the long-term, we believe that the COVID-19 pandemic will encourage organizations to reassess their supply chain structure and may accelerate their adoption of solutions such as additive manufacturing, which could allow for greater flexibility and a reduced reliance on overseas manufacturing.

### **Key Factors Affecting Operating Results**

We believe that our performance and future success depend on many factors that present significant opportunities for us but also pose risks and challenges, including those discussed below and in “*Risk Factors*” section of this Annual Report on Form 10-K.

#### *Adoption of our Additive Manufacturing Solutions*

We believe the world is at an inflection point in the adoption of additive manufacturing solutions and that we are well-positioned to take advantage of this opportunity across an array of industries due to our proprietary technologies and global distribution capabilities. We expect that our results of operations, including revenue and gross margins, will fluctuate for the foreseeable future as businesses continue to shift away from conventional manufacturing processes towards additive manufacturing for end-use parts. Our turnkey and volume production solutions are designed to empower businesses to realize the full benefits of additive manufacturing at-scale, including geometric and design flexibility, mass customization and supply chain engineering, among others. The degree to which potential and current customers recognize these benefits and invest in our solutions will affect our financial results.

#### *Pricing, Product Cost and Margins*

We began commercial shipments of several products in late 2020 and early 2021, which offer customers a range of additive manufacturing solutions spanning multiple price points, materials, throughput levels, operating environments and technologies to enable them to find the solution that achieves their specific goals. We also expect to commercialize additional previously announced products in early 2022. Pricing for these products may vary by region due to market-specific supply and demand dynamics and product lifecycles, and sales of certain products have, or are expected to have, higher gross margins than others. As a result, our financial performance depends, in part, on the mix of products we sell during a given period. In addition, we are subject to price competition, and our ability to compete in key markets will depend on the success of our investments in new technologies and cost

improvements as well as our ability to efficiently and reliably introduce cost-effective additive manufacturing solutions for our customers.

#### *Continued Investment and Innovation*

We believe that we are a leader in mass production and turnkey additive manufacturing solutions, offering breakthrough technologies that enable high throughput and ease-of-use through our broad product portfolio. Our performance is significantly dependent on the investment we make in our research and development efforts and on our ability to be at the forefront of the additive manufacturing industry. It is essential that we continually identify and respond to rapidly evolving customer requirements, develop and introduce innovative new products, enhance existing products and generate customer demand for our solutions. We believe that investment in our additive manufacturing solutions will contribute to long-term revenue growth, but it may adversely affect our near-term profitability.

#### *Commercial Launch of Products*

We continually invest in the development of new products and enhancements to existing products to meet constantly evolving customer demands. Prior to commercialization of new products, we must complete final testing, procurement and manufacturing ramp up of these products in-house or at our third-party contract manufacturers, as applicable. Any delays in successful completion of these steps may impact our ability to generate revenue from these products.

#### *Acquisitions and Transaction-Related Costs*

As part of our growth strategy, we intend to continue to acquire or make investments in other business, patents, technologies, products or services. Our growth relies heavily on the successful integration of acquired companies, including our ability to realize the anticipated business opportunities from combining operations in an efficient and effective manner. We expect that the results of our operations will fluctuate as we continue to integrate these businesses, and the technologies, products, and services that they offer. Additionally, our results of operations will be impacted by non-recurring transaction-related costs, including integration costs, associated with these acquisitions.

### **Components of Results of Operations**

#### ***Revenue***

The majority of our revenue results from the sales of products, including our additive manufacturing systems and embedded on-device software and related consumables. Product revenue is recognized upon transfer of control to the customer, which generally takes place at the point of shipment or acceptance. If we cannot objectively determine that the product provided to the customer is in accordance with agreed-upon specifications, revenue is not recognized until customer acceptance is received. We also generate a portion of our revenue from software and support services. Software revenue is recognized (i) in the case of on-device software, upon transfer of control to the customer, which generally takes place upon shipment, and (ii) in the case of cloud-based software, which is primarily sold through one-year annual contracts, ratably over the term of the agreement. Revenue from support services for our additive manufacturing systems is primarily generated through one-year annual contracts and is recognized ratably over the term of the agreement. In certain circumstances, we generate revenue through leases of machinery and equipment to customers. These leases are classified as either operating or sales-type leases based on an analysis of their underlying terms and conditions and generally have lease terms ranging from one to five years.

We generate revenue and deliver products and services through direct sales to end users utilizing both our inside sales and external partners. We also generate revenue from sales to resellers, who purchase and resell our products and also provide installation and support services for our additive manufacturing solutions to end-users.

#### ***Cost of Sales***

Our cost of sales consists of the cost of products and cost of services. Cost of products includes the manufacturing cost of our additive manufacturing systems and consumables, which primarily consists of amounts paid to our third-party contract manufacturers and suppliers and personnel-related costs directly associated with manufacturing operations. It also includes cost of labor, materials

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and overhead for our produced parts offerings. Cost of services includes personnel-related costs directly associated with the provision of support services to our customers, which include engineers dedicated to remote support as well as, training, support and the associated travel costs. Our cost of revenues also includes depreciation and amortization, cost of spare or replacement parts, warranty costs, excess and obsolete inventory and shipping costs, and an allocated portion of overhead costs. We expect cost of revenue to increase in absolute dollars in future periods as we expect our revenues to continue to grow.

### ***Gross Profit and Gross Margin***

Our gross profit is calculated based on the difference between our revenues and cost of revenues. Gross margin is the percentage obtained by dividing gross profit by our revenue. Our gross profit and gross margin are, or may be, influenced by a number of factors, including:

- Market conditions that may impact our pricing;
- Product mix changes between established products and new products;
- Growth in our installed customer base or changes in customer utilization of our additive manufacturing systems, which affects sales of our consumable materials and may result in excess or obsolete inventories; and
- Our cost structure for manufacturing operations, including contract manufacturers, relative to volume, and our product support obligations.

We expect our gross margins to fluctuate over time, depending on the factors described above.

### ***Research and Development***

Our research and development expenses represent costs incurred to support activities that advance the development of innovative additive manufacturing technologies, new product platforms and consumables, as well as activities that enhance the capabilities of our existing product platforms. Our research and development expenses consist primarily of employee-related personnel expenses, prototypes, design expenses, consulting and contractor costs and an allocated portion of overhead costs. We expect research and development costs will increase on an absolute dollar basis over time as we continue to invest in advancing our portfolio of additive manufacturing solutions.

### ***Sales and Marketing***

Sales and marketing expenses consist primarily of employee-related costs for individuals working in our sales and marketing departments, third party commissions, costs related to trade shows and events and an allocated portion of overhead costs. We expect our sales and marketing costs will increase on an absolute dollar basis as we expand our headcount, initiate new marketing campaigns and launch new product platforms.

### ***General and Administrative***

General and administrative expenses consist primarily of personnel-related expenses associated with our executive, finance, legal, information technology and human resources functions, as well as professional fees for legal, audit, accounting and other consulting services, and an allocated portion of overhead costs. We expect our general and administrative expenses will increase on an absolute dollar basis as a result of operating as a public company, including expenses necessary to comply with the rules and regulations applicable to companies listed on a national securities exchange and related to compliance and reporting obligations pursuant to the rules and regulations of the SEC, as well as increased expenses for general and director and officer insurance, investor relations, and other administrative and professional services. In addition, we expect to incur additional costs as we hire additional personnel and enhance our infrastructure to support the anticipated growth of the business.

### ***In-Process Research and Development***

In-process research and development expense consists of acquired assets that are deemed to have no future or alternative use, therefore, the acquisition costs are expensed under Financial Accounting Standards Board, or FASB, Accounting Standards Codification, or ASC Topic 730, Research and Development. We expect in-process research and development to fluctuate depending on our acquisition strategy and targets we acquire.

### ***Change in Fair Value of Warrant Liability***

Change in fair value of warrant liability consists of the change in fair value of the Private Placement Warrants issued in connection with the Business Combination. The fair value of the warrant liability is calculated using the Black-Scholes model. We do not expect any further changes to the fair value of the warrant liability because all outstanding Private Placement Warrants have been exercised.

### ***Interest Expense***

Interest expense includes cash interest related to our term loan as well as amortization of deferred financing fees and costs.

### ***Interest and Other Income, Net***

Interest and other income, net includes interest earned on deposits and short-term investments and gains and losses on investments.

### ***Income Taxes***

Our income tax provision consists of an estimate for U.S. federal and state and foreign income taxes based on enacted rates, as adjusted for allowable credits, deductions, uncertain tax positions, changes in deferred tax assets and liabilities and changes in tax law. Due to cumulative losses, we maintain a valuation allowance against our U.S., state and foreign deferred tax assets.

### **Results of Operations**

#### **Comparison of the years ended December 31, 2021 and 2020**

##### *Revenue*

The following table presents the revenue of each of our revenue streams, as well as the percentage of total revenue and change from the prior year.

<b>(Dollars in thousands)</b>	<b>For the Years Ended December 31,</b>				<b>Change in Revenues</b>	
	<b>2021</b>		<b>2020</b>		<b>\$</b>	<b>%</b>
	<b>Revenue</b>	<b>% of Total</b>	<b>Revenue</b>	<b>% of Total</b>		
Products Revenue	\$ 105,994	94 %	\$ 13,718	83 %	\$ 92,276	673 %
Services Revenue	6,414	6 %	2,752	17 %	3,662	133 %
<b>Total Revenue</b>	<b>\$ 112,408</b>	<b>100 %</b>	<b>\$ 16,470</b>	<b>100 %</b>	<b>\$ 95,938</b>	<b>583 %</b>

Total revenue for the years ended December 31, 2021 and 2020 was \$112.4 million and \$16.5 million, respectively, an increase of \$95.9 million, or 583%. The increase in total revenue was attributable to an increase in revenue from both products and services.

We sold more products during the year ended December 31, 2021 as compared to the year ended December 31, 2020, leading to an approximately 673% increase in product revenue. This was primarily the result of an increase in unit shipments across a more varied product mix during the year and additional revenue in connection with acquisitions during the year ended December 31, 2021 compared to the same period in 2020.



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Service revenue increased during the year ended December 31, 2021, as compared to the year ended December 31, 2020, primarily due to an increase in support and installation revenue from increased shipments during the period and additional revenue in connection with acquisitions.

The following table presents revenue by geographic region, as well as the percentage of total revenue and change from the prior period.

(Dollars in thousands)	For the Years Ended December 31,				Change in Revenues	
	2021		2020		\$	%
	Revenue	% of Total	Revenue	% of Total		
Americas	\$ 75,962	68 %	\$ 6,665	40 %	\$ 69,297	1,040 %
EMEA (Europe, the Middle East and Africa)	24,097	21 %	7,788	47 %	16,309	209 %
APAC (Asia-Pacific)	12,349	11 %	2,017	12 %	10,332	512 %
<b>Total Revenue</b>	<b>\$ 112,408</b>	<b>100 %</b>	<b>\$ 16,470</b>	<b>100 %</b>	<b>\$ 95,938</b>	<b>583 %</b>

Total revenue increased during the year ended December 31, 2021 compared to the year ended December 31, 2020, due to an increase in unit shipments in all regions across a more varied product mix and additional revenue in connection with acquisitions. Overall, there was an increased customer demand during the year ended December 31, 2021. During the year ended December 31, 2020, customer demand was lower as a result of the COVID-19 pandemic.

*Cost of Sales*

Total cost of sales during years ended December 31, 2021 and 2020 was \$94.1 million and \$31.5 million, respectively, an increase of \$62.6 million or 199%. The increase in total cost of sales was driven primarily by an increase in product cost of sales, which resulted from greater product sales. The increase was partially offset by a decrease in obsolescence-related charges in 2021, compared to 2020. During 2020, we recognized a \$2.9 million obsolescence inventory charge related to product redesigns implemented to reduce costs and enhance performance and functionality. Additionally, cost of sales increased in 2021 by \$8.9 million due to amortization from intangible assets acquired and \$2.2 million due to inventory step-up adjustments associated with acquisitions, both of which were recognized in cost of sales.

*Gross Loss and Gross Margin*

The following table presents gross loss by revenue stream, as well as change in gross loss dollars from the prior period.

(Dollars in thousands)	For the Years Ended December 31,		Change in Gross	
	Gross Loss		Loss	
	2021	2020	\$	%
Products	\$ 18,544	\$ (13,227)	\$ 31,771	240 %
Services	(251)	(1,822)	1,571	86 %
<b>Total</b>	<b>\$ 18,293</b>	<b>\$ (15,049)</b>	<b>\$ 33,342</b>	<b>222 %</b>

Total gross profit (loss) during the years ended December 31, 2021 and 2020 was \$18.3 million and (\$15.0) million, respectively. The increase in gross profit of \$33.3 million is driven by increased revenue compared to fixed costs and a more favorable product mix sold, including products in connection with acquisitions, during the year ended December 31, 2021, as compared to the year ended December 31, 2020.

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The following table presents gross margin by revenue stream, as well as the change in gross margin from the prior period.

(Dollars in thousands)	For the Years Ended December 31,		Change in Gross Margin	
	2021	2020	Percentage Points	%
Products	17 %	(96)%	1.14	118 %
Services	(4)%	(66)%	0.62	94 %
<b>Total</b>	<b>16 %</b>	<b>(91)%</b>	<b>1.08</b>	<b>118 %</b>

Total gross margin for the years ended December 31, 2021 and 2020, was 16% and (91)%, respectively. The increase in total gross margin was primarily due to the increase in gross margin from our product revenue, which resulted from a lower product cost for units shipped in 2021 as compared to 2020. The increase in gross margin was offset by a one-time acquisition accounting impact of inventory fair value step up being recognized through earnings, which decreased gross margin by 2%.

#### *Research and Development*

Research and development expenses during the years ended December 31, 2021 and 2020 were \$68.1 million and \$43.1 million, respectively, an increase of \$25.0 million, or 58%. The increase in research and development expenses was due in part to increased expense related to acquired entities of \$10.0 million. In addition, compensation costs increased \$12.6 million due to headcount growth, of which \$8.2 million relates to equity compensation and \$4.4 million relates to payroll costs, to support new product development and existing product improvements. Additionally, engineering consulting costs, which were lowered during the year ended December 31, 2020 due to the COVID-19 pandemic, increased by \$0.8 million in support of new product development efforts.

#### *Sales and Marketing*

Sales and marketing expenses during the years ended December 31, 2021 and 2020 were \$48.0 million and \$13.1 million, respectively, an increase of \$34.9 million, or 265%. The increase in sales and marketing expenses was primarily due to increased expense related to acquired entities of \$15.7 million. In addition, compensation costs increased \$11.9 million, of which \$3.7 million relates to equity compensation costs and \$8.2 million relates to payroll costs, due to headcount growth and higher commission expenses commensurate with the increase in sales. Additionally, there was growth of \$5.6 million in marketing program spend driven primarily by the commercialization of new products and related marketing efforts.

#### *General and Administrative*

General and administrative expenses during the years ended December 31, 2021 and 2020, were \$78.0 million and \$20.7 million, respectively, an increase of \$57.3 million, or 276%. The increase in general and administrative expenses was primarily due to an increase of \$18.5 million of professional fees incurred as a result of merger and acquisition activity and related integration costs. General and administrative expenses also increased by \$17.2 million attributable to entities acquired in 2021. In addition, compensation costs increased by \$14.5 million, of which \$7.5 million relates to equity compensation and \$7.0 million relates to payroll costs, due to headcount growth to support public company requirements. Director and officer insurance increased by \$4.0 million as a public company.

#### *In-Process Research and Development Assets Acquired*

In-process research and development assets acquired during the year ended December 31, 2021 were \$25.6 million, compared to no expense for in-process research and development assets acquired during the year ended December 31, 2020. The increase is attributable to the Beacon Bio and Meta Additive acquisitions, in which the company paid \$25.6 million in cash and share consideration, inclusive of transaction costs. As the acquired in-process research and development assets were deemed to have no current or alternative future use, the entire amount was recognized as expense in the consolidated statement of operations for the year ended December 31, 2021.

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### *Change in Fair Value of Warrant Liability*

Change in fair value of warrant liability during the years ended December 31, 2021 and 2020, was a \$56.6 million loss and \$56.4 million gain, respectively. The increase in fair value is the result of the remeasurement of the Private Placement Warrant liability prior to the cashless exercise of the Private Placement Warrants. The warrant liability increased \$56.6 million as a result of the remeasurement, which resulted in the \$56.6 million loss. As of March 2, 2021, all Private Placement Warrants were exercised and there was no outstanding warrant liability.

### *Interest Expense*

Interest expense during the years ended December 31, 2021 and 2020 was \$0.1 million and \$0.3 million, respectively, a decrease of \$0.2 million, or 55%. Interest expense decreased primarily due to the payoff of the term loan in June 2021.

### *Interest and Other (Expense) Income, Net*

Interest and other (expense) income, net during the years ended December 31, 2021 and 2020 was (\$11.8) million and \$1.0 million, respectively, a decrease of \$12.8 million, or 1282%. The decrease is primarily due to an unrealized loss on equity investment of \$12.5 million during the year ended December 31, 2021.

### *Income Taxes*

We recorded an income tax benefit of \$29.7 million during the year ended December 31, 2021 compared to \$0.9 million income tax benefit during the year ended December 31, 2020. The increase was due to the partial release of the valuation allowance related to the deferred tax liabilities acquired in various acquisitions in 2021.

We have provided a valuation allowance for various jurisdictions as a result of our historical net losses. We continue to assess our future taxable income by jurisdiction based on our recent historical operating results, the expected timing of reversal of temporary differences, various tax planning strategies that we may be able to implement, the impact of potential operating changes on our business and our forecast results from operations in future periods based on available information at the end of each reporting period. To the extent that we are able to reach the conclusion that deferred tax assets are realizable based on any combination of the above factors in a single, or multiple, taxing jurisdictions, a reversal of the related portion of our existing valuation allowances may occur.

### **Non-GAAP Financial Information**

In addition to our results determined in accordance with GAAP, we believe that EBITDA and Adjusted EBITDA, each non-GAAP financial measures, are useful in evaluating our operational performance. We use this non-GAAP financial information to evaluate our ongoing operations and for internal planning and forecasting purposes. We believe that this non-GAAP financial information, when taken collectively, may be helpful to investors in assessing our operating performance.

The non-GAAP financial information excludes, as applicable, stock-based compensation expense, amortization of acquired intangible assets, acquisition-related and other transactional charges, inventory step-up, in-process research and development assets acquired, change in fair value of investments and change in fair value of warrant liability. These items are normally included in the comparable measures calculated and presented in accordance with GAAP. Our management excludes these items when evaluating our ongoing performance and/or evaluating earnings potential, and therefore excludes them when presenting non-GAAP financial measures. Management uses non-GAAP financial measures to supplement our GAAP results.

*Stock-based compensation* is a non-cash expense relating to stock-based awards issued to executive officers, employees, and outside directors, consisting of options and restricted stock units. We exclude this expense because it is a non-cash expense and we assess our internal operations excluding this expense and believe it facilitates comparisons to the performance of other companies in our industry.

*Amortization of acquired intangible assets* is a non-cash expense that is impacted by the timing and magnitude of our acquisitions. We believe the assessment of our operations excluding these costs is relevant to our assessment of internal operations and to comparisons with the performance of other companies in our industry.

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*Acquisition-related and other transactional charges* are direct costs related to potential and completed acquisitions, including transaction fees, due diligence costs, severance, professional fees, and integration activities. Other transactional charges include third-party costs related to structuring unusual transactions. The occurrence and amount of these costs will vary depending on the timing and size of acquisitions. We believe excluding acquisition-related costs facilitates the comparison of our financial results to our historical operating results and to other companies in our industry.

*Inventory step-up* are adjustments related to recording the inventory of acquired business at fair value on the date of acquisition. These adjustments are booked cost of sales. The occurrence and amount of these adjustments will vary depending on the timing and size of acquisitions. We believe excluding inventory step-up adjustments facilitates the comparison of our financial results to our historical operating results and to other companies in our industry.

*In-process research and development assets acquired* are direct costs related to assets acquisitions where the intangible assets acquired were determined to have no alternative future use. This is a non-recurring expense and we believe excluding acquired in-process research and development facilitates the comparison of our financial results to our historical operating results and to other companies in our industry.

*Change in fair value of investments* is a non-cash gain or loss impacted by the change in fair value of convertible debt instruments and the equity investment. We believe the assessment of our operations excluding this activity is relevant to our assessment of internal operations and to comparisons with the performance of other companies in our industry.

*Change in fair value of warrant liability* is a non-cash gain or loss impacted by the fair value of the Private Placement Warrants. We believe the assessment of our operations excluding this activity is relevant to our assessment of internal operations and to comparisons with the performance of other companies in our industry.

We use the below non-GAAP financial measures, and we believe that they assist our investors, to make period-to-period comparisons of our operational performance because they provide a view of our operating results without items that are not, in our view, indicative of our core operating results. We believe that these non-GAAP financial measures help illustrate underlying trends in our business, and we use the measures to establish budgets and operational goals for managing our business and evaluating our performance. We believe that providing non-GAAP financial measures also affords investors a view of our operating results that may be more easily compared to the results of other companies in our industry that use similar financial measures to supplement their GAAP results.

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The items excluded from the non-GAAP financial measures often have a material impact on our financial results and such items often recur. Accordingly, the non-GAAP financial measures included in this Annual Report on Form 10-K should be considered in addition to, and not as a substitute for, the comparable measures prepared in accordance with GAAP. The following tables reconcile each of these non-GAAP financial measures to its most closely comparable GAAP measure in our financial statements for the years ended December 31, 2021 and 2020:

(Dollars in thousands)	For the Year Ended December 31,	
	2021	2020
<b>GAAP gross margin</b>	\$ 18,293	\$ (15,049)
Stock-based compensation included in cost of sales	1,018	290
Amortization of acquired intangible assets included in cost of sales	8,467	—
Inventory step-up adjustment in cost of sales	2,194	—
<b>Non-GAAP gross margin</b>	<u>\$ 29,972</u>	<u>\$ (14,759)</u>
<b>GAAP operating loss</b>	\$ (201,455)	\$ (92,055)
Stock-based compensation	28,778	8,006
Amortization of acquired intangible assets included in cost of sales	8,467	—
Amortization of acquired intangibles assets included in operating expenses	9,114	758
Inventory step-up adjustment in cost of sales	2,194	—
Acquisition-related and other transactional charges	23,788	1,101
In-process research and development assets acquired	25,581	—
<b>Non-GAAP operating loss</b>	<u>\$ (103,533)</u>	<u>\$ (82,190)</u>
<b>GAAP net loss</b>	\$ (240,334)	\$ (34,015)
Stock-based compensation	28,778	8,006
Amortization of acquired intangible assets included in cost of sales	8,467	—
Amortization of acquired intangibles assets included in operating expenses	9,114	758
Inventory step-up adjustment in cost of sales	2,194	—
Acquisition-related and other transactional charges	23,788	1,101
In-process research and development assets acquired	25,581	—
Change in fair value of investments	12,475	—
Change in fair value of warrant liability	56,576	(56,417)
Warrant expense	—	1,915
<b>Non-GAAP net loss</b>	<u>\$ (73,361)</u>	<u>\$ (78,652)</u>

We define “EBITDA” as net loss plus net interest income, provision for income taxes, depreciation and amortization expense and in-process research and development assets acquired.

We define “Adjusted EBITDA” as EBITDA adjusted for change in fair value of warrant liability, change in fair value of investments, inventory step-up adjustments, stock-based compensation expense, warrant expense and transaction costs associated with acquisitions.

We believe that the use of EBITDA and Adjusted EBITDA provides an additional tool for investors to use in evaluating ongoing operating results and trends because it eliminates the effect of financing, capital expenditures, and non-cash expenses such as stock-based compensation and warrants, and provides investors with a means to compare our financial measures with those of comparable companies, which may present similar non-GAAP financial measures to investors. However, you should be aware that when evaluating EBITDA and Adjusted EBITDA we may incur future expenses similar to those excluded when calculating these measures. In addition, our presentation of these measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Our computation of these measures, especially Adjusted EBITDA, may not be comparable to other similarly titled measures computed by other companies because not all companies calculate these measures in the same fashion.

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Because of these limitations, EBITDA and Adjusted EBITDA should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP. We compensate for these limitations by relying primarily on our GAAP results and using EBITDA and Adjusted EBITDA on a supplemental basis. You should review the reconciliation of net loss to EBITDA and Adjusted EBITDA below and not rely on any single financial measure to evaluate our business.

The following table reconciles net loss to EBITDA and Adjusted EBITDA during the years ended December 31, 2021 and 2020, respectively:

(Dollars in thousands)	For the Years Ended December 31,	
	2021	2020
Net loss attributable to common stockholders	\$ (240,334)	\$ (34,015)
Interest (income) expense, net	(334)	(610)
Income tax benefit	(29,668)	(940)
Depreciation and amortization	24,854	8,589
In-process research and development assets acquired	25,581	—
<b>EBITDA</b>	<b>(219,901)</b>	<b>(26,976)</b>
Change in fair value of warrant liability	56,576	(56,417)
Change in fair value of investments	12,475	—
Inventory step-up adjustment	2,194	—
Stock compensation expense	28,778	8,006
Warrant expense	—	1,915
Transaction costs associated with acquisitions	23,788	—
<b>Adjusted EBITDA</b>	<b>\$ (96,090)</b>	<b>\$ (73,472)</b>

### Liquidity and Capital Resources

We have incurred a net loss in each of our annual periods since our inception. We incurred net losses of \$240.3 million and \$34.0 million during the years ended December 31, 2021 and 2020, respectively. As of December 31, 2021, we had \$269.6 million in cash, cash equivalents, and short-term investments.

Since inception, we have received cumulative net proceeds from the Business Combination and the sale of our preferred and common stock of \$973.4 million to fund our operations. As of December 31, 2021, our principal sources of liquidity were our cash, cash equivalents, and short-term investments of \$269.6 million which are principally invested in money market funds and fixed income instruments.

In June 2018, we entered into a three-year, \$20.0 million term loan, which provided \$10.0 million immediately with the remaining principal balance available to be drawn in up to three draws of not less than \$2.0 million for 12 months from close of the facility. We entered into this loan to fund capital expenditures associated with our corporate office. The loan was repaid in full in June 2021.

In April 2020, we received loan proceeds in the amount of approximately \$5.4 million under the Paycheck Protection Program, or the PPP. The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act, provides for loans to qualifying businesses. We repaid the loan in full on May 13, 2020.

In connection with the acquisition of EnvisionTEC, we acquired \$1.2 million in PPP loans with a maturity date of April 3, 2022. Under the terms of the CARES Act, PPP loan recipients can apply for forgiveness for all or a portion of the loan which is dependent upon the recipient having initially qualified for the loan. Furthermore, the loan is subject to forgiveness to the extent loan proceeds are used for payroll costs, certain rents, utilities, and mortgage interest expense. In May 2021, the outstanding loan balance was forgiven.

In connection with the acquisition of Adaptive 3D, we acquired \$0.3 million in PPP loans. In October 2021, substantially all of the outstanding balance was forgiven, and the remaining immaterial balance was paid in full.

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In connection with the acquisition of Dental Arts Labs, we acquired \$3.4 million in PPP loans. In September 2021, the outstanding balance was forgiven.

In connection with the acquisition of Dental Arts Labs, we acquired a thirteen-month equipment financing agreement, or the Financing Agreement, in the amount of \$0.5 million. The Financing Agreement provides for an advance payment of \$0.5 million to secure equipment. Payments are made monthly under the Financing Agreement upon acceptance, which has not yet occurred as of December 31, 2021.

In connection with the acquisition of A.I.D.R.O., we acquired three loans, the Bank Loans, totaling \$1.1 million in aggregate. The Bank Loans have term of 4.5 years and mature from September 2024 through September 2025, with interest rates ranging from 1.70% to 2.10%. Payments of principal and interest are made quarterly. As of December 31, 2021, we had paid \$0.2 million and \$0.9 million remains outstanding.

We believe that our existing capital resources will be sufficient to support our operating plan and cash commitments for at least the next 12 months. As of December 31, 2021, we had \$65.0 million in cash and cash equivalents, and \$204.6 million in short-term liquid investments. This liquid asset balance significantly exceeds our current liabilities of \$104.1 million as of the same date. If we anticipate that our actual results will differ from our operating plan, we believe we have sufficient capabilities to enact cost savings measures to preserve capital.

We expect net losses to continue in connection with our ongoing activities, particularly as we continue to invest in commercialization and new product development. Additionally, we may engage in future acquisitions which may require additional capital.

### Cash Flows

Since inception, we have primarily used proceeds from the Business Combination, issuances of preferred stock and debt instruments to fund our operations. The following table sets forth a summary of cash flows for the periods presented:

(Dollars in thousands)	For the Years Ended	
	December 31,	
	2021	2020
Net cash used in operating activities	\$ (155,048)	\$ (80,575)
Net cash (used in) provided by investing activities	(427,294)	(36,983)
Net cash provided by (used in) financing activities	166,550	534,922
Net change in cash, cash equivalents, and restricted cash	\$ (415,792)	\$ 417,364

### Cash Flows for the years ended December 31, 2021 and 2020

#### Operating Activities

Net cash used in operating activities was \$155.0 million for the year ended December 31, 2021, primarily consisting of \$240.3 million of net losses, adjusted for non-cash items, which primarily included loss on change in fair value of warrant liability of \$56.6 million, acquisition of in-process research and development of \$25.6 million, depreciation and amortization expense of \$24.9 million and stock-based compensation expense of \$28.8 million, as well as a \$36.7 million increase in cash consumed by working capital.

Net cash used in operating activities was \$80.6 million for the year ended December 31, 2020, primarily consisting of \$34.0 million of net losses, adjusted for non-cash items, which primarily included gain on change in fair value of warrant liability of \$56.4 million, depreciation and amortization expense of \$8.6 million, stock-based compensation expense of \$8.0 million, and warrant expense of \$1.9 million, as well as a \$7.9 million increase in cash consumed by working capital.

#### Investing Activities

Net cash used in investing activities was \$427.3 million for the year ended December 31, 2021, primarily consisting of purchases of marketable securities of \$330.9 million, offset by proceeds from sales and maturities of marketable securities of \$243.3 million. We

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also paid \$287.6 million, net of cash acquired, for acquisitions, and \$21.2 million, net of cash acquired, to acquire in-process research and development. We made a \$20.0 million investment in equity securities, invested \$3.6 million in other investments, and purchased \$7.7 million of property and equipment.

Net cash used in investing activities was \$37.0 million for the year ended December 31, 2020, primarily consisting of purchases of marketable securities of \$136.3 million, offset by proceeds from sales and maturities of marketable securities of \$109.0 million. We also paid \$5.3 million, net of cash acquired, for acquisitions, made an investment in a privately held company in the form of convertible debt in the amount of \$3.0 million, and purchased \$1.4 million of property and equipment.

### *Financing Activities*

Net cash provided by financing activities was \$166.5 million for the year ended December 31, 2021, consisting primarily of \$170.7 million in proceeds from the exercise of public warrants and \$6.4 million in proceeds from the exercise of stock options, offset by the repayment of the term loan of \$10.0 million.

Net cash provided by financing activities was \$534.9 million for the year ended December 31, 2020, consisting primarily of proceeds from the Business Combination and the private placement of shares of our Class A common stock pursuant to subscription agreements in connection with the Business Combination, or the PIPE financing.

### **Off-Balance Sheet Arrangements**

In the normal course of operations, ExOne's German subsidiary, ExOne GmbH, issues short-term financial guarantees and letters of credit to third parties in connection with certain commercial transactions requiring security through a credit facility with a German bank. At December 31, 2021, total outstanding financial guarantees and letters of credit issued were \$2.7 million. For further discussion related to financial guarantees and letters of credit, refer to Note 17 to the consolidated financial statements in Part II, Item 8 of this Annual Report on Form 10-K.

We have no other off-balance sheet arrangements and do not utilize any "structured debt," "special purpose" or similar unconsolidated entities for liquidity or financing purposes.

### **Critical Accounting Policies and Significant Estimates**

Our discussion and analysis of financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. Certain of our accounting policies require the application of judgment in selecting the appropriate assumptions for calculating financial estimates. By their nature, these judgments are subject to an inherent degree of uncertainty. We periodically evaluate the judgments and estimates used for our critical accounting policies to ensure that such judgments and estimates are reasonable for our interim and year-end reporting requirements. These judgments and estimates are based on our historical experience (where available), current trends and information available from other sources, as appropriate. If different conditions result from those assumptions used in our judgments, the results could be materially different from our estimates. We believe the following critical accounting policy requires significant judgments and estimates in the preparation of our consolidated financial statements:

#### *Revenue Recognition*

We recognize revenue from sale of products upon transfer of control, which is generally at the point of shipment. If we cannot objectively determine that the product provided to the customer is in accordance with agreed-upon specifications, revenue is not recognized until customer acceptance is received. Revenue from sale of services may be recognized over the life of the associated service contract or as services are performed, depending on the nature of the services being provided. In certain circumstances, we generate revenue through leases of machinery and equipment to customers, which are classified as either operating or sales-type leases and generally have lease terms ranging from one to five years.

Our contracts with customers often include promises to transfer multiple products and services to the customer. Judgment is required to determine the separate performance obligations present in a given contract, which we have concluded are generally capable of being distinct and accounted for as separate performance obligations. We use standalone selling price, or SSP, to allocate



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revenue to each performance obligation. Significant judgment is required to determine the SSP for each distinct performance obligation in a contract.

We began generating revenue in the fourth quarter of 2018, and as such we generally use our stand-alone sales price as our SSP, and we use our best estimate for the performance obligations where we do not have stand-alone sales. The absence of observable prices resulting from our relatively short period of revenue generation requires us to estimate the SSPs of distinct performance obligations in a given contract.

We determine SSP using market conditions and other observable inputs. We typically have more than one SSP for individual products and services due to the stratification of our customers. The SSP generally varies by size of the customer. Our determination of SSP may change in the future as standalone sales of products and services occur, providing observable prices.

### *Stock-Based Compensation*

Our historical and outstanding stock-based compensation awards under our equity compensation plans have typically included service-based, performance-based, or market-based vesting conditions. We have applied the fair value recognition provisions of FASB ASC Topic 718, Compensation-Stock Compensation to account for the stock-based compensation for employees and non-employees. We recognize compensation costs related to stock options granted to employees and non-employees based on estimated fair value of the award on the date of grant. For awards with only service-based vesting conditions, we recognize stock-based compensation expense over the requisite service period, and record compensation cost using the straight-line method less a historical forfeiture rate. For awards with performance-based or market-based vesting conditions, we recognize compensation cost on a tranche-by-tranche basis, or the accelerated attribution method.

Determining the amount of stock-based compensation to be recorded requires us to develop estimates of the fair value of stock-based awards as of their measurement date. Following the Business Combination, the fair value of our common stock is determined based on the quoted market price of our common stock. Prior to the Business Combination, there was no public market for our equity instruments, as a result, the estimated fair value of our common stock had historically been determined by our board of directors with input from management. We engaged an independent third-party valuation specialist to perform a valuation of our common stock and assessed other factors including financial performance, capital structure, forecasted operating results and valuations of publicly traded peer companies.

Calculating the fair value of stock-based awards requires that we make highly subjective assumptions. To determine the fair-value of grants with market-based conditions, we use a Monte Carlo simulation which requires management to make a number of key assumptions, including the estimated fair value of the common stock underlying the award, expected volatility, expected term, risk-free interest rate and expected dividend yield. The risk-free interest rate is determined using the rate of return on U.S. treasury notes with a life that approximates the expected term.

### *Acquisitions*

We account for business combinations using the acquisition method of accounting, which requires that the assets acquired and liabilities assumed be recorded at their respective estimated fair values as of the acquisition date. The excess of the fair value of the purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. While we use our best estimates and judgments, our estimates are inherently uncertain and subject to refinement. During the measurement period, which may be up to one year from the acquisition date, we may record adjustments to the fair value of these tangible and intangible assets acquired and liabilities assumed, with the corresponding offset to goodwill. We continue to collect information and reevaluate these estimates and assumptions quarterly and record any adjustments to our preliminary estimates to goodwill provided that we are within the measurement period.

The judgments made in determining the estimated fair value assigned to the assets acquired, as well as the estimated useful life of each asset, can materially impact the consolidated statements of operations of the periods subsequent to the acquisition through depreciation and amortization, and in certain instances through impairment charges, if the asset becomes impaired in the future. In determining the estimated fair value for intangible assets, we typically utilize the income approach, which discounts the projected future net cash flow using a discount rate deemed appropriate by management that reflects the risks associated with such projected future cash flow. Significant estimates and assumptions include revenue growth rates, technology migration curves, the customer

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attrition rate, and discount rates. Determining the useful life of an intangible asset also requires judgment, as different types of intangible assets will have different useful lives and certain assets may even be considered to have indefinite useful lives.

**Recent Accounting Pronouncements**

Information regarding recent accounting pronouncements is included in “Note 2. Summary of Significant Accounting Policies” to our consolidated financial statements in this Annual Report on Form 10-K.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

We are exposed to market risks from fluctuations in interest rates and foreign currency translation, which may adversely affect our results of operations and financial condition. We seek to minimize these risks through regular operating and financing activities and, if we consider it to be appropriate, through the use of derivative financial instruments. We do not purchase, hold or sell derivative financial instruments for trading or speculative purposes.

*Interest Rate Risk*

Our exposure to market risk for changes in interest rates relates primarily to our cash, cash equivalents and short-term investment portfolio. Our investment strategy is focused on preserving capital and supporting our liquidity requirements, while earning a reasonable market return. We invest in a variety of U.S. government securities, corporate debt securities, asset-backed securities, and commercial paper. The market value of our marketable securities may decline if current market interest rates rise. As of December 31, 2021, the fair value of our cash, cash equivalents, and short-term investments was \$269.6 million. A 10% change in interest rates would have an immaterial impact on the fair value of our investment portfolio. Our marketable securities are recorded at fair value, and gains and losses from these securities are recognized within other comprehensive income as they occur.

*Foreign Currency Risk*

The majority of our operations in Europe and Asia use the local currency as the functional currency. We translate the financial statements of our operations in Europe and Asia to United States dollars and as such we are exposed to foreign currency risk. Currently, we do not use foreign currency forward contracts to manage exchange rate risk, as the amount subject to foreign currency risk is not material to our overall operations and results.

**Item 8. Financial Statements and Supplementary Data**

This information is incorporated by reference beginning on page F-1 of this report.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

Under the supervision of our Chief Executive Officer and Chief Financial Officer, our management has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15(d)-15(e) under the Exchange Act) as of December 31, 2021. As described below, we identified material weaknesses in our internal control over financial reporting. As a result of these material weaknesses, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures are not effective to provide reasonable assurance that information required to be disclosed in the reports we file and submit under the Securities and Exchange Act is recorded, processed, summarized and reported as and when required.

Notwithstanding these material weaknesses noted above, our management, including our Chief Executive Officer and Chief Financial Officer, has concluded that our financial statements included in this Annual Report on Form 10-K present fairly, in all material respects, our financial position, results of operations, and cash flows for the periods presented in accordance with accounting principles generally accepted in the United States of America.

#### **Management's Annual Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, as a process designed by, or under the supervision of, our principal executive and principal financial officers and effected by our board of directors, management and other personnel 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. Our internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records, that in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluations of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2021 using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework (2013 framework). Based on the assessment, we have concluded that we have material weaknesses in each of the following areas:

##### *Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring*

*Control Environment* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) an insufficient number of personnel with an appropriate level of Generally Accepted Accounting Principles ("GAAP") knowledge and experience to create the proper environment for effective internal control over financial reporting and to ensure that (a) there were adequate processes for oversight, (b) there was accountability for the performance of internal control over financial reporting responsibilities, and (c) corrective activities were appropriately applied, prioritized, and implemented in a timely manner, and (ii) oversight processes and procedures that guide individuals in applying internal control over financial reporting were not adequate such that there is a reasonable possibility that a material misstatement of our financial statements will not be prevented or detected on a timely basis.

*Risk Assessment* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) identifying, assessing, and communicating appropriate objectives, (ii) identifying and analyzing risks to achieve these objectives, and (iii) identifying and assessing changes in the business that could impact the system of internal controls.

*Control Activities* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) addressing relevant risks, (ii) providing evidence of performance, (iii) providing appropriate segregation of duties, or (iv) operation at a level of precision to identify all potentially material errors.

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*Information and Communication* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to communicating accurate information internally and externally, including providing information pursuant to objectives, responsibilities, and functions of internal control.

*Monitoring* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to monitoring activities to ascertain whether the components of internal control are present and functioning.

In accordance with guidance issued by the Securities and Exchange Commission, companies are permitted to exclude acquisitions from their final assessment of internal control over financial reporting for the first fiscal year in which the acquisition occurred. Our management's evaluation of internal control over financial reporting excluded the internal control over financial reporting at EnvisionTEC, which we acquired in February 2021, Adaptive 3D, which we acquired in May 2021, Beacon Bio, which we acquired in June 2021, Aerosint, which we acquired in June 2021, Dental Arts Labs, which we acquired in July 2021, A.I.D.R.O., which we acquired in September 2021, Meta Additive, which we acquired in September 2021 and ExOne, which we acquired in November 2021, collectively the "2021 acquisitions", as discussed in Note 4, "Acquisitions," of the Notes to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K. We have included the financial results of these entities in the consolidated financial statements from the date of acquisition. Total revenues subject to the 2021 acquisitions' internal control over financial reporting represented approximately 66% of our consolidated total revenues for the fiscal year ended December 31, 2021. Total assets subject to the 2021 acquisitions' internal control over financial reporting represented approximately 10% of our consolidated total assets, excluding acquisition method fair value adjustments, as of December 31, 2021.

Deloitte & Touche LLP, our independent registered public accounting firm that audited the consolidated financial statements, has issued an audit report on our internal control over financial reporting as of December 31, 2021, which is included in Item 8 of this Annual Report on Form 10-K.

### **Remediation of Material Weakness in Internal Control Over Financial Reporting**

Management has been actively engaged in remediation efforts to address the material weaknesses throughout 2021 and these efforts will continue into fiscal year 2022. We made enhancements to our control environment by improving guidance, communication of expectations and importance of internal controls. In addition, we made improvements to the level of detail in our risk assessment and clarity of the linkage between risks and internal controls. We will continue to improve upon our risk assessment procedures and the timeliness of those procedures in 2022. We have made progress towards addressing the weaknesses in information and communication beginning the process to better identify, document, and assess systems and information used when performing internal controls and will continue this effort in 2022. We implemented enhanced monitoring procedures to allow for more effective monitoring of compliance with established accounting policies, procedures and controls. The remediation efforts also include:

- hiring additional qualified accounting, finance and legal personnel, to provide additional capacity and expertise to enhance our accounting and reporting review procedures;
- engaging consultants to provide additional technical accounting expertise;
- engaging third-party specialists to help assess and commence documentation of our internal controls for complying with the Sarbanes-Oxley Act of 2002;
- adding supervisory reviews performed by our financial management team and increasing the level of precision at which these reviews were performed;
- reporting on progress of internal control remediation efforts to the audit committee regularly during 2021; and
- engaging third-party specialists to assist with testing and validating the operating effectiveness of certain controls over financial reporting in 2021 to gain assurance that such controls are present and operating as designed.

The controls that were designed and implemented in 2021 were not in all cases in place for a sufficient period of time to demonstrate operating effectiveness as of December 31, 2021. While we believe significant progress was made in 2021 to enhance

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and strengthen our internal control over financial reporting, management has concluded that the material weaknesses were not fully remediated as of December 31, 2021.

As described above in Management's Report on Internal Control over Financial Reporting, we excluded from our assessment the internal control over financial reporting for the businesses acquired during 2021 including EnvisionTEC, Adaptive 3D, Beacon Bio, Aerosint, Dental Arts Labs, Aidro, Meta Additive, Brewer Dental, May Dental, and ExOne. During the initial transition period following the acquisitions, we identified and corrected certain financial information related to the acquired entities to properly reflect such financial information in our consolidated financial statements. As a result, we have identified control deficiencies within the internal control over financial reporting of the businesses acquired and we believe such deficiencies represent material weaknesses.

The measures we are implementing are subject to continued management review supported by confirmation and testing, as well as audit committee oversight. Management remains committed to the implementation of remediation efforts to address these material weaknesses. We will continue to implement measures to remedy our internal control deficiencies, though there can be no assurance that our efforts will be successful or avoid potential future material weaknesses. In addition, until remediation steps have been completed and are operating for a certain period of time, and subsequent evaluation of their effectiveness is completed, the material weaknesses previously disclosed, and as described above, will continue to exist. We are committed to the continuous improvement of our internal control over financial reporting and will continue to review the internal controls over financial reporting.

**Changes in Internal Control Over Financial Reporting**

As a result of the acquisitions described above, we are reviewing the internal controls of each of these subsidiaries and making appropriate changes as deemed necessary.

During the year ended December 31, 2021, we implemented certain internal controls in connection with our remediation efforts described above. Except as noted in the preceding paragraphs, there were no changes to our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that occurred during the year ended December 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Limitations on Effectiveness of Internal Controls**

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or internal control over financial reporting will prevent all errors and all fraud. A control system, no matter how well designed and implemented, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Due to the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, errors and instances of fraud, if any, within the company have been or will be detected.

**Item 9B. Other Information**

None.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections**

Not applicable.

**PART III**

**Item 10. Directors, Executive Officers and Corporate Governance**

The information required by this item will be included in our Proxy Statement for the 2022 Annual Meeting of Stockholders to be filed with the SEC within 120 days of the fiscal year ended December 31, 2021, and is incorporated herein by reference.

We have adopted a code of ethics, called the Code of Business Conduct and Ethics, which applies to our officers, including our principal executive, financial and accounting officers, and our directors and employees. We have posted the Code of Business

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Conduct and Ethics on our website at [ir.desktopmetal.com](http://ir.desktopmetal.com) under the “Governance Documents” section. We intend to make all required disclosures concerning any amendments to, or waivers from, the Code of Business Conduct and Ethics on our website.

On November 5, 2021, Ali El Siblani notified the Company of his intention to resign as a member of the Company’s Board of Directors and as an employee of the Company; thereafter, on November 11, 2021, the Company and Mr. Siblani entered into a separation agreement pursuant to which Mr. Siblani’s resignation was effective as of November 5, 2021.

**Item 11. Executive Compensation**

The information required by this item will be included in our Proxy Statement for the 2022 Annual Meeting of Stockholders to be filed with the SEC within 120 days of the fiscal year ended December 31, 2021, and is incorporated herein by reference.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

The information required by this item will be included in our Proxy Statement for the 2022 Annual Meeting of Stockholders to be filed with the SEC within 120 days of the fiscal year ended December 31, 2021, and is incorporated herein by reference.

**Item 13. Certain Relationships and Related Transactions, and Director Independence**

The information required by this item will be included in our Proxy Statement for the 2022 Annual Meeting of Stockholders to be filed with the SEC within 120 days of the fiscal year ended December 31, 2021, and is incorporated herein by reference.

**Item 14. Principal Accountant’s Fees and Services**

The information required by this item will be included in our Proxy Statement for the 2022 Annual Meeting of Stockholders to be filed with the SEC within 120 days of the fiscal year ended December 31, 2021, and is incorporated herein by reference.

**Part IV**

**Item 15. Exhibits and Financial Statement Schedules**

(a) We have filed the following documents filed as part of this Annual Report on Form 10-K:

(1) Financial Statements

Reference is made to the Index to Financial Statements beginning on page F-1, which is incorporated into this item by reference.

(2) Financial Statement Schedules

All financial statement schedules have been omitted because they are not applicable, or the required information is shown on the financial statements or notes thereto.

(3) Exhibits

The exhibits listed in the Exhibit Index are filed as part of this Annual Report on Form 10-K and are incorporated herein by reference.

(b) Exhibits

Refer to (a)(3) above.

(c) Additional Financial Statement Schedules

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All financial statement schedules have been omitted because they are not applicable, or the required information is shown on the financial statements or notes thereto.

**Item 16. Form 10-K Summary**

None

EXHIBIT INDEX

Exhibit		Incorporated by Reference		
		Form	Exhibit	Filing Date
2.1	<a href="#">Agreement and Plan of Merger, dated as of August 26, 2020, by and among the Company, Sparrow Merger Sub, Inc. and Legacy Desktop Metal</a>	10-K	2.1	3/15/2021
2.2	<a href="#">Amendment No. 1 to Agreement and Plan of Merger, dated as of September 11, 2020, by and among the Company, Sparrow Merger Sub, Inc. and Legacy Desktop Metal</a>	10-K	2.2	3/15/2021
2.3	<a href="#">Purchase Agreement and Plan of Merger, dated as of January 15, 2021, by and among the Company, EnvisionTEC Merger Sub, Inc., EnvisionTEC US LLC, EnvisionTEC, Inc., Gulf Filtration Systems, Inc., 3dbotics, Inc. and Ali El Siblani</a>	8-K	2.1	1/15/2021
2.4	<a href="#">Agreement and Plan of Merger, dated as of August 11, 202, by and among Desktop Metal, Inc., Texas Merger Sub I, Inc., Texas Merger Sub II, Inc., and The ExOne Company</a>	8-K	2.1	8/12/2021
3.1	<a href="#">Second Amended and Restated Certificate of Incorporation</a>	8-K	3.2	12/14/2020
3.2	<a href="#">Amended and Restated By-laws of the Registrant</a>	8-K	3.3	12/14/2020
4.1	<a href="#">Specimen Class A Common Stock Certificate</a>	S-1	4.2	3/8/2019
4.2	<a href="#">Description of Capital Stock of Desktop Metal, Inc.</a>			*
10.1	<a href="#">Amended and Restated Registration Rights Agreement, dated as of August 26, 2020, by and among the Company, certain equity holders of the Company named therein and certain equity holders of Legacy Desktop Metal named therein</a>	S-1	10.8	1/19/2021
10.2	<a href="#">Stockholders Agreement, dated as of August 26, 2020, by and between the Company and Trine Sponsor IH, LLC</a>	S-4	10.10	9/15/2020
10.3	<a href="#">Form of Director and Officer Indemnification Agreement</a>	S-4	10.13	9/15/2020
10.4	<a href="#">Non-Employee Director Compensation Program</a>	S-1	10.13	12/23/2020
10.5	<a href="#">2015 Stock Incentive Plan</a>	S-4	10.14	10/15/2020
10.6	<a href="#">Form of Incentive Stock Option Agreement under the 2015 Stock Incentive Plan</a>	S-4	10.15	10/15/2020
10.7	<a href="#">Form of RSU Agreement under the 2015 Stock Incentive Plan</a>	S-4	10.17	10/15/2020
10.8	<a href="#">2020 Incentive Award Plan</a>	10-K	10.11	3/15/2021
10.9	<a href="#">Form of Stock Option Agreement under the 2020 Incentive Award Plan</a>	S-4	10.20	9/15/2020
10.10	<a href="#">Form of RSU Agreement under the 2020 Incentive Award Plan</a>	S-4	10.21	9/15/2020
10.11	<a href="#">Form of Restricted Stock Agreement under the 2020 Incentive Award Plan</a>	S-4	10.22	9/15/2020
10.12	<a href="#">Restricted Stock Agreement, dated as of September 18, 2015 by and between Desktop Metal and Ric Fulop</a>	S-4	10.18	10/15/2020
10.13	<a href="#">Offer Letter, dated as of January 31, 2019, by and between Legacy Desktop Metal and Steve Billow</a>	S-4	10.26	11/2/2020
10.14	<a href="#">Separation Agreement, dated as of February 8, 2021, by and between Desktop Metal and Elizabeth Linardos</a>	10-K	10.19	3/15/2021
10.15	<a href="#">Offer Letter, dated as of February 8, 2021, by and between Desktop Metal and James Haley</a>	10-K	10.20	3/15/2021
10.16	<a href="#">Offer Letter, dated as of February 16, 2021, by and between Desktop Metal and Ali El Siblani</a>	10-K	10.21	3/15/2021
10.17	<a href="#">Separation Agreement, dated as of November 5, 2021, by and between Desktop Metal and Ali El Siblani</a>			*
10.18†	<a href="#">Separation Agreement, dated as of December 31, 2021, by and between Desktop Metal and Steve Billow</a>			*



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10.19	<a href="#">Northwest Park Office Lease, dated as of September 28, 2021, by and between NWP Building 24 LLC and Desktop Metal</a>	*
10.20†	<a href="#">BGO 500 Lease, dated as of October 7, 2021, by and between BGO 500 Research Owner LLC and Desktop Metal</a>	*
21.1	<a href="#">Subsidiaries of the Company</a>	*
23.1	<a href="#">Consent of Deloitte &amp; Touche LLP</a>	*
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Rule 13a-14(a)</a>	*
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Rule 13a-14(a)</a>	*
32.1	<a href="#">Certification of Chief Executive Officer and Chief Financial Officer of Periodic Report Pursuant to 18 U.S.C. Section 1350</a>	*
101.INS	Inline XBRL Instance Document	*
101.SCH	Inline XBRL Taxonomy Extension Schema Document	*
101.CAL	Inline XBRL Taxonomy Calculation Linkbase Document	*
101.DEF	Inline XBRL Taxonomy Definition Linkbase Document	*
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	*
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	*
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)	*

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\* Filed with this Annual Report on Form 10-K.

† Portions of this exhibit (indicated by asterisks) have been redacted in compliance with Regulation S-K Item 601(b)(10)(iv).

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 15, 2022.

DESKTOP METAL, INC.

By: \_\_\_\_\_ /s/ Ric Fulop  
Ric Fulop  
*Chief Executive Officer*  
*(Principal Executive Officer)*

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

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Ric Fulop Ric Fulop	Chief Executive Officer (Principal Executive Officer)	March 15, 2022
/s/ James Haley James Haley	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 15, 2022
/s/ Scott Dussault Scott Dussault	Director	March 15, 2022
/s/ James Eisenstein James Eisenstein	Director	March 15, 2022
/s/ Dayna Grayson Dayna Grayson	Director	March 15, 2022
/s/ Leo Hindery, Jr. Leo Hindery, Jr.	Director	March 15, 2022
/s/ Wen Hsieh Wen Hsieh	Director	March 15, 2022
/s/ Jeff Immelt Jeff Immelt	Director	March 15, 2022
/s/ Stephen Nigro Stephen Nigro	Director	March 15, 2022
/s/ Steve Papa Steve Papa	Director	March 15, 2022
/s/ Bilal Zuberi Bilal Zuberi	Director	March 15, 2022

**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

<a href="#">Reports of Independent Registered Public Accounting Firm (PCAOB ID No. 34)</a>	F-2
<a href="#">Consolidated Balance Sheets as of December 31, 2021 and 2020</a>	F-6
<a href="#">Consolidated Statements of Operations for the years ended December 31, 2021 and 2020</a>	F-7
<a href="#">Consolidated Statements of Comprehensive Loss for the years ended December 31, 2021 and 2020</a>	F-8
<a href="#">Consolidated Statements of Stockholders' Equity for the years ended December 31, 2021 and 2020</a>	F-9
<a href="#">Consolidated Statements of Cash Flows for the years ended December 31, 2021 and 2020</a>	F-10
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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Desktop Metal, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Desktop Metal, Inc. and subsidiaries (the "Company") as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows, for each of the two years in the period ended December 31, 2021, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2021, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 15, 2022, expressed an adverse opinion on the Company's internal control over financial reporting because of material weaknesses identified.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

### Acquisitions — Intangible Assets — Refer to Note 4 to the financial statements

#### Critical Audit Matter Description

As discussed in Note 4 of the consolidated financial statements, during the year ended December 31, 2021, the Company completed multiple acquisitions, and evaluated each acquisition to determine whether it should be accounted for as a business combination or asset acquisition. The two significant acquisitions were of EnvisionTEC and ExOne, with total purchase prices of \$303.6 million and \$613.0 million. The acquisition of EnvisionTEC resulted in the recording of \$195.7 million and \$137.3 million in goodwill and intangible assets acquired and the acquisition of ExOne resulted in the recording of \$374.6 million and \$82.1 million in

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goodwill and intangible assets acquired, respectively. The acquired intangibles included \$77.8 million in acquired technology and \$50.9 million in acquired customer relationships related to EnvisionTEC and \$72.9 million in acquired technology and \$7.9 million in acquired customer relationships related to ExOne. The significant assumptions used to estimate the fair value of the intangible assets included revenue growth rates, technology migration curves, customer attrition rates and discount rates. These significant assumptions are forward-looking and could be affected by future economic and market conditions.

The procedures used to audit the valuation of the acquired technology and customer relationship assets acquired in the acquisition EnvisionTEC and ExOne include (i) a high degree of auditor judgment and subjectivity in applying procedures relating to the fair value measurement of intangible assets acquired due to the significant amount of judgment by management when developing the estimate; (ii) significant audit effort in evaluating the significant assumptions relating to the estimate, such as revenue growth rates, technology migration curves, the customer attrition rate, and discount rates; and (iii) the use of professionals with specialized skill and knowledge to assist in performing these procedures and evaluating the audit evidence.

*How the Critical Audit Matter Was Addressed in the Audit*

Our audit procedures related to the valuation of the acquired technology and customer relationship assets acquired in the acquisition EnvisionTEC and ExOne included, among others:

- We read the purchase agreements and understood management’s process for estimating fair value of intangible assets.
- We obtained an understanding of the design and implementation of the Company’s internal controls related to the determination of fair value for the acquired technology and customer relationship assets for EnvisionTEC and ExOne.
- With the assistance of our fair value specialists, we evaluated management’s process including the appropriateness of valuation models selected, the reasonableness of significant assumptions including revenue growth rates, the technology migration rate, the customer attrition rate, discount rates, and discounted cash flow models.
- The assumptions related to revenue growth rates and the customer attrition rate were evaluated by considering whether the assumptions used were reasonable considering the past performance of the acquiree.
- The assumptions related to the technology migration curve were evaluated by considering the life of the technology.
- The discount rates were evaluated by considering the cost of capital of comparable businesses and other industry factors.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

March 15, 2022

We have served as the Company's auditor since 2016.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Desktop Metal, Inc.

### Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Desktop Metal, Inc. and subsidiaries (the “Company”) as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, because of the effect of the material weaknesses identified below on the achievement of the objectives of the control criteria, the Company has not maintained effective internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2021, of the Company and our report dated March 15, 2022, expressed an unqualified opinion on those financial statements.

As described in Management’s Report on Internal Control over Financial Reporting, management excluded from its assessment the internal control over financial reporting at EnvisionTEC, which was acquired in February 2021, Adaptive 3D, which was acquired in May 2021, Beacon Bio, which was acquired in June 2021, Aerosint, which was acquired in June 2021, Dental Arts Labs, which was acquired in July 2021, A.I.D.R.O., which was acquired in September 2021, Meta Additive, which was acquired in September 2021, Brewer Dental, which was acquired in October 2021, May Dental, which was acquired in October 2021, and ExOne, which was acquired in November 2021, collectively the “2021 acquisitions”. The financial statements of the 2021 acquisitions represent 66% of the Company’s consolidated total revenues and 10% of the Company’s consolidated total assets for the fiscal year ended December 31, 2021. Accordingly, our audit did not include the internal control over financial reporting for the 2021 acquisitions.

### Basis for Opinion

The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management’s Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed 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. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

**Material Weaknesses**

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis. The following material weaknesses have been identified and included in management's assessment:

*Control Environment* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) an insufficient number of personnel with an appropriate level of Generally Accepted Accounting Principles ("GAAP") knowledge and experience to create the proper environment for effective internal control over financial reporting and to ensure that (a) there were adequate processes for oversight, (b) there was accountability for the performance of internal control over financial reporting responsibilities, and (c) corrective activities were appropriately applied, prioritized, and implemented in a timely manner, and (ii) oversight processes and procedures that guide individuals in applying internal control over financial reporting were not adequate such that there is a reasonable possibility that a material misstatement of the Company's financial statements will not be prevented or detected on a timely basis.

*Risk Assessment* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) identifying, assessing, and communicating appropriate objectives, (ii) identifying and analyzing risks to achieve these objectives, and (iii) identifying and assessing changes in the business that could impact the system of internal controls.

*Control Activities* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to: (i) addressing relevant risks, (ii) providing evidence of performance, (iii) providing appropriate segregation of duties, or (iv) operation at a level of precision to identify all potentially material errors.

*Information and Communication* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to communicating accurate information internally and externally, including providing information pursuant to objectives, responsibilities, and functions of internal control.

*Monitoring* - control deficiencies constituting material weaknesses, either individually or in the aggregate, relating to monitoring activities to ascertain whether the components of internal control are present and functioning.

These material weaknesses were considered in determining the nature, timing, and extent of audit tests applied in our audit of the consolidated financial statements as of and for the year ended December 31, 2021, of the Company, and this report does not affect our report on such financial statements.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

March 15, 2022

**DESKTOP METAL, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(in thousands, except share and per share amounts)

	December 31,	
	2021	2020
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 65,017	\$ 483,525
Current portion of restricted cash	2,129	—
Short-term investments	204,569	111,867
Accounts receivable	46,687	6,516
Inventory	65,399	9,708
Prepaid expenses and other current assets	18,208	976
<b>Total current assets</b>	<b>402,009</b>	<b>612,592</b>
Restricted cash, net of current portion	1,112	612
Property and equipment, net	58,710	12,160
Goodwill	639,301	2,252
Intangible assets, net	261,984	9,414
Other noncurrent assets	25,480	4,879
<b>Total Assets</b>	<b>\$ 1,388,596</b>	<b>\$ 641,909</b>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable	\$ 31,558	\$ 7,591
Customer deposits	14,137	1,480
Current portion of lease liability	5,527	868
Accrued expenses and other current liabilities	33,829	7,565
Current portion of deferred revenue	18,189	3,004
Current portion of long-term debt, net of deferred financing costs	825	9,991
<b>Total current liabilities</b>	<b>104,065</b>	<b>30,499</b>
Long-term debt, net of current portion	548	—
Warrant liability	—	93,328
Contingent consideration, net of current portion	4,183	—
Lease liability, net of current portion	13,077	2,157
Deferred revenue, net of current portion	4,508	—
Deferred tax liability	10,695	—
Other noncurrent liabilities	3,170	—
<b>Total liabilities</b>	<b>140,246</b>	<b>125,984</b>
<b>Commitments and Contingences (Note 16)</b>		
<b>Stockholders' Equity</b>		
Preferred Stock, \$0.0001 par value—authorized, 50,000,000 shares; no shares issued and outstanding at December 31, 2021 and December 31, 2020, respectively	—	—
Common Stock, \$0.0001 par value—500,000,000 shares authorized; 311,737,858 and 226,756,733 shares issued at December 31, 2021 and December 31, 2020, respectively, 311,473,950 and 224,626,597 shares outstanding at December 31, 2021 and December 31, 2020, respectively	31	23
Additional paid-in capital	1,823,344	844,188
Accumulated deficit	(568,611)	(328,277)
Accumulated other comprehensive income (loss)	(6,414)	(9)
<b>Total Stockholders' Equity</b>	<b>1,248,350</b>	<b>515,925</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 1,388,596</b>	<b>\$ 641,909</b>

See notes to consolidated financial statements.



**DESKTOP METAL, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in thousands, except per share amounts)

	Years Ended December 31,	
	2021	2020
<b>Revenues</b>		
Products	\$ 105,994	\$ 13,718
Services	6,414	2,752
Total revenues	112,408	16,470
<b>Cost of sales</b>		
Products	87,450	26,945
Services	6,665	4,574
Total cost of sales	94,115	31,519
Gross profit/(loss)	18,293	(15,049)
<b>Operating expenses</b>		
Research and development	68,131	43,136
Sales and marketing	47,995	13,136
General and administrative	78,041	20,734
In-process research and development assets acquired	25,581	—
Total operating expenses	219,748	77,006
<b>Loss from operations</b>	(201,455)	(92,055)
Change in fair value of warrant liability	(56,576)	56,417
Interest expense	(149)	(328)
Interest and other (expense) income, net	(11,822)	1,011
<b>Loss before income taxes</b>	(270,002)	(34,955)
Income tax benefit	29,668	940
<b>Net loss</b>	\$ (240,334)	\$ (34,015)
Net loss per share—basic and diluted	\$ (0.92)	\$ (0.22)
Weighted average shares outstanding, basic and diluted	260,770	157,906

See notes to consolidated financial statements.

**DESKTOP METAL, INC.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
**(in thousands)**

	<u>Years Ended December 31,</u>	
	<u>2021</u>	<u>2020</u>
Net loss	\$ (240,334)	\$ (34,015)
Other comprehensive (loss) income, net of taxes:	—	—
Unrealized gain (loss) on available-for-sale marketable securities, net	(40)	(84)
Foreign currency translation adjustment	(6,365)	—
Total comprehensive loss, net of taxes of \$0	<u>\$ (246,739)</u>	<u>\$ (34,099)</u>

See notes to consolidated financial statements.

**DESKTOP METAL, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(in thousands, except share amounts)

	Legacy Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive (Loss) Income	Total Stockholders' Equity
	Shares	Amount	Shares	Amount				
BALANCE—January 1, 2020	100,038,109	\$ 436,553	26,813,113	\$ 3	\$ 16,722	\$ (294,262)	\$ 75	\$ (277,462)
Retroactive application of recapitalization (Note 1)	(100,038,109)	(436,553)	128,100,821	13	436,520	—	—	436,533
Adjusted balance, beginning of period	—	—	154,913,934	16	453,242	(294,262)	75	159,071
Exercise of Common Stock options	—	—	521,925	—	325	—	—	325
Vesting of restricted Common Stock	—	—	5,307,357	1	6	—	—	7
Issuance of Common Stock in connection with acquisitions	—	—	61,060	—	500	—	—	500
Repurchase of shares for employee tax withholdings	—	—	(9,308)	—	(101)	—	—	(101)
Stock-based compensation expense	—	—	—	—	8,006	—	—	8,006
Common Stock warrants issued and exercised	—	—	692,366	—	1,915	—	—	1,915
Reverse recapitalization, net of transaction costs	—	—	63,139,263	6	380,295	—	—	380,301
Net loss	—	—	—	—	—	(34,015)	—	(34,015)
Other comprehensive income	—	—	—	—	—	—	(84)	(84)
<b>BALANCE—December 31, 2020</b>	<b>—</b>	<b>—</b>	<b>224,626,597</b>	<b>\$ 23</b>	<b>\$ 844,188</b>	<b>\$ (328,277)</b>	<b>\$ (9)</b>	<b>\$ 515,925</b>
Exercise of Common Stock options	—	—	5,732,247	1	6,425	—	—	6,426
Vesting of restricted Common Stock	—	—	491,293	—	—	—	—	—
Repurchase of shares for employee tax withholdings - RSA	—	—	(109,150)	—	(958)	—	—	(958)
Vesting of restricted share units	—	—	650,777	—	—	—	—	—
Repurchase of shares for employee tax withholdings - RSU	—	—	(61,498)	—	(541)	—	—	(541)
Issuance of Common Stock in connection with acquisitions	—	—	57,267,401	5	620,585	—	—	620,590
Issuance of Common Stock in connection with acquired in-process research and development	—	—	334,370	—	4,300	—	—	4,300
Stock-based compensation expense	—	—	—	—	28,778	—	—	28,778
Vesting of Trine Founder Shares	—	—	1,850,938	—	—	—	—	—
Common Stock issued in connection with warrants exercised	—	—	20,690,975	2	320,567	—	—	320,569
Net loss	—	—	—	—	—	(240,334)	—	(240,334)
Other comprehensive loss	—	—	—	—	—	—	(6,405)	(6,405)
<b>BALANCE—December 31, 2021</b>	<b>—</b>	<b>—</b>	<b>311,473,950</b>	<b>\$ 31</b>	<b>\$ 1,823,344</b>	<b>\$ (568,611)</b>	<b>\$ (6,414)</b>	<b>\$ 1,248,350</b>

See notes to consolidated financial statements.

**DESKTOP METAL, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)

	Years Ended December 31,	
	2021	2020
<b>Cash flows from operating activities:</b>		
Net loss	\$ (240,334)	\$ (34,015)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	24,854	8,589
Stock-based compensation	28,778	8,006
Change in fair value of warrant liability	56,576	(56,417)
Change in fair value of subscription agreement	2,920	—
Expense related to Common Stock warrants issued	—	1,915
Amortization (accretion) of discount on investments	3,021	75
Amortization of debt financing cost	9	19
Provision for bad debt	447	377
Acquired in-process research and development	25,581	—
Loss on disposal of property and equipment	74	18
Foreign exchange (gains) losses on intercompany transactions, net	182	—
Net increase in accrued interest related to marketable securities	(819)	(3)
Net unrealized (gain) loss on equity investment	9,660	—
Net unrealized (gain) loss on other investments	(130)	—
Deferred tax benefit	(29,668)	(940)
Change in fair value of contingent consideration	(429)	—
Foreign currency transaction (gain) loss	7	—
Changes in operating assets and liabilities:		
Accounts receivable	(18,299)	(2,370)
Inventory	(16,962)	(1,303)
Prepaid expenses and other current assets	(8,937)	901
Other assets	(3)	—
Accounts payable	12,797	(2,637)
Accrued expenses and other current liabilities	(8,761)	(2,391)
Customer deposits	(2,569)	(845)
Current portion of deferred revenue	5,989	774
Change in right of use assets and lease liabilities, net	(641)	(328)
Other liabilities	1,609	—
<b>Net cash used in operating activities</b>	<b>(155,048)</b>	<b>(80,575)</b>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(7,683)	(1,429)
Purchase of other investments	(3,620)	(3,000)
Purchase of equity investment	(20,000)	—
Proceeds from sale of property and equipment	44	—
Proceeds from policy buyout	333	—
Purchase of marketable securities	(330,873)	(136,286)
Proceeds from sales and maturities of marketable securities	243,349	109,016
Cash paid to acquire in-process research and development	(21,220)	—
Cash paid for acquisitions, net of cash acquired	(287,624)	(5,284)
<b>Net cash used in investing activities</b>	<b>(427,294)</b>	<b>(36,983)</b>
<b>Cash flows from financing activities:</b>		
Proceeds from reverse recapitalization, net of issuance costs	—	534,597
Proceeds from the exercise of stock options	6,426	325
Proceeds from the exercise of stock warrants	170,665	—
Payment of taxes related to net share settlement upon vesting of restricted stock units	(541)	—
Proceeds from PPP loan	—	5,379
Repayment of PPP loan	—	(5,379)
Repayment of term loan	(10,000)	—
Deferred financing costs paid	—	—
<b>Net cash provided by financing activities</b>	<b>166,550</b>	<b>534,922</b>
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(87)	—
<b>Net increase (decrease) in cash, cash equivalents, and restricted cash</b>	<b>(415,879)</b>	<b>417,364</b>
Cash, cash equivalents, and restricted cash at beginning of period	484,137	66,773
<b>Cash, cash equivalents, and restricted cash at end of period</b>	<b>\$ 68,258</b>	<b>\$ 484,137</b>

[Table of Contents](#)**Supplemental disclosures of cash flow information**

Reconciliation of cash, cash equivalents and restricted cash reported within the condensed consolidated balance sheets that sum to the total shown in the condensed consolidated statements of cash flows:

Cash and cash equivalents	\$ 65,017	\$ 483,525
Restricted cash included in other current assets	2,129	—
Restricted cash included in other noncurrent assets	1,112	612
Total cash, cash equivalents and restricted cash shown in the condensed consolidated statements of cash flows	<u>\$ 68,258</u>	<u>\$ 484,137</u>

**Supplemental cash flow information:**

Interest paid	\$ 148	\$ 322
Taxes paid	\$ 150	—

**Non-cash investing and financing activities:**

Net liabilities assumed from Trine Business Combination	\$ —	\$ 152,395
Accrued reverse recapitalization transaction costs	\$ —	\$ 1,901
Net unrealized (gain) loss on investments	\$ 40	—
Exercise of private placement warrants	\$ 149,904	—
Common Stock issued for acquisitions	\$ 620,590	\$ 500
Common Stock issued for acquisition of in-process research and development	\$ 4,300	—
Accrued purchase price for asset acquisition	\$ 1,800	\$ 200
Additions to right of use assets and lease liabilities	\$ 5,582	—
Purchase of property and equipment included in accounts payable	\$ 90	—
Purchase of property and equipment included in accrued expenses and other current liabilities	\$ 38	—
Transfers from property and equipment to inventory	\$ 1,068	—
Transfers from inventory to property and equipment	\$ 1,435	—
Accrued contingent consideration in connection with acquisitions	\$ 6,083	—
Tax liabilities related to withholdings on Common Stock issued in connection with acquisitions	\$ —	\$ 102
Taxes related to net share settlement upon vesting of restricted stock awards in accrued expense	\$ 958	—

See notes to consolidated financial statements.

**DESKTOP METAL, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**1. ORGANIZATION, NATURE OF BUSINESS, AND RISK AND UNCERTAINTIES**

**Organization and Nature of Business**

Desktop Metal, Inc. is a Delaware corporation headquartered in Burlington, Massachusetts. The company was founded in 2015 and is accelerating the transformation of manufacturing with 3D printing solutions for engineers, designers, and manufacturers. The Company designs, produces and markets 3D printing systems to a variety of end customers.

On December 9, 2020 (the “Closing Date”), Trine Acquisition Corp. (“Trine”) consummated the previously announced merger pursuant to the Agreement and Plan of Merger, dated August 26, 2020, by and among Trine, Desktop Metal, Inc. and Sparrow Merger Sub, Inc., pursuant to which Sparrow Merger Sub, Inc. merged with and into Desktop Metal, Inc., with Desktop Metal, Inc. becoming our wholly owned subsidiary (the “Business Combination”). Upon the closing of the Business Combination, Trine changed its name to Desktop Metal, Inc. and Desktop Metal, Inc. changed its name to Desktop Metal Operating, Inc.

Unless otherwise indicated or the context otherwise requires, references in this Annual Report on Form 10-K to the “Company” and “Desktop Metal” refer to the consolidated operations of Desktop Metal, Inc. and its subsidiaries. References to “Trine” refer to the company prior to the consummation of the Business Combination and references to “Legacy Desktop Metal” refer to Desktop Metal Operating, Inc. prior to the consummation of the Business Combination.

Legacy Desktop Metal was deemed the accounting acquirer in the Business Combination based on an analysis of the criteria outlined in Accounting Standards Codification (“ASC”) 805. This determination was primarily based on Legacy Desktop Metal’s stockholders prior to the Business Combination having a majority of the voting power in the combined company, Legacy Desktop Metal having the ability to appoint a majority of the Board of Directors of the combined company, Legacy Desktop Metal’s existing management comprising the senior management of the combined company, Legacy Desktop Metal comprising the ongoing operations of the combined company, Legacy Desktop Metal being the larger entity based on historical revenues and business operations, and the combined company assuming Legacy Desktop Metal’s name. Accordingly, for accounting purposes, the Business Combination was treated as the equivalent of Legacy Desktop Metal issuing stock for the net assets of Trine, accompanied by a recapitalization. The net assets of Trine are stated at historical cost, with no goodwill or other intangible assets recorded.

While Trine was the legal acquirer in the Business Combination, because Legacy Desktop Metal was deemed the accounting acquirer, the historical financial statements of Legacy Desktop Metal became the historical financial statements of the combined company upon the consummation of the Business Combination. As a result, the financial statements included in this report reflect (i) the historical operating results of Legacy Desktop Metal prior to the Business Combination; (ii) the combined results of Trine and Legacy Desktop Metal following the close of the Business Combination; (iii) the assets and liabilities of Legacy Desktop Metal at their historical cost; and (iv) the Company’s equity structure for all periods presented.

In accordance with guidance applicable to these circumstances, the equity structure has been restated in all comparative periods up to the Closing Date to reflect the number of shares of the Company’s common stock, \$0.0001 par value per share, issued to Legacy Desktop Metal’s stockholders in connection with the Business Combination. As such, the shares and corresponding capital amounts and earnings per share related to Legacy Desktop Metal convertible preferred stock and Legacy Desktop Metal common stock prior to the Business Combination have been retroactively restated as shares reflecting the exchange ratio of 1.22122 established in the Business Combination. Legacy Desktop Metal’s convertible preferred stock previously classified as mezzanine was retroactively adjusted, converted into Common Stock, and reclassified to permanent as a result of the reverse recapitalization.

**Risks and Uncertainties**

The Company is subject to a number of risks similar to those of other companies of similar size in its industry, including, but not limited to, the need for successful development of products, the need for additional funding, competition from substitute products and services from larger companies, protection of proprietary technology, patent litigation, dependence on key individuals, and risks associated with changes in information technology. The Company has financed its operations to date primarily with proceeds from the sale of preferred stock and the Business Combination. The Company’s long-term success is dependent upon its ability to successfully

**DESKTOP METAL, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

market its products and services; generate revenue; maintain or reduce its operating costs and expenses; meet its obligations; obtain additional capital when needed; and, ultimately, achieve profitable operations. Management believes that existing cash and investments as of December 31, 2021 will be sufficient to fund operating and capital expenditure requirements through at least twelve months from the date of issuance of these consolidated financial statements.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Basis of Presentation***

The consolidated financial statements of the Company are prepared in conformity with accounting principles generally accepted in the United States of America ("US GAAP") and pursuant to the regulations of the U.S. Securities and Exchange Commission ("SEC").

***Principles of Consolidation***

The accompanying consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. The functional currency of all wholly owned subsidiaries is U.S. Dollars. All intercompany transactions and balances have been eliminated in consolidation.

***COVID-19 Pandemic***

In March 2020, the World Health Organization declared the outbreak of a disease caused by a novel strain of the coronavirus ("COVID-19") to be a pandemic. As of December 31, 2021, the impact of the COVID-19 pandemic continues to unfold and there has been uncertainty and disruption in the global economy and financial markets. The Company has considered the COVID-19 pandemic related impacts on its estimates, as appropriate, within its consolidated financial statements and there may be changes to those estimates in future periods.

The COVID-19 pandemic, as well as the response to mitigate the spread and effects of COVID-19, may impact the Company and its customers, as well as the demand for its products and services. The impact of COVID-19 on the Company's operational results in subsequent periods will largely depend on future developments, and cannot be accurately predicted. These developments may include, but are not limited to, new information concerning the severity of COVID-19, the degree of success of actions take to contain or treat COVID-19 and the reactions by consumers, companies, governmental entities, and capital markets to such actions.

***Foreign Currency Translation***

The Company translates assets and liabilities of its foreign subsidiaries from their respective functional currencies to U.S. Dollars at the appropriate spot rates as of the balance sheet date. The functional currency of most wholly owned subsidiaries is U.S. Dollars, except for certain international subsidiaries, for which it is Euros, British Pound Sterling, or Japanese Yen, depending on the subsidiary's location. The results of operations are translated into U.S. Dollars at a monthly average rate, calculated using daily exchange rates.

Differences arising from the translation of opening balance sheets of these entities to the rate at the end of the fiscal period are recognized in accumulated other comprehensive (loss) income. The differences arising from the translation of foreign results at the average rate are also recognized in accumulated other comprehensive (loss) income. Such translation differences are recognized as income or expense in the period in which the Company disposes of the operations.

Transactions in foreign currencies are recorded at the approximate rate of exchange at the transaction date. Assets and liabilities resulting from these transactions are translated at the rate of exchange in effect at the balance sheet date. All such differences are recorded in Interest and other income, net in the consolidated statements of operations.

**DESKTOP METAL, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

***Use of Estimates***

The preparation of the consolidated financial statements in conformity with GAAP requires the Company's management to make judgements, estimates and assumptions regarding uncertainties that affect the reported amounts of assets, liabilities and related disclosures of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. Significant estimates and assumptions reflected in these consolidated financial statements include, but are not limited to, revenue recognition, realizability of inventory, goodwill, intangibles, stock-based compensation, and fair values of common stock. The Company bases its estimates on historical experience and various other factors believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities. The Company assesses estimates on an ongoing basis; however, actual results could materially differ from those estimates.

***Cash and Cash Equivalents***

Cash and cash equivalents consist of standard checking accounts, money market accounts and certain investments. The Company classifies any marketable security with an original maturity date of 90 days or less at the time of purchase as a cash equivalent.

***Short-Term Investments***

The Company invests its excess cash in fixed income instruments denominated and payable in U.S. dollars including U.S. treasury securities, commercial paper, corporate bonds and asset-backed securities in accordance with the Company's investment policy that primarily seeks to maintain adequate liquidity and preserve capital. Short-term investments represent holdings of available-for-sale marketable securities in accordance with the Company's investment policy and cash management strategy. Investments in marketable securities are recorded at fair value, with any unrealized gains and losses reported within accumulated other comprehensive income as a separate component of stockholders' equity until realized or until a determination is made that an other-than-temporary decline in market value has occurred. When such reductions occur, the cost of the investment is adjusted to fair value through recording a loss on investments in the consolidated statements of operations. All investments in marketable securities mature within one year.

The Company also invests in equity securities which are carried at fair value based upon quoted prices in active markets. The Company's recognizes unrealized gains (losses) on equity securities in interest and other (expense) income, net in the consolidated statements of operations.

***Restricted Cash***

Restricted cash represents cash and cash equivalents that are restricted to withdrawal or use as of the reporting date. Restricted cash typically relates to deposits to secure letters of credit, cash the Company is contractually obligated to maintain related to acquisitions, as well as contractually required security deposits.

***Financial Instruments***

The Company's financial instruments are comprised of cash and cash equivalents, short-term investments, restricted cash, accounts receivable and accounts payable. The Company's other current financial assets and current financial liabilities have fair values that approximate their carrying values due to the short maturity of these balances.

***Products Revenue and Services Revenue***

Products revenue include sales of the Company's additive manufacturing systems, along with the sale of related accessories and consumables, as well as produced parts. Consumables are primarily comprised of materials, which are used by the 3D printers during the printing process to produce parts, as well as replacement parts for items consumed during system operations. Certain on-device software is embedded with the hardware and sold with the product bundle and is included within product revenue. Revenue from



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products is recognized upon transfer of control, which is generally at the point of shipment. If the Company cannot objectively determine that the product provided to the customer is in accordance with agreed-upon specifications, revenue is not recognized until customer acceptance is received.

Services revenue consists of installation, training, and post-installation hardware and software support, as well as various software solutions the Company offers to facilitate the operation of the Company's products. The Company offers multiple software products, which are licensed through either a cloud-based solution and/or on-device software, depending on the product. For the cloud-based solution, which the customer does not have the right to take possession of, the Company typically provides an annual subscription for customer access which is renewable at expiration. The revenue from the cloud-based solution is recognized ratably over the annual term as the Company considers the services provided under the cloud-based solution to be a series of distinct performance obligations, as the Company provides continuous daily access to the cloud solution. For on-device software subscriptions, the Company typically recognizes revenue once the customer has been given access to the software. When the Company enters into development contracts, control of the development service is transferred over time, and the related revenue is recognized as services are performed.

For certain products, the Company offers customers an optional extended warranty beyond the initial warranty period. The optional extended warranty is accounted for as a service-type warranty. Extended warranty revenue is deferred and recognized on a straight-line basis over the service-type warranty period of the contract and the associated costs are recognized as incurred. For certain deferred maintenance contracts where sufficient historical evidence indicates that the costs of performing the related services under the contract are not incurred on a straight-line basis, the associated revenue is recognized at a point in time in proportion to the costs expected to be incurred.

The Company generates certain revenues through the sale of research and development services. Revenue under research and development service contracts is generally recognized over time where progress is measured in a manner that reflects the transfer of control of the promised goods or services to the customer. Depending on the facts and circumstances surrounding each research and development service contract, revenue is recognized over time using either an input measure (based on the entity's direct costs incurred in an effort to satisfy the performance obligations) or an output measure (specifically units or parts delivered, based upon certain customer acceptance and delivery requirements).

In certain circumstances, the Company generates revenue through leases of machinery and equipment to customers. These leases are classified as either operating or sales-type leases and generally have lease terms ranging from one to five years.

*Revenue Recognition*

Revenue is measured as the amount of consideration expected to be received in exchange for transferring goods or providing services. The amount of consideration is typically a fixed price at the contract inception. Consideration from shipping and handling is recorded on a gross basis within product revenue.

The Company determines revenue recognition through the following steps:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, the Company satisfies a performance obligation

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*Nature of Products and Services*

The Company sells its products through authorized resellers, independent sales agents, and its own sales force. Revenue from hardware, consumables, and produced parts is recognized upon transfer of control, which is generally at the point of shipment. If the Company cannot objectively determine that the products provided to the customer are in accordance with agreed-upon specifications, revenue is not recognized until customer acceptance is received.

The Company's post-installation support is primarily sold through one-year annual contracts and such revenue is recognized ratably over the term of the agreement. For certain maintenance contracts, there is a detail of specified maintenance which is performed at predetermined intervals and is recognized when the professional services are performed. Service revenue from installation and training is recognized as performed.

The Company's terms of sale generally provide payment terms that are customary in the countries where the Company transacts business. To reduce credit risk in connection with certain sales, the Company may, depending upon the circumstances, require significant deposits or payment in full prior to shipment. When the Company has a noncancelable contract and the right to invoice prior to shipment based on payment terms, the Company records the receivable and related customer deposits in the consolidated balance sheets.

Due to the short-term nature of the Company's contracts, substantially all of the outstanding performance obligations are recognized within one year.

Shipping and handling activities that occur after control over a product has transferred to a customer are accounted for as fulfillment activities rather than performance obligations, as allowed under a practical expedient provided by ASC 606. The shipping and handling fees charged to customers are recognized as revenue and the related costs are included in cost of revenue at the point in time when ownership of the product is transferred to the customer. Sales taxes and value added taxes collected concurrently with revenue generating activities are excluded from revenue.

*Significant Judgements*

The Company enters into contracts with customers that can include various combinations of hardware products, software licenses, and services, which are distinct and accounted for as separate performance obligations. Products or services that are promised to a customer can be considered distinct if both of the following criteria are met: (i) the customer can benefit from the products or services either on its own or together with other readily available resources and (ii) the Company's promise to transfer the products, software, or services to the customer is separately identifiable from other promises in the contract. Determining whether products and services are considered distinct performance obligations that should be accounted for separately versus together may require significant judgement.

Judgement is required to determine the standalone selling price ("SSP"). The transaction price is allocated to each distinct performance obligation on a relative standalone selling price basis and revenue is recognized for each performance obligation when control has passed. In most cases, the Company is able to establish SSP based on historical transaction data of the observable prices of hardware products and consumables sold separately in comparable circumstances to similar customers, observable renewal rates for software and post-installation support, and the Company's best estimate of the selling price at which the Company would have sold the product regularly on a stand-alone basis for training and installation. The Company reassesses the SSP on a periodic basis or when facts and circumstances change.

*Contract Balances*

The timing of revenue recognition, billings and cash collections results in billed accounts receivable, customer deposits and deferred revenues (contract liabilities) on the consolidated balance sheets. Timing of revenue recognition may differ from the timing of invoicing to customers. The Company records a receivable at the time of invoicing. For most contracts, customers are invoiced a substantive portion of the arrangement prior to shipment of products or performance of services. The Company will typically bill in advance for post-installation support and cloud-based software licenses, resulting in deferred revenue.

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When products have been delivered, but the product revenue associated with the arrangement has been deferred the Company includes the costs for the delivered items in inventory on the consolidated balance sheets until recognition of the related revenue occurs, at which time it is recognized in cost of sales.

The Company's contracts are primarily one year or less, and as such, most of the deferred revenue outstanding at the end of the fiscal year is recognized during the following year. Purchases of post-installation customer support and maintenance may range from one to five years, and as such, revenue for these transactions are recognized over periods greater than one year.

The Company sells products directly to end-users as well as through a reseller network. Under the reseller arrangement, the reseller is determined to be the Company's customer, and revenue is recognized based on the amounts the Company is entitled to, reduced by any payments owed to the resellers. On certain contracts, the Company utilizes external partners and an internal sales team to sell direct to the end user. The Company acts as a principal in the contracts with users when utilizing external partners because the Company controls the product, establishes the price, and bears the risk of nonperformance, until it is transferred to the end user. The Company records the revenue on a gross basis and commissions are recorded as a sales and marketing expense in the statement of operations. The Company recognizes its commission expense as a point-in-time expense as contract obligations are primarily completed within a one-year contract period.

*Allowance for Doubtful Accounts*

In evaluating the collectability of accounts receivable, the Company assesses a number of factors, including specific customers' abilities to meet their financial obligations, the length of time receivables are past due, and historical collection experience. If circumstances related to specific customers change, or economic conditions deteriorate such that past collection experience is no longer relevant, the Company's estimate of the recoverability of accounts receivable could be further reduced from the levels provided for in the consolidated financial statements.

The Company evaluates specific accounts for which it is believed a customer may have an inability to meet their financial obligations. In these cases, judgment is applied, based on available facts and circumstances, and a specific reserve is recorded for that customer to reduce the receivable to an amount expected to be collected. These specific reserves are reevaluated and adjusted as additional information is received that impacts the amount reserved.

*Remaining Performance Obligations*

Remaining performance obligations are the aggregate amount of total contract transaction price that is unsatisfied or partially unsatisfied. The Company has elected to apply the practical expedient associated with incremental costs of obtaining a contract, and as such, sales commission expense is generally expensed when incurred because the amortization period would be one year or less. These costs are recorded within sales and marketing expense in the consolidated statements of operations.

*Net Loss Per Share*

The Company presents basic and diluted loss per share amounts. Basic loss per share is calculated by dividing net loss available to holders of Common Stock by the weighted average number of shares of Common Stock outstanding during the applicable period.

The denominator for diluted earnings per share is a computation of the weighted-average number of ordinary shares and the potential dilutive ordinary shares outstanding during the period. Potential dilutive shares outstanding include the dilutive effect of in-the-money options, unvested Restricted Stock Agreements ("RSAs"), and unvested Restricted Stock Units ("RSUs") using the treasury stock method. In periods in which the Company reports a net loss, diluted net loss per share is the same as basic net loss per share because dilutive shares are not assumed to have been issued if their effect is anti-dilutive.

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***Grants***

The Company recognizes grants or subsidies from governments and other organizations when there is reasonable assurance that the Company will comply with any conditions attached to the grant arrangement and the grant will be received. The Company evaluates the conditions of the grant as of each reporting period to ensure that the Company has reached reasonable assurance of meeting the conditions of each grant arrangement and that it is expected that the grant will be received as a result of meeting the necessary conditions. Grants are recognized in the consolidated statements of operations on a systematic basis over the periods in which the Company recognized the related costs for which the grant is intended to compensate. Specifically, when government grants are related to reimbursements for operating expenses, the grants are recognized as a reduction of the related expense in the consolidated statements of operations. During the year ended December 31, 2021, the Company recognized \$1.0 million related to grants in the research and development line within the consolidated statements of operations. During the year ended December 31, 2020, the Company did not recognize any grants.

The Company records grant receivables in the consolidated balance sheets in prepaid expenses and other current assets or other non-current assets, depending on when the amounts are expected to be received from the government agency. Proceeds received from grants prior to expenditures being incurred are recorded as restricted cash and other current liabilities or other long-term liabilities, depending on when the Company expects to use the proceeds.

***Warranty Reserve***

Substantially all of the Company's hardware and software products are covered by a standard assurance warranty of one year within the United States and 13 months internationally, and estimated warranty obligations are recorded as an expense at the time of revenue recognition. In the event of a failure of hardware product or software covered by this warranty, the Company will repair or replace the software or hardware product. For certain products, the Company offers customers an optional extended warranty after the initial warranty period. The optional extended warranty is accounted for as a service-type warranty; therefore, costs are recognized as incurred and revenue is recognized over the service-type warranty period.

The Company's warranty reserve reflects estimated material and labor costs for potential or actual product issues in its installed base for which the Company expects to incur an obligation. The Company periodically assesses the adequacy of the warranty reserve and adjusts the amount as necessary. If the data used to calculate the adequacy of the warranty reserve is not indicative of future requirements, additional or reduced warranty reserves may be required.

Substantially all of the Company's produced parts are covered by standard warranties of one to five years, depending on the product. In the event a product does not meet the requested specifications or has a defect in materials or workmanship, the Company will remake or adjust the product at no additional cost within the specified warranty period. The Company's produced parts warranty reserve is accounted for based on historical cost of rework.

***Inventory***

Inventory is stated at the lower of cost or net realizable value, approximating a first-in, first-out basis.

The Company provides for inventory losses based on obsolescence and levels in excess of forecasted demand. Inventory is reduced to the estimated net realizable value based on historical usage and expected demand. Inventory provisions based on obsolescence and inventory in excess of forecasted demand are recorded through cost of sales in the consolidated statements of operations.

***Concentrations of Credit Risk and Off-Balance-Sheet Risk***

In the normal course of operations, ExOne GmbH issues short-term financial guarantees and letters of credit to third parties in connection with certain commercial transactions requiring security through a credit facility with a German bank. At December 31, 2021, total outstanding financial guarantees and letters of credit issued were \$2.7 million.

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The Company has no other significant off-balance-sheet risk, such as foreign exchange contracts, option contracts, or other foreign hedging arrangements. Financial instruments that potentially expose the Company to concentrations of credit risk consist mainly of cash and cash equivalents. The Company maintains its cash and cash equivalents principally with accredited financial institutions of high-credit standing.

As of December 31, 2021, and 2020, no single customer accounted for more than 10% of revenue. As of December 31, 2021, one customer accounted for 24% of total accounts receivable. As of December 31, 2020, no single customer accounted for more than 10% of total accounts receivable.

***Customer Deposits***

Payments received from customers who have placed reservations or purchase orders in advance of shipment are refundable upon cancellation or non-delivery by the Company and are included within customer deposits on the consolidated balance sheets.

***Other Investments***

The Company periodically makes investments in companies within the additive manufacturing industry. The Company monitors events or changes in circumstances that may have a significant effect on the fair value of investments, either due to impairment or based on observable price changes, and records necessary adjustments in interest and other (expense) income, net in the consolidated statements of operations.

***Property and Equipment***

Property and equipment is stated at cost. Expenditures for repairs and maintenance are expensed as incurred. When assets are retired or disposed of, the assets and related accumulated depreciation are eliminated from the accounts and any resulting gain or loss is included in the determination of net income or loss.

Depreciation is expensed using the straight-line method over the estimated useful lives of the assets as follows:

<b>Asset Classification</b>	<b>Useful Life</b>
Equipment	2-20 years
Buildings	6-50 years
Automobiles	2-7 years
Furniture and fixtures	2-10 years
Computer equipment	2-7 years
Tooling	3 years
Software	2-5 years
Leasehold improvements	Shorter of asset's useful life or remaining life of the lease

***Leases***

For lease arrangements in which the Company is the lessee, the Company determines if an arrangement is a lease at inception. The Company typically only includes an initial lease term in its assessment of a lease arrangement. Options to renew a lease are not included in the Company's assessment unless there is reasonable certainty that the Company will renew. The Company assesses it plans to renew its material leases on an annual basis. Operating leases are included in other assets, current portion of lease liability, and lease liability, net of current portion on the Company's consolidated balance sheets.

Right of use ("ROU") assets and lease liabilities are recognized based on the present value of the future minimum lease payments over the expected remaining lease term. As the interest rate implicit in the Company's leases is typically not readily determinable, the Company uses its incremental borrowing rate for a similar term of lease payments based on the information available at commencement date in determining the present value of future payments.

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The Company elected the short-term lease recognition practical expedient and therefore, the Company does not recognize right of use assets or lease liabilities for leases with less than a twelve-month duration. The Company also elected the practical expedient to account for lease agreements which contain both lease and non-lease components as a single lease component.

For lease arrangements in which the Company is the lessor, the Company determines whether the lease arrangement is classified as an operating lease or sales-type lease at inception. The Company's operating lease arrangements have initial terms generally ranging from one to five years, certain of which may contain extension or termination clauses, or both. Such operating lease arrangements also generally include a purchase option to acquire the related machinery and equipment at the end of the lease term for either a fixed amount as determined at inception, or a subsequently negotiated fair market value.

The Company's sales-type lease arrangements generally include transfer of ownership at the end of the lease term, and as such, the Company's net investment in sales-type lease arrangements presented in the consolidated balance sheets generally does not include an amount of unguaranteed residual value.

For certain of the arrangements, the Company separates and allocates certain non-lease components (principally maintenance services) from non-lease components. Sales, value add, and other taxes collected from customers and remitted to governmental authorities are accounted for on a net (excluded from lease income) basis. In determination of the lease term, the Company considers the likelihood of lease renewal options and lease termination provisions.

***Business Combinations***

The Company allocates the purchase price of acquired companies to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values. The Company generally values the identifiable intangible assets acquired using a discounted cash flow model. The significant estimates used in valuing certain of the intangible assets, include, but are not limited to future expected cash flows of the asset, discount rates to determine the present value of the future cash flows and expected technology life cycles. Intangible assets are amortized over their estimated useful life; the period over which the Company anticipates generating economic benefit from the asset. Fair value adjustments subsequent to the acquisition date, that are not measurement period adjustments, are recognized in earnings.

***Goodwill***

Goodwill represents the future economic benefits arising from other assets acquired in a business combination that is not individually identified and separately recorded. The excess of the purchase price over the estimated fair value of net assets of businesses acquired in a business combination is recognized as goodwill. Goodwill is not amortized but is tested for impairment at least annually (as of the first day of the fourth quarter) or as circumstances indicate the value may no longer be recoverable. To assess if goodwill is impaired, the Company performs a qualitative assessment to determine whether further impairment testing is necessary. The Company then compares the carrying amount of the single reporting unit to the fair value of the reporting unit. An excess carrying value over fair value would indicate that goodwill may be impaired. The Company performed a qualitative assessment during its annual impairment review for 2021 as of October 1, 2021 and concluded that it is more likely than not that the fair value of the Company's single reporting unit is not less than its carrying amount.

***Intangible Assets***

Intangible assets consist of identifiable intangible assets, including developed technology, trade names, and customer relationships, resulting from the Company's acquisitions. The Company evaluates definite-lived intangible assets for impairment when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. If indicators of impairment are present, the Company then compares the estimated undiscounted cash flows that the specific asset is expected to generate to its carrying value. If such assets are impaired, the impairment recognized is measured as the amount by which the carrying amount of the asset exceeds its fair value. To date, there have been no impairments of intangible assets. Intangible assets are amortized over their useful life.

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***Asset Acquisitions***

Acquisitions of assets or a group of assets that do not meet the definition of a business are accounted for as asset acquisitions using the cost accumulation method, whereby the cost of the acquisition, including certain transaction costs, is allocated to the assets acquired on the basis of relative fair values. No goodwill is recognized in an asset acquisition. Intangible assets that are acquired in an asset acquisition for use in research and development activities which have an alternative future use are capitalized as in-process research and development (“IPR&D”). Acquired IPR&D which has no alternative future use is recorded as in-process research and development expense at acquisition.

***Impairment of Long-Lived Assets***

The Company evaluates whether events or circumstances have occurred that indicate that the estimated remaining useful life of its long-lived assets may warrant revision or that the carrying value of these assets may be impaired. The Company does not believe that any events have occurred through December 31, 2021, that would indicate its long-lived assets are impaired.

***Contingent Consideration***

Contingent consideration represents potential future payments that the Company may be required to pay in the event negotiated milestones are met in connection with a business acquisition. Contingent consideration is recorded as a liability at the date of acquisition at fair value. The fair value of contingent consideration related to revenue metrics is estimated using a Monte Carlo simulation in a risk-neutral framework. Under this approach, the value of contingent consideration related to revenue metrics is calculated as the average present value of contingent consideration payments over all simulated paths. The fair value of contingent consideration related to technical developments is estimated using a scenario-based approach, which is a special case of the income approach that uses several possible future scenarios. Under this approach, the value of the technical milestone payment is calculated as the probability-weighted payment across all scenarios. Significant increases or decreases in any of the probabilities of success or changes in expected timelines for achievement of any of the revenue or technical milestones could result in a significantly higher or lower fair value of the contingent consideration liability. The fair value of the contingent consideration at each reporting date is updated by reflecting the changes in fair value reflected within research and development expenses in the Company’s consolidated statements of operations.

***Research and Development***

Research and development costs are expensed as incurred. Research and development expense includes costs, primarily related to salaries and benefits for employees, prototypes and design expenses, incurred to develop intellectual property and is charged to expense as incurred.

***Capitalized Software***

Costs incurred internally in researching and developing a software product to be sold to customers are charged to expense until technological feasibility has been established for the product. Once technological feasibility is established, costs incurred during the application development phase are capitalized only when the Company believes it is probable the development will result in new or additional functionality, and such software costs are capitalized until the product is available for general release to customers. Judgment is required in determining when technological feasibility of a product is established. The Company has determined that technological feasibility for software products is reached after all high-risk development issues have been resolved through coding and testing. Generally, this occurs shortly before the products are released, such that there are no material costs to capitalize.

The Company capitalizes certain costs related to the development and implementation of cloud computing software. The types of costs capitalized during the application development phase include employee compensation, as well as consulting fees for third-party developers working on these projects. The capitalized costs are amortized on a straight-line basis over the estimated useful life of the asset, which is typically 3 years.

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***Stock-Based Compensation***

The Company's stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as an expense over the requisite service period.

The Company accounts for all stock options granted to employees and nonemployees using a fair value method. The fair value of options on the date of grant is calculated using the Black-Scholes option pricing model based on key assumptions such as stock price, expected volatility and expected term. The Company's estimates of these assumptions are primarily based on the fair value of the Company's stock, historical data, peer company data and judgment regarding future trends and factors.

For awards with service conditions only, the Company recognizes stock-based compensation expense on a straight-line basis over the requisite service period. For awards with service and performance-based conditions, the Company recognizes stock-based compensation expense using the graded vesting method over the requisite service period. Estimates of stock-based compensation expense for an award with performance conditions are based on the probable outcome of the performance conditions and the cumulative effect of any changes in the probability outcomes are recorded in the period in which the changes occur. For awards with service and market-based conditions, the Company recognizes stock-based compensation expense on a straight-line basis over the requisite service period for each tranche. Stock based compensation expense for awards with a market condition is calculated using a Monte Carlo valuation approach.

The Company estimates forfeitures that will occur based on a historical forfeiture rate in their determination of the expense recorded.

***Income Taxes***

The Company accounts for income taxes under the asset and liability method; under this method, deferred tax assets and liabilities are determined based on differences between financial reporting bases of assets and liabilities and are measured using enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. Realization of deferred tax assets is dependent upon future earnings, the timing and amount of which are uncertain.

The Company utilizes a two-step approach to recognize and measure uncertain tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained upon tax authority examination, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon ultimate settlement. The Company also recognizes accrued interest and penalties related to unrecognized tax benefits in the provision for income taxes.

***Comprehensive Loss***

The Company's comprehensive loss consists of its net loss, unrealized gain and loss from investments in debt securities, and foreign currency translation adjustments.

**Recently Issued Accounting Standards**

***Recently Adopted Accounting Guidance***

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805) —Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, to require that an acquirer recognize and measure contract assets and contract liabilities acquired in a business combination in accordance with Topic 606, Revenue from Contracts with Customers. At the acquisition date, an acquirer should account for the related revenue contracts in accordance with Topic 606 as if it had originated the contracts. This standard is effective for calendar-year public business entities in 2023 and interim periods within that year, and early adoption is permitted. The Company has adopted this ASU as of January 1, 2021 and has retrospectively adjusted purchase accounting for the EnvisionTEC acquisition where deferred revenue was fair valued. As a practical expedient, the Company elected to estimate



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the SSP for allocation purposes at the acquisition date. Upon the application of this practical expedient, the Company recognized deferred revenue as part of purchase accounting in the amount of \$0.2 million and \$12.5 million for the EnvisionTEC and ExOne acquisitions, respectively.

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740)—Simplifying the Accounting for Income Taxes*, which simplifies the accounting for income taxes by eliminating some exceptions to the general approach in Accounting Standards Codification 740, *Income Taxes*. It also clarifies certain aspects of the existing guidance to promote more consistent application. This standard is effective for calendar-year public business entities in 2021 and interim periods within that year, and early adoption is permitted. The Company adopted the ASU as of January 1, 2021, which did not have a material effect on the Company's consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment* ("ASU 2017-04"), which eliminates the performance of Step 2 from the goodwill impairment test. In performing its annual or interim impairment testing, an entity will instead compare the fair value of the reporting unit with its carrying amount and recognize any impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value. Additionally, an entity should consider income tax effects from any tax-deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss. The Company adopted the ASU as of January 1, 2021, which did not have a material effect on the Company's consolidated financial statements.

***Recent Accounting Guidance Not Yet Adopted***

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses*. This ASU added a new impairment model (known as the current expected credit loss ("CECL") model) that is based on expected losses rather than incurred losses. Under the new guidance, an entity recognizes as an allowance its estimate of expected credit losses. The CECL model applies to most debt instruments, trade receivables, lease receivables, financial guarantee contracts, and other loan commitments. The CECL model does not have a minimum threshold for recognition of impairment losses and entities will need to measure expected credit losses on assets that have a low risk of loss. As a smaller reporting company pursuant to Rule 12b-2 of the Securities Exchange Act of 1934, as amended, these changes become effective for the Company on January 1, 2022. The Company is currently evaluating the potential impact and does not believe the impact will be material.

**3. REVENUE RECOGNITION**

**Contract Balances**

The Company's deferred revenue balance was \$22.7 million and \$3.0 million as of December 31, 2021 and 2020, respectively. During the year ended December 31, 2021, the Company acquired \$16.8 million in deferred revenue through acquisitions. During the year ended December 31, 2021, the Company recognized \$2.5 million of existing deferred revenue from 2020 and recognized \$8.5 million of acquired deferred revenue. The deferred revenue consists of billed post-installation customer support and maintenance, cloud-based software licenses that are recognized ratably over the term of the agreement, and contracts that have outstanding performance obligations or contracts that have acceptance terms that have not yet been fulfilled.

Contract assets were not significant during the years ended December 31, 2021 and 2020.

**Remaining Performance Obligations**

At December 31, 2021, the Company had \$22.7 million of remaining performance obligations, also referred to as backlog, of which approximately \$18.2 million is expected to be fulfilled over the next 12 months, notwithstanding uncertainty related to the impact of COVID-19, including, but not limited to, international shipping and travel restrictions brought about by COVID-19, which could have an adverse effect on the timing of delivery and installation of products and/or services to customers. In addition, the Company also had customer deposits of \$14.1 million at December 31, 2021.

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**4. ACQUISITIONS**

**2021 Acquisitions**

**Acquisition of EnvisionTEC**

On February 16, 2021, the Company acquired EnvisionTEC, Inc. and its subsidiaries (“EnvisionTEC”) pursuant to a Purchase Agreement and Plan of Merger dated January 15, 2021. This acquisition added a comprehensive portfolio in additive manufacturing across metals, polymers and composites and grew distribution channels both in quantity and through the addition of a vertically-focused channel. The total purchase price was \$303.6 million, consisting of \$143.8 million paid in cash and 5,036,142 shares of the Company’s Common Stock with a fair value of \$159.8 million as of the close of business on the transaction date.

The acquisition is accounted for as a business combination using the acquisition method of accounting. The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company’s estimates of their fair values on the acquisition date.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 143,795
Equity consideration	159,847
<b>Total consideration transferred</b>	<b>\$ 303,642</b>

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The following table summarizes the allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	At February 16, 2021
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 859
Restricted cash	5,004
Accounts receivable	2,982
Inventory	7,668
Prepaid expenses and other current assets	1,081
Restricted cash - noncurrent	285
Property and equipment	1,540
Intangible assets	137,300
Other noncurrent assets	1,801
Total assets acquired	<u>\$ 158,520</u>
<b>Liabilities assumed:</b>	
Accounts payable	\$ 1,442
Customer deposits	2,460
Current portion of lease liability	605
Accrued expenses and other current liabilities	13,706
Liability for income taxes	480
Deferred revenue	492
Current portion of long-term debt	898
Long-term debt	285
Deferred tax liability	29,009
Lease liability, net of current portion	1,189
Total liabilities assumed	<u>\$ 50,566</u>
Net assets acquired	<u>\$ 107,954</u>
Goodwill	<u>\$ 195,688</u>
Total net assets acquired	<u>\$ 303,642</u>

Subsequent to the acquisition date, the Company made certain measurement period adjustments to the preliminary purchase price allocation, which resulted in decrease to goodwill of \$3.4 million. The decrease was primarily due to an increase in deferred income tax liabilities of \$4.1 million, partially offset by a decrease in deferred revenue of \$0.2 million related to the adoption of ASU 2021-08 and a decrease in inventory of \$1.0 million related to obsolete inventory. Additionally, the Company recorded a measurement period adjustment of \$0.3 million related to certain assets acquired and liabilities assumed due to clarification of information utilized to determine fair value during the measurement period. As of December 31, 2021, the measurement period is completed.

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Acquired technology	\$ 77,800	7 – 14 years
Trade name	8,600	14 years
Customer relationships	50,900	12 years
Total intangible assets	<u>\$ 137,300</u>	

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The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. \$16.4 million of the goodwill recognized is deductible for income tax purposes. The Company incurred \$4.8 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

EnvisionTEC's results are included in the Company's consolidated results for the period from February 16, 2021 to December 31, 2021. For this period, EnvisionTEC's net revenues were approximately \$33.3 million and net loss was approximately \$11.1 million.

**Acquisition of Adaptive 3D**

On May 7, 2021, the Company acquired Adaptive 3D Holdings, Inc. and its affiliates ("Adaptive 3D") pursuant to a Purchase Agreement and Plan of Merger dated as of May 7, 2021. This acquisition expanded the Company's materials library to include photopolymer elastomers for use in the production of end use parts. The total purchase price was \$61.8 million, consisting of \$24.1 million paid in cash and 3,133,276 shares of the Company's Common Stock with a fair value of \$37.7 million as of the close of business on the transaction date.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company's preliminary estimates of their fair values on the acquisition date. The fair values assigned to Adaptive 3D's tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company's recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 24,083
Equity consideration	37,693
<b>Total consideration transferred</b>	<b>\$ 61,776</b>

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The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	At May 7, 2021
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 2,852
Accounts receivable	504
Inventory	305
Prepaid expenses and other current assets	462
Property and equipment	558
Intangible assets	27,300
Other noncurrent assets	654
Total assets acquired	<u>\$ 32,635</u>
<b>Liabilities assumed:</b>	
Accounts payable	\$ 280
Current portion of lease liability	151
Accrued expenses and other current liabilities	100
PPP loan payable	311
Deferred revenue	12
Lease liability, net of current portion	502
Deferred tax liability	4,616
Total liabilities assumed	<u>\$ 5,972</u>
Net assets acquired	<u>\$ 26,663</u>
Goodwill	<u>\$ 35,113</u>
Total net assets acquired	<u>\$ 61,776</u>

Subsequent to the acquisition date, the Company made a measurement period adjustment to the preliminary purchase price allocation, which resulted in a decrease to goodwill of \$0.2 million. The decrease was due to a decrease in deferred income tax liabilities of \$0.2 million.

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Acquired technology	\$ 27,000	14 years
Trade name	300	5 years
Total intangible assets	<u>\$ 27,300</u>	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is not deductible for income tax purposes. The Company incurred \$0.3 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

Adaptive 3D's results are included in the Company's consolidated results for the period from May 7, 2021 to December 31, 2021. For this period, Adaptive 3D's revenues were approximately \$1.1 million, and its net loss was approximately \$4.9 million.

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**Acquisition of Aerosint**

On June 24, 2021, the Company acquired all outstanding securities of Aerosint SA and its affiliates (“Aerosint”), which expanded the Company’s portfolio of technologies with the addition of multi-material printing capabilities. The total purchase price was \$23.8 million, consisting of \$6.2 million paid in cash, 879,922 shares of the Company’s Common Stock with a fair value of \$11.5 million as of the close of business on the transaction date, and contingent consideration with a fair value of \$6.1 million as of the acquisition date. The Company may be required to pay this contingent consideration based on the achievement of revenue metrics and technical milestones over the three-year period following the transaction date.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company’s preliminary estimates of their fair values on the acquisition date. The fair values assigned to Aerosint’s tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company’s recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition included contingent consideration related to revenue metrics and technical milestones, with a fair value of \$6.1 million as of the date of acquisition and a fair value of \$5.7 million as of December 31, 2021. The Company will pay up to \$5.5 million of contingent consideration based on stated revenue metrics, which had a fair value of \$4.6 million as of the date of acquisition, and a fair value of \$4.1 million as of December 31, 2021. If Aerosint reaches certain product mass production technical milestones, the Company will pay out a maximum of \$2.0 million in contingent consideration, which had a fair value of \$1.5 million as of the date of acquisition, and a fair value of \$1.6 million as of December 31, 2021. As of the date of acquisition, the fair value of the short-term liability was \$1.4 million, and the long-term liability was \$4.7 million, which the Company recorded in accrued expenses and other current liabilities and in contingent consideration, net of current portion, on the consolidated balance sheets. As of December 31, 2021, \$1.5 million of contingent consideration is recorded in accrued expenses and other current liabilities and \$4.2 million is recorded in contingent consideration, net of current portion, in the consolidated balance sheets.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 6,220
Equity consideration	11,448
Contingent consideration	6,083
Total consideration transferred	<u>\$ 23,751</u>

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The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	At June 24, 2021
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 419
Accounts receivable	34
Inventory	166
Prepaid expenses and other current assets	697
Property and equipment	369
Intangible assets	11,726
Other noncurrent assets	336
Total assets acquired	\$ 13,747
<b>Liabilities assumed:</b>	
Accounts payable	\$ 58
Customer deposits	283
Current portion of lease liability	100
Accrued expenses and other current liabilities	169
Deferred revenue	810
Lease liability, net of current portion	226
Deferred tax liability	2,931
Total liabilities assumed	\$ 4,577
Net assets acquired	\$ 9,170
Goodwill	\$ 14,581
Total net assets acquired	\$ 23,751

Subsequent to the acquisition date, the Company made a measurement period adjustment to the preliminary purchase price allocation, which resulted in a decrease to goodwill of \$0.6 million. The decrease was due to a decrease in deferred income tax liabilities.

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Acquired technology	\$ 11,547	11.5 years
Trade name	179	4.5 years
Total intangible assets	\$ 11,726	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is not deductible for income tax purposes. The Company incurred \$0.9 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

Aerosint's results are included in the Company's consolidated results for the period from June 24, 2021 to December 31, 2021. For this period, Aerosint's revenues were \$0.6 million and net loss was \$0.4 million.

**Acquisition of Dental Arts Labs**

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On July 30, 2021, the Company acquired Dental Arts Laboratories, Inc., (“Dental Arts Labs”), which expanded the Company’s portfolio in additive manufacturing within the healthcare industry. The purchase price was \$26.0 million paid in cash. The Company also issued 1,190,468 restricted stock units with a grant date fair value of \$11.0 million, which are subject to a four-year vesting period and continuing employment. The Company will recognize compensation expense for these restricted stock units over the vesting period.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company’s preliminary estimates of their fair values on the acquisition date. The fair values assigned to Dental Arts Labs’ tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company’s recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 26,042
Total consideration transferred	\$ 26,042

The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	<b>At July 30, 2021</b>
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 858
Accounts receivable	3,707
Inventory	2,438
Prepaid expenses and other current assets	3,853
Property and equipment	8,643
Intangible assets	5,000
Other noncurrent assets	4,636
Total assets acquired	\$ 29,135
<b>Liabilities assumed:</b>	
Accounts payable	\$ 1,949
Current portion of lease liability	535
Accrued expenses and other current liabilities	1,795
Current portion of long-term debt	3,888
Long-term debt	3
Lease liability, net of current portion	3,762
Total liabilities assumed	\$ 11,932
Net assets acquired	\$ 17,203
Goodwill	\$ 8,839
Total net assets acquired	\$ 26,042



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Subsequent to the acquisition date, the Company made a working capital adjustment to the preliminary purchase price allocation, which resulted in decrease to goodwill of \$0.3 million.

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	<u>Gross Value</u>	<u>Estimated Life</u>
Trade name	\$ 1,300	8.5 years
Customer relationships	3,700	9.5 years
Total intangible assets	<u>\$ 5,000</u>	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is deductible for income tax purposes. The Company incurred \$0.6 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

Dental Arts Labs' results are included in the Company's consolidated results for the period from July 30, 2021 to December 31, 2021. For this period, Dental Arts Labs' revenues were \$14.1 million and net loss was \$0.3 million.

**Acquisition of A.I.D.R.O.**

On September 7, 2021, the Company purchased the entire corporate capital of A.I.D.R.O. Srl ("A.I.D.R.O."). This acquisition expanded the Company's parts production capabilities and application expertise in the hydraulics industry. The purchase price for the A.I.D.R.O. acquisition was \$5.7 million paid in cash, of which \$4.9 million was paid at closing and the remaining \$0.8 million was deposited to an escrow account subsequent to December 31, 2021. The Company also issued 364,050 restricted stock units with a grant date fair value of \$3.2 million, which are subject to a four-year vesting period and continuing employment. The Company will recognize compensation expense for these restricted stock units over the vesting period.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company's preliminary estimates of their fair values on the acquisition date. The fair values assigned to A.I.D.R.O.'s tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company's recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<u>Total Acquisition Date Fair Value</u>
Cash consideration	\$ 5,683
Total consideration transferred	<u>\$ 5,683</u>

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The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	At September 7, 2021
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 855
Accounts receivable	966
Inventory	906
Prepaid expenses and other current assets	412
Property and equipment	691
Intangible assets	1,080
Other noncurrent assets	1,100
Total assets acquired	<u>\$ 6,010</u>
<b>Liabilities assumed:</b>	
Accounts payable	\$ 1,307
Current portion of lease liability	72
Accrued expenses and other current liabilities	508
Current portion of long-term debt, net of deferred financing costs	138
Long-term debt	764
Lease liability, net of current portion	750
Deferred tax liability	75
Other noncurrent liabilities	228
Total liabilities assumed	<u>\$ 3,842</u>
Net assets acquired	<u>\$ 2,168</u>
Goodwill	<u>\$ 3,515</u>
Total net assets acquired	<u>\$ 5,683</u>

Subsequent to the acquisition date, the Company made a working capital adjustment to the preliminary purchase price allocation, which resulted in an immaterial decrease to goodwill.

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Trade name	142	4 years
Customer relationships	938	15 years
Total intangible assets	<u>\$ 1,080</u>	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is not deductible for income tax purposes. The Company incurred \$0.4 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

A.I.D.R.O.'s results are included in the Company's consolidated results for the period from September 7, 2021 to December 31, 2021. For this period, A.I.D.R.O.'s revenues were \$1.7 million and net loss was \$0.2 million.

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**Acquisition of Brewer Dental**

On October 14, 2021, the Company acquired Larry Brewer Dental Lab, Inc. (“Brewer Dental”), which expanded the Company’s portfolio in additive manufacturing within the healthcare and dental industry. The purchase price was \$7.6 million paid in cash, of which \$7.0 million was paid at closing and the remaining \$0.5 million will be paid 24 months after closing. The Company also issued 252,096 restricted stock units with a grant date fair value of \$1.8 million, which are subject to a four-year vesting period and continuing employment. The Company will recognize compensation expense for these restricted stock units over the vesting period.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company’s preliminary estimates of their fair values on the acquisition date. The fair values assigned to Brewer Dental’s tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company’s recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 7,613
Total consideration transferred	<u>\$ 7,613</u>

The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	<b>At October 14, 2021</b>
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 1,574
Accounts receivable	524
Inventory	226
Property and equipment	375
Intangible assets	2,630
Other noncurrent assets	706
Total assets acquired	<u>\$ 6,035</u>
<b>Liabilities assumed:</b>	
Accounts payable	\$ 34
Current portion of lease liability	87
Accrued expenses and other current liabilities	145
Lease liability, net of current portion	619
Total liabilities assumed	<u>\$ 885</u>
Net assets acquired	<u>\$ 5,150</u>
Goodwill	<u>\$ 2,463</u>
Total net assets acquired	<u>\$ 7,613</u>

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The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Trade name	230	8 years
Customer relationships	2,400	8 years
Total intangible assets	<u>\$ 2,630</u>	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is deductible for income tax purposes. The Company incurred immaterial acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

Brewer Dental's results are included in the Company's consolidated results for the period from October 14, 2021 to December 31, 2021. For this period, Brewer Dental's revenues were \$1.4 million and net income was \$0.1 million.

#### Acquisition of May Dental

On October 29, 2021, the Company acquired May Dental Lab, Inc. ("May Dental"), which expanded the Company's portfolio in additive manufacturing within the healthcare and dental industry. The aggregate purchase price was \$12.5 million paid in cash, of which \$11.8 million was paid at closing and the remaining \$0.8 million will be paid 24 months after closing, subject to the Limited Liability Interest Purchase Agreement. The Company also issued 357,642 restricted stock units with a grant date fair value of \$2.5 million, which are subject to a four-year vesting period and continuing employment. The Company will recognize compensation expense for these restricted stock units over the vesting period.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company's preliminary estimates of their fair values on the acquisition date. The fair values assigned to My Dental's tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company's recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	Total Acquisition Date Fair Value
Cash consideration	\$ 12,500
Total consideration transferred	<u>\$ 12,500</u>

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The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	At October 29, 2021
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 230
Accounts receivable	677
Inventory	343
Prepaid expenses and other current assets	98
Property and equipment	495
Intangible assets	4,340
Other noncurrent assets	1,416
Total assets acquired	\$ 7,599
<b>Liabilities assumed:</b>	
Accounts payable	\$ 209
Current portion of lease liability	201
Accrued expenses and other current liabilities	255
Lease liability, net of current portion	1,216
Total liabilities assumed	\$ 1,881
Net assets acquired	\$ 5,718
Goodwill	\$ 6,782
Total net assets acquired	\$ 12,500

The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Trade name	3,900	9 years
Customer relationships	440	10 years
Total intangible assets	\$ 4,340	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is deductible for income tax purposes. The Company incurred immaterial acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

May Dental's results are included in the Company's consolidated results for the period from October 29, 2021 to December 31, 2021. For this period, May Dental's revenues were \$1.3 million and net loss was \$0.1 million.

**Acquisition of ExOne**

On November 12, 2021, the Company acquired The ExOne Company and its affiliates ("ExOne"). The acquisition of ExOne extends the Company's product platforms with complementary solutions to create a comprehensive portfolio combining throughput, flexibility, and materials breadth while allowing customers to optimize production based on their specific application needs. The Company acquired all of ExOne's outstanding common stock for an aggregate purchase price of \$613.0 million, consisting of \$201.4 paid in cash and 48,218,063 shares of Common Stock with a fair value of \$411.6 million as of the close of business on the transaction date. The Company also granted 86,020 incentive stock options with a weighted-average exercise price of \$4.47 to certain employees of ExOne in exchange for unvested ExOne stock options. The acquisition will be accounted for as a business combination using the

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acquisition method of accounting. The Company is currently finalizing the allocation of the purchase price and expects the purchase price to be allocated primarily to goodwill and intangible assets.

The total purchase price was allocated to the identifiable assets acquired and liabilities assumed based on the Company's preliminary estimates of their fair values on the acquisition date. The fair values assigned to ExOne's tangible and intangible assets and liabilities assumed, and the related deferred tax assets and liabilities, are considered preliminary and are based on the information available at the date of the acquisition. The Company is in the process of finalizing its purchase price allocation, and the tax basis of the assets and liabilities acquired. This may result in potential adjustments to the carrying value of the respective recorded assets and liabilities, establishment of certain intangible assets, revisions of useful lives of intangible assets, establishment of potential acquisition contingencies, and the determination of any residual amount that will be allocated to goodwill. Adjustments that impact the deferred tax liability recorded in the business combination could result in an increase or decrease in the Company's recorded valuation allowance that will be recognized in the accompanying statement of operations.

The acquisition date fair value of the consideration transferred is as follows (in thousands):

	<b>Total Acquisition Date Fair Value</b>
Cash consideration	\$ 201,399
Equity consideration	411,603
<b>Total consideration transferred</b>	<b>\$ 613,002</b>

The following table summarizes the preliminary allocation of the purchase price to the estimated fair values of assets acquired and liabilities assumed (in thousands):

	<b>At November 12, 2021</b>
<b>Assets acquired:</b>	
Cash and cash equivalents	\$ 119,068
Restricted cash - current	3,007
Accounts receivable	13,639
Inventory	27,200
Prepaid expenses and other current assets	5,165
Property and equipment	33,991
Intangible assets	82,100
Other noncurrent assets	2,734
<b>Total assets acquired</b>	<b>\$ 286,904</b>
<b>Liabilities assumed:</b>	
Accounts payable	\$ 5,830
Accrued expenses and other current liabilities	11,025
Current portion of deferred revenue	15,331
Customer deposits	10,168
Current portion of operating lease liability	1,919
Deferred tax liability	3,465
Lease liability, net of current portion	332
Deferred revenue, net of current portion	147
Other noncurrent liabilities	321
<b>Total liabilities assumed</b>	<b>\$ 48,538</b>
<b>Net assets acquired</b>	<b>\$ 238,366</b>
Goodwill	\$ 374,636
<b>Total net assets acquired</b>	<b>\$ 613,002</b>

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The estimated useful lives of the identifiable intangible assets acquired is as follows:

	Gross Value	Estimated Life
Developed Technology	72,900	8 years
Trade name	1,300	4 years
Customer relationships	7,900	12 years
Total intangible assets	<u>\$ 82,100</u>	

The goodwill resulting from the purchase price allocation is attributable to the workforce of the acquired business (which is not eligible for separate recognition as an identifiable intangible asset) and the expected synergistic benefits of expanding the combined companies' target markets both geographically and across industries. The goodwill recognized is not deductible for income tax purposes. The Company incurred \$8.5 million of acquisition-related and other transactional charges related to this acquisition, which are included in general and administrative expenses in the consolidated statements of operations.

ExOne's results are included in the Company's consolidated results for the period from November 12, 2021 to December 31, 2021. For this period, ExOne's revenues were \$15.5 million and net loss was \$6.9 million.

**Pro Forma Information (unaudited)**

The following unaudited pro forma financial information is based on the historical financial statements of the Company and presents the Company's results as if the acquisitions of EnvisionTEC, Adaptive 3D, Aerosint, Dental Arts Labs, A.I.D.R.O., Brewer Dental, May Dental, and ExOne had occurred on January 1, 2020 (in thousands):

	Year Ended December 31,	
	2021	2020
	(unaudited)	(unaudited)
Net revenues	\$ 207,688	\$ 164,947
Net income (loss)	\$ (273,319)	\$ (138,346)

The unaudited pro forma financial information was computed by combining the historical financial information of the Company and EnvisionTEC, Adaptive 3D, Aerosint, Dental Arts, A.I.D.R.O., Brewer Dental, May Dental, and ExOne along with the effects of the acquisition method of accounting for business combinations as though the companies were combined on January 1, 2020. The unaudited pro forma information does not reflect the potential benefits of cost and funding synergies, opportunities to earn additional revenues, or other factors, and therefore does not represent what the actual net revenues and net loss would have been had the companies been combined as of this date.

**2021 Asset Acquisitions**

**Acquisition of Beacon Bio**

On June 10, 2021, the Company acquired Beacon Bio, Inc. ("Beacon Bio") pursuant to a Stock Purchase Agreement. The purchase price consisted of cash consideration of \$6.1 million, including transaction costs of \$0.2 million, and 334,370 shares of Common Stock with a fair value of \$4.3 million as of the close of business on the transaction date. The cash consideration includes a simple agreement for future equity investment of \$1.0 million made by the Company in advance of the acquisition that was settled in the acquisition. Beacon Bio is engaged in research and development of PhonoGraft technology. The Company concluded the arrangement did not result in the acquisition of a business, as substantially all of the fair value of the gross assets acquired was concentrated in in-process research and development for which there was no alternative future use. Therefore, the Company accounted for the arrangement as an asset acquisition. In connection with the acquisition, the Company issued additional restricted stock units to

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retain research and development employees and contractors of Beacon Bio through the expected term to complete the development, which vest over a service period of 3 years and are accounted for as post-combination expense.

The acquired in-process research and development asset consists of a license to commercialize the PhonoGraft technology. At the date of the acquisition, significant research, development, and risk related to the license remained, and it was deemed not yet probable that there was future economic benefit from this asset. Absent successful clinical results and regulatory approval for this asset, there was no alternative future use associated with this asset. Accordingly, the value of the asset was expensed in the consolidated statements of operations and no deferred tax liability has been recorded.

**Acquisition of Meta Additive**

On September 9, 2021, the Company acquired Meta Additive Ltd (“Meta Additive”), pursuant to a Stock Purchase Agreement of the same date. Meta Additive is engaged in research and development of binder jet printing. The purchase price consisted of cash consideration of \$15.2 million, including transaction costs of \$0.2 million. The Company concluded the arrangement did not result in the acquisition of a business, as substantially all of the fair value of the gross assets acquired was concentrated in in-process research and development for which there was no alternative future use. The Company accounted for the arrangement as an asset acquisition. In connection with the acquisition, the Company issued 1,101,592 restricted stock units with a fair value of \$9.0 million as of the acquisition date to retain key employees of Meta Additive through the expected term to complete the development, which vest over a service period of 4 years and are accounted for as post-combination expense.

The acquired in-process research and development asset consists of the development of novel functional binders to provide advanced additive manufacturing solutions. Due to the stage of development of this technology at the date of the acquisition, significant research, development, and risk remained, and it was not yet probable that there was future economic benefit from this asset. Absent successful commercialization of this asset, there was no associated alternative future use. Accordingly, the value of the assets was expensed in the consolidated statements of operations and no deferred tax liability has been recorded.

**2020 Acquisitions**

**Business Combination**

On December 9, 2020, the Company and Trine consummated the Business Combination, with Legacy Desktop Metal surviving the merger as a wholly-owned subsidiary of Trine. Upon the consummation of the Business Combination, each share of Legacy Desktop Metal capital stock issued and outstanding was converted into the right to receive 1.22122 shares (the “Exchange Ratio”) of the Company’s common stock (the “Per Share Merger Consideration”).

Upon the closing of the Business Combination, Trine’s certificate of incorporation was amended and restated to, among other things, increase the total number of authorized shares of all classes of capital stock to 550,000,000 shares, of which 500,000,000 shares were designated common stock; \$0.0001 par value per share, and of which 50,000,000 shares were designated preferred stock, \$0.0001 par value per share.

In connection with the execution of the definitive agreement for the Business Combination, Trine entered into separate subscription agreements (each, a “Subscription Agreement”) with a number of investors (each, a “Subscriber”), pursuant to which the Subscribers agreed to purchase, and Trine agreed to sell to the Subscribers, an aggregate of 27,497,500 shares of the Company’s Common Stock, for a purchase price of \$10.00 per share and an aggregate purchase price of \$275 million, in a private placement pursuant to the subscription agreements (the “PIPE financing”). The PIPE financing closed simultaneously with the consummation of the Business Combination.

The Business Combination was accounted for as a reverse recapitalization in accordance with GAAP. Under this method of accounting, Trine was treated as the “acquired” company for financial reporting purposes. See Note 1 “Organization and Nature of Business” for further details. Accordingly, for accounting purposes, the Business Combination was treated as the equivalent of



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Desktop Metal issuing stock for the net assets of Trine, accompanied by a recapitalization. The net assets of Trine are stated at historical cost, with no goodwill or other intangible assets recorded.

Prior to the Business Combination, Legacy Desktop Metal and Trine filed separate standalone federal, state and local income tax returns. As a result of the Business Combination, structured as a reverse recapitalization for tax purposes, Desktop Metal, Inc. (f/k/a Trine Acquisition Corp.), became the parent of the consolidated filing group, with Desktop Metal Operating, Inc. (f/k/a Desktop Metal, Inc.) as a subsidiary.

The following table reconciles the elements of the Business Combination to the consolidated statement of cash flows and the consolidated statement of changes in equity for the year ended December 31, 2020:

	<b>Recapitalization</b>
Cash – Trine's trust and cash (net of redemptions)	\$ 305,084,695
Cash – PIPE financing	274,975,000
Less: transaction costs and advisory fees paid	(45,463,074)
Net proceeds from reverse recapitalization	534,596,621
Plus: non-cash net liabilities assumed <sup>1</sup>	(152,394,714)
Less: accrued transaction costs and advisory fees	(1,900,793)
Net contributions from reverse recapitalization	\$ 380,301,114

The number of shares of common stock issued immediately following the consummation of the Business Combination:

	<b>Number of Shares</b>
Common stock, outstanding prior to Business Combination	30,015,000
Less: redemption of Trine shares	(26,049)
Common stock of Trine	29,988,951
Trine Founder Shares	5,552,812
Trine Director Shares	100,000
Shares issued in PIPE financing	27,497,500
Business Combination and PIPE financing shares	63,139,263
Legacy Desktop Metal shares <sup>(1)</sup>	161,487,334
Total shares of common stock immediately after Business Combination	224,626,597

<sup>(1)</sup> The number of Legacy Desktop Metal shares was determined from the shares of Legacy Desktop Metal shares outstanding immediately prior to the closing of the Business Combination converted at the Exchange Ratio of 1.22122. All fractional shares were rounded down.

In connection with the Business Combination, 7,403,750 Trine Founder Shares were issued. Pursuant to the Business Combination agreement, 75% of the Founder shares, or 5,552,812 shares, vested at the close of the Business Combination, with the remaining 25%, or 1,850,938 shares, vesting if the Company trades at \$12.50 per share or higher for any 20 trading days within a 30-day window by the fifth anniversary of the Business Combination. As of December 31, 2020, 20 trading days had not yet passed since the date of the Business Combination, and the shares remained unvested and held in escrow. The vesting criteria was met on January 8, 2021.

**2020 Asset Acquisitions**

In December 2020, the Company acquired all issued and outstanding membership interests of Figur Machine Tools, LLC (“Figur”) for a total purchase price of \$3.5 million. Figur is engaged in research and development of 3D metal forming for sheet metal. The Company concluded the arrangement did not result in the acquisition of a business, as substantially all of the fair value of the gross assets acquired was concentrated in a single acquired technology asset and the Company did not obtain any substantive processes in connection with this acquisition. Therefore, the Company accounted for the arrangement as an asset acquisition. The fair

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value attributable to the acquired assets was \$3.5 million, which was recorded as intangible assets, net in the Company’s consolidated balance sheets.

In October 2020, the Company acquired all outstanding shares of Forust Corporation (“Forust”) for a total purchase price of \$2.5 million. The purchase price consisted of cash consideration of \$2.0 million and \$0.5 million of consideration relating to 61,061 shares of Common Stock. The Company paid \$1.8 million at closing and paid the additional \$0.2 million one year after acquisition in accordance with the agreement. Forust is engaged in research and development of 3D printing of wood products using sawdust in the process of additive manufacturing. The Company concluded the arrangement did not result in the acquisition of a business, as substantially all of the fair value of the gross assets acquired was concentrated in a single acquired technology asset and the Company did not obtain any substantive processes in connection with this acquisition. Therefore, the Company accounted for the arrangement as an asset acquisition. The fair value attributable to the acquired assets was \$2.5 million, which was recorded as intangible assets, net in the Company’s consolidated balance sheets. In connection with the acquisition, the Company issued additional restricted stock units to employees and contractors of Forust which vest over a service period of two years and are accounted for as post-combination expense.

**5. CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS**

The Company’s cash equivalents and short-term investments are invested in the following (in thousands):

	December 31, 2021			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Money market funds	\$ 46,521	\$ —	\$ —	\$ 46,521
Total cash equivalents	46,521	—	—	46,521
Commercial paper	70,401	—	—	70,401
Corporate bonds	65,645	—	(28)	65,617
Government bonds	36,487	—	(11)	36,476
Asset-backed securities	24,665	—	(10)	24,655
Total short-term investments	197,198	—	(49)	197,149
Total cash equivalents and short-term investments	\$ 243,719	\$ —	\$ (49)	\$ 243,670

	December 31, 2020			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Commercial paper	\$ 75,374	\$ —	\$ —	\$ 75,374
Money market funds	407,512	—	—	407,512
Total cash equivalents	482,886	—	—	482,886
U.S. Treasury securities	19,995	2	—	19,997
Commercial paper	43,911	—	—	43,911
Corporate bonds	47,970	—	(11)	47,959
Total short-term investments	111,876	2	(11)	111,867
Total cash equivalents and short-term investments	\$ 594,762	\$ 2	\$ (11)	\$ 594,753

During the year ended December 31, 2021, the Company made a \$20.0 million investment in equity securities of a publicly-traded company. The Company records this investment at fair value, which was \$7.4 million as of December 31, 2021. Prior to the investment, the Company entered into a subscription agreement to purchase the investment, resulting in a subscription agreement liability which was derecognized upon investment. During the year ended December 31, 2021, the Company recorded an unrealized loss due to the change in fair value of the equity securities and the related subscription agreement liability of \$12.6 million in interest and other (expense) income, net in the consolidated statements of operations.

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**6. FAIR VALUE MEASUREMENTS**

The Company uses the following three-tier fair value hierarchy, which prioritizes the inputs used in measuring the fair values for certain of its assets and liabilities:

Level 1 is based on observable inputs, such as quoted prices in active markets;

Level 2 is based on inputs other than the quoted prices in active markets that are observable either directly or indirectly; and

Level 3 is based on unobservable inputs in which there is little or no market data, which requires the Company to develop its own assumptions.

This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. Items measured at fair value on a recurring basis include money market funds. The following fair value hierarchy table presents information about the Company's financial assets measured at fair value on a recurring basis and indicates the fair value hierarchy of the inputs the Company utilized to determine such fair value (in thousands):

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	December 31, 2021			
	Quoted Prices in Active Markets for Identical Items (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
<b>Assets:</b>				
Money market funds	\$ 46,521	\$ —	\$ —	\$ 46,521
Commercial paper	—	70,401	—	70,401
Corporate bonds	—	65,617	—	65,617
Government bonds	—	36,476	—	36,476
Asset-backed securities	—	24,656	—	24,656
Equity securities	7,420	—	—	7,420
Other investments	—	—	6,750	6,750
<b>Total assets</b>	<b>\$ 53,941</b>	<b>\$ 197,150</b>	<b>\$ 6,750</b>	<b>\$ 257,841</b>
<b>Liabilities:</b>				
Contingent consideration	\$ —	\$ —	\$ 5,654	\$ 5,654
<b>Total liabilities</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 5,654</b>	<b>\$ 5,654</b>

	December 31, 2020			
	Quoted Prices in Active Markets for Identical Items (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
<b>Assets:</b>				
Money market funds	\$ 407,512	\$ —	\$ —	\$ 407,512
Commercial paper	—	119,285	—	119,285
Corporate bonds	—	47,959	—	47,959
U.S. Treasury securities	19,997	—	—	19,997
Other investments	—	—	3,000	3,000
<b>Total assets</b>	<b>\$ 427,509</b>	<b>\$ 167,244</b>	<b>\$ 3,000</b>	<b>\$ 597,753</b>
<b>Liabilities:</b>				
Private Placement Warrants	\$ —	\$ —	\$ 93,328	\$ 93,328
<b>Total liabilities</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 93,328</b>	<b>\$ 93,328</b>

The Company has determined that the estimated fair value of its corporate bonds and commercial paper are reported as Level 2 financial assets as they are based on model-driven valuations in which all significant inputs are observable, or can be derived from or corroborated by observable market data for substantially the full term of the asset.

Equity securities include investments made via publicly traded securities. The Company has determined that the estimated fair value of its equity securities is reported as Level 1 financial assets as they are based on quoted market prices in active markets for identical assets. During the year ended December 31, 2021, the Company recognized a loss on investments in equity securities of \$9.7 million. Additionally, the Company recorded an initial subscription agreement liability of \$0.5 million related to this investment and recognized a loss on the subscription agreement liability of \$2.4 million, for a total loss of \$12.6 million on equity securities. The initial subscription liability was recorded as a Level 3 liability as a result of the discount for lack of marketability. Upon investment, the liability was derecognized and the investment was recorded as a Level 3 investment because the equity securities were not registered for resale and a discount for lack of marketability was still applied. Subsequently, the securities were registered and the investment was transferred from Level 3 to Level 1.

Other investments include investments made via convertible debt instruments totaling \$6.8 million. The other investments are reported as a Level 3 financial asset because the methodology used to develop the estimated fair values includes significant unobservable inputs reflecting management's own assumptions. Assumptions used in determining the fair value of convertible debt

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instruments include the rights and obligations of the notes the Company holds as well as the probability of a qualified financing event, acquisition, or change in control. During the year ended December 31, 2021, the Company recognized gains on convertible debt instruments of \$0.1 million.

The contingent consideration liability is valued using a Monte Carlo simulation in a risk-neutral framework as well as a scenario based approach (both special cases of the income approach), based on key inputs that are not all observable in the market and is classified as a Level 3 liability. The Company assesses the fair value of the contingent consideration liability at each reporting period, with any subsequent changes to the fair value of the liability reflected in the consolidated statement of operations until the liability is settled. During the year ended December 31, 2021, the Company recognized a gain on the fair value of contingent consideration of \$0.4 million.

The fair value of the Private Placement Warrants was estimated using the Black-Scholes option pricing model and was classified as a Level 3 financial instrument. The significant assumptions used in the model were the Company's stock price, exercise price, expected term, volatility, interest rate, and dividend yield. During the year ended December 31, 2021 and 2020, the Company recognized a loss of \$56.6 million and a gain of \$56.4 million, respectively, on the Private Placement Warrants. The Private Placement Warrants were all exercised as of March 2, 2021.

There was one transfer between Level 3 and Level 1 during the years ended December 31, 2021 and 2020. There were no transfers between levels during the year ended December 31, 2020. The following table presents information about the Company's movement in Level 3 assets measured at fair value (in thousands):

	Year Ended December 31,	
	2021	2020
Balance at beginning of period	\$ 3,000	\$ —
Additions	23,620	3,000
Changes in fair value	(12,450)	—
Transfers to Level 1	(7,420)	—
Balance at end of period	<u>\$ 6,750</u>	<u>\$ 3,000</u>

The following table presents information about the Company's movement in Level 3 liabilities measured at fair value (in thousands):

	Year Ended December 31,	
	2021	2020
Balance at beginning of period	\$ 93,328	\$ —
Additions	6,558	149,745
Changes in fair value	58,592	(56,417)
Exercise of private placement warrants	(149,904)	—
Disposals	(2,920)	—
Balance at end of period	<u>\$ 5,654</u>	<u>\$ 93,328</u>

**7. ACCOUNTS RECEIVABLE**

The components of accounts receivable are as follows (in thousands):

	December 31,	
	2021	2020
Trade receivables	\$ 47,352	\$ 7,016
Allowance for doubtful accounts	(665)	(500)
Total accounts receivable	<u>\$ 46,687</u>	<u>\$ 6,516</u>

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The following table summarizes activity in the allowance for doubtful accounts (in thousands):

	Years Ended December 31,	
	2021	2020
Balance at beginning of period	\$ 500	\$ 199
Provision for uncollectible accounts, net of recoveries	447	377
Uncollectible accounts written off	(282)	(76)
Balance at end of period	<u>\$ 665</u>	<u>\$ 500</u>

#### 8. INVENTORY

Inventory consists of the following (in thousands):

	December 31,	
	2021	2020
Raw materials	\$ 24,887	\$ —
Work in process	8,875	2,896
Finished goods:		
Deferred cost of sales	6,999	—
Manufactured finished goods	24,638	6,812
Total finished goods	31,637	6,812
Total inventory	<u>\$ 65,399</u>	<u>\$ 9,708</u>

#### 9. PREPAID EXPENSES AND OTHER CURRENT ASSETS

Prepaid expenses and other current assets consists of the following (in thousands):

	December 31,	
	2021	2020
Prepaid operating expenses	\$ 11,961	\$ 68
Prepaid taxes	1,981	—
Prepaid dues and subscriptions	1,889	189
Prepaid insurance	492	121
Government grants receivable	226	—
Prepaid rent	178	118
Other	1,481	480
Total prepaid expenses and other current assets	<u>\$ 18,208</u>	<u>\$ 976</u>

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**10. PROPERTY AND EQUIPMENT**

Property and equipment, net consists of the following (in thousands):

	December 31,	
	2021	2020
Equipment	\$ 42,892	\$ 13,708
Land and buildings	17,214	—
Automobiles	905	—
Furniture and fixtures	1,844	895
Computer equipment	1,725	1,089
Tooling	2,000	1,805
Software	2,346	1,249
Leasehold improvements	15,263	13,870
Construction in process	4,185	879
Property and equipment, gross	88,374	33,495
Less: accumulated depreciation	(29,664)	(21,335)
Total property and equipment, net	<u>\$ 58,710</u>	<u>\$ 12,160</u>

Depreciation and amortization expense was \$8.5 million and \$7.6 million for the years ended December 31, 2021 and 2020, respectively.

**11. GOODWILL & INTANGIBLE ASSETS**

The carrying amount of goodwill at December 31, 2021 and 2020 was \$639.3 million and \$2.3 million, respectively, and has been recorded in connection with the Company's acquisitions. The goodwill activity is as follows (in thousands):

	Goodwill
Balance at December 31, 2019	\$ 2,252
Balance at December 31, 2020	\$ 2,252
Acquisition of EnvisionTEC	195,688
Acquisition of Adaptive3D	35,113
Acquisition of Aerosint	14,581
Acquisition of Dental Arts Labs	8,839
Acquisition of A.I.D.R.O.	3,515
Acquisition of Brewer Dental	2,463
Acquisition of May Dental	6,782
Acquisition of ExOne	374,636
Foreign currency translation adjustment	(4,568)
Balance at December 31, 2021	<u>\$ 639,301</u>

The Company has no accumulated impairment losses on goodwill.

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The following table sets forth the major categories of intangible assets and the weighted-average remaining useful lives for those assets that are not already fully amortized (in thousands):

	Weighted Average Remaining Useful Lives (in years)	December 31, 2021			December 31, 2020		
		Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
		Acquired technology	9.2	\$ 198,631	\$ 11,421	\$ 187,210	\$ 10,193
Trade name	10.8	12,475	684	11,791	—	—	—
Customer relationships	10.8	69,127	6,296	62,831	—	—	—
Capitalized software	1.5	518	366	152	1,127	815	312
Total intangible assets		\$ 280,751	\$ 18,767	\$ 261,984	\$ 11,320	\$ 1,906	\$ 9,414

The Company recognized \$17.5 million and \$0.9 million of amortization expense for years ended December 31, 2021 and 2020, respectively, as follows (in thousands):

Category	Statement of Operations Line Item	Amortization Expense December 31, 2021	Amortization Expense December 31, 2020
Acquired technology	Cost of Sales	\$ 8,569	\$ 114
Acquired technology	Research and Development	1,761	646
Trade name	General and Administrative	685	—
Customer relationships	Sales and Marketing	6,339	—
Capitalized software	Research and Development	161	128
		\$ 17,515	\$ 888

The Company expects to recognize the following amortization expense (in thousands):

	Amortization
2022	\$ 39,307
2023	42,206
2024	42,263
2025	39,747
2026	29,854
2027 and after	68,607
Total intangible amortization	\$ 261,984

**12. OTHER NONCURRENT ASSETS**

The following table summarizes the Company's components of other noncurrent assets (in thousands):

	December 31,	
	2021	2020
Right of use asset	17,794	1,810
Long-term deposits	390	69
Other investments	6,750	3,000
Other	546	—
Total other noncurrent assets	\$ 25,480	\$ 4,879



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**13. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

The following table summarizes the Company's components of accrued expenses and other current liabilities (in thousands):

	December 31,	
	2021	2020
Compensation and benefits related	\$ 17,124	\$ 2,068
Professional services	2,659	2,508
Warranty reserve	4,048	1,553
Franchise and royalty fees	2,035	159
Current portion of contingent consideration	1,471	—
Inventory purchases	1,072	86
Commissions	849	—
Income tax payable	233	—
Sales and use and franchise taxes	274	586
Other	4,064	605
<b>Total accrued expenses and other current liabilities</b>	<b>\$ 33,829</b>	<b>\$ 7,565</b>

As of December 31, 2021, and December 31, 2020, the Company has recorded \$4.0 million and \$1.6 million, respectively, of warranty reserve within accrued expenses and other current liabilities in the consolidated balance sheets. Warranty reserve consisted of the following (in thousands):

	Years Ended December 31,	
	2021	2020
Warranty reserve, at the beginning of the period	\$ 1,553	\$ 1,491
Warranty reserve assumed in acquisition	1,389	—
Additions to warranty reserve	2,576	346
Claims fulfilled	(1,470)	(284)
<b>Warranty reserve, at the end of the period</b>	<b>\$ 4,048</b>	<b>\$ 1,553</b>

**14. DEBT**

**Term Loan**—In June 2018, the Company entered into a \$20 million term loan for 36 months. The loan provided \$10 million immediately funded with the additional \$10 million available to be drawn in up to three draws of not less than \$2 million for 12 months from close of the facility. The loan was interest-only for the full 36 months with the principal due at maturity in June 2021. The outstanding loan was paid in full in June 2021.

**PPP Loans**— In connection with the acquisition of EnvisionTEC, the Company acquired \$1.2 million in Paycheck Protection Program (the “PPP”) loans. The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act, provided for loans to qualifying businesses. Under the terms of the CARES Act, PPP loan recipients could apply for forgiveness for all or a portion of the loan which is dependent upon the Company having initially qualified for the loan. Furthermore, the loan was subject to forgiveness to the extent loan proceeds are used for payroll costs, certain rents, utilities, and mortgage interest expense. The PPP loan had a maturity date of April 3, 2022 and an interest rate of 1%. On May 14, 2021, the outstanding loan balances were forgiven and the restricted cash that was held back from the initial purchase price in the event the loan was not forgiven was released to the seller. There is no outstanding PPP loan balance for EnvisionTEC as of December 31, 2021.

**Bank Debt**—In connection with the acquisition of A.I.D.R.O., the Company acquired three loans (“Bank Loans”) totaling \$1.1 million in aggregate. The Bank Loans have term of 4.5 years and mature from September 2024 through September 2025, with interest rates ranging from 1.70% to 2.10%. Payments of principal and interest are made quarterly. During the year ended

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December 31, 2021, the Company paid \$0.2 million and \$0.9 million remains outstanding. \$0.34 million of the outstanding debt is recorded within current portion of long-term debt, net of deferred financing costs, and \$0.5 million is recorded within long-term debt, net of current portion, in the consolidated balance sheets.

**Equipment Financing Agreement**—In connection with the acquisition of Dental Arts Labs, the Company acquired a thirteen-month equipment financing agreement (“Financing Agreement”) in the amount of \$0.5 million. The Financing Agreement provided for an advance payment of \$0.5 million to secure equipment for the Company. Payments are made monthly under the Financing Agreement upon acceptance, which had not yet occurred as of December 31, 2021. Subsequent to December 31, 2021, The Company executed a delivery and acceptance certificate which commences payment. The financing agreement balance of \$0.5 million is recorded in current portion of long-term debt, net of deferred financing costs, in the consolidated balance sheets. The Financing Agreement will mature in June 2023.

**Deferred Financing Costs**—In connection with the term loan borrowing, the Company incurred \$0.1 million of expenses, which have been recorded as deferred financing costs. The Company amortizes these costs over the life of the borrowing. During the years ended December 31, 2021 and 2020, the Company recorded immaterial interest expense related to the amortization of the financing costs. As of December 31, 2021, there is no remaining unamortized balance of deferred financing costs. As of December 31, 2020, the remaining unamortized balance of deferred financing costs is immaterial and is included as a component of current portion of long-term debt, net of deferred financing costs, in the consolidated balance sheets.

## 15. OTHER NONCURRENT LIABILITIES

The following table summarizes the Company’s components of other noncurrent liabilities (in thousands):

	December 31,	
	2021	2020
Taxes payable	\$ 1,034	\$ —
Acquisition consideration	1,750	—
Other	386	—
Total other noncurrent liabilities	<u>\$ 3,170</u>	<u>\$ —</u>

## 16. LEASES

### *Lessee*

At December 31, 2021, the Company recorded \$17.8 million as a right of use asset and \$17.8 million as an operating lease liability. At December 31, 2020, the Company recorded \$1.8 million as a right of use asset and \$3.0 million as an operating lease liability. The Company assesses its right of use asset and other lease-related assets for impairment. There were no impairments recorded related to these assets during the years ended December 31, 2021 and 2020.

As a result of acquisitions, the Company acquired operating, finance, and short-term leases for corporate offices, manufacturing, warehousing, laboratory and research and development facilities, and company vehicles. The acquired leases increased the Company’s right of use asset by \$12.3 million and have various terms extending through 2031.

The Company reviews all supplier, vendor, and service provider contracts to determine whether any service arrangements contain a lease component. The Company identified two service agreements that contain an embedded lease. The agreements do not contain fixed or minimum payments, and the variable lease expense was immaterial during the years ended December 31, 2021 and 2020.

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Information about other lease-related balances is as follows (in thousands):

	Years Ended December 31,	
	2021	2020
<b>Lease cost</b>		
Operating lease cost	\$ 2,572	\$ 746
Finance lease cost	6	—
Short-term lease cost	129	—
Variable lease cost	178	40
Total lease cost	<u>\$ 2,885</u>	<u>\$ 786</u>
<b>Other Information</b>		
Operating cash flows used in operating leases	\$ 2,862	\$ 1,073
Operating cash flows used in finance leases	8	—
Weighted-average remaining lease term—operating leases (years)	5.1	3.2
Weighted-average remaining lease term—finance leases (years)	7.6	—
Weighted-average discount rate—operating leases	4.3	7.6 %
Weighted-average discount rate—finance leases	1.5 %	—

The rate implicit in the lease is not readily determinable in most of the Company's leases, and therefore the Company uses its incremental borrowing rate as the discount rate when measuring operating lease liabilities. The incremental borrowing rate represents an estimate of the interest rate the Company would incur at lease commencement to borrow an amount equal to the lease payments on a collateralized basis over the term of the lease.

Future minimum lease payments under noncancelable operating leases at December 31, 2021, are as follows (in thousands):

	Operating Leases	Finance Leases
2022	\$ 6,109	\$ 86
2023	4,005	86
2024	2,507	82
2025	1,944	81
2026	1,707	81
2026 and after	3,556	411
Total lease payments	<u>19,828</u>	<u>827</u>
Less amount representing interest	(1,994)	(57)
Total lease liability	17,834	770
Less current portion of lease liability	(5,446)	(81)
Lease liability, net of current portion	<u>\$ 12,388</u>	<u>\$ 689</u>

As of December 31, 2021, the Company does not have material operating leases that have not commenced.

**Lessor**

The Company leases machinery and equipment to customers (principally 3D printing machines and related equipment) under lease arrangements classified as either operating leases or sales-type leases. At December 31, 2021, the Company estimated that the total fair market value approximated the related net book value of the machinery and equipment held under the Company's operating lease arrangements. The Company's net investment in sales-type lease arrangements at December 31, 2021 is immaterial and is recorded in prepaid expense and other current assets in the consolidated balance sheets. There was no net investment in sales-type lease arrangements at December 31, 2020.

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The Company recognized the following components under operating and sales-type lease arrangements in the accompanying consolidated statements of operations and comprehensive loss for the periods indicated:

	For the years ended December 31,			
	2021		2020	
	Operating	Sales-type	Operating	Sales-type
Revenue	\$ 67	261	\$ —	—
Interest Income <sup>(1)</sup>	—	3	—	—

(1) Interest income related to sales-type leases is recorded as a component of revenue in the consolidated statements of operations and comprehensive loss for each of the periods presented.

The Company's net investment in sales-type leases consisted of the following:

	2021	2020
Future minimum lease payments receivable	\$ 1,235	\$ —
Less: Allowance for doubtful accounts	(506)	—
Net future minimum lease payments receivable	729	—
Less: Unearned interest income	(38)	—
Net investment in sales-type leases	<u>\$ 691</u>	<u>\$ —</u>

The Company did not record any provisions for bad debt related to lessees during the years ended December 31, 2021 or 2020.

Future minimum lease receipts of non-cancellable operating and sales-type lease arrangements as of December 31, 2021 were as follows:

	Operating	Sales-type
2022	\$ 264	\$ 687
2023	37	458
2024	9	45
2025	—	45
2026	—	—
Thereafter	—	—
Total minimum lease payments	<u>\$ 310</u>	<u>\$ 1,235</u>
Less: Allowance for doubtful accounts		(506)
Less: Present value discount		(38)
Future minimum lease payments receivable		<u>\$ 691</u>

**17. COMMITMENTS AND CONTINGENCIES**

**Legal Proceedings**

From time to time, the Company may face legal claims or actions in the normal course of business. At each reporting date, the Company evaluates whether a potential loss amount or a potential range of loss is probable and reasonably estimable under the provisions of the authoritative guidance that addresses accounting for contingencies. The Company expenses as incurred the costs related to its legal proceedings. While the outcome of these claims cannot be predicted with certainty, management does not believe the outcome of any current legal proceedings will have a material adverse impact on the Company's consolidated financial statements.

Between September 2021 and the closing of the ExOne Merger on November 12, 2021, twelve putative class action complaints were filed by purported ExOne shareholders against ExOne and the former ExOne Board of Directors alleging violations of federal securities laws in connection with the S-4 filed by ExOne for the ExOne Merger. All have been dismissed.

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On November 8, 2021, another purported stockholder, Leo Lissoq Goldstein, filed a Section 220 complaint in Delaware Chancery Court against ExOne (*Goldstein v. The ExOne Company*, Case No. 2021-0958-KSJM). Mr. Goldstein seeks to discover certain books and records of the company related to the ExOne Merger purportedly in order to investigate, among other things, the events leading up to and the disclosures made in connection with the ExOne Merger. Mr. Goldstein has also moved to intervene and stay the *Campanella* action, discussed below, until his Section 220 action is complete.

On November 22, 2021, purported stockholder Pietro Campanella filed a class action lawsuit against ExOne, Desktop Metal, Inc., and former ExOne directors and officers alleging breach of fiduciary duties and aiding and abetting breach of fiduciary duties in connection with the ExOne Merger (*Campanella v. The ExOne Company et al.*, Case No. 2021-1013, Case No. 2021-1013-LWW). In particular, Mr. Campanella alleges that ExOne's proxy statement and supplemental disclosures did not adequately disclose information related to a whistleblower investigation at one of Desktop Metal's subsidiaries, EnvisionTEC, and the resignation of EnvisionTEC's CEO.

On December 21, 2021, January 14, 2022, February 2, 2022 and February 22, 2022, four alleged shareholders of Desktop Metal stock filed purported securities class action complaints in the United States District Court for the District of Massachusetts. (*Luongo v. Desktop Metal*, D. Mass., Case No. 1:21-cv-12099-IT; *Hathaway v. Desktop Metal*, D. Mass., Case No. 1:22-cv-10059-IT; *Guzman-Martinez v. Desktop Metal*, D. Mass, Case No. 1:22-cv-10173, *Xie v. Desktop Metal*, Case No. 1:22-cv-10297-IT). Each complaint alleges that Desktop Metal and certain of its officers and directors violated Sections 10(b) and 20(a) of the Securities and Exchange Act by making false or misleading statements regarding EnvisionTEC's manufacturing and product compliance practices and procedures. On February 4, 2022, the court issued an order consolidating the first three District of Massachusetts securities class actions.

The Company believes that these complaints are all without merit and intends to defend against them vigorously.

#### **Whistleblower Complaint**

On November 4, 2021, the Audit Committee of the Board of Directors engaged a third party to conduct an independent internal investigation as a result of a whistleblower complaint relating to manufacturing and product compliance practices at its EnvisionTEC US LLC facility in Dearborn, Michigan. In response, and to address the issues identified in the investigation, the Company implemented changes in the management of the Dearborn facility and improvements in manufacturing and compliance policies and procedures for the applicable products. Following notification to the FDA, the Company also initiated voluntary recalls of certain shipments of Flexcera resins and the PCA4000 curing box. The investigation is now closed, and the matters subject to the investigation and the Company's responsive actions did not have, and are not anticipated to have, a material impact on the Company's financial statements or its business.

#### **Commitments**

The Company has entered into legally binding agreements with certain suppliers to purchase materials used in the manufacturing of the Company's products. As of December 31, 2021, the Company had outstanding purchase orders with contract manufacturers in the amount of \$78.9 million which are not included in the consolidated balance sheets.

The Company has also entered into licensing and royalty agreements with certain manufacturing and software companies and universities related to the use of patented technology. Under the terms of each agreement, the Company has made initial, one-time payments of \$0.3 million and is obligated to pay a set percentage, ranging from 1.0% - 13.0%, of all consideration received by the Company for sales of related products and services, until the agreements are terminated at various dates through 2037. The Company's aggregate minimum annual commitment under these contracts is \$0.7 million.

As a result of the acquisition of ExOne, the Company assumed short-term financial guarantees and letters of credit. Within the Company's normal course of operations, it issues these short-term financial guarantees and letters of credit through a credit facility with a German bank to third parties in connection with certain commercial transactions requiring security. The credit facility provides a capacity amount of \$4.0 million for the issuance of financial guarantees and letters of credit for commercial transactions requiring

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security. The credit facility does not require cash collateral for the issuance of financial guarantees and letters of credit for commercial transactions requiring security for amounts up to \$1.1 million. Amounts in excess of \$1.1 million require cash collateral under the credit facility.

At December 31, 2021, total outstanding financial guarantees and letters of credit issued by the Company under the credit facility were \$2.7 million, of which \$0.5 million have expiration dates ranging from March 2022 to March 2023, and the remaining \$2.2 million with no expiration date. At December 31, 2021, cash collateral of \$1.5 million was required for financial guarantees and letters of credit issued under the credit facility, and is included in current portion of restricted cash in the consolidated balance sheets.

#### 18. INCOME TAXES

During the years ended December 31, 2021 and 2020, the Company recorded \$29.7 million and \$0.9 million of income tax benefit, which was primarily driven by a partial release of the valuation allowance related to the deferred tax liabilities acquired on various acquisitions during 2021. For financial reporting purposes, loss before provision for income taxes, includes the following components (in thousands):

	Years Ended December 31,	
	2021	2020
Domestic	\$ (252,343)	\$ (34,285)
Foreign	(17,659)	(670)
Loss before income taxes	<u>\$ (270,002)</u>	<u>\$ (34,955)</u>

The provision (benefit) for income taxes consists of the following (in thousands):

	Years Ended December 31,	
	2021	2020
Current:		
Federal	\$ (33)	—
State	20	—
Total Current	(13)	—
Deferred:		
Federal	(23,378)	(670)
State	(5,494)	(270)
Foreign	(783)	—
Total Deferred	<u>(29,655)</u>	<u>(940)</u>
Benefit for income taxes	<u>\$ (29,668)</u>	<u>\$ (940)</u>

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A reconciliation of the expected income tax (benefit) computed using the federal statutory income tax rate to the Company's effective income tax rate for the years ended December 31, 2021 and 2020 is as follows:

	Years Ended December 31,	
	2021	2020
Effective income tax rate:		
Expected income tax benefit at the federal statutory rate	21 %	21 %
State taxes	(2)%	6 %
Change in valuation allowance	(4)%	(68)%
Research and development credit carryover	(1)%	2 %
Stock-based compensation expense	3 %	— %
Warrant Expense	(5)%	— %
Permanent differences	— %	42 %
Other	(1)%	— %
Effective income tax rate	<u>11 %</u>	<u>3 %</u>

As of December 31, 2021, and 2020, deferred tax assets and liabilities consist of the following (in thousands):

	Years Ended December 31,	
	2021	2020
Deferred tax assets:		
Federal and state net operating carryforwards	\$ 148,946	\$ 77,463
Research and development and other credits	10,977	13,555
Start-up costs	12,904	15,717
Stock-based compensation	4,242	2,257
Reserves and accruals	1,452	15
Deferred lease liability	4,856	872
Depreciation	3	1,503
Divisional foreign entity deferred	2,137	—
Other deferred tax assets	6,457	2,257
Total gross deferred tax asset	<u>191,974</u>	<u>113,639</u>
Valuation allowance	(127,150)	(111,494)
Net deferred tax asset	<u>64,824</u>	<u>2,145</u>
Deferred tax liabilities:		
Right-of-use asset	(4,692)	(522)
Intangible assets	(68,504)	(1,623)
Depreciation	(1,527)	—
Other	(796)	—
Total deferred tax liabilities	<u>(75,519)</u>	<u>(2,145)</u>
Net deferred tax liability	<u>\$ (10,695)</u>	<u>\$ —</u>

Realization of deferred tax assets is dependent upon the generation of future taxable income. As required by ASC 740 *Income Taxes*, the Company evaluated the positive and negative evidence bearing upon its ability to realize the deferred tax assets as of December 31, 2021. As a result of the fact that the Company has incurred tax losses from inception, the Company has determined that it was more likely than not that the Company would not realize the benefits of federal and state net deferred tax assets.

As a result of recent acquisitions, the Company recorded U.S. deferred tax liabilities in purchase accounting related to non-tax-deductible intangible assets recognized in the financial statements. The acquired deferred tax liabilities are a source of income to support recognition of the Company's existing deferred tax assets. Pursuant to ASC 805, the impact on a Company's existing deferred tax assets and liabilities caused by an acquisition should be recorded in the financial statements outside of acquisition accounting.

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Accordingly, the Company recorded an income tax benefit of \$29.6 million for the decrease in the valuation allowance as a result of such purchase accounting considerations. The Company maintains a valuation allowance on other U.S. deferred tax assets; and on non-U.S. deferred tax assets in certain jurisdictions.

Changes in the valuation allowance for deferred tax assets during the years ended December 31, 2021 and 2020 were as follows (in thousands):

	Years Ended December 31,	
	2021	2020
Valuation allowance at beginning of the year	\$ 111,494	\$ 87,370
Increases recorded to income tax provision	45,139	25,058
Decreases recorded as a benefit to income tax provision	(29,483)	(934)
Valuation allowance at end of year	<u>\$ 127,150</u>	<u>\$ 111,494</u>

As of December 31, 2021, and 2020, the Company had federal net operating loss carryforwards of \$592.5 million and \$273.8 million, respectively, which may be available to reduce future taxable income. The \$98.6 million of carryforwards generated in 2017 and prior expire at various dates through 2037. The \$493.9 million in carryforwards generated from 2018 forward do not expire. As of December 31, 2021, and 2020, the Company had State net operating loss carryforwards of \$190.5 million and \$243.2 million, respectively, which may be available to reduce future taxable income. These carryforwards expire at various dates through 2041. In addition, the Company had federal and state research and development tax credit carryforwards of \$10.9 million available to reduce future tax liabilities, which will expire at various dates through 2041.

The Company has foreign net operating loss carryforwards available to reduce taxable income in Germany, Japan, Belgium, Italy and the United Kingdom. As of December 31, 2021, the Company had total foreign net operating loss carryforwards of \$32.6 million. In Germany, the Company has \$30.0 million of net operating loss carryforwards, which have an unlimited carryforward period and do not expire. In Japan, the Company has \$1.5 million of net operating loss carryforwards, which have a ten-year carryforward period and will expire at various dates through 2031. The Company has smaller loss carryforwards in Belgium, Italy and the United Kingdom.

Utilization of the Company's net operating loss ("NOL") carryforwards and research and development ("R&D") credit carryforwards may be subject to a substantial annual limitation due to ownership change limitations that have occurred previously or that could occur in the future in accordance with Section 382 of the Internal Revenue Code of 1986 ("Section 382") as well as similar state provisions. These ownership changes may limit the amount of NOL and R&D credit carryforwards that can be utilized annually to offset future taxable income and taxes, respectively. In general, an ownership change as defined by Section 382 results from transactions increasing the ownership of certain shareholders or public groups in the stock of a corporation by more than 50% over a three-year period. The Company has not conducted a study to assess whether a change of control has occurred or whether there have been multiple changes of control since inception due to significant complexity with such a study. If the Company has experienced a change of control, as defined by Section 382, at any time since inception, utilization of the net operating loss carryforward and research and development tax credits carryforwards would be subject to an annual limitation under Section 382. Although the Company has not completed its analysis, it is reasonably possible that its federal NOLs available to offset future taxable income could materially decrease. This reduction would be offset by an equal and offsetting adjustment to the existing valuation allowance. Given the offsetting adjustments to the existing valuation allowance, any ownership change is not expected to have an adverse material effect on the Company's consolidated financial statements. Any limitation may result in expiration of a portion of the net operating loss carryforward or research and development tax credit carryforwards before utilization.

The Company operates within multiple tax jurisdictions and could be subject to audit in those jurisdictions. Such audits can involve complex income tax issues, which may require an extended period of time to resolve and may cover multiple years. In management's opinion, adequate provisions for income taxes have been made for all years subject to audit.

In the U.S., the Company files income tax returns in the U.S. federal tax jurisdiction and various states. Since the Company is in a loss carryforward position, the Company is generally subject to examination by the U.S. federal, state and local income tax authorities for all tax years after 2017; and for 2017 and earlier years to the extent of the losses carried forward from such earlier years. The



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Company is currently not under examination by the Internal Revenue Service or any other jurisdiction for any tax years. The Company remains subject to non-U.S. income tax examinations in various jurisdictions for tax years 2016 through 2021.

As of December 31, 2021, the Company has a liability of \$1.0 million for uncertain tax positions acquired in various acquisitions during 2021. None of these positions are expected to reverse within twelve months. The Company recognizes accrued interest and penalties related to unrecognized tax benefits in the provision for income taxes. At December 31, 2021, the Company had a balance in accrued interest and penalties related to uncertain tax positions of \$0.2 million. A reconciliation of the beginning and ending amount of unrecognized tax liabilities as of December 31, 2021 and 2020 is as follows (in thousands):

	Years Ended December 31,	
	2021	2020
Unrecognized tax liability, beginning of year	\$ —	\$ —
Unrecognized tax liability acquired through purchase accounting	1,005	—
Gross decreases - foreign exchange translation adjustments	(8)	—
Unrecognized tax liability, end of year	<u>\$ 997</u>	<u>\$ —</u>

The Company intends to permanently reinvest all earnings of its international subsidiaries in order to support the current and future capital needs of their operations in the foreign jurisdictions.

**19. STOCKHOLDERS' EQUITY**

As of December 31, 2021, the Company's authorized shares consisted of 500,000,000 shares of Class A Common Stock, \$0.0001 par value (the "Common Stock") and 50,000,000 shares of Preferred Stock, \$0.0001 par value (the "Preferred Stock").

During 2015, the Company issued 34,010,977 shares of Common Stock to the initial founders and certain employees of the Company at a purchase price of \$0.0001 per share. These shares are fully vested.

**Common Stock Warrants**

In May 2017, the Company entered into a strategic collaboration agreement with an investor allowing the investor's resellers to sell and distribute the Company's products. In consideration for this agreement, the Company agreed to issue warrants to purchase up to 2,442,440 shares of Common Stock. The investor was eligible to receive a warrant to purchase one share of Common Stock for every \$35.00 in revenue generated by the Company from the investor's resellers. Each warrant was issued at an exercise price equal to \$3.34 per share (subject to appropriate adjustment in the event of a stock dividend, stock split, combination, or other similar recapitalization) and was set to expire on December 31, 2027. The Company issued 122,073 warrants in 2020 and recorded \$0.2 million of expense related to the fair value of the warrants in 2020, calculated using the Black-Scholes warrant-pricing model with the following assumptions:

	Year Ended December 31,	
	2020	
Risk-free interest rate		2.0 %
Expected volatility		52.5 %
Expected life (in years)		8.0 – 8.8
Expected dividend yield		—
Fair value of Common Stock	\$	3.34

756,498 warrants were converted to 447,938 shares of Common Stock through a cashless exercise in connection with the Business Combination.

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In August 2020, the Company issued a warrant to purchase up to 366,366 shares of common stock, par value \$0.0001, in exchange for technical research and development advisor services. Each warrant was issued at an exercise price of \$3.34 per share (subject to appropriate adjustment in the event of a stock dividend, stock split, combination, or other similar recapitalization) and was set to expire on August 22, 2027. The Company recorded \$1.7 million of expense related to the fair value of the warrants in 2020, calculated using the Black-Scholes warrant-pricing model with the following assumptions:

	<u>Year Ended December 31,</u> <u>2020</u>
Risk-free interest rate	0.5 %
Expected volatility	52.5 %
Expected life (in years)	0.3
Expected dividend yield	—
Fair value of Common Stock	\$ 7.98

366,366 warrants vested upon a change in control and were converted to 244,428 shares of Common Stock through a cashless exercise in connection with the Business Combination.

### Trine Warrants

In Trine's initial public offering, it sold units at a price of \$10.00 per unit, which consisted of one share of Common Stock, \$0.0001 par value, and one-half of a redeemable warrant (each, a "Public Warrant"). Each whole Public Warrant entitles the holder to purchase one share of Common Stock at a price of \$11.50 per share and became exercisable as of 30 days from the date of the Business Combination. Unless earlier redeemed, the Public Warrants will expire five years from the completion of the Business Combination. The Company may redeem the outstanding Public Warrants in whole and not in part at a price of \$0.01 per Public Warrant upon a minimum of 30 days' prior written notice of redemption, and only in the event that the last sale price of the Company's Common Stock is at least \$18.00 per share for any 20 trading days within a 30-trading day period ending on the third trading day prior to the date on which notice of redemption is given. If the Company redeems the Public Warrants as described above, it will have the option to require all Public Warrant holders that wish to exercise to do so on a "cashless basis". On February 26, 2021, the Company delivered a notice to redeem all of its outstanding Public Warrants that remain unexercised at 5:00 p.m. New York City time on March 29, 2021. During 2021, Public Warrants for 14,840,589 shares of the Company's Common Stock were exercised for cash, resulting in the Company receiving net proceeds of \$170.7 million. On March 29, 2021, the 166,905 outstanding Public Warrants were redeemed by the Company for \$0.01 per Public Warrant. Effective March 29, 2021, all of the Public Warrants were exercised or redeemed.

The Warrant Agreement, dated as of March 14, 2019, by and between the Company and Continental Stock Transfer & Trust Company also obligated the Company to use its best efforts to file with the SEC a registration statement for the registration, under the Securities Act of 1933, as amended (the "Securities Act"), of the issuance of the shares of Common Stock issuable upon exercise of the Public Warrants, and to cause the same to become effective and remain effective while the Public Warrants remain outstanding. On February 4, 2021, the Company's registration statement covering such shares became effective.

Simultaneously with the consummation of Trine's initial public offering, Trine Sponsor IH, LLC (the "Sponsor") purchased an aggregate of 8,503,000 warrants to purchase one share of Common Stock at an exercise price of \$11.50 (the "Private Placement Warrants") at a price of \$1.00 per warrant (\$8,503,000) in the aggregate in a private placement.

The Private Placement Warrants are identical to the Public Warrants except that the Private Placement Warrants are not redeemable by Desktop Metal, and may be exercised for cash or on a cashless basis so long as they are held by the Sponsor or any of its permitted transferees. Additionally, pursuant to the terms of the amended and restated registration rights agreement entered in connection with the Business Combination, the Sponsor had the right to have the resale of the shares of Common Stock acquired upon exercise of the Private Placement Warrants registered under the Securities Act. On February 4, 2021, the Company's registration statement covering such shares became effective.

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On February 24, 2020, Trine issued an unsecured promissory note (the “2020 Note”) to the Sponsor. The 2020 Note bore no interest and was repayable in full upon consummation of the Business Combination. The Sponsor had the option to convert any unpaid balance of the 2020 Note into warrants equal to the principal amount of the 2020 Note so converted divided by \$1.00. Upon closing of the Business Combination, the 2020 Note was converted into a Private Placement Warrant for 1,500,000 shares of Common Stock, with an exercise price of \$11.50. The terms of these warrants are identical to the terms of the Private Placement Warrants. Pursuant to the terms of the amended and restated registration rights agreement entered in connection with the Business Combination, the Sponsor had the right to have the resale of the shares of Common Stock acquired upon exercise of such warrant registered under the Securities Act. On February 4, 2021, the Company’s registration statement covering such shares became effective.

The Company’s Private Placement Warrants were classified as liabilities, and were measured at fair value through earnings. During the year ended December 31, 2021 and 2020, the Company recorded a \$56.6 million loss and \$56.4 million gain, respectively, related to the change in fair value of the Private Placement Warrants, which were remeasured through the date of each exercise, calculated using the Black-Scholes warrant pricing model with the following assumptions:

	Years Ended December 31,	
	2021	2020
Risk-free interest rate	0.4% – 0.6 %	0.4 %
Expected volatility	55.0 %	50.0 %
Expected life (in years)	4.8	4.9
Expected dividend yield	—	—
Fair value of Common Stock	\$ 19.82 – 30.49	\$ 17.20
Exercise price	\$ 11.50	\$ 11.50

All of the Private Placement Warrants were exercised on a cashless basis prior to March 2, 2021, and an aggregate of 5,850,346 shares of the Company’s Common Stock were issued in connection with these exercises. Effective March 2, 2021, all Private Placement Warrants were exercised.

**Legacy Desktop Metal Convertible Preferred Stock**

In connection with the Business Combination, Legacy Desktop Metal’s Convertible Preferred Stock (“Legacy Convertible Preferred Stock”) previously classified as mezzanine was retroactively adjusted, converted into Common Stock, and reclassified to permanent equity as a result of the reverse recapitalization. As of December 31, 2020, there was no Legacy Convertible Preferred Stock authorized, issued or outstanding. The following table summarizes details of Legacy Convertible Preferred Stock authorized, issued and outstanding immediately prior to the Business Combination (\$ in thousands):

Legacy Convertible Preferred Stock Classes	Prior to Business Combination	
	Shares Authorized, Issued and Outstanding	Preferred Stock
Series A Legacy Convertible Preferred Stock, \$0.0001 par value	26,189,545	\$ 13,878
Series B Legacy Convertible Preferred Stock, \$0.0001 par value	23,675,035	37,806
Series C Legacy Convertible Preferred Stock, \$0.0001 par value	13,152,896	44,852
Series D Legacy Convertible Preferred Stock, \$0.0001 par value	21,075,193	180,353
Series E Legacy Convertible Preferred Stock, \$0.0001 par value	13,450,703	134,667
Series E-1 Legacy Convertible Preferred Stock, \$0.0001 par value	2,494,737	24,977
<b>Total</b>	<b>100,038,109</b>	<b>\$ 436,533</b>

The following describes the rights and preferences of the Company’s Legacy Convertible Preferred Stock prior to conversion to common stock in the Business Combination:

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**Voting**—The holders of Legacy Convertible Preferred Stock voted together with all other classes and series of stock as a single class on an as-converted basis. Each share of Legacy Convertible Preferred Stock entitled the holder to such number of votes per share as equaled the whole number of shares of Legacy Desktop Metal common stock into which such share of Legacy Convertible Preferred Stock was convertible. The holders of the Series A Legacy Convertible Preferred Stock were entitled to elect one director to the Company’s board of directors, the holders of the Series B Legacy Convertible Preferred Stock were entitled to elect two directors to the Company’s board of directors, the holders of the Series C Legacy Convertible Preferred Stock were entitled to elect one director to the Company’s board of directors, and the holders of the Series E Legacy Convertible Preferred Stock were entitled to elect one director to the Company’s board of directors. The holders of Legacy Convertible Preferred Stock retained rights to vote on certain specified matters as set forth in the Company’s certificate of incorporation. The holders of Series E-1 Legacy Convertible Preferred Stock were not entitled to vote in elections of directors.

**Dividends**—The holders of Legacy Convertible Preferred Stock were entitled to receive dividends at the rate of 8% of the original issue price for each series of Legacy Convertible Preferred Stock payable only when, as and if, declared by the Company’s board of directors. Through the date of the Business Combination, no dividends had been declared.

**Liquidation**—Upon any liquidation, dissolution, or winding-up of the Company, whether voluntary or involuntary, the holders of the Legacy Convertible Preferred Stock were entitled to first be paid out of assets available for distribution, on a pari passu basis, prior and in preference to any distribution to the holders of Legacy Desktop Metal common stock, the greater of (a) an amount equal to \$0.53372 per share for the Series A Legacy Convertible Preferred Stock, \$1.6013 per share for Series B Legacy Convertible Preferred Stock, \$3.4213 per share for the Series C Legacy Convertible Preferred Stock, \$8.5656 per share for the Series D Legacy Convertible Preferred Stock, and \$10.0211 per share for the Series E and Series E-1 Legacy Convertible Preferred Stock, plus declared but unpaid dividends and (b) an amount per share that would have been payable had all shares of the applicable series of Legacy Convertible Preferred Stock been converted to shares of Legacy Desktop Metal common stock immediately prior to any liquidation, dissolution, or winding-up of the Company. After payment of all preferential amounts required to be paid to the holders of Legacy Convertible Preferred Stock, the remaining assets of the Company available for distribution to the stockholders were to be distributed among the holders of shares of Legacy Desktop Metal common stock pro rata based on the number of shares held by each such holder.

**Conversion**—Each holder of Legacy Convertible Preferred Stock had the right, at their option at any time, to convert any such shares of Legacy Convertible Preferred Stock into fully paid and nonassessable shares of Legacy Desktop Metal common stock. The conversion ratio was determined by dividing the original issue price of such share of Legacy Convertible Preferred Stock by the conversion price then in effect, which was equal to \$0.53372 per share for the Series A Legacy Convertible Preferred Stock, \$1.6013 per share for Series B Legacy Convertible Preferred Stock, \$3.4213 per share for the Series C Legacy Convertible Preferred Stock, \$8.5656 per share for the Series D Legacy Convertible Preferred Stock, and \$10.0211 per share for the Series E and Series E-1 Legacy Convertible Preferred Stock. The conversion price was subject to adjustment if certain dilutive events occurred. Conversion was mandatory in the event of a firm-commitment underwritten initial public offering of the Company’s Legacy Desktop Metal common stock with a value of at least \$5.13 per common share and \$50 million in proceeds to the Company or upon the election of a majority of the holders of Legacy Convertible Preferred Stock, voting as a single class on an as-converted basis.

**Redemption**—The Legacy Convertible Preferred Stock was not subject to mandatory or optional redemption other than in connection with a liquidation, dissolution, or winding-up of the Company.

## **20. STOCK BASED COMPENSATION**

In 2015, the Board of Directors approved the adoption of the 2015 stock incentive plan (the “2015 Plan”). The 2015 Plan allowed for the award of incentive and nonqualified stock options, restricted stock, and other stock-based awards to employees, officers, directors, consultants, and advisers of the Company. Awards could be made under the 2015 Plan for up to 26,283,789 shares of Common Stock. Option awards expire 10 years from the grant date and generally vest over four years; however, vesting conditions can vary at the discretion of our Board of Directors.

As part of the acquisition of Make Composites, Inc. (“Make”) in 2019, the Company assumed the 2018 equity incentive plan of Make (the “Make Plan”). The Make Plan allows for the award of incentive and nonqualified stock options and warrants for those

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employees and contractors that were hired as part of the acquisition. The Make Plan allowed for 232,304 options and warrants to be issued, which were issued in 2019, with no additional options to be issued in the future. Option awards expire 10 years from the grant date and generally vest over four years; however, vesting conditions can vary at the discretion of our Board of Directors.

In December 2020, the Board of Directors and stockholders of the Company approved the adoption of the 2020 Incentive Award Plan (the “2020 Plan” and together with the 2015 Plan and the Make Plan, the “Plans”), which became effective on the date of the Business Combination. Upon effectiveness of the 2020 Plan, the Company ceased granting new awards under the 2015 Plan.

The 2020 Plan allows for the award of incentive and nonqualified stock options, restricted stock, and other stock-based awards to employees, officers, directors, consultants, and advisers of the Company. The number of shares of common stock initially available for issuance under the 2020 Plan was 12,400,813 shares of common stock plus the number of shares subject to awards outstanding under the 2015 Plan that expire, lapse, terminate, or are exchanged for cash, surrendered, repurchased, or canceled without having been fully exercised or forfeited. In addition, the number of shares of common stock available for issuance under the 2020 Plan is subject to an annual increase on the first day of each calendar year beginning on January 1, 2021 and ending on and including January 1, 2030 equal to the lesser of (i) 5% of the aggregate number of shares of common stock outstanding on the final day of the immediately preceding calendar year and (ii) such smaller number of shares as is determined by the Board of Directors. On January 1, 2021, 11,337,837 shares were added as available for issuance to the 2020 Plan.

### Stock Options

The Company grants stock options at exercise prices deemed by the Board of Directors to be equal to the fair value of the Common Stock at the time of grant. The fair value of Common Stock has been determined by the Board of Directors of the Company at each stock option measurement date based on a variety of different factors, including the results obtained from independent third-party appraisals, the Company’s consolidated financial position and historical financial performance, the status of technological development within the Company, the composition and ability of the current engineering and management team, an evaluation and benchmark of the Company’s competition, the current climate in the marketplace, the illiquid nature of the Common Stock, arm’s-length sales of the Company’s capital stock, and the prospects of a liquidity event, among others.

In July 2020 in order to incentivize and retain personnel, the Company repriced certain employee unvested stock options held by employees to have an exercise price equal to the most recent 409A private stock valuation. Vested awards were not eligible for repricing. Employees were allowed to opt out of the repricing of unvested stock option grants by providing notice to the Company within a month following the repricing. If an employee did not opt out of the repricing, all unvested options held by such employee were repriced and subject to a new vesting schedule. Repriced options vest over a period of four years from the date of the repricing, with one-year cliff vesting and monthly vesting thereafter. The repricing affected 116 employees, at an incremental compensation cost of \$3.6 million to the Company, which will be recognized over the vesting period.

During the year ended December 31, 2021, the Company did not grant any options to purchase shares of Common Stock to employees. During the year ended December 31, 2020, the Company granted options to purchase 8,450,799 shares of Common Stock to employees with a fair value of \$29.8 million, calculated using the Black-Scholes option-pricing model with the following assumptions:

	Year Ended December 31, 2020
Risk-free interest rate	0.3% – 1.7 %
Expected volatility	52.7% – 54.2 %
Expected life (in years)	5.9 – 6.3
Expected dividend yield	—
Fair value of Common Stock	\$ 1.40 – 7.98

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During the year ended December 31, 2021, the Company did not grant any options to purchase shares of Common Stock to non-employees. During the year ended December 31, 2020, the Company granted options to purchase 12,212 shares of Common Stock to non-employees with a fair value of \$0.1 million, calculated using the Black-Scholes option-pricing model with the following assumptions:

	<u>Year Ended</u> <u>December 31, 2020</u>
Risk-free interest rate	0.6% – 0.8 %
Expected volatility	54.3% – 54.8 %
Expected life (in years)	9.4 – 10.0
Expected dividend yield	—
Fair value of Common Stock	\$ 1.40 – 7.98

The risk-free interest rate assumption is based upon observed interest rates appropriate for the term of the related stock options. The expected life of stock options was calculated using the average of the contractual term of the option and the weighted-average vesting period of the option, as the Company does not have sufficient history to use an alternative method to the simplified method to calculate an expected life for employees. The Company has not paid a dividend and is not expected to pay a dividend in the foreseeable future. Expected volatility for the Common Stock was determined based on an average of the historical volatility of a peer group of similar public companies.

*Performance-Based Stock Options (included above)*

During the year ended December 31, 2020, 560,256 performance-based stock options were granted to key employees of the Company. These awards vest upon the achievement of certain performance milestones by the Company and prescribed service milestones by the employee. During the year ended December 31, 2021, no performance-based stock options vested and 83,958 performance-based stock options were forfeited during the year ended December 31, 2021 due to employee termination, resulting in the service period not being met. As of December 31, 2021, 476,298 performance-based stock options remain outstanding.

*Assumed Stock Options*

In connection with the acquisition of ExOne, the Company assumed 86,020 unvested stock options which are considered post-combination expense and were valued using the Black-Scholes option-pricing model with the following assumptions:

Risk-free interest rate	0.5% – 0.8 %
Expected volatility	57.2% – 59.4 %
Expected life (in years)	1.0 – 2.8
Expected dividend yield	—
Fair value of Common Stock	\$ 8.61

The risk-free interest rate assumption is based upon observed interest rates appropriate for the term of the related stock options. The expected life of stock options was calculated using the average of the contractual term of the option and the weighted-average vesting period of the option, as the Company does not have sufficient history to use an alternative method to the simplified method to calculate an expected life for employees. The Company has not paid a dividend and is not expected to pay a dividend in the foreseeable future. Expected volatility for the Common Stock was determined based on an average of the historical volatility of a peer group of similar public companies.

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The option activity of the Plans for the year ended December 31, 2021, is as follows (shares in thousands):

	Number of Shares	Weighted-Average Exercise Price per Share	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2021	19,553	\$ 1.53	7.75	\$ 306,408
Granted	86	\$ 4.47		
Exercised	(5,732)	\$ 1.12		
Forfeited/expired	(658)	\$ 1.46		
Outstanding at December 31, 2021	<u>13,249</u>	\$ 1.73	7.23	\$ 42,775
Options vested at December 31, 2021	<u>8,328</u>	\$ 1.85	6.53	\$ 25,852
Options vested or expected to vest at December 31, 2021	<u>12,704</u>	\$ 1.74	7.18	\$ 40,852

The weighted-average grant-date fair value for options granted during 2021 and 2020 was approximately \$5.24 and \$3.52, respectively. The aggregate intrinsic value of options exercised during the years ended December 31, 2021 and 2020, was \$57.2 million and \$1.8 million, respectively.

On September 28, 2020 the Company modified the vesting conditions for certain awards granted to one of our officers such that in the event of a change in control, half of the outstanding unvested options would vest. Upon the Business Combination, the total incremental compensation expense resulting from the modification was approximately \$1.8 million.

The total stock-based compensation expense related to stock options during the years ended December 31, 2021 and 2020 was \$6.9 million and \$6.8 million respectively. Total unrecognized stock-based compensation expense related to unvested stock options at December 31, 2021 aggregated \$8.1 million and is expected to be recognized over a weighted-average period of 2.4 years.

**Restricted Stock Awards**

In connection with acquisitions, the Company has granted RSAs that are considered post-combination expense and accounted for as stock-based compensation as the shares vest.

The activity for stock subject to vesting under the Plans for the year ended December 31, 2021 is as follows (shares in thousands):

	Shares Subject to Vesting	Weighted-Average Grant Date Fair Value
Balance of unvested shares as of January 1, 2021	280	\$ 4.08
Issuance of additional shares	476	\$ 8.78
Vested	(492)	\$ 6.64
Balance of unvested shares as of December 31, 2021	<u>264</u>	\$ 7.79

The total stock-based compensation expense related to RSAs during the years ended December 31, 2021 and 2020 was \$3.1 million and \$0.6 million, respectively. As of December 31, 2021, the total unrecognized stock-based compensation expense related to unvested RSAs aggregated \$1.8 million, and is expected to be recognized over a weighted-average period of 1.8 years.

**Restricted Stock Units**

RSUs awarded to employees and non-employees generally vest over four years from the anniversary date of the grant, with 1-year cliff vesting and quarterly vesting thereafter, provided service with the Company is not terminated. The fair value of RSUs is equal to the estimated fair market value of the Company's Common Stock on the date of grant.

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RSU activity under the 2020 Plan for the year ended December 31, 2021 is as follows (shares in thousands):

	Shares Subject to Vesting	Weighted-Average Grant Date Fair Value
Balance of unvested shares as of January 1, 2021	683	\$ 8.02
Granted	19,046	\$ 7.12
Vested	(651)	\$ 11.29
Cancelled/Forfeited	(2,683)	\$ 3.12
Balance of unvested shares as of December 31, 2021	16,395	\$ 7.54

The total stock-based compensation expense related to RSUs during the years ended December 31, 2021 and 2020 was \$18.8 million and \$0.6 million, respectively. Total unrecognized compensation costs related to unvested RSUs at December 31, 2021 was approximately \$103.5 million and is expected to be recognized over a weighted-average period of 3.5 years.

Restricted stock units include awards that vest subject to certain performance and market-based criteria.

*Performance-Based Restricted Stock Units (included above)*

During the year ended December 31, 2021, 670,000 performance-based RSUs were granted to key employees of the Company. These awards vest upon the achievement of certain performance milestones by the Company and prescribed service milestones by the employee. No performance-based RSUs vested during the year ended December 31, 2021. 120,000 awards were forfeited during the year ended December 31, 2021 due to performance milestones not being achieved. As of December 31, 2021, 550,000 performance-based RSUs remain outstanding.

During the year ended December 31, 2020, 124,300 performance-based RSUs were granted to a key employee of the Company. This award vests upon the achievement of certain performance milestones by the Company and prescribed service milestones by the employee. None of these performance-based RSUs vested during the year ended December 31, 2021. As of December 31, 2021, 124,300 performance based RSUs remain outstanding.

*Market-Based Restricted Stock Units (included above)*

In October 2021 the Compensation Committee of the Company's Board of Directors awarded certain executive officers a total of up to 9,070,269 market-based restricted share units. These restricted stock units will vest and result in the issuance of shares of Common Stock based on continuing employment and the achievement of certain market conditions set by the Company.

The Company used a Monte Carlo simulation model to estimate the grant-date fair value of the restricted stock units granted in October 2021. The fair value is recorded as stock compensation expense in the consolidated statements of operations over the period from the date of grant to October 2026 regardless of the actual outcome achieved.

The table below sets forth the assumptions used to value the market-based awards and the estimated grant-date fair value:

	October 2021 Awards
Risk-free interest rate	1.3 %
Expected dividend yield	— %
Remaining performance period (in years)	7.0
Expected volatility	55.0 %
Estimated grant date fair value (per share)	\$ 0.98 – 4.95
Target performance (number of shares)	9,070,269



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During the year ended December 31, 2021, one of the executive officers resigned from the Company, forfeiting his market-based award. As the service condition was not met prior to his resignation, no stock-based compensation expense was recorded for this award. As of December 31, 2021, 6,802,702 market-based restricted share units remain outstanding.

*Liability-Classified Share-Based Arrangement*

During the year ended December 31, 2021, the Compensation Committee of the Company's Board of Directors provided performance goals and achievement criteria to certain key employees. If these performance criteria are met, the Company has committed to issue RSU grants with a target fair value of \$8.5 million on the future grant date. The awards will vest upon prescribed service milestones of the employee subsequent to the achievement of the specified performance criteria. As of December 31, 2021, there is no fair value associated with these awards as the achievement of the performance criteria has not yet been deemed probable. The liability-classified awards have been excluded from the potentially dilutive securities table.

*Stock-Based Compensation Expense*

Total stock-based compensation expense related to all of the Company's stock-based awards granted is reported in the consolidated statements of operations as follows (in thousands):

	Years Ended December 31,	
	2021	2020
Research and development	\$ 11,446	\$ 3,276
General and administrative expense	10,939	3,464
Sales and marketing expense	4,593	894
Cost of sales	1,800	372
Total stock-based compensation expenses	<u>\$ 28,778</u>	<u>\$ 8,006</u>

There were 9,693,395 shares available for award under the 2020 Plan at December 31, 2021.

## 21. RELATED PARTY TRANSACTIONS

As a result of the acquisition of EnvisionTEC, the Company entered into certain agreements with entities affiliated with Mr. El Siblani, who served as a director and executive officer of the Company until his resignation November 5, 2021.

The Company is the lessee in a lease agreement with ATMRE, LLC, a leasing company, in which Mr. El Siblani is the sole member, for the Dearborn, Michigan facility utilized by EnvisionTEC. This lease extends through December 31, 2023. As of December 31, 2021, the Company recorded \$0.3 million of right of use asset and \$0.4 million of lease liability. During the year ended December 31, 2021, the Company paid \$0.2 million of lease expense to AMTRE, LLC. The Company's annual commitment to AMTRE, LLC is \$0.2 million.

The Company is the lessee in a lease agreement with JES Besitzgesellschaft GmbH, a leasing company that is controlled by members of the immediate family of Mr. El Siblani, for facilities located in Gladbeck, Germany utilized by EnvisionTEC. This lease extends through December 31, 2022. As of December 31, 2021, the Company recorded \$0.1 million of right of use asset and lease liability. During the year ended December 31, 2021, the Company paid \$0.1 million of lease expense to JES Besitzgesellschaft GmbH. The Company's annual commitment to JES Besitzgesellschaft GmbH is \$0.1 million.

The Company is the lessee in a lease agreement with Sitraco (UK) Limited, a leasing company that is controlled by Mr. El Siblani, for an additional facility located in Gladbeck, Germany utilized by EnvisionTEC. This lease extends through December 31, 2022. As of December 31, 2021, the Company recorded \$0.1 million of right of use asset and lease liability. During the year ended December 31, 2021, the Company paid \$0.1 million of lease expense to Sitraco (UK) Limited. The Company's annual commitment to Sitraco (UK) Limited is \$0.1 million.

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The Company has a distribution agreement with Sibco Europe Ltd., a distributor based out of the United Kingdom. Mr. El Siblani is Managing Director of and sole shareholder of Sibco Europe Ltd. The Company had immaterial sales to Sibco Europe Ltd. for the year ended December 31, 2021. In addition, Sibco Europe Ltd. provides sales and marketing support for EnvisionTEC GmbH. The Company did not incur any expenses to Sibco Europe Ltd. for the year ended December 31, 2021. At December 31, 2021, the Company did not have accounts receivable or accounts payable due to or from Sibco Europe Ltd.

The Company also has an agreement with E3D Technology, a wholly-owned subsidiary of Sibco Europe Ltd., for services including research and development, maintenance, and marketing services. As part of the agreement, the Company also pays a fee for overhead at the facilities where these contracted services are being performed. During the year ended December 31, 2021, the Company paid \$0.3 million service expense to E3D Technology.

As a result of the acquisition of Dental Arts Labs, the Company assumed certain lease agreements with a related party for facilities in Peoria, Illinois used for research and development and administrative purposes. These leases extend through July 31, 2029. As of December 31, 2021, the Company recorded \$3.6 million of right of use asset and lease liability. During the year ended December 31, 2021, the Company paid lease expense of \$0.2 million to the related party. The Company's annual commitment related to these lease agreements is \$0.6 million.

**22. SEGMENT INFORMATION**

In its operation of the business, management, including the Company's chief operating decision maker, who is also Chief Executive Officer, reviews the business as one segment. The Company currently ships its product to markets in the Americas, Europe Middle East and Africa ("EMEA"), and Asia Pacific ("APAC"). Disaggregated revenue data for those markets is as follows (in thousands):

**Revenue during the year ended December 31, 2021**

	Americas	EMEA	APAC	Total
Products	\$ 71,875	\$ 22,404	\$ 11,715	\$ 105,994
Services	4,087	1,693	634	6,414
Total	<u>\$ 75,962</u>	<u>\$ 24,097</u>	<u>\$ 12,349</u>	<u>\$ 112,408</u>

**Revenue during the year ended December 31, 2020**

	Americas	EMEA	APAC	Total
Products	\$ 5,250	\$ 6,629	\$ 1,839	\$ 13,718
Services	1,415	1,159	178	2,752
Total	<u>\$ 6,665</u>	<u>\$ 7,788</u>	<u>\$ 2,017</u>	<u>\$ 16,470</u>

During the years ended December 31, 2021 and 2020, the Company recognized the following revenue from service contracts and cloud-based software licenses over time, and hardware and consumable product shipments and subscription software at a point in time (in thousands):

	Years Ended December 31,	
	2021	2020
Revenue recognized at a point in time	\$ 105,994	\$ 13,718
Revenue recognized over time	6,414	2,752
Total	<u>\$ 112,408</u>	<u>\$ 16,470</u>

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The Company's operations are principally in the United States. The locations of long-lived assets, including property, plant and equipment, net and operating lease right-of-use assets, are summarized as follows (in thousands):

	Years Ended December 31,	
	2021	2020
Americas	\$ 58,355	\$ 12,160
EMEA	11,289	—
APAC	6,861	—
Total long-lived assets	<u>\$ 76,505</u>	<u>\$ 12,160</u>

**23. NET LOSS PER SHARE**

The Company computes basic loss per share and the weighted-average number of Common Stock shares outstanding during each period. Diluted earnings per share include shares issuable upon exercise of outstanding stock options and stock-based awards where the conversion of such instruments would be dilutive.

<i>(in thousands, except per share amounts)</i>	Years Ended December 31,	
	2021	2020
Numerator for basic and diluted net loss per share:		
Net loss	\$ (240,334)	\$ (34,015)
Denominator for basic and diluted net loss per share:		
Weighted-average shares	260,770	157,906
Net loss per share—Basic and Diluted	<u>\$ (0.92)</u>	<u>\$ (0.22)</u>

The Company's potential dilutive securities, which include outstanding Common Stock options, unvested restricted stock units, unvested restricted stock awards and outstanding Common Stock warrants, have been excluded from the computation of diluted net loss per share as the effect would be to reduce the net loss per share. Therefore, the weighted-average number of common shares outstanding used to calculate both basic and diluted net loss per share attributable to common stockholders is the same. The Company excluded the following potential common shares, presented based on amounts outstanding as of December 31, 2021 and 2020, from the computation of diluted net loss per share attributable to common stockholders because including them would have an anti-dilutive effect (in thousands):

	Years Ended December 31,	
	2021	2020
Common Stock options outstanding	13,249	19,553
Unvested restricted stock units outstanding	16,395	683
Unvested restricted stock awards outstanding	264	279
Common Stock warrants outstanding	—	25,010
Unvested Trine Founder Shares, held in escrow	—	1,851
Total shares	<u>29,908</u>	<u>47,376</u>

**DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO  
SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

The following description of the capital stock of Desktop Metal, Inc. (the "Company," "we," "us," and "our") and certain provisions of our certificate of incorporation and bylaws are summaries and are qualified in their entirety by reference to the full text of our certificate of incorporation and bylaws, copies of which have been filed with the Securities and Exchange Commission, and applicable provisions of the General Corporation Law of the State of Delaware (the "DGCL").

**Capital Stock**

Our authorized capital stock consists of 500,000,000 shares of Class A common stock, par value \$0.0001 per share, and 50,000,000 shares of preferred stock, par value \$0.0001 per share. Unless our board of directors determines otherwise, we will issue all shares of our capital stock in uncertificated form.

**Class A Common Stock**

Holders of shares of Class A common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. The holders of Class A common stock do not have cumulative voting rights in the election of directors.

In the event of our liquidation, dissolution or winding up and after payment in full of all amounts required to be paid to creditors and to any future holders of preferred stock having liquidation preferences, if any, the holders of Class A common stock will be entitled to receive pro rata our remaining assets available for distribution. Holders of Class A common stock do not have preemptive, subscription, redemption or conversion rights. There are no redemption or sinking fund provisions applicable to the Class A common stock. The rights, powers, preferences and privileges of holders of the Class A common stock are subject to those of the holders of any shares of preferred stock that the board of directors may authorize and issue in the future.

**Preferred Stock**

Under the terms of the certificate of incorporation, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, powers, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of the outstanding voting stock.

Additionally, the issuance of preferred stock may adversely affect the holders of Class A common stock by restricting dividends on the Class A common stock, diluting the voting power of the Class A common stock or subordinating the liquidation rights of the Class A common stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of the Class A common stock.

**Dividends**

Declaration and payment of any dividend is subject to the discretion of our board of directors. The time and amount of dividends is dependent upon, among other things, our business prospects, results of operations, financial condition, cash requirements and availability, debt repayment obligations, capital expenditure needs, contractual restrictions, covenants in the agreements governing current and future indebtedness, industry trends, the provisions of Delaware law affecting the payment of dividends and distributions to stockholders and any other factors or considerations our board of directors may regard as relevant.

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We currently intend to retain all available funds and any future earnings to fund the development and growth of our business, and therefore do not anticipate declaring or paying any cash dividends on Class A common stock in the foreseeable future.

#### **Anti-Takeover Provisions**

The certificate of incorporation and bylaws contain provisions that may delay, defer or discourage another party from acquiring control of us. We expect that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give our board of directors the power to discourage acquisitions that some stockholders may favor.

#### **Authorized but Unissued Shares**

The authorized but unissued shares of Class A common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the NYSE. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved Class A common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

#### **Classified Board of Directors**

Our certificate of incorporation provides that our board of directors is divided into three classes of directors, with the classes to be as nearly equal in number as possible, and with each director serving a three-year term. As a result, approximately one-third of our board of directors will be elected each year. The classification of directors has the effect of making it more difficult for stockholders to change the composition of our board of directors.

#### **Stockholder Action; Special Meetings of Stockholders**

Our certificate of incorporation provides that stockholders may not take action by written consent, but may only take action at annual or special meetings of stockholders. As a result, a holder controlling a majority of capital stock would not be able to amend the bylaws or remove directors without holding a meeting of stockholders called in accordance with the bylaws. Further, our certificate of incorporation provides that only the chairperson of our board of directors, a majority of our board of directors, our Chief Executive Officer or our President may call special meetings of stockholders, thus prohibiting a stockholder from calling a special meeting. These provisions might delay the ability of stockholders to force consideration of a proposal or for stockholders controlling a majority of capital stock to take any action, including the removal of directors.

#### **Advance Notice Requirements for Stockholder Proposals and Director Nominations**

In addition, our bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting or special meeting of stockholders. Generally, in order for any matter to be “properly brought” before a meeting, the matter must be (a) specified in a notice of meeting given by or at the direction of our board of directors, (b) if not specified in a notice of meeting, otherwise brought before the meeting by our board of directors or the chairperson of the meeting, or (c) otherwise properly brought before the meeting by a stockholder present in person who (1) was a stockholder both at the time of giving the notice and at the time of the meeting, (2) is entitled to vote at the meeting, and (3) has complied with the advance notice procedures specified in our bylaws or properly made such proposal in accordance with Rule 14a-8 under the Exchange Act and the rules and regulations thereunder, which proposal has been included in the proxy statement for the annual meeting. Further, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (a) provide timely notice in writing and in proper form to the secretary and (b) provide any updates or supplements to such notice at the times and in the forms required by our bylaws. To be timely, a stockholder’s notice must be delivered to, or mailed and received at, our principal executive offices not less than 90 days nor more than 120 days prior to the one-year anniversary of the preceding year’s annual meeting; provided, however, that if the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and

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received, not later than the 90th day prior to such annual meeting or, if later, the 10th day following the day on which public disclosure of the date of such annual meeting was first made.

Stockholders at an annual meeting or special meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our board of directors or by a qualified stockholder of record on the record date for such meeting, who is entitled to vote at the meeting and who has delivered timely written notice in proper form to our secretary of the stockholder's intention to bring such business before the meeting. These provisions could have the effect of delaying stockholder actions that are favored by the holders of a majority of the outstanding voting securities until the next stockholder meeting.

#### **Amendment of Certificate of Incorporation or Bylaws**

Our bylaws may be amended or repealed by a majority vote of our board of directors or by the holders of at least sixty-six and two-thirds percent of the voting power of all of the then-outstanding shares entitled to vote generally in the election of directors, voting together as a single class. The affirmative vote of a majority of our board of directors and at least sixty-six and two-thirds percent in voting power of the outstanding shares entitled to vote would be required to amend certain provisions of our certificate of incorporation.

#### **Limitations on Liability and Indemnification of Officers and Directors**

Our certificate of incorporation and bylaws provide indemnification and advancement of expenses for our directors and officers to the fullest extent permitted by the DGCL, subject to certain limited exceptions. We have entered into indemnification agreements with each of our directors and officers. In some cases, the provisions of those indemnification agreements may be broader than the specific indemnification provisions contained under Delaware law. In addition, as permitted by Delaware law, our certificate of incorporation and bylaws include provisions that eliminate the personal liability of directors for monetary damages resulting from breaches of certain fiduciary duties as a director. The effect of this provision is to restrict our rights and the rights of our stockholders in derivative suits to recover monetary damages against a director for breach of fiduciary duties as a director.

These provisions may be held not to be enforceable for violations of the federal securities laws of the United States.

#### **Dissenters' Rights of Appraisal and Payment**

Under the DGCL, with certain exceptions, our stockholders have appraisal rights in connection with a merger or consolidation of our company. Pursuant to Section 262 of the DGCL, stockholders who properly demand and perfect appraisal rights in connection with such merger or consolidation have the right to receive payment of the fair value of their shares as determined by the Delaware Court of Chancery.

#### **Stockholders' Derivative Actions**

Under the DGCL, any of our stockholders may bring an action in our name to procure a judgment in its favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of the our shares at the time of the transaction to which the action relates.

#### **Forum Selection**

Our certificate of incorporation provides that unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by applicable law, is the sole and exclusive forum for: (i) any derivative action brought by a stockholder on behalf of the Company, (ii) any claim of breach of a fiduciary duty owed by any of our directors, officers, stockholders or employees, (iii) any claim against us arising under our certificate of incorporation, bylaws or the DGCL or (iv) any claim against us governed by the internal affairs doctrine. Our certificate of incorporation designates the federal district courts of the United States of America as the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

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**Transfer Agent and Registrar**

The transfer agent and registrar for the Class A common stock is Continental Stock Transfer & Trust Company.

**Trading Symbol and Market**

Our Class A common stock is listed on the NYSE under the symbol "DM".

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**SEPARATION AGREEMENT AND GENERAL RELEASE**

For good and valuable consideration, Desktop Metal, Inc. (the “Company”) and Ali El-Siblani (“Executive”) enter into this Separation Agreement and General Release (this “Agreement”), effective on the Effective Date (as defined in Section 7).

WHEREAS, Executive was employed with the Company pursuant to the parties’ February 16, 2021 employment offer letter agreement (the “Employment Agreement”), and in connection therewith Executive agreed to the covenants set forth in the Invention and Non-Disclosure Agreement and Non-Competition and Non-Solicitation Agreement (the “Covenant Agreements”); and

WHEREAS, Executive is a party to that certain Purchase Agreement and Plan of Merger by and among the Company, Envisiontec Merger Sub, Inc., Envisiontec US LLC, Envisiontec, Inc., Gulf Filtration Systems, Inc., 3dbotics, Inc., and Executive, dated as of January 15, 2021 (the “Purchase Agreement”); and

WHEREAS, Executive has resigned from employment with the Company, effective as November 5, 2021 (the “Separation Date”), and the Company has accepted such resignation, on the terms and conditions set forth below.

NOW, THEREFORE, for the good and valuable consideration set forth below in this Agreement, the adequacy of which Executive specifically acknowledges, the parties agree as follows.

1. **Separation of Employment**. Executive’s employment with the Company and any of its affiliated companies, terminated on the Separation Date. Effective as of the Separation Date, Executive also resigned and, for the avoidance of doubt, hereby ratifies such resignation from the Company’s board of directors (the “Board”), and any committees thereof, and from any board of directors or similar governing bodies of any of the Company’s direct or indirect subsidiaries, and any officer or manager positions he holds at any such entities. Executive has received, or will receive within the time periods required by applicable law, all wages and benefits, including unused vacation or paid time off (to the extent required by applicable law), accruing through the Separation Date, less applicable taxes and withholdings. Executive has also received, or will receive, reimbursement for all reimbursable business expenses incurred by Executive prior to the Separation Date, in accordance with Company policy. Executive acknowledges and agrees that, as of the Separation Date, Executive had no vested rights to Company stock options or other equity awards, and Executive is not entitled to, and hereby waives his rights to, any equity awards from the Company or any of its affiliates.

2. **Separation Benefits**. Provided Executive returns to the Company an executed copy of this Agreement within twenty-one (21) days after receipt and does not revoke the Agreement, and further provided Executive complies with the covenants set forth in this Agreement, the Company will provide Executive with the following benefits (collectively, the “Separation Benefits”):

(a) The Company agrees to pay Executive separation pay equal to twelve (12) months of Executive’s regular base salary, less applicable withholdings and deductions, payable in accordance with the Company’s regular payroll practices in substantially equal installments over the twelve (12) month period immediately following the Separation Date (the “Separation Period”), with the first installment to begin in the pay period following the Effective Date and to include a catch-up payment reflecting the portion of such pay covering the period from the Separation Date through such pay period; and

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(b) If Executive is eligible for and to the extent Executive timely elects continuation of healthcare benefits at Executive's own expense pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or the applicable state equivalent (together, "COBRA"), the Company agrees to pay or reimburse Executive for the employer-portion and the administrative fee of such COBRA benefits for Executive and any dependents, for each month following the Separation Date through the earlier of the expiration of the Separation Period or the date Executive and Executive's covered dependents, if any, become eligible for coverage under another employer's plan, provided Executive submits proof of payment if applicable, and further provided Executive promptly notifies the Company of such eligibility under another employer's plan; and

(c) The Company agrees to execute and deliver a Joint Release Instruction to the Escrow Agent within five (5) Business Days immediately following the Effective Date to cause the release to the Executive of the Retention Escrow Fund (this and other capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement), which equals \$750,000, and the Specified Matters Indemnity Escrow Fund, which equals \$4,000,000, in accordance with the terms of that certain Escrow Agreement entered into on February 16, 2021 (the "Escrow Agreement").

Notwithstanding the foregoing, to the extent the Separation Date and first payroll date to occur after the 30<sup>th</sup> day following the date of Executive's receipt of this Agreement fall in two separate taxable years, notwithstanding anything in this Section 2, any payments or benefits required to be paid or provided to you under this Section 2 prior to such 30<sup>th</sup> day shall be paid or provided in a lump sum on the first payroll date of the subsequent taxable year.

3. **General Release of Claims Against Company.** Except as excluded herein below, Executive, for Executive and Executive's agents, successors, heirs and assigns (all of whom are hereinafter individually and collectively referred to in this Section as "Executive Releasers"), hereby release, remise and forever discharge the Company and any of its subsidiaries, parent companies, affiliates, related companies, divisions, predecessors, successors, interests, assigns, and/or entities in which each has an ownership interest, and each of their future, present, and former members, directors, trustees, agents, servants, shareholders, employees, officers, representatives, attorneys, investors and insurers, and each of their respective heirs, successors, executors and administrators, and all persons acting by, through, under and/or in concert with any of foregoing (all of whom are hereinafter individually and collectively referred to in this Section as "Company Released Parties") of and from any and all claims, demands, causes of action, actions, rights, damages, judgments, costs, compensation, suits, debts, dues, accounts, bonds, covenants, agreements, expenses, attorneys' fees, damages, penalties, punitive damages and liability of any nature whatsoever, in law or in equity or otherwise, which Executive Releasers have had, now have, shall or may have, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, by reason of any cause, matter or thing whatsoever, from the beginning of time up to and including the date that Executive executes this Agreement, including but not limited to claims for:

(a) violation of any written or unwritten contract (including the Employment Agreement), agreement, policy, benefit plan, retirement or pension plan, option plan, severance plan, or covenant of any kind, or failure to pay wages, bonuses, employee benefits, other compensation, attorneys' fees, damages, or any other remuneration (including any equity, ownership interest, management fee, carried interest, partnership interest, distributions, dividends or participation or ownership in any business venture related to the Company); and/or

(b) discrimination, harassment, or retaliation on the basis of any characteristic protected under law, including but not limited to race, color, national origin, sex, pregnancy, sexual orientation, gender identity, religion, disability, marital or parental status, age, union activity or other protected activity; and/or

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(c) denial of protection or benefits under any statute, ordinance, executive order, or regulation, including but not limited to claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Civil Rights Act of 1866, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification, the Employee Retirement Income Security Act of 1974, the Equal Pay Act, the False Claims Act, the Sarbanes-Oxley Act of 2002, the National Labor Relations Act of 1935, the Uniformed Services Employment and Reemployment Rights Act of 1994, Fair Credit Reporting Act, Michigan's Persons with Disabilities Civil Rights Act, Michigan's Payment of Wages and Fringe Benefits Act, Michigan's Workforce Opportunity Wage Act, and Michigan's Elliot-Larsen Civil Rights Act, each as amended, and any other federal, state or local statute, ordinance, order, constitution, or regulation regarding employment, termination of employment, discrimination, harassment, retaliation, notice, or wage and hour matters; and/or

(d) violation of any public policy or common law of any state relating to employment or personal injury, including but not limited to claims for wrongful discharge, defamation, invasion of privacy, infliction of emotional distress, negligence, fraud, and interference with contract.

Executive affirms that as of the date of Executive's signature below, no action or proceeding covered by this Section was pending against any of the Company Released Parties. Notwithstanding the generality of the foregoing, the Executive Releasers do not release: (i) any claims for unemployment benefits, (ii) any rights to bring to the attention of the Equal Employment Opportunity Commission or similar state or local administrative agency claims of discrimination, harassment, interference with leave rights, and retaliation; provided, however, that Executive does release Executive's right to secure damages for any such alleged treatment, (iii) any rights to communicate directly with, cooperate with, or provide information to, any federal, state or local government regulator, including, but not limited to, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, or the U.S. Department of Justice, and (iv) any rights or claims of Executive under this Agreement, the Escrow Agreement, the Registration Rights Agreement, the Purchase Agreement, or any lease agreements between the Company and Sibco Europe Ltd. or E3D Technology Ltd. (each a "Lease"); (v) any rights or claims of any of the Executive Releasers to indemnification (or advancement of expenses) by or from any Company Released Party (whether pursuant under the Indemnification Agreement between the Company and the Executive entered into as of February 16, 2021) at common law or otherwise; or (vi) any vested retirement benefits.

4. **General Release of Claims Against Executive.** Except as excluded herein below, the Company, on its own behalf and on behalf of each of its subsidiaries, parent companies, affiliates, related companies, divisions, predecessors, successors, interests, assigns, and/or entities in which each has an ownership interest, and each of their future, present, and former members, directors, trustees, agents, servants, shareholders, employees, officers, representatives, attorneys, investors and insurers, and each of their respective heirs, successors, executors and administrators, and all persons acting by, through, under and/or in concert with any of foregoing (all of whom are hereinafter individually and collectively referred to in this Section as "Company Releasers") hereby release, remise and forever discharge the Executive and each of Executive's heirs, successors, executors and administrators and all persons acting by, through, under and/or in concert with any of foregoing (all of whom are hereinafter individually and collectively referred to in this Section as "Executive Released Parties") of and from any and all claims, demands, causes of action, actions, rights, damages, judgments, costs, compensation, suits, debts, dues, accounts, bonds, covenants, agreements, expenses, attorneys' fees, damages, penalties, punitive damages and liability of any nature whatsoever, in law or in equity or otherwise, which the Company Releasers

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have had, now have, shall or may have, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, by reason of any cause, matter or thing whatsoever, from the beginning of time up to and including the date that Executive executes this Agreement, including but not limited to claims for or relating to:

- (a) any obligation or liability of Executive pursuant to any agreement between the Executive and any Company Releasor;
- (b) any violation or breach by Executive of any agreement between Executive and any Company Releasor, or any regulation, procedure, code or other policy or governance document of any Company Releasor, in each case prior to the Effective Date; and/or
- (c) any violation of any public policy or common law of any state; and/or
- (d) any indemnification or other claims under the Purchase Agreement pursuant to which any Company Releasor is entitled to or does seek recovery from the Retention Escrow Fund or the Specified Matters Indemnity Escrow Fund pursuant to the Purchase Agreement.

The Company affirms that as of the date of Executive's signature below, no action or proceeding covered by this Section was pending against any of the Executive Released Parties and that the Company is not aware of the basis for any such action or proceeding. Notwithstanding the generality of the foregoing, the Company Releasors do not release any rights or claims of the Company Releasors under this Agreement, any of the Leases or the Purchase Agreement (other than any claims released pursuant to Section 4(d) above).

5. **Restrictive Covenants.**

(a) *The Covenant Agreements.* Executive reaffirms the post-employment covenants set forth in the Covenant Agreements, all of which remain in full force and effect pursuant to their terms. Executive's continued compliance with the Covenant Agreements is a material condition to the Company's agreement to enter into this Agreement.

(b) *Non-Disparagement.* Executive agrees not to make any public or private statements that disparage or defame the Company and its affiliates, including any of their directors, officers and employees, or the their products, services or business practices, publicly or privately, directly or indirectly through others, by use of any words, actions, gestures or medium, including but not limited to on social media or other internet site. The Company agrees to instruct its executive team, including the Company's Human Resource Director, and the Board to not make any public statements that disparage or defame Executive, publicly or privately, directly or indirectly through others, by use of any words, actions, gestures or medium, including but not limited to on social media or other internet site. Nothing in this Section shall prevent any party or individual from: (i) testifying truthfully in response to a subpoena or other legal process; (ii) communicating directly with, cooperating with, or providing information to, any federal, state or local government entity, including, but not limited to, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, or the U.S. Department of Justice; or (iii) engaging in protected conduct which by law cannot be waived by this Agreement.

(c) *Cooperation.* At the request of the Company, Executive will cooperate with the Company and its affiliates regarding any pending, threatened, or future litigation, proceeding, claim or other disputed item involving the Company or its affiliates that relates to matters within the knowledge or responsibility of Executive during his employment on such terms and subject to such conditions (including the payment of a reasonable hourly rate and subject to Executive's availability) as

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are mutually and reasonably agreed by the Company and Executive. The Company agrees to cooperate with Executive to permit Executive to remove his personal belongings from Company premises as soon as reasonably practicable after Executive's execution of this Separation Agreement.

(d) *Return of Company Property.* Executive verifies that he has returned to the Company all Company-owned property in his possession, custody or control (including at his home, in his automobile and elsewhere), including, but not limited to, badges, keys, access cards, credit cards, cell phones, computer equipment, files, records, plans, proposals, and any other documents, including anything containing the Company's proprietary or confidential information, including all electronically stored information in Executive's possession. By signing this Agreement, Executive represents and warrants that all such property has been returned and permanently removed from his personal devices and that he has not retained any copies thereof.

(e) *Ongoing Legal Obligations.* Executive acknowledges that he is aware of the federal securities laws that prohibit any person who has material, non-public information about a company obtained directly or indirectly from that company from purchasing or selling securities of such company or from communicating such information to any other person, including under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.

6. **Section 409A.**

(a) To the extent applicable, this Agreement shall be interpreted in accordance with Code Section 409A and Department of Treasury regulations and other interpretive guidance issued thereunder ("Section 409A"). Notwithstanding any provision of this Agreement to the contrary, if the Company determines that any compensation or benefits payable under this Agreement may be subject to Section 409A, the Company may adopt such amendments to this Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Company determines are necessary or appropriate to avoid the imposition of taxes under Section 409A, including without limitation, actions intended to (i) exempt the compensation and benefits payable under this Agreement from Section 409A, and/or (ii) comply with the requirements of Section 409A; *provided, however*, that this Section 5 shall not create any obligation on the part of the Company to adopt any such amendment, policy or procedure or take any such other action, nor shall the Company have any liability for failing to do so.

(b) Any right to a series of installment payments pursuant to this Agreement, including without limitation the payments or benefits under this Agreement, is to be treated as a right to a series of separate payments. All payments of nonqualified deferred compensation subject to Section 409A to be made upon a termination of employment under this Agreement may only be made upon a Separation from Service (as such term is defined in Treasury Regulation Section 1.409A-1(h) and any successor thereto). Any payments subject to Section 409A that are subject to execution of a waiver and release which may be executed and/or revoked in a calendar year following the calendar year in which the payment event (such as termination of employment) occurs shall commence payment only in the calendar year in which the consideration period or, if applicable, release revocation period ends, as necessary to comply with Section 409A.

(c) Intentionally Omitted.

(d) To the extent that any payments or reimbursements provided to Executive under this Agreement are deemed to constitute compensation to Executive to which Treasury Regulation Section 1.409A-3(i)(1)(iv) would apply, such amounts shall be paid or reimbursed reasonably promptly, but not later than December 31 of the year following the year in which the expense was incurred. The

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amount of any such payments eligible for reimbursement in one year shall not affect the amount of payments or expenses that are eligible for payment or reimbursement in any other taxable year, and Executive's right to such payments or reimbursement of any such expenses shall not be subject to liquidation or exchange for any other benefit.

7. **Miscellaneous**

(a) *Assignment.* The Company may assign this Agreement and such assignment will take effect for the benefit of, and be binding on, any successors or assigns of the Company created by merger, reorganization, and sale of assets or otherwise. Executive hereby consents and agrees to such assignment and enforcement of such rights and obligations by the Company's successors or assigns, without further action required.

(b) *No Admission.* This Agreement is not, and shall not be construed to be, an admission of liability, culpability or any other legal conclusion.

(c) *Governing Law.* The validity, interpretation, enforceability, and performance of this Agreement must be governed by and construed in accordance with the laws of the State of Michigan, exclusive of its choice-of-law rules.

(d) *Arbitration.* Any controversy, dispute or claim arising from or concerning this Agreement or any benefit provided herein will be resolved through final and binding arbitration administered by JAMS in accordance with the JAMS Employment Arbitration Rules & Procedures, available for review at <http://www.jamsadr.com/rules-employment-arbitration>. The arbitration will be conducted at the JAMS resolution closest to Executive's work location immediately prior to the Separation Date or at such other mutually convenient location as Executive and the Company may mutually agree. The parties shall equally split all arbitration fees unless otherwise required by applicable law, but each party will be responsible for their own legal fees or costs unless the arbitrator awards fees or costs in accordance with applicable law. Executive and the Company each agree that any arbitration will be conducted only on an individual basis and that no dispute between Executive and the Company relating to this Agreement may be consolidated or joined with a dispute between any other employee and the Company, nor may Executive seek to bring Executive's dispute on behalf of other Company employees as a class or collective action.

(e) *Entire Agreement.* This Agreement constitutes the entire understanding between the parties regarding Executive's separation from employment with the Company and supersedes any prior written or oral agreements regarding such employment, except as expressly preserved in this Agreement. Executive also acknowledges that there are no representations by the Company, oral or written, which are not set forth in this Agreement upon which Executive relied in signing this Agreement. This Agreement cannot be modified or amended except by written agreement signed by both Executive and the Company.

(f) *Construction.* If any provision of this Agreement is declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions of the Agreement shall not be affected thereby and the illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

8. **Effective Date**. This Agreement will become effective on the date Executive and the Company have signed this Agreement (the "Effective Date").

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9. **Acknowledgment**. Executive acknowledges that (a) Executive has carefully reviewed this Agreement and understands its meaning; (b) the Company hereby advises the Executive to consult with an attorney in conjunction with this Agreement; and (c) Executive is signing this Agreement knowingly, willingly, and without duress.

*Signature Page Follows*

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Intending to be legally bound by this Agreement, the parties have provided their signatures on the dates indicated below.

**COMPANY**

**Desktop Metal, Inc.**

**Signature:** /s/ Ric Fulop

**Date:** November 11, 2021

**Title:** Founder and CEO

**EXECUTIVE**

**Ali El-Siblani**

**Signature:** /s/ Ali El-Siblani

**Date:** November 11, 2021

**Print:** Ali El-Siblani

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**TRANSITION AND SEPARATION AGREEMENT**

This Transition and Separation Agreement (the “Agreement”) is made as of January 4, 2022, by and between Steve Billow (“Executive”) and Desktop Metal, Inc., a Delaware corporation (the “Company”). Except as set forth in this Agreement, capitalized terms used but not defined herein shall have the meanings ascribed to them in the Offer Letter (as defined below).

**WHEREAS**, Executive currently serves as President of the Company pursuant to that certain offer letter between Executive and the Company dated January 31, 2019 (the “Offer Letter”);

**WHEREAS**, effective as of December 31, 2021 (the “Effective Date”) the parties have agreed that Executive shall no longer serve as President; and

**WHEREAS**, the Company desires to provide for an orderly transition of Executive’s duties and responsibilities and Executive desires to assist the Company in realizing an orderly transition.

**NOW, THEREFORE**, in exchange for the good and valuable consideration set forth herein, the adequacy of which is specifically acknowledged, Executive and the Company (collectively referred to as the “parties” or individually as a “party”) hereby agree as follows:

1. Transition Term.

(a) Effective as of the Effective Date, Executive shall cease to serve as the Company’s President and shall cease to serve in any other officer or director capacity with the Company or any of its subsidiaries. From the Effective Date through June 30, 2021 (the “Transition Term”) Executive shall continue as a full-time (except as provided below), at-will non-officer employee of the Company and shall provide such duties and responsibilities as may be reasonably requested by the Company, including (i) [\*\*\*] and (ii) [\*\*\*]. During the Transition Term, Executive will perform the Services in substantially the same manner and with substantially the same effort, time commitment and level of care as Executive has historically performed duties for the Company prior to the Effective Date and, in all instances, in compliance with all applicable laws and Company policies.

(b) During the Transition Term, the Company shall continue to pay Executive a salary at an annual rate of \$360,000, pro-rated for any partial period of service and less all amounts required or authorized to be withheld by law, including all applicable federal, state and local withholding taxes, payable in accordance with the Company’s standard payroll policies (the

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“Current Salary”). During the Transition Term, Executive shall continue to be eligible to participate in the same medical, dental and health and welfare benefit plans that Executive participated in on the Effective Date, subject to the terms and conditions of such plans. Executive shall not be eligible to participate in any bonus program during the Transition Term.

(c) During the Transition Term, Executive will comply in full with Executive’s obligations under this Agreement and Executive’s obligations under the Executive’s Invention and Non-Disclosure Agreement and Non-Competition and Non-Solicitation Agreement with the Company (collectively, the “Restrictive Covenant Agreements”). The parties hereby agree that for good and valuable consideration the obligations set forth in the Restrictive Covenant Agreement shall be in force for a period of 18 months from the Termination Date unless the Company terminates Executive’s employment prior to the last day of the Transition Term without Cause in which case the Restrictive Covenant Agreement shall be in force for a period of 12 months from the Termination Date.

(d) If the Company terminates Executive’s employment prior to the last day of the Transition Term without Cause, and subject to (i) Executive’s continued compliance with the Restrictive Covenant Agreements and (ii) Executive executing the Release within twenty one (21) days following the Termination Date and such Release becoming effective on the Subsequent Release Effective Date, the Company shall pay to Executive any unpaid portion of the Current Salary that would have been paid to Executive had Executive remained continuously employed by the Company through the last day of the Transition and the Executive shall be entitled to the Severance and COBRA benefits set forth in Section 4 of this Agreement.

(e) Executive acknowledges and agrees that neither Executive no longer serving as the Company’s President as of the Effective Date nor any of the changes to Executive’s terms and conditions of employment as provided for under this Agreement shall constitute “Good Reason” under the Offer Letter.

2. At-Will Employment. Executive acknowledges and agrees that Executive’s employment with the Company shall terminate effective as of June 30, 2021, unless earlier terminated in accordance with the terms of this Agreement (the actual date of Executive’s termination of employment, the “Termination Date”). Notwithstanding the foregoing, Executive’s employment with the Company will at all times remain terminable by either Executive or the Company at will, and nothing in this Agreement confers upon Executive any right to continue to serve as an employee or other service provider of the Company or interferes with or restricts the rights of the Company to discharge or terminate the services of Executive at any time for any or no reason, with or without Cause (as defined in the Offer Letter), subject to the provisions of Section 4. Effective as of the Termination Date, Executive shall cease to hold any position (whether as an officer, director, manager, employee, trustee, fiduciary, or otherwise) with, and shall cease to exercise or convey any authority (actual, apparent, or otherwise) on behalf of, the Company.

3. Post Transition Term Payments and Benefits. If Executive remains continuously employed by the Company through the Transition Term, and provided that Executive complies with the terms of this Agreement at all times, and subject to (i) Executive’s continued

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compliance with the Restrictive Covenant Agreements and (ii) Executive executing the General Waiver and Release of Claims in the form attached hereto as Exhibit A (the “Release”) within five (5) days following the Termination Date and such Release becoming effective upon expiration of any applicable revocation period set forth in the attached Exhibit A (such effective date being the “Subsequent Release Effective Date”), as a material inducement for Executive to enter into this Agreement, Executive shall be entitled to receive the benefits set forth in Section

4. COBRA and Severance.

(i) The Company will pay Executive severance equal to 6 months of Executive’s base salary rate, less applicable taxes, garnishments and any other withholding required by law or authorized by Executive. The severance will be paid semi-monthly in 12 equal installments.

(ii) The COBRA Benefits through December 31, 2022. Notwithstanding the foregoing, if at any time the Company determines that it cannot provide the foregoing benefit without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act) or incurring an excise tax, the Company may alter the manner in which medical, dental and/or vision insurance coverage is provided to Executive after the Termination Date to the extent it does not increase the after-tax cost or materially diminish the level of such coverage for Executive.

Upon Executive’s termination of employment for any reason, the Company shall pay to Executive (i) Executive’s earned but unpaid base salary through the Termination Date and (ii) any other amounts or benefits, if any, under the Company’s employee benefit plans, programs or arrangements to which Executive may be entitled pursuant to the terms of such plans, programs or arrangements or applicable law, payable in accordance with the terms of such plans, programs or arrangements or as otherwise required by applicable law. Except as expressly set forth herein, all other rights and benefits of Executive will terminate on the Termination Date. In addition, the benefits provided in Section 4(i) are intended to be paid in lieu of any severance payments or benefits Executive may otherwise be entitled to receive under the Offer Letter or any other plan, program, policy or agreement with the Company or any of its affiliates (collectively, “Other Arrangements”). Therefore, Executive shall not be entitled to receive any severance payments or severance benefits (including any accelerated vesting of equity awards) pursuant to any Other Arrangements.

5. General Release and Waiver.

(a) *Release of Claims.* In consideration for the execution and delivery of this Agreement, and the undertakings provided for herein, none of which is otherwise required, and as a material inducement for the Company to enter into this Agreement, Executive agrees that, other than with respect to the Retained Claims (as defined in Section 5(b) below), the foregoing consideration represents settlement in full of all outstanding obligations owed to Executive by the Company, any of their direct or indirect subsidiaries and affiliates, and any of their current and former officers, directors, equity holders, managers, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, insurers, trustees,

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divisions, and subsidiaries and predecessor and successor corporations and assigns (collectively, the “Releasees”). Executive, on Executive’s own behalf and on behalf of any of Executive’s affiliated companies or entities and any of their respective heirs, family members, executors, agents, and assigns, other than with respect to the Retained Claims, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Executive may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up to and through the date Executive signs this Agreement, including, without limitation:

- (i) any and all claims relating to or arising from Executive’s employment or service relationship with the Company or any of its direct or indirect subsidiaries or affiliates and the termination of that relationship;
  - (ii) any and all claims relating to, or arising from, Executive’s right to purchase, or actual purchase of any shares of stock or other equity interests of the Company or any of its affiliates, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;
  - (iii) any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; harassment; retaliation; breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion; and disability benefits;
  - (iv) any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Credit Reporting Act; the Age Discrimination in Employment Act of 1967; the Older Workers Benefit Protection Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Family and Medical Leave Act; the Sarbanes-Oxley Act of 2002;
  - (v) any and all claims for violation of the federal or any state constitution;
  - (vi) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;
  - (vii) any claim for any loss, cost, damage, or expense arising out of any dispute over the non-withholding or other tax treatment of any of the proceeds received by Executive as a result of this release;
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(viii) any and all claims arising out of the wage and hour and wage payments laws and regulations of the state or states in which Executive has provided service to the Company or any of its affiliates (including without limitation the Massachusetts Payment of Wages Law); and

(ix) any and all claims for attorneys' fees and costs.

(b) *Retained Claims.* Executive agrees that the release set forth in this Section 5 shall be and remain in effect in all respects as a complete general release as to the matters released. Notwithstanding the foregoing, for the avoidance of doubt, nothing herein will be deemed to release any rights or remedies in connection with Executive's ownership of vested equity securities of the Company or Executive's right to indemnification by the Company or any of its affiliates pursuant to contract or applicable law (collectively, the "Retained Claims"). This release also does not release claims that cannot be released as a matter of law, including, but not limited to, Executive's right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company (with the understanding that Executive's release of claims herein bars Executive from recovering such monetary relief from the Company or any Releasee), claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law, claims to continued participation in certain of the Company's group benefit plans pursuant to the terms and conditions of COBRA, and claims to any benefit entitlements vested as the date of separation of Executive's employment, pursuant to written terms of any employee benefit plan of the Company or its affiliates and Executive's right under applicable law.

(c) *Waiver.* Executive understands and acknowledges that Executive is waiving and releasing any rights Executive may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Executive understands and agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the effective date of this release, as set forth in Section 5(d). Executive understands and acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Executive was already entitled. Executive further understands and acknowledges that Executive has been advised by this writing that: (a) Executive should consult with an attorney prior to executing this release; (b) Executive has 21 days within which to consider this release, and the parties agree that such time period to review this release shall not be extended upon any material or immaterial changes to this Agreement; (c) Executive has 7 days following Executive's execution of this release to revoke this release pursuant to written notice to the Secretary of the Company; (d) this release shall not be effective until after the revocation period has expired; and (e) nothing in this release prevents or precludes Executive from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Executive signs this Agreement and returns it to the Company in less than the 21 day period identified above, Executive hereby acknowledges that Executive has freely and voluntarily chosen to waive the time period allotted for considering this release.

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(d) *Effective Date.* Each party has seven days after that party signs this Agreement to revoke it and this release will become effective on the eighth day after Executive signs this Agreement, so long as it has been signed by the parties and has not been revoked by either party before that date.

(e) *Voluntary Execution of Release.* Executive understands and agrees that Executive executed this release voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Executive's claims against the Company and any of the other Releasees. Executive acknowledges that: (a) Executive has read this release; (b) Executive has not relied upon any representations or statements made by the Company that are not specifically set forth in this release; (c) Executive has been represented in the preparation, negotiation, and execution of this release by legal counsel of Executive's own choice or has elected not to retain legal counsel; (d) Executive understands the terms and consequences of this release and of the releases it contains; and (e) Executive is fully aware of the legal and binding effect of this release.

6. Return of Company Property. On the Termination Date or such earlier date as requested by the Company, Executive shall return any property of the Company or its affiliates (including, without limitation, proprietary information or intellectual property) that is within Executive's custody or control.

7. Non-Disparagement. The Executive agrees, from and after the date of this Agreement, to refrain from Disparaging (as defined below) the Company and its affiliates, including any of its services, technologies or practices, or any of its directors, officers, agents, representatives or stockholders, either orally or in writing. Nothing in this paragraph shall preclude Executive from making truthful statements that are reasonably necessary to comply with applicable law, regulation or legal process, or to defend or enforce a party's rights under this Agreement. The Company agrees and shall use best efforts to cause its respective officers and directors to refrain from Disparaging Executive. For purposes of this Agreement, "Disparaging" means making remarks, comments or statements, whether written or oral, that impugn the character, integrity, reputation or abilities of the Person being disparaged.

8. Continuing Obligations. The Company and Executive agree that the Restrictive Covenant Agreements shall remain in full force and effect after the Termination Date in accordance with the terms of such agreements as modified herein.

9. Taxes. The Company shall be entitled to (and intends to) withhold from any amounts payable under this Agreement any federal, state, local or foreign withholding or other taxes or charges. To the extent any taxes may be due on the payments to Executive provided in this Agreement beyond any withheld by the Company, Executive agrees to pay them himself. Executive further agrees to provide any and all information pertaining to Executive upon request as reasonably necessary for the Company and its affiliates to comply with applicable tax laws.

10. General Provisions.

(a) *Successors and Assigns.* The rights of the Company under this Agreement may, without the consent of Executive, be assigned by the Company in its sole and unfettered

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discretion, to any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly, acquires all or substantially all of the assets or business of the Company. The Company will require any successor (whether direct or indirect, by purchase, merger or otherwise) to all or substantially all of the business or assets of the Company expressly to assume and to agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. The failure of any such successor to so assume this Agreement shall constitute a material breach of this Agreement by the Company. As used in this Section 10(a), the “Company” shall mean the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law or otherwise. Executive shall not be entitled to assign any of Executive’s rights or obligations under this Agreement. This Agreement shall inure to the benefit of and be enforceable by Executive’s personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

(b) *Severability.* In the event any provision of this Agreement is found to be unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to allow enforceability of the provision as so limited, it being intended that the parties shall receive the benefit contemplated herein to the fullest extent permitted by law. If a deemed modification is not satisfactory in the judgment of such court, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

(c) *Interpretation; Construction.* The headings set forth in this Agreement are for convenience only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but Executive has participated in the negotiation of its terms. Furthermore, Executive acknowledges that Executive has had an opportunity to review and revise the Agreement and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. Either party’s failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision, or prevent that party thereafter from enforcing each and every other provision of this Agreement.

(d) *Governing Law.* This Agreement shall be governed, construed, interpreted and enforced in accordance with its express terms, and otherwise in accordance with the substantive laws of the Commonwealth of Massachusetts without reference to the principles of conflicts of law of the Commonwealth of Massachusetts or any other jurisdiction, and where applicable, the laws of the United States.

(e) *Notices.* Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to Executive at the address set forth below and to the Company at its principal place of business, or such other address as either party may specify in writing.

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(f) *Survival.* Sections 7 (“Non-Disparagement”), 8 (“Continuing Obligations”) and 10 (“General Provisions”) of this Agreement shall survive the expiration or termination of this Agreement.

(g) *Entire Agreement.* The terms of this Agreement are intended by the parties to be the final expression of their agreement with respect to the employment of Executive by the Company and supersede all prior understandings and agreements, whether written or oral, other than as set forth in Section 8 of this Agreement. This Agreement may be amended or modified only with the written consent of Executive and an authorized representative of the Company. No oral waiver, amendment or modification will be effective under any circumstances whatsoever.

(h) *Whistleblower Protections; Trade Secrets.* Nothing in this Agreement, the Restrictive Covenant Agreements or any other prior agreement between Executive and the Company (together, the “Subject Documents”) prevents Executive from reporting possible violations of law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or any other whistleblower protection provisions of state or federal law or regulation (including the right to receive an award for information provided to any such government agencies). Furthermore, in accordance with 18 U.S.C. § 1833, notwithstanding anything to the contrary in any Subject Document: (a) Executive shall not be in breach of any Subject Document, and shall not be held criminally or civilly liable under any federal or state trade secret law (i) for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (ii) for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; and (b) if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive’s attorney, and may use the trade secret information in the court proceeding, if Executive files any document containing the trade secret under seal, and does not disclose the trade secret, except pursuant to court order.

(i) *Code Section 409A.*

(i) The intent of the parties is that the payments and benefits under this Agreement comply with or be exempt from Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and guidance promulgated thereunder (collectively, “Section 409A”) and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith.

(ii) If Executive is deemed by the Company at the time of Executive’s “separation from service” within the meaning of Section 409A to be a “specified employee” for purposes of Section 409A, to the extent delayed commencement of any portion of the benefits to which Executive is entitled under this Agreement is required in order to avoid a prohibited distribution under Section 409A, such portion of Executive’s benefits shall not be provided to Executive prior to the earlier of (i) the expiration of the six-month period measured from the date of Executive’s separation from service with the Company or (ii) the date of Executive’s death.

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Upon the first business day following the expiration of the applicable period, all payments deferred pursuant to the preceding sentence shall be paid in a lump sum to Executive (or Executive's estate or beneficiaries), and any remaining payments due to Executive under this Agreement shall be paid as otherwise provided herein.

(iii) Executive's right to receive any installment payments under this Agreement shall be treated as a right to receive a series of separate payments and, accordingly, each such installment payment shall at all times be considered a separate and distinct payment as permitted under Section 409A. Except as otherwise permitted under Section 409A, no payment hereunder shall be accelerated or deferred unless such acceleration or deferral would not result in additional tax or interest pursuant to Section 409A.

(iv) To the extent that any reimbursements under this Agreement are subject to Section 409A, any such reimbursements payable to Executive shall be paid to Executive no later than December 31 of the year following the year in which the expense was incurred; provided, that Executive submits Executive's reimbursement request promptly following the date the expense is incurred, the amount of expenses reimbursed in one year and the amount of in-kind benefits provided in one year shall not affect the amount eligible for reimbursement or in-kind benefits to be provided in any subsequent year, other than medical expenses referred to in Section 105(b) of the Code, and Executive's right to reimbursement or in-kind benefits under this Agreement will not be subject to liquidation or exchange for another benefit.

(j) *Consultation with Legal and Financial Advisors.* By executing this Agreement, Executive acknowledges that this Agreement confers significant legal rights, and may also involve the waiver of rights under other agreements; that the Company has encouraged Executive to consult with Executive's personal legal and financial advisors; and that Executive has had adequate time to consult with Executive's advisors before executing this Agreement.

(k) *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

*(Signature Page Follows)*

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DISCLOSED**

IN WITNESS WHEREOF, and intending to be legally bound, the parties have executed the foregoing on the dates shown below.

**DESKTOP METAL, INC.**

By: /s/Ric Fulop\_\_\_\_\_  
Name: Ric Fulop  
Title: Founder and CEO

Date: January 6, 2022

**EXECUTIVE**

By: /s/ Steve Billow\_\_\_\_\_  
Steve Billow

Date: January 4, 2022

---

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**Exhibit A**

**GENERAL WAIVER AND RELEASE OF CLAIMS**

Reference is made to the Transition and Separation Agreement, dated as of February [ ], 2021 (the “Agreement”), to which this General Waiver and Release of Claims (the “Release”) is attached. Capitalized terms used but not defined in this Release will have the meanings given to them in the Agreement.

1. *Release of Claims.* Executive agrees that, other than with respect to the Retained Claims (as defined in Section 1(b) below), the consideration described in Section [3/4] of the Agreement represents settlement in full of all outstanding obligations owed to Executive by the Company, any of their direct or indirect subsidiaries and affiliates, and any of their current and former officers, directors, equity holders, managers, employees, agents, investors, attorneys, shareholders, administrators, affiliates, benefit plans, plan administrators, insurers, trustees, divisions, and subsidiaries and predecessor and successor corporations and assigns (collectively, the “Releasees”). Executive, on Executive’s own behalf and on behalf of any of Executive’s affiliated companies or entities and any of their respective heirs, family members, executors, agents, and assigns, other than with respect to the Retained Claims, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute, or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Executive may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up to and through the date Executive signs this Release, including, without limitation:

(i) any and all claims relating to or arising from Executive’s employment or service relationship with the Company or any of its direct or indirect subsidiaries or affiliates and the termination of that relationship;

(ii) any and all claims relating to, or arising from, Executive’s right to purchase, or actual purchase of any shares of stock or other equity interests of the Company or any of its affiliates, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

(iii) any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; harassment; retaliation; breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion; and disability benefits;

(iv) any and all claims for violation of any federal, state, or municipal

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statute, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Credit Reporting Act; the Age Discrimination in Employment Act of 1967; the Older Workers Benefit Protection Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Family and Medical Leave Act; the Sarbanes-Oxley Act of 2002;

(v) any and all claims for violation of the federal or any state constitution;

(vi) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;

(vii) any claim for any loss, cost, damage, or expense arising out of any dispute over the non-withholding or other tax treatment of any of the proceeds received by Executive as a result of this release;

(viii) any and all claims arising out of the wage and hour and wage payments laws and regulations of the state or states in which Executive has provided service to the Company or any of its affiliates (including without limitation the Massachusetts Payment of Wages Law); and

(ix) any and all claims for attorneys' fees and costs.

2. *Retained Claims.* Executive agrees that this Release shall be and remain in effect in all respects as a complete general release as to the matters released. Notwithstanding the foregoing, for the avoidance of doubt, nothing herein will be deemed to release any rights or remedies in connection with Executive's ownership of vested equity securities of the Company or Executive's right to indemnification by the Company or any of its affiliates pursuant to contract or applicable law (collectively, the "Retained Claims"). This Release also does not release claims that cannot be released as a matter of law, including, but not limited to, Executive's right to file a charge with or participate in a charge by the Equal Employment Opportunity Commission, or any other local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, against the Company (with the understanding that Executive's release of claims herein bars Executive from recovering such monetary relief from the Company or any Releasee), claims for unemployment compensation or any state disability insurance benefits pursuant to the terms of applicable state law, claims to continued participation in certain of the Company's group benefit plans pursuant to the terms and conditions of COBRA, and claims to any benefit entitlements vested as the date of separation of Executive's employment, pursuant to written terms of any employee benefit plan of the Company or its affiliates and Executive's right under applicable law.

3. *Waiver.* Executive understands and acknowledges that Executive is waiving and releasing any rights Executive may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Executive understands and agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the effective date of this release, as set forth in Section 4.

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Executive understands and acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Executive was already entitled. Executive further understands and acknowledges that Executive has been advised by this writing that: (a) Executive should consult with an attorney prior to executing this Release; (b) Executive has 21 days within which to consider this Release, and the parties agree that such time period to review this Release shall not be extended upon any material or immaterial changes to this Agreement; (c) Executive has 7 days following Executive's execution of this Release to revoke this Release pursuant to written notice to the Secretary of the Company; (d) this Release shall not be effective until after the revocation period has expired; and (e) nothing in this Release prevents or precludes Executive from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Executive signs this Release and returns it to the Company in less than the 21 day period identified above, Executive hereby acknowledges that Executive has freely and voluntarily chosen to waive the time period allotted for considering this Release.

4. *Effective Date.* Each party has seven days after that party signs this Release to revoke it and this Release will become effective on the eighth day after Executive signs it, so long as it has been signed by the parties and has not been revoked by either party before that date.

5. *Voluntary Execution of Release.* Executive understands and agrees that Executive executed this Release voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of Executive's claims against the Company and any of the other Releasees. Executive acknowledges that: (a) Executive has read this Release; (b) Executive has not relied upon any representations or statements made by the Company that are not specifically set forth in this Release; (c) Executive has been represented in the preparation, negotiation, and execution of this Release by legal counsel of Executive's own choice or has elected not to retain legal counsel; (d) Executive understands the terms and consequences of this Release and of the releases it contains; and (e) Executive is fully aware of the legal and binding effect of this Release.

6. *Amendment, Governing Law and Notice.* This Release is final and binding and may only be amended in a writing signed by Executive and a duly authorized officer of the Company. Sections 10(d) and (e) of the Agreement will apply to this Release *mutatis mutandis*.

7. *General Release.* For the avoidance of doubt, this Release does not replace or in any way limit the general release and waiver in Section 5 of the Agreement.

Executed: \_\_\_\_\_

\_\_\_\_\_  
Steve Billow

**NORTHWEST PARK**

**OFFICE LEASE**

**BY AND BETWEEN**

**NWP BUILDING 20 LLC  
(AS LANDLORD)**

**AND**

**DESKTOP METAL OPERATING, INC.  
(AS TENANT)**

**FOR PREMISES AT**

**52 THIRD AVENUE**

**BURLINGTON, MASSACHUSETTS**

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**NORTHWEST PARK**

**OFFICE L E A S E**

**ARTICLE 1**

**Reference Data**

1.1 Subject Referred To.

Each reference in this Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Section 1.1.

<i>Effective Date:</i>	September __, 2021
<i>Building:</i>	The two-story building containing approximately 46,000 rentable square feet located in Northwest Park in Burlington, Massachusetts (hereinafter referred to as the "Park") on a parcel of land known as 52-54 Third Avenue (the Building and such parcel of land hereinafter being collectively referred to as the "Property").
<i>Premises:</i>	A portion of the 2nd floor of the Building, substantially as shown on Exhibit A attached hereto.
<i>Rentable Floor Area of Premises:</i>	Approximately 9,700 rentable square feet
<i>Landlord:</i>	NWP Building 20 LLC, a Massachusetts limited liability company
<i>Original Notice Address of Landlord:</i>	c/o Nordblom Management Company, Inc. 71 Third Avenue Burlington, Massachusetts 01803
<i>Tenant:</i>	Desktop Metal Operating Inc., a Delaware corporation
<i>Original Notice Address of Tenant:</i>	63 Third Avenue Burlington, Massachusetts 01803
<i>Commencement Date:</i>	See Section 2.2



<i>Rent Commencement Date:</i>	The 31 <sup>st</sup> day following the Commencement Date.
<i>Expiration Date:</i>	The last day of the fifth (5 <sup>th</sup> ) Lease Year (as hereinafter defined)
<i>Anticipated Delivery Date:</i>	On or before February 1, 2022
<i>Annual Fixed Rent Rate:</i>	Lease Year 1: \$223,104.00 Lease Year 2: \$230,376.00 Lease Year 3: \$237,648.00 Lease Year 4: \$244,920.00 Lease Year 5: \$252,204.00
<i>Monthly Fixed Rent Rate:</i>	Lease Year 1: \$18,592.00 Lease Year 2: \$19,198.00 Lease Year 3: \$19,804.00 Lease Year 4: \$20,410.00 Lease Year 5: \$21,017.00
<i>Security and Restoration Deposit:</i>	\$19,804.00
<i>Tenant's Percentage:</i>	The ratio of the Rentable Floor Area of the Premises to the total rentable area of the Building, which shall initially be deemed to be (21.09%) percent.
<i>Initial Estimate of Tenant's Percentage of Taxes for the Tax Year:</i>	\$27,548.00
<i>Initial Estimate of Tenant's Percentage of Operating Costs for the Fiscal Year:</i>	\$35,211.00
<i>Permitted Uses:</i>	General office and administration (to the extent permitted by all applicable laws and codes)
<i>Commercial General Liability Insurance Limits:</i>	\$1,000,000 per occurrence \$2,000,000 general aggregate

*Commercial Excess Liability and/or  
Umbrella Insurance Limits:*

\$5,000,000 general aggregate  
\$5,000,000 per occurrence

1.2 Exhibits.

The Exhibits listed below in this section are incorporated in this Lease by reference and are to be construed as a part of this Lease.

EXHIBIT A	Plan showing the Premises
EXHIBIT B	Commencement Date Notification
EXHIBIT C	Intentionally Omitted
EXHIBIT D	Intentionally Omitted
EXHIBIT E	Rules and Regulations
EXHIBIT E-1	Construction Rules and Regulations
EXHIBIT F	Form Tenant Estoppel Certificate
EXHIBIT G	Landlord's Consent and Waiver

**ARTICLE 2**  
**Premises and Term**

2.1 Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, the Premises, excluding the roof, exterior faces of exterior walls, the common stairways, stairwells, elevators and elevator shafts, and pipes, ducts, conduits, wires, and appurtenant fixtures serving exclusively or in common other parts of the Building (and any areas, such as the space above the ceiling or in the walls, that may contain such pipes, ducts, conduits, wires or appurtenant fixtures), and if Tenant's space includes less than the entire rentable area of any floor, excluding the central core area of such floor.

Tenant shall have, as appurtenant to the Premises, rights to use in common, subject to reasonable rules of general applicability to tenants of the Building from time to time made by Landlord of which Tenant is given notice: (a) the common lobbies, hallways, stairways, and elevators of the Building, (b) common walkways and driveways necessary for access to the Building, (c) the common parking areas serving the Building, and (d) if the Premises include less than the entire rentable area of any floor, the common toilets and other common facilities in the central core area of such floor.

Tenant shall be permitted to use up to thirty-one (31) parking spaces in the parking area serving the Building. Visitor parking and handicapped parking are located on the upper level near Tenant's main entrance on a first come first serve basis. Employee and overflow visitor parking are available on the lower lot adjacent to the building (to the East). Landlord shall have the right to relocate the parking area, or any portion thereof, at any time during the term of this Lease, so long as Tenant's parking rights pursuant to this paragraph are not diminished.

Certain items of personal property currently owned by the Existing Tenant and located in the Premises (the "Furniture") will be transferred from the Existing Tenant to Tenant pursuant to a separate agreement. On or before the Commencement Date, Tenant shall provide Landlord with a written list of the Furniture being transferred and such Furniture shall be considered trade fixtures and personal property of Tenant pursuant to Section 6.1.9 herein. Notwithstanding anything to the contrary contained herein, Landlord shall have no duties of any kind with regard to the Furniture, including but not limited to no duties to maintain, repair or insure the same, at any time from and after the Effective Date.

Landlord reserves the right from time to time, without unreasonable interference with Tenant's use of the Premises: (a) to install, use, maintain, repair, replace and relocate for service to the Premises and other parts of the Building, or either, pipes, ducts, conduits, wires and appurtenant fixtures, wherever located in the Premises or Building, (b) to alter or relocate any other common facility, (c) to make any repairs and replacements to the Premises which Landlord may deem necessary, and (d) in connection with any excavation made upon adjacent land of Landlord or others, to enter, and to license others to enter, upon the Premises to do such work as the person causing such excavation deems necessary to preserve the wall of the Building from injury or damage and to support the same.

Landlord reserves the right, at its own cost and expense, to require Tenant, upon sixty (60) days' notice, to relocate its Premises elsewhere in the Building or the Park, to an area of substantially equivalent size and at least of the equivalent quality, and with substantially similar improvements as are in the Premises, as designated by Landlord. If Landlord shall exercise such right to relocate Tenant, Landlord shall pay for all Tenant's reasonable relocation costs.

- 2.2 Term. TO HAVE AND TO HOLD for a term (the "Term") beginning on the Commencement Date, which shall be the date on which the Landlord obtains possession of the Premises from the Existing Tenant (as such term is defined below) and delivers possession of the Premises to the Tenant, which Commencement Date is anticipated to be on or before February 1, 2022, and ending on the Expiration Date, unless sooner terminated per the terms of the Lease. The Landlord and Tenant hereby acknowledge and agree that the Premises is currently occupied by XebiaLabs, Inc. ("Existing Tenant") pursuant to a lease dated September 29, 2016, as may be amended ("Existing Lease") entered into between Landlord and such Existing Tenant, which Existing Lease expires by its terms on January 31, 2022. Notwithstanding anything contained herein to the contrary, this Lease is expressly contingent upon Landlord obtaining possession of the Premises from the Existing Tenant. When the dates of the Commencement Date, the Rent Commencement Date and the Expiration Date have been determined, such dates shall be evidenced by a document, in the form attached hereto as Exhibit B, which Landlord shall complete and deliver to Tenant, and which shall be deemed conclusive unless Tenant shall notify Landlord of any disagreement therewith within ten (10) days of receipt.

The term "Lease Year" as used herein shall mean a period of twelve (12) consecutive full calendar months. The first Lease Year shall begin on the Rent Commencement Date if the Rent Commencement Date is the first day of a calendar month; if not, then the first Lease Year shall commence upon the first day of the calendar month immediately following the Rent Commencement Date, provided that in such event the first Lease Year shall include (and the first payment of Rent shall be prorated to include) that portion of the calendar month in which the Rent Commencement Date occurs. Each succeeding Lease Year shall commence upon the anniversary date of the first Lease Year. For the avoidance of doubt, the Term shall be comprised of sixty-one (61) full calendar months (plus the portion of any calendar month in which the Commencement Date occurs).

### **ARTICLE 3**

#### **Condition**

The Premises shall be delivered to Tenant broom clean, free of all other occupants and in "as-is" condition. Tenant has inspected the Premises and agrees (a) to accept possession of the Premises in the condition existing as of the Commencement Date, in "as-is" condition, (b) that neither Landlord nor any of Landlord's agents have made any representations or warranties with respect to the Premises or the Building, and (c) Landlord has no obligation to perform any work, or make any alterations, additions or improvements to the Premises to prepare the Premises for Tenant's use and occupancy. Tenant's occupancy of any part of the Premises shall be conclusive evidence, that Tenant has accepted possession of the Premises in its then-current condition, and that at the time such possession was taken, the Premises and the Building were in good and satisfactory condition as required by this Lease.

**ARTICLE 4**

**Rent**

- 4.1 The Fixed Rent. (a) Tenant covenants and agrees to pay fixed rent ("Fixed Rent") to Landlord, by electronic fund transfer (or by such other method, as set forth below, or to such other person or entity as Landlord may by notice in writing to Tenant from time to time direct), at the Annual Fixed Rent Rate, in equal installments at the Monthly Fixed Rent Rate (which is 1/12th of the Annual Fixed Rent Rate), in advance, without notice or demand, and without setoff, abatement, suspension, deferment, reduction or deduction, except as otherwise expressly provided herein, on the first day of each calendar month following the Rent Commencement Date and included in the Term; and for any portion of a calendar month at beginning of the Term, at the rate for the first lease year payable in advance for such portion. The term "Additional Rent" shall mean all sums other than Fixed Rent that are payable to Landlord under this Lease, including, without limitation all Operating Costs, Taxes, late charges, and interest.
- (b) It is the intention of the parties hereto that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, that the Annual Fixed Rent, the Additional Rent and all other sums payable by Tenant to Landlord shall continue to be payable in all events and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been abated or terminated pursuant to an express provision of this Lease.
- (c) If Landlord shall give notice to Tenant that all rent and/or other payments due hereunder are to be made to Landlord by check, or by any other commercially reasonable means, Tenant shall make all such payments as shall be due after receipt of said notice by means as designated by Landlord, with such payments to be made to such address and to such person or entity as is specified by Landlord.
- 4.2 Additional Rent. Commencing as of the Commencement Date, Tenant covenants and agrees to pay, as Additional Rent, insurance costs, utility charges, personal property taxes and its pro rata share of taxes and operating costs with respect to the Premises as provided in this Section 4.2 as follows:
- 4.2.1 Real Estate Taxes. Tenant covenants to pay to Landlord, as Additional Rent, for each fiscal tax period (a "Tax Year") partially or wholly included in the Term, Tenant's Percentage of Taxes (as hereinafter defined). Tenant shall remit to Landlord, on the first day of each calendar month, estimated payments on account of Taxes, such monthly amounts to be sufficient to provide Landlord, by the time real estate tax payments are due and payable to any governmental authority responsible for collection of same, a sum equal to the Tenant's Percentage of Taxes, as reasonably estimated by Landlord from time to time on the basis of the most recent tax data available. The initial calculation of the monthly estimated payments shall be based upon the Initial Estimate of Tenant's Percentage of Taxes for the Tax Year and upon quarterly payments being due to the

governmental authority on August 1, November 1, February 1 and May 1, and shall be made when the Commencement Date has been determined. If the total of such monthly remittances for any Tax Year is greater than the Tenant's Percentage of Taxes for such Tax year, Landlord shall promptly pay to Tenant, or credit against the next accruing payments to be made by Tenant pursuant to this subsection 4.2.1, the difference; if the total of such remittances is less than the Tenant's Percentage of Taxes for such Tax Year, Tenant shall pay the difference to Landlord at least ten (10) days prior to the date or dates within such Tax Year that any Taxes become due and payable to the governmental authority (but in any event no earlier than ten (10) days following a written notice to Tenant, which notice shall set forth the manner of computation of Tenant's Percentage of Taxes). This section shall survive the expiration or earlier termination of this Lease.

If, after Tenant shall have made reimbursement to Landlord pursuant to this subsection 4.2.1, Landlord shall receive a refund of any portion of Taxes paid by Tenant with respect to any Tax Year during the Term hereof as a result of an abatement of such Taxes by legal proceedings, settlement or otherwise (without either party having any obligation to undertake any such proceedings), Landlord shall promptly pay to Tenant, or credit against the next accruing payments to be made by Tenant pursuant to this subsection 4.2.1, the Tenant's Percentage of the refund (less the proportional, pro rata expenses, including attorneys' fees and appraisers' fees, incurred in connection with obtaining any such refund), as relates to Taxes paid by Tenant to Landlord with respect to any Tax Year for which such refund is obtained.

In the event this Lease shall commence, or shall end (by reason of expiration of the term or earlier termination pursuant to the provisions hereof), on any date other than the first or last day of the Tax Year, or should the Tax Year or period of assessment of real estate taxes be changed or be more or less than one (1) year, as the case may be, then the amount of Taxes which may be payable by Tenant as provided in this subsection 4.2.1 shall be appropriately apportioned and adjusted.

The term "Taxes" shall mean all taxes, assessments, betterments and other charges and impositions (including, but not limited to, fire protection service fees and similar charges) levied, assessed or imposed at any time during the Term by any governmental authority upon or against the Property, or taxes in lieu thereof, and additional types of taxes to supplement real estate taxes due to legal limits imposed thereon. If, at any time during the term of this Lease, any tax or excise on rents or other taxes, however described, are levied or assessed against Landlord with respect to the rent reserved hereunder, either wholly or partially in substitution for, or in addition to, real estate taxes assessed or levied on the Property, such tax or excise on rents shall be included in Taxes; however, Taxes shall not include franchise, estate, inheritance, succession, capital levy, transfer, income or excess profits taxes assessed on Landlord. Taxes shall include any estimated payment made by Landlord on account of a fiscal tax period for which the actual and final amount of taxes for such period has not been determined by the governmental authority as of the date of any such estimated payment.

4.2.2 Personal Property Taxes. Tenant shall pay all taxes charged, assessed or imposed upon the personal property of Tenant in or upon the Premises.

4.2.3 Operating Costs. Tenant covenants to pay to Landlord the Tenant's Percentage of Operating Costs (as hereinafter defined) incurred by Landlord in any fiscal year of Landlord (meaning October – September) Tenant shall remit to Landlord, on the first day of each calendar month, estimated payments on account of Operating Costs, such monthly amounts to be sufficient to provide Landlord, by the end of the fiscal year, a sum equal to the Operating Costs, as reasonably estimated by Landlord from time to time. The initial monthly estimated payments shall be in an amount equal to 1/12th of the Initial Estimate of Tenant's Percentage of Operating Costs for the fiscal year. If, at the expiration of the year in respect of which monthly installments of Operating Costs shall have been made as aforesaid, the total of such monthly remittances is greater than the actual Operating Costs for such year, Landlord shall promptly pay to Tenant, or credit against the next accruing payments to be made by Tenant pursuant to this subsection 4.2.3, the difference; if the total of such remittances is less than the Operating Costs for such year, Tenant shall pay the difference to Landlord within twenty (20) days from the date Landlord shall furnish to Tenant an itemized statement of the Operating Costs, prepared, allocated and computed in accordance with generally accepted accounting principles. Any reimbursement for Operating Costs due and payable by Tenant with respect to periods of less than twelve (12) months shall be equitably prorated. This section shall survive the expiration or earlier termination of this Lease.

The term "Operating Costs" shall mean all costs and expenses incurred for the operation, cleaning, maintenance, repair and upkeep of the Property, and the portion of such costs and expenses with regard to the common areas, facilities, services and amenities of the Park which is equitably allocable to the Property, including, without limitation, all costs of maintaining and repairing the Property and the Park (including snow removal, landscaping and grounds maintenance, operation, repair and maintenance of parking lots (including lighting), sidewalks, walking paths, access roads and driveways); all costs of Property signage, repair and maintenance of the roof of the Building; security, operation and repair of heating and air-conditioning equipment, elevators, lighting and any other Building equipment or systems) and of all repairs and replacements (other than repairs or replacements for which Landlord has received full reimbursement from contractors, other tenants of the Building or from others) necessary to keep the Property and the Park in good working order, repair, appearance and condition; all costs, including material and equipment costs, for cleaning and janitorial services to the Building (including window cleaning of the Building); all costs of any reasonable insurance carried by Landlord relating to the Property; all costs related to provision of heat (including oil, electric, and/or gas), cooling, and water (including sewer charges), refuse disposal and other utilities to the Building (exclusive of reimbursement to Landlord for any of same received as a result of direct billing to any tenant of the Building); payments under all service contracts relating to the foregoing; all compensation, fringe benefits, payroll taxes and workmen's compensation insurance premiums related thereto with respect to any employees of Landlord or its affiliates engaged in the operation, security and maintenance of the Property and the Park; attorneys' fees and disbursements (exclusive of any such fees and disbursements incurred in tax abatement proceedings or the preparation of leases) and auditing and other professional fees and expenses; and a management fee.

There shall not be included in such Operating Costs brokerage fees (including rental fees); interest and depreciation charges incurred on the Property; or expenditures made by Tenant with respect to (i) cleaning, maintenance and upkeep of the Premises, and (ii) the provision of electricity to the Premises.

If, during the Term of this Lease, Landlord shall replace any capital items or make any capital expenditures (collectively called "capital expenditures") the total amount of which is not properly included in Operating Costs for the fiscal year in which they were made, there shall nevertheless be included in Operating Costs for each fiscal year in which and after such capital expenditure is made the annual charge-off of such capital expenditure. (Annual charge-off shall be determined by (i) dividing the original cost of the capital expenditure by the number of years of useful life thereof [The useful life shall be reasonably determined by Landlord in accordance with generally accepted accounting principles and practices in effect at the time of acquisition of the capital item.]; and (ii) adding to such quotient an interest factor computed on the unamortized balance of such capital expenditure based upon an interest rate reasonably determined by Landlord as being the interest rate then being charged for long-term mortgages by institutional lenders on like properties within the locality in which the Building is located.) Provided, further, that if Landlord reasonably concludes on the basis of engineering estimates that a particular capital expenditure will effect savings in Operating Costs and that such annual projected savings will exceed the annual charge-off of capital expenditure computed as aforesaid, then and in such events, the annual charge-off shall be determined by dividing the amount of such capital expenditure by the number of years over which the projected amount of such savings shall fully amortize the cost of such capital item or the amount of such capital expenditure; and by adding the interest factor, as aforesaid.

If during any portion of any year for which Operating Costs are being computed, the Building was not fully occupied by tenants or if not all of such tenants were paying fixed rent or if Landlord was not supplying all tenants with the services, amenities or benefits being supplied hereunder, actual Operating Costs incurred shall be reasonably extrapolated by Landlord to the estimated Operating Costs that would have been incurred if the Building were fully occupied by tenants and all such tenants were then paying fixed rent or if such services were being supplied to all tenants, and such extrapolated amount shall, for the purposes of this Section 4.2.3, be deemed to be the Operating Costs for such year.

4.2.4 Insurance. Tenant shall, at its expense, as Additional Rent, take out and maintain from the time Tenant first occupies the Premises for any purpose and throughout the Term the following insurance:

- 4.2.4.1 Commercial general liability insurance and commercial excess liability insurance on "follow form" basis and/or umbrella naming Landlord, the "Landlord Related Parties" (defined in Section 6.1.5 below), Tenant, and any mortgagee of which Tenant has been given notice ("Landlord's Mortgagee") as insureds or additional insureds on a primary and non-contributory basis, in amounts which shall, at the beginning of the Term, be at least equal to the limits set forth in Section 1.1; and, which, from time to time during the Term, shall be for such higher limits, if any, as are



customarily carried in the area in which the Premises are located on property similar to the Premises and used for similar purposes; and workmen's compensation insurance with statutory limits covering all of Tenant's employees working on the Premises, covering the state in which the employee was hired, works and resides; and Employers Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) each accident, bodily injury by accident; Five Hundred Thousand Dollars (\$500,000.00) each employee, bodily injury by disease; and Five Hundred Thousand Dollars (\$500,000.00) policy limit, bodily injury by disease.

- 4.2.4.2 Special Form Property insurance, including flood and earthquake coverage, written at 100% replacement cost value with a replacement cost endorsement covering all Tenant's furniture (including but not limited to the Furniture), furnishings, fixtures and equipment, including all tenant improvements, and business interruption insurance with limits not less than the equivalent of 12 months of rent, with extra expense coverage, and shall list Landlord as loss payee as their interests may appear.
- 4.2.4.3 Automobile Liability insurance for all owned, leased, non-owned and hired vehicles. The minimum limit of liability shall be One Million Dollars (\$1,000,000.00) each accident, combined single limit for bodily injury and property damage, naming Landlord and the Landlord Related Parties as additional insureds on a primary and non-contributory basis.
- 4.2.4.4 Pollution/Environmental Liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) for each policy.
- 4.2.4.5 All such policies shall be obtained from responsible companies having a policy rating of A-VIII or better, as set forth in the most current issue of the Best's Key Rating Guide and which are qualified to do business and in good standing in Massachusetts and are otherwise reasonably acceptable to Landlord. Tenant agrees to furnish Landlord with certificates evidencing all such insurance, including evidence of the required waiver of subrogation as provided below, prior to the beginning of the Term or the date Tenant first occupies the Premises (whichever occurs first), and evidencing renewal thereof at least thirty (30) days prior to the expiration of any such policy. Tenant shall provide at least thirty (30) days prior written notice to Landlord and Landlord's Mortgagee should any of the policies required herein be changed, terminated, or cancelled. In the event provision for any such insurance is to be by a blanket insurance policy, the policy shall allocate a specific and sufficient amount of coverage to the Premises.
- 4.2.4.6 All insurance which is carried by either party with respect to the Building, Premises or to furniture, furnishings, fixtures, or equipment therein or alterations or improvements thereto, workmen's compensation insurance, and all liability insurance, whether or not required, shall include a waiver of rights of subrogation, in favor of the other party. Landlord and Tenant each

waives all rights of recovery against the other for loss or injury against which the waiving party is covered by insurance, or is required to be so covered under the Lease, reserving, however, any rights of recovery with respect to any excess of loss or injury over the amount recovered by such insurance. The limits of Tenant's insurance shall not limit its liability under this Lease. Tenant's property insurance shall name Landlord and Landlord's Mortgagee as loss payee with respect to Landlord's interest in the Property, including all tenant improvements. Tenant shall not acquire as insured under any property insurance carried on the Premises, which shall include all tenant improvements, any right to participate in the adjustment of loss or to receive insurance proceeds and agrees upon request promptly to endorse and deliver to Landlord any checks or other instruments in payment of loss in which Tenant is named as payee.

4.2.5 Utilities.1. Commencing on the Commencement Date, Tenant shall reimburse Landlord through Operating Costs, pursuant to Section 4.2.3, for all charges for gas and water (including sewer) furnished to the Premises.

With regard to electricity, Tenant shall pay to Landlord by means of monthly escrow payments (as set forth below) estimated charges (the "Utilities Charges") on account of Tenant's pro rata share of all charges for electricity furnished by Landlord to the second floor of the Building (which shall include electricity for lights, outlets and VAV boxes in the Premises and for the rooftop HVAC units serving the Premises).

Landlord shall reasonably estimate the amount of Utilities Charges payable by Tenant per month based on Tenant's pro rata share of the electric meter for the second floor of the Building. Landlord shall notify Tenant prior to the Commencement Date of the initial estimate of Utilities Charges to be paid by Tenant. Beginning as of the Commencement Date, Tenant shall pay the Utilities Charges, as Additional Rent, on the first day of each calendar month during the Term, in the same manner as Tenant pays Fixed Rent pursuant to Section 4.1 of this Lease. Following the end of each of Landlord's fiscal years, Landlord will reconcile the estimated Utilities Charges paid by Tenant with the actual amounts owing from Tenant based on Tenant's pro rata share of the electric meter for the Premises. If it is determined Tenant has been overcharged, then such overpayment will be credited against Tenant's account for the following month. If Tenant has underpaid, then Landlord will invoice Tenant for the amount owed and Tenant shall pay such amount within twenty (20) days after billing. Landlord reserves the right to adjust the monthly Utilities Charges from time to time based on the most current data available and Landlord's estimate of Tenant's electrical consumption in the Premises, and Tenant shall thereafter pay the adjusted Utilities Charges to Landlord until further notice.

Tenant shall pay all charges for telephone and other utilities or services not supplied by Landlord pursuant to Subsections 5.1.1, 5.1.2, and 5.1.3, whether designated as a charge, tax, assessment, fee or otherwise, all such charges to be paid as the same from time to time become due. Except as otherwise provided in Article 5, it is understood and agreed that Tenant shall make its own arrangements for the installation or provision of all such utilities and that Landlord shall be under no obligation to furnish any utilities to the Premises and shall not be liable for any interruption or failure in the supply of any such utilities to the Premises.

- 4.3 Late Payment of Rent. If any installment of Fixed Rent or other sum due Landlord is paid after the date the same was due, and if on a prior occasion in the twelve (12) month period prior to the date such installment was due an installment of rent was paid after the same was due, then Tenant shall pay Landlord a late payment fee equal to five (5%) percent of the overdue payment. In addition, if any installment of rent or other sum due Landlord is not paid when due, such installment shall bear interest from the date due until paid, at the rate of 12% per year not to exceed the highest rate permitted by law.
- 4.4 Security and Restoration Deposit. Upon Tenant's execution of this Lease, Tenant shall deposit with Landlord the Security and Restoration Deposit. Said deposit shall be held by Landlord as security for the faithful performance by Tenant of all the terms of this Lease by said Tenant to be observed and performed. The security deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without the written consent of Landlord and any such act on the part of Tenant shall be without force and effect and shall not be binding upon Landlord.

If the Fixed Rent or Additional Rent or any other sum payable hereunder shall be overdue and unpaid or should Landlord make payments on behalf of the Tenant, or Tenant shall fail to perform any of the terms of this Lease, then Landlord may, at its option and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said entire deposit or so much thereof as may be necessary to compensate Landlord toward the payment of Fixed Rent, Additional Rent or other sums or loss or damage sustained by Landlord due to such breach on the part of Tenant; and Tenant shall forthwith upon demand restore said security to the original sum deposited. Should Tenant comply with all of said terms and promptly pay all of the rentals as they fall due and all other sums payable by Tenant to Landlord, said deposit shall be returned in full to Tenant within forty-five (45) days after the end of the Term.

In the event of bankruptcy or other creditor-debtor proceedings against Tenant, all securities shall be deemed to be applied first to the payment of rent and other charges due Landlord for all periods prior to the filing of such proceedings.

**ARTICLE 5**  
**Landlord's Covenants**

- 5.1 Affirmative Covenants. Landlord covenants with Tenant:

5.1.1 Heat and Air-Conditioning. To furnish to the Premises heat and air-conditioning (reserving the right, at any time, to change energy or heat sources), at the expense of Tenant as provided in Section 4.2.5 above, sufficient to maintain the Premises at reasonable temperatures (subject to all federal, state, and local regulations relating to the provision of heat), during the normal business hours for the Building set forth in the Rules and Regulations attached hereto as Exhibit E ("Normal Building Hours"). Heat and air-conditioning will be available after Normal Building Hours, at Landlord's then standard

rate for after-hours usage, including wear and tear on Building equipment, as reasonably determined by Landlord from time to time. If Tenant desires heat or air-conditioning after Normal Building Hours, Tenant must provide Building management with at least 24 hours prior notice.

5.1.2 Electricity. To furnish to the Premises, at the direct expense of Tenant as provided in Section 4.2.5 above, reasonable electricity for Tenant's Permitted Uses. If Tenant shall require electricity in excess of reasonable quantities for Tenant's Permitted Uses and if (i) in Landlord's reasonable judgment, Landlord's facilities are inadequate for such excess requirements, or (ii) such excess use shall result in an additional burden on the Building utilities systems and additional cost to Landlord on account thereof, as the case may be, (a) Tenant shall, upon demand, reimburse Landlord for such additional cost, as aforesaid, or (b) Landlord, upon written request, and at the sole cost and expense of Tenant, will furnish and install such additional wire, conduits, feeders, switchboards and appurtenances as reasonably may be required to supply such additional requirements of Tenant (if electricity therefor is then available to Landlord), provided that the same shall be permitted by applicable laws and insurance regulations and shall not cause permanent damage or injury to the Building or cause or create a dangerous or hazardous condition or entail excessive or unreasonable alterations or repairs.

5.1.3 Water. To furnish water for ordinary cleaning, lavatory and toilet facilities.

5.1.4 Fire Alarm. To maintain fire alarm systems within the Building.

5.1.5 Repairs. Except as otherwise expressly provided herein, to make such repairs and replacements to the Common Areas, the roof, exterior walls, floor slabs and other structural components of the Building, and to the common areas, facilities and plumbing, electrical, heating, ventilating and air-conditioning systems of the Building as may be necessary to keep them in good repair and condition (exclusive of equipment installed by Tenant and except for those repairs required to be made by Tenant pursuant to Section 6.1.3 hereof and repairs or replacements occasioned by any act or negligence of Tenant, its servants, agents, customers, contractors, employees, invitees, or licensees). The term "Common Areas" shall mean all areas within the Property which are not leased or held for the exclusive use of Tenant, including, but not limited to, parking areas, driveways, sidewalks, access roads, and landscaping. Landlord, from time to time, may change the size, location, nature and use of any of the Common Areas, construct additional parking facilities in the Common Areas and increase or decrease the Common Area land so long as Tenant's use of the Premises is not materially affected. At any time, Landlord may close any portion of the Common Areas to perform any acts that are, in Landlord's reasonable judgment, necessary or desirable to maintain, repair or improve the Property.

5.2 Interruption. Landlord shall be under no responsibility or liability for failure or interruption of any of the above-described utility services, or conditions arising in or about the Premises and/or Property caused by breakage, accident, strikes, repairs, inability to obtain supplies, labor or materials, or for any other causes beyond the control of the Landlord, and in no event for any indirect or consequential damages to Tenant; and failure or omission on the part of the Landlord to furnish any of the above services for any of the reasons set forth in

this paragraph shall not be construed as an eviction of Tenant, actual or constructive, nor entitle Tenant to an abatement of rent, nor render the Landlord liable in damages, nor release Tenant from prompt fulfillment of any of its covenants under this Lease. However in each instance of failure or interruption Landlord shall use reasonable efforts to restore the unavailable service or remedy the condition following written notice from Tenant. Any business interruption loss shall be borne solely by Tenant, and Landlord shall have no liability with respect thereto.

Notwithstanding the foregoing, if an event or circumstance (an "Abatement Event") shall occur that causes an interruption or curtailment, suspension or stoppage of an Essential Service that reasonably prevents Tenant from using the entire Premises, or any material portion thereof, as a result of Landlord's failure to provide any Essential Service (defined below) required to be provided by Landlord under this Lease, provided that such failure or Landlord's inability to remedy such event or circumstance is not due to Force Majeure or a cause beyond Landlord's reasonable control generally affecting other buildings in the vicinity (such as a neighborhood power outage or other off-site occurrence) or the act or negligence of Tenant, its employees, vendors, or contractors, or any party claiming by, through or under Tenant, then Tenant shall give Landlord notice (an "Abatement Notice") of any such Abatement Event. If such Abatement Event continues beyond the Eligibility Period (defined below), then the Monthly Fixed Rent and the monthly charges on account of Operating Costs and Taxes shall be abated entirely or proportionately, as the case may be, after the expiration of the Eligibility period for such time that Tenant continues to be prevented from so using, and does not use, the Premises or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises. Tenant shall not be entitled to any abatement of Rent if Tenant is then in default of any of its obligations under this Lease. The term "Eligibility Period" shall mean a period of five (5) consecutive business days after Landlord's receipt of any Abatement Notice(s). For purposes hereof, the term "Essential Services" shall mean the following services required to be provided by Landlord under this Lease: water and sewer service, HVAC, gas and electricity. The provisions of this paragraph shall not apply to any Abatement Event caused by fire or other damage or destruction to the Building, which shall be covered by Article 7 of this Lease.

- 5.3 Outside Services. In the event Tenant wishes to provide outside services for the Premises over and above those services to be provided by Landlord as set forth herein, Tenant shall first obtain the prior written approval of Landlord for the installation and/or utilization of such services ("Outside services" shall include, but shall not be limited to, cleaning services, television, so-called "canned music" services, security services, catering services and the like.) In the event Landlord approves the installation and/or utilization of such services, such installation and utilization shall be at Tenant's sole cost, risk and expense.
- 5.4 Access. Tenant shall have access to the Premises at all times, 24 hours per day, 7 days per week, subject to any reasonable security requirements for the Building, events of Force Majeure, emergency events that may cause Landlord to temporarily limit access to tenants, and any other occurrences beyond Landlord's reasonable control.

**ARTICLE 6**  
**Tenant's Additional Covenants**

6.1 Affirmative Covenants. Tenant covenants at all times during the Term and for such further time (prior or subsequent thereto) as Tenant occupies the Premises or any part thereof:

6.1.1 Perform Obligations. To perform promptly all of the obligations of Tenant set forth in this Lease; and to pay when due the Fixed Rent and Additional Rent and all charges, rates and other sums which by the terms of this Lease are to be paid by Tenant.

6.1.2 Use. To use the Premises only for the Permitted Uses, and from time to time to procure all licenses and permits necessary therefor, at Tenant's sole expense. With respect to any licenses or permits for which Tenant may apply, pursuant to this subsection 6.1.2 or any other provision hereof, Tenant shall furnish Landlord copies of applications therefor on or before their submission to the governmental authority.

6.1.3 Repair and Maintenance. To maintain the Premises in neat order and condition, to contract for cleaning services to the Premises on a regular basis (including window cleaning of exterior windows along the exterior walls of the Premises) in accordance with prevailing standards in comparable buildings in the vicinity, and to perform all routine and ordinary repairs to the Premises and to any plumbing, heating, electrical, ventilating and air-conditioning systems located within the Premises and installed by Tenant such as are necessary to keep them in good working order, appearance and condition, as the case may require, reasonable use and wear thereof and damage by fire or by unavoidable casualty only excepted; to keep all glass in windows and doors of the Premises (except glass in the exterior walls of the Building) whole and in good condition with glass of the same quality as that injured or broken; and to make as and when needed as a result of misuse by, or neglect or improper conduct of Tenant or Tenant's servants, employees, agents, invitees or licensees or otherwise, all repairs necessary, which repairs and replacements shall be in quality and class equal to the original work. (Landlord, upon default of Tenant hereunder and upon prior notice to Tenant, may elect, at the expense of Tenant, to perform all such cleaning and maintenance and to make any such repairs or to repair any damage or injury to the Building or the Premises caused by moving property of Tenant in or out of the Building, or by installation or removal of furniture or other property, or by misuse by, or neglect, or improper conduct of, Tenant or Tenant's servants, employees, agents, contractors, customers, patrons, invitees, or licensees.)

6.1.4 Compliance with Law. To make all repairs, alterations, additions or replacements to the Premises required by any law or ordinance or any order or regulation of any public authority; to keep the Premises equipped with all safety appliances so required; and to comply with the orders and regulations of all governmental authorities with respect to zoning, building, fire, health and other codes, regulations, ordinances or laws applicable to the Premises, except that Tenant may defer compliance so long as the validity of any such law, ordinance, order or regulations shall be contested by Tenant in good faith and by appropriate legal proceedings, if Tenant first gives Landlord appropriate assurance or security against any loss, cost or expense on account thereof.

6.1.5 Indemnification. To indemnify, defend and hold harmless Landlord, its agents (including, without limitation, Landlord's managing agent), partners, officers, directors, members, trustees, beneficiaries, shareholders, and employees (such parties being referred to collectively as the "Landlord Related Parties") from and against any and all claims, demands, liabilities, penalties, fines, settlements, damages, loss, costs or expenses resulting from, arising out of, or in any way related to injury, death, damage or loss to person or property in or upon the Premises and the Property arising out of the use or occupancy of the Premises by Tenant or by any person claiming by, through or under Tenant (including, without limitation, all patrons, employees and customers of Tenant), the negligent acts or omissions or intentional misconduct of Tenant or any person claiming by, through or under Tenant, or on account of any breach by Tenant of its obligations under this Lease, or on account of or based upon anything whatsoever done on the Premises, except if the same was caused by the gross negligence, or willful misconduct of Landlord or the Landlord Related Parties. In respect of all of the foregoing, Tenant shall indemnify Landlord and the Landlord Related Parties from and against all costs and expenses (including reasonable attorneys' fees), of whatever kind or nature incurred in or in connection with any such claim, action or proceeding brought thereon; and, in case of any action or proceeding brought against Landlord or the Landlord Related Parties by reason of any such claim, Tenant, upon notice from Landlord and at Tenant's expense, shall resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Landlord. The preceding indemnification shall expressly survive the expiration or earlier termination of this Lease.

6.1.6 Landlord's Right to Enter. To permit Landlord and its agents to enter into and examine the Premises at reasonable times and to show the Premises, and to make repairs to the Premises, and, during the last six (6) months prior to the expiration of this Lease, to keep affixed in suitable places notices of availability of the Premises.

6.1.7 Personal Property at Tenant's Risk. All of the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant and of all persons claiming by, through or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises, shall be at the sole risk and hazard of Tenant and if the whole or any part thereof shall be destroyed or damaged by fire, water, dampness, rain or snow, or by leaks from any part of the Building or by bursting or other defect of water pipes, steam pipes, or other pipes, sprinklers, lighting fixtures or by vandalism, malicious mischief, theft, any acts or omissions of any other tenant of the Property, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord, except to the extent caused by or due to the gross negligence or willful misconduct of Landlord, and then only after (a) Tenant has given written notice to Landlord (and to Landlord's Mortgagee, if any) of the condition claimed to constitute negligence, and (b) a reasonable time after the giving of such notice has expired without Landlord having undertaken reasonable and practicable measures to cure or correct such conditions. Pending correction by Landlord, Tenant shall take all reasonably prudent temporary measures and safeguards to prevent any injury, loss or damage to persons or property. In no event shall Landlord be liable for any loss, the risk of which is covered by Tenant's insurance, or is required to be so covered by this Lease; nor shall Landlord or the Landlord Related Parties be liable for any damage caused by any

other person in the Building or caused by operations in construction of any private, public, or quasi-public work; nor shall Landlord be liable for any latent defect in the Premises or in the Building.

6.1.8 Payment of Landlord's Cost of Enforcement. To pay on demand Landlord's expenses, including reasonable attorneys' fees, incurred in enforcing any obligation of Tenant under this Lease or in curing any default by Tenant under this Lease as provided in Section 8.4.

6.1.9 Yield Up. At the expiration of the Term or earlier termination of this Lease: to surrender all keys to the Premises; to remove all of its trade fixtures and personal property (including but not limited to the Furniture) in the Premises; to deliver to Landlord stamped architectural plans showing the Premises at yield up (which may be the initial plans if Tenant has made no installations after the Commencement Date); to remove such alterations, improvements, or installations made by or on behalf of Tenant as Landlord may request (including computer and telecommunications wiring and cabling, it being understood that if Tenant leaves such wiring and cabling in a useable condition, Landlord, although having the right to request removal thereof, is less likely to so request) and all Tenant's signs wherever located; to repair all damage caused by such removal and to yield up the Premises (including all installations and improvements made by Tenant except for trade fixtures and such of said installations or improvements as Landlord shall request Tenant to remove), broom-clean and in the same good order and repair in which Tenant is obliged to keep and maintain the Premises by the provisions of this Lease. Any property not so removed shall be deemed abandoned and, if Landlord so elects, deemed to be Landlord's property, and may be retained or removed and disposed of by Landlord in such manner as Landlord shall determine and Tenant shall pay Landlord the entire cost and expense incurred by it in effecting such removal and disposition and in making any incidental repairs and replacements to the Premises and for use and occupancy during the period after the expiration of the Term and prior to its performance of its obligations under this subsection 6.1.9. Tenant shall further indemnify Landlord against all loss, cost and damage resulting from Tenant's failure and delay in surrendering the Premises as above provided.

If Tenant remains in the Premises beyond the expiration or earlier termination of this Lease, such holding over shall be without right and shall not be deemed to create any tenancy, but the Tenant shall be a tenant at sufferance only at a holdover rate of rent equal to two (2) times the Monthly Fixed Rent Rate and Additional Rent on account of Operating Costs and Taxes last due as of the day prior to the date of expiration or earlier termination of this Lease, and shall otherwise be on the terms and conditions of this Lease as applicable, except that in no event shall any extension option, right of first offer or right of first refusal, or similar right or option be deemed applicable to such tenancy at sufferance. In addition to any liabilities to Landlord resulting from Tenant's failure and delay in surrendering the Premises as above provided, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs, and damages, direct and/or indirect, sustained by reason of any such holding over.



6.1.10 Rules and Regulations. To comply with the Rules and Regulations set forth in Exhibit E, and with all reasonable Rules and Regulations of general applicability to all tenants of the Building hereafter made by Landlord, of which Tenant has been given notice; Landlord shall not be liable to Tenant for the failure of other tenants of the Building to conform to such Rules and Regulations. Tenant shall cause all parties performing work on behalf of Tenant in or about the Premises and Building to comply with the Construction Rules and Regulations attached hereto as Exhibit E-1.

6.1.11 Estoppel Certificate. Upon not less than ten (10) days' prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing, which may be in the form attached hereto as Exhibit F or in another form reasonably similar thereto, or such other form as Landlord may provide from time to time, certifying all or any of the following: (i) that this Lease is unmodified and in full force and effect, (ii) whether the Term has commenced and Fixed Rent and Additional Rent have become payable hereunder and, if so, the dates to which they have been paid, (iii) whether or not Landlord is in default in performance of any of the terms of this Lease, (iv) whether Tenant has accepted possession of the Premises, (v) whether Tenant has made any claim against Landlord under this Lease and, if so, the nature thereof and the dollar amount, if any, of such claim, (vi) whether there exist any offsets or defenses against enforcement of any of the terms of this Lease upon the part of Tenant to be performed, and (vii) such further information with respect to the Lease or the Premises as Landlord may reasonably request. Any such statement delivered pursuant to this subsection 6.1.11 may be relied upon by any prospective purchaser or mortgagee of the Premises, or any prospective assignee of such mortgage. Tenant shall also deliver to Landlord such financial information as may be reasonably required by Landlord to be provided to any mortgagee or prospective purchaser of the Premises. If Tenant fails to deliver the estoppel certificate within the required time period, and such failure continues for an additional five (5) days following a second written request from Landlord, then Tenant shall be obligated to pay to Landlord, as Additional Rent within twenty (20) days of demand, a fee in the amount of \$500.00 per day for each day that Tenant fails to deliver the requested estoppel in the period beginning on the day after the expiration of the initial 10-day period, and ending on the day Tenant actually delivers the estoppel.

6.1.12 Landlord's Expenses Re Consents. To reimburse Landlord promptly on demand for all reasonable legal expenses incurred by Landlord in connection with all requests by Tenant for consent or approval hereunder.

6.1.13 . Intentionally Omitted.

6.2 Negative Covenants. Tenant covenants at all times during the Term and such further time (prior or subsequent thereto) as Tenant occupies the Premises or any part thereof:

6.2.1 Assignment and Subletting. (a) Not to assign, transfer, mortgage or pledge this Lease or to sublease (which term shall be deemed to include the granting of concessions and licenses and the like) all or any part of the Premises or permit this Lease or the leasehold estate hereby created or any other rights arising under this Lease to be assigned, transferred, pledged or encumbered, in whole or in part, whether voluntarily, involuntarily or by operation of law, or permit the occupancy of the Premises by anyone other than

Tenant without the prior written consent of Landlord. In the event Tenant desires to assign this Lease or sublet any portion or all of the Premises, Tenant shall notify Landlord in writing of Tenant's intent to so assign this Lease or sublet the Premises and the proposed effective date of such subletting or assignment, and shall request in such notification that Landlord consent thereto. Landlord may terminate this Lease in the case of a proposed assignment, or suspend this Lease pro tanto for the period and with respect to the space involved in the case of a proposed subletting, by giving written notice of termination or suspension to Tenant, with such termination or suspension to be effective as of the effective date of such assignment or subletting. If Landlord does not so terminate or suspend, Landlord's consent shall not be unreasonably withheld to an assignment or to a subletting, provided that the following conditions are met:

- (i) the assignee or subtenant shall use the Premises only for the Permitted Uses;
- (ii) with respect to a subletting, that after such subletting the initial Tenant named herein occupies at least fifty (50%) percent of the Rentable Floor Area of the Premises;
- (iii) the proposed assignee or subtenant has a net worth and creditworthiness reasonably acceptable to Landlord;
- (iv) the amount of the aggregate rent to be paid by the proposed subtenant is not less than the then current market rate for the Premises; and
- (v) the proposed assignee or subtenant is not then a tenant in the Building or the Park, or an entity with which Landlord is dealing or has dealt within the preceding six months regarding the possibility of leasing space in the Building or the Park.
- (vi) the proposed assignee or subtenant provides a representation and warranty required under Section 10.12 below (OFAC Compliance).

Tenant shall furnish Landlord with any information reasonably requested by Landlord to enable Landlord to determine whether the proposed assignment or subletting complies with the foregoing requirements, including without limitation, financial statements relating to the proposed assignee or subtenant.

(b) Tenant shall, as Additional Rent, reimburse Landlord promptly for Landlord's reasonable legal expenses incurred in connection with any request by Tenant for such consent. If Landlord consents thereto, no such subletting or assignment shall in any way impair the continuing primary liability of Tenant hereunder, and no consent to any subletting or assignment in a particular instance shall be deemed to be a waiver of the obligation to obtain the Landlord's written approval in the case of any other subletting or assignment.

(c) If for any assignment or sublease consented to by Landlord hereunder Tenant receives rent or other consideration, either initially or over the term of the assignment or sublease, in excess of the rent called for hereunder, or in case of sublease of part, in excess of such

rent fairly allocable to the part, after appropriate adjustments to assure that all other payments called for hereunder are appropriately taken into account and after deduction for reasonable marketing expenses of Tenant in connection with the assignment or sublease, to pay to Landlord as additional rent fifty (50%) percent of the excess of each such payment of rent or other consideration received by Tenant promptly after its receipt.

(d) If at any time during the Term of this Lease, there is a name change, Tenant shall so notify Landlord and deliver evidence reasonably satisfactory to Landlord documenting such name change. If, at any time during the Term of this Lease, there is a transfer of a controlling interest in the shares or stock which are not publicly traded upon a stock exchange, or the membership or general partnership or other ownership interests of Tenant, or a restructuring or reorganization of the Tenant entity, including any spin-off, Tenant shall so notify Landlord and (whether or not Tenant so notifies Landlord) such transfer restructuring or reorganization shall be deemed an assignment of this Lease requiring Landlord's consent as provided in this Section 6.2.1. "Controlling interest" shall mean having ownership of fifty percent (50%) or more of the outstanding voting stock of a corporation or other majority equity and control interest if not a corporation and the possession of power to direct or cause the direction of the management of such corporation or other entity.

(e) The following terms and conditions shall apply to any subletting by Tenant of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

- (i) Tenant hereby assigns and transfers to Landlord all of Tenant's interest in all rentals and income arising from any sublease of all or a portion of the Premises heretofore or hereafter made by Tenant, and Landlord may collect such rent and income and apply same toward Tenant's obligations under this Lease; provided, however, that until a default by Tenant hereunder shall occur under this Lease, Tenant may, except as otherwise provided in this Lease, receive, collect and enjoy the rents accruing under such sublease. Landlord shall not, by reason of this or any other assignment of such sublease to Landlord, nor by reason of the collection of the rents from a subtenant, be deemed liable to the subtenant for any failure of Tenant to perform and comply with any of Tenant's obligations to such subtenant under such sublease. Tenant hereby irrevocably authorizes and directs any such subtenant, upon receipt of a written notice from Landlord stating that a default hereunder exists under this Lease, to pay to Landlord the rents and other charges due and to become due under the sublease. The subtenant shall rely upon any such statement and request from Landlord and shall pay such rents and other charges to Landlord without any obligation or right to inquire as to whether such breach exists and notwithstanding any notice from or claim from Tenant to the contrary. Tenant shall have no right or claim against said subtenant, or, until the breach has been cured, against Landlord, for any such rents and other charges so paid by said subtenant to Landlord.

- (ii) In the event of a default by Tenant in the performance of its obligations under this Lease that results in a termination of this Lease, Landlord, at its option and without any obligation to do so, may require any subtenant to attorn to Landlord, in which event Landlord shall undertake the obligations of the sublandlord under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Landlord shall not be liable for any prepaid rents or security deposit paid by such subtenant to Tenant or for any other prior defaults or breaches of Tenant as sublandlord under such sublease.

6.2.2 Nuisance. Not to injure, deface or otherwise harm the Premises; nor commit any nuisance; nor permit in the Premises any vending machine (except such as is used for the sale of merchandise to employees of Tenant) or inflammable fluids or chemicals (except such as are customarily used in connection with standard office equipment); nor permit any cooking to such extent as requires special exhaust venting; nor permit the emission of any objectionable noise or odor; nor make, allow or suffer any waste; nor make any use of the Premises which is improper, offensive or contrary to any law or ordinance or which will invalidate any of Landlord's insurance; nor conduct any auction, fire, "going out of business" or bankruptcy sales.

6.2.3 Hazardous Wastes and Materials. Not to cause or permit any Hazardous Materials to be used, handled, generated, stored or disposed of by Tenant, or persons or entities acting by, through, or on behalf of Tenant, on, under or above, or transported to or from, the Premises and/or the Property (collectively, "Hazardous Materials Activities"). Nothing contained herein shall be deemed to prevent Tenant from using *de minimus* quantities of commercially available cleaners and office supplies which are customarily used in the ordinary course of first-class business office operations, which cleaners and/or office supplies contain Hazardous Materials; provided that, Tenant shall use such cleaners and/or office supplies in strict compliance (at Tenant's sole cost and expense) with all applicable laws, and shall use all necessary and appropriate precautions to prevent any spill, discharge, release or exposure to persons or property. Landlord shall not be liable to Tenant for any loss, cost, expense, claim, damage or liability arising out of any Hazardous Materials Activities by Tenant, or by Tenant's employees, agents, contractors, licensees, customers or invitees, whether or not consented to by Landlord. Tenant shall indemnify, defend with counsel acceptable to and approved by Landlord, and hold Landlord and all Landlord Affiliates harmless from and against any and all losses, costs, expenses (including, without limitation, all reasonable attorneys' fees), claims, damages, obligations and liabilities arising out of: (i) any Hazardous Materials Activities on the Premises, whether or not consented to by Landlord; (ii) any Hazardous Materials Activities by Tenant, Tenant's employees, agents, contractors, licensees, customers or invitees or anyone claiming by, through or under Tenant, wherever occurring; and (iii) any contamination, claim of contamination, loss or damage, or the like arising out of or resulting from the foregoing. For purposes hereof, "Hazardous Materials" shall include but not be limited to substances defined as "hazardous substances," "toxic substances" or "hazardous wastes" or "oil" in any local, state or federal law, rule, regulation or ordinance (collectively, "Environmental Law(s)"). If Landlord consents to any Hazardous Materials Activities, prior to using, storing or maintaining any Hazardous Materials on or about the Premises, Tenant shall

provide Landlord with a list of the types and quantities thereof, and shall update such list from time-to-time as necessary for continued accuracy. Tenant shall also provide Landlord with a copy of any Hazardous Materials inventory statement and any updates thereof required by any applicable Environmental Laws. If Tenant's activities violate or create a risk of violation of any Environmental Law or cause a spill, discharge, release or exposure to any persons or property, Tenant shall cease such activities immediately. Tenant shall immediately notify Landlord both by telephone and in writing of any spill, discharge, release or exposure of Hazardous Materials in or about the Premises, or of any condition in or about the Premises constituting an "imminent hazard" under any Environmental Laws. Landlord, Landlord's representatives and employees may enter the Premises during the Term to inspect Tenant's compliance herewith, and may disclose any spill, discharge, release, or exposure or any violation of any Environmental Laws to any applicable governmental agencies or authorities. The preceding indemnification contained in this Section 6.2.3 shall survive the expiration or earlier termination of this Lease.

6.2.4 Floor Load; Heavy Equipment. Not to place a load upon any floor of the Premises exceeding the floor load per square foot area which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of all heavy business machines and equipment, including safes, which shall be placed so as to distribute the weight. Business machines and mechanical equipment which cause vibration or noise shall be placed and maintained by Tenant at Tenant's expense in settings sufficient to absorb and prevent vibration, noise and annoyance. Tenant shall not move any safe, heavy machinery, heavy equipment, freight or fixtures into or out of the Premises except in such manner and at such time as Landlord shall in each instance authorize.

6.2.5 Installation, Alterations or Additions. Not to make any installations, alterations or additions in, to or on the Premises nor to permit the making of any holes in the walls, partitions, ceilings or floors nor the installation or modification of any locks or security devices without on each occasion obtaining the prior written consent of Landlord, and then only pursuant to plans and specifications approved by Landlord in advance in each instance. In no event shall Landlord's approval of any plans be construed as a waiver of Landlord's right, pursuant to Section 6.1.9 above, to require removal of any installations, alterations or improvements at end of the Term. Tenant agrees to employ for any work one or more responsible contractors of whom Landlord has given prior approval, and whose labor will work without interference with other labor working on the Property, and to cause such contractors employed by Tenant to carry worker's compensation insurance in accordance with statutory requirements, Employers Liability Insurance at least equal to the limits set forth in Section 4.2.4.1, and commercial general liability insurance covering such contractors on or about the Premises in amounts at least equal to the limits set forth in Section 1.1. All contractors insurance shall name Landlord and the Landlord Related Parties and any Mortgagee as additional insureds on a primary and non-contributory basis, and indemnifying the parties so named against claims for death or injury to persons or damage to property claimed to have occurred in the Premises or on the Property and shall extend to completed operations coverage. Tenant shall cause its contractors to submit certificates evidencing such coverage to Landlord prior to the commencement of any such work. Tenant shall cause all contractors performing work on behalf of Tenant in or about the Premises and Building to comply with the Construction Rules and Regulations attached

hereto as Exhibit E-1. Tenant shall pay promptly when due the entire cost of any work to the Premises undertaken by Tenant so that the Premises shall at all times be free of liens for labor and materials, and at Landlord's request Tenant shall furnish to Landlord a bond or other security acceptable to Landlord assuring that any work commenced by Tenant will be completed in accordance with the plans and specifications theretofore approved by Landlord and assuring that the Premises will remain free of any mechanics' lien or other encumbrance arising out of such work. In any event, Tenant shall within ten (10) days of notice from Landlord bond against or discharge any mechanics' liens or other encumbrances that may arise out of such work. If Tenant shall fail to cause any such lien to be discharged within such ten (10) day period, then in addition to any other available right or remedy, Landlord may discharge the same, either by paying the amount claimed to be due, or by bonding or otherwise. Any amount so paid, and all costs and expenses so incurred by Landlord in connection therewith, shall constitute Additional Rent hereunder. Tenant shall procure all necessary licenses and permits at Tenant's sole expense before undertaking such work. All such work shall be done in a good and workmanlike manner employing materials of good quality and so as to conform with all applicable zoning, building, fire, health and other codes, regulations, ordinances and laws. Tenant shall save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or property occasioned by or growing out of such work, and any liability, loss, cost, damage and expense of every kind and nature incurred by reason of, or arising out of any and all mechanic's and other liens filed in connection with any alterations or improvements.

Not to grant a security interest in, or to lease, any personal property or equipment being installed in the Premises, including, without limitation, demountable partitions (the "Collateral") without first obtaining an agreement for the benefit of Landlord in the form attached hereto as Exhibit G, from the secured party or lessor ("Secured Party") that stipulates in the event either the Lease is terminated or Tenant defaults in its obligations to Secured Party, then (i) Secured Party will remove the Collateral within ten (10) business days after notice from Landlord of the expiration or earlier termination of this Lease, or within ten (10) business days after Secured Party notifies Landlord that Secured Party has the right to remove the Collateral on account of Tenant's default in its obligations to Secured Party, (ii) Secured Party will restore the area affected by such removal, and (iii) that a failure to so remove the Collateral will subject such property to the provisions of subsection 6.1.9 of the Lease.

6.2.6 Abandonment. Not to abandon or vacate the Premises during the Term.

6.2.7 Signs. Not without Landlord's prior written approval to paint or place any signs or place any curtains, blinds, shades, awnings, aerials, or the like, visible from outside the Premises.

6.2.8 Parking and Storage. Not to permit any storage of materials outside of the Premises; nor to permit the use of the parking areas for either temporary or permanent storage of trucks; nor permit the use of the Premises for any use for which heavy trucking would be customary.

**ARTICLE 7**  
**Casualty or Taking**

- 7.1 Termination. In the event that the Premises or the Building, or any material part thereof, shall be taken by any public authority or for any public use, or shall be destroyed or damaged by fire or casualty, or by the action of any public authority, then this Lease may be terminated at the election of Landlord. Such election, which may be made notwithstanding the fact that Landlord's entire interest may have been divested, shall be made by the giving of notice by Landlord to Tenant within sixty (60) days after the date of the taking or casualty.
- 7.2 Restoration. If Landlord does not elect to so terminate, this Lease shall continue in force and a just proportion of the rent reserved, according to the nature and extent of the damages sustained by the Premises, shall be suspended or abated until the Premises, or what may remain thereof, shall be put by Landlord in proper condition for use, which Landlord covenants to do with reasonable diligence to the extent permitted by the net proceeds of insurance recovered or damages awarded for such taking, destruction or damage and subject to zoning and building laws or ordinances then in existence. "Net proceeds of insurance recovered or damages awarded" refers to the gross amount of such insurance or damages less the reasonable expenses of Landlord incurred in connection with the collection of the same, including without limitation, fees and expenses for legal and appraisal services.
- 7.3 Award. Irrespective of the form in which recovery may be had by law, all rights to damages or compensation shall belong to Landlord in all cases. Tenant hereby grants to Landlord all of Tenant's rights to such damages and covenants to deliver such further assignments thereof as Landlord may from time to time request.

**ARTICLE 8**  
**Defaults**

- 8.1 Events of Default. (a) If Tenant shall default in the performance of any of its obligations to pay the Fixed Rent, Additional Rent or any other sum due Landlord hereunder and if such default shall continue for ten (10) days after written notice from Landlord designating such default or if within thirty (30) days after written notice from Landlord to Tenant specifying any other default or defaults Tenant has not commenced diligently to correct the default or defaults so specified or has not thereafter diligently pursued such correction to completion, or (b) if any assignment shall be made by Tenant in violation of the provisions of Section 6.2.1 of this Lease, or (c) if any assignment shall be made by Tenant or any guarantor of Tenant for the benefit of creditors, or (d) if Tenant's leasehold interest shall be taken on execution, or (e) if a lien or other involuntary encumbrance is filed against Tenant's leasehold interest or Tenant's other property, including said leasehold interest, and is not discharged within ten (10) days thereafter, or (f) if a petition is filed by Tenant or any guarantor of Tenant for liquidation, or for reorganization or an arrangement under any provision of any bankruptcy law or code as then in force and effect, or (g) if an involuntary petition under any of the provisions of any bankruptcy law or code is filed against Tenant or any guarantor of Tenant and such involuntary petition is not dismissed within thirty (30) days thereafter, then, and in any of such cases, Landlord and the agents

and servants of Landlord lawfully may, in addition to and not in derogation of any remedies for any preceding breach of covenant, immediately or at any time thereafter without demand or notice and with process of law enter into and upon the Premises or any part thereof in the name of the whole and repossess the same as of Landlord's former estate and expel Tenant and those claiming through or under Tenant and remove its and their effects without being deemed guilty of any manner of trespass and without prejudice to any remedies which might otherwise be used for arrears of rent or prior breach of covenants, and/or Landlord may terminate this Lease by sending written notice of termination to Tenant and this Lease shall terminate and come to an end on the date of entry as aforesaid, or on the third (3<sup>rd</sup>) day following the giving of such notice as fully and completely as if such date were the date originally fixed for expiration of the Term of this Lease. Tenant will quit and surrender the Premises to Landlord, but shall remain liable as herein provided. Tenant hereby waives all statutory rights to the Premises (including without limitation rights of redemption, if any, granted under any present or future laws to the extent such rights may be lawfully waived). Landlord, without notice to Tenant, may store Tenant's effects, and those of any person claiming through or under Tenant, at the expense and risk of Tenant, and, if Landlord so elects, may sell such effects at public auction or private sale and apply the net proceeds to the payment of all sums due to Landlord from Tenant, if any, and pay over the balance, if any, to Tenant. No termination or repossession provided for in this Section 8.1 shall relieve Tenant or any guarantor of Tenant of the liabilities and obligations of Tenant under this Lease, all of which shall survive any such termination or repossession.

8.2 Remedies. (a) In the event of termination or repossession, Tenant covenants to pay punctually to Landlord Fixed Rent, Additional Rent and all other sums for which Tenant is obligated in this Lease to pay and in the same manner and to the same extent and at the same time as if this Lease had not been terminated. In calculating the amounts to be paid by Tenant pursuant to the preceding sentence, Tenant shall be credited with any amount paid to Landlord as compensation as set forth below in this Section 8.2 and also with the net proceeds of any rent obtained by Landlord by reletting the Premises, after deducting all Landlord's expense in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, reasonable attorney's fees, and expenses of preparing the Premises for such reletting.

(b) Landlord may elect to (i) relet the Premises or any part or parts thereof, for a term or terms which may be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term and may grant such concessions and free rent as Landlord in its sole judgment considers advisable or necessary to relet the same and/or (ii) make such alterations, repairs and decorations in the Premises as Landlord in its sole judgment considers advisable or necessary to relet the same and no action of Landlord in accordance with the foregoing or failure to relet or to collect rent under reletting shall operate or be construed to release or reduce Tenant's liability as aforesaid. However, Landlord shall use reasonable efforts to re-let the Premises after Tenant vacates the Premises once this Lease is terminated on account of a default by Tenant. For the purposes of this paragraph, marketing of the Premises in a manner similar to the way Landlord markets its other premises in the suburban market shall be deemed to satisfy Landlord's obligation to use such "reasonable efforts." In no event shall Landlord be required (i) to



solicit or entertain negotiations with any other prospective tenants for the Premises until Landlord obtains full and complete possession of the Premises including, without limitation, the undisputed right to re-let the Premises free of any claim of Tenant, (ii) to lease the Premises to a tenant whose proposed use, in Landlord's bona fide judgment, would violate any restrictions by which Landlord is bound, (iii) to re-let the Premises before leasing other comparable vacant space in the Building, (iv) to lease the Premises for a rental less than the current fair market rental then prevailing for similar office space in the Building, or (v) to enter into a lease with any proposed tenant that does not have, in Landlord's reasonable opinion, sufficient financial resources or operating experience to operate the Premises in a manner comparable to other tenants in the Building. In no event, however, shall Tenant's liability hereunder be diminished or reduced if or to the extent such reasonable efforts of Landlord to re-let are not successful.

(c) If this Lease is terminated under any of the provisions contained in Section 8.1, at the election of Landlord, and in lieu of full recovery by Landlord of the sums payable under the foregoing provisions of this Section 8.2 (except for the amount of any rent of any kind accrued and unpaid at the time of termination), Landlord may by written notice to Tenant, elect to recover, and Tenant shall thereupon pay forthwith to Landlord, as compensation, an amount equal to the present value of the amount by which the payments of Fixed Rent and Additional Rent payable for balance of the Term would exceed the fair rental value of the Premises for the balance of the Term. In calculating the rent reserved there shall be included, in addition to the Fixed Rent and Additional Rent, the value of all other considerations agreed to be paid by Tenant for the balance of the Term.

(d) In the alternative, and in lieu of any other damages or indemnity and in lieu of recovery by Landlord of all sums payable under all the foregoing provisions of this Section 8.2, Landlord may by written notice to Tenant, at any time after this Lease is terminated under any of the provisions contained in Section 8.1 or is otherwise terminated for breach of any obligation of Tenant and before such full recovery, elect to recover, and Tenant shall thereupon pay, as liquidated damages, an amount equal to the aggregate of the Fixed Rent and Additional Rent owing under this Lease for the remainder of the Term following such termination plus the amount of rent of any kind accrued and unpaid at the time of termination and less the amount of any recovery by Landlord under the foregoing provisions of this Section 8.2 up to the time of payment of such liquidated damages.

(e) Nothing contained in this Lease shall, however, limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater than, equal to, or less than the amount of the loss or damages referred to above.

8.3 Remedies Cumulative. Any and all rights and remedies which Landlord may have under this Lease, and at law and equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time insofar as permitted by law.

- 8.4 Landlord's Right to Cure Defaults. Landlord may, but shall not be obligated to, cure, at any time, without notice, any default by Tenant under this Lease; and whenever Landlord so elects, all costs and expenses incurred by Landlord, including reasonable attorneys' fees, in curing a default shall be paid, as Additional Rent, by Tenant to Landlord on demand, together with lawful interest thereon from the date of payment by Landlord to the date of payment by Tenant.
- 8.5 Effect of Waivers of Default. Any consent or permission by Landlord to any act or omission which otherwise would be a breach of any covenant or condition herein, shall not in any way be held or construed (unless expressly so declared) to operate so as to impair the continuing obligation of any covenant or condition herein, or otherwise, except as to the specific instance, operate to permit similar acts or omissions.
- 8.6 No Waiver, etc. The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of rent with knowledge of the breach of any covenant of this Lease shall not be deemed to have been a waiver of such breach by Landlord. No consent or waiver, express or implied, by Landlord to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.
- 8.7 No Accord and Satisfaction. No acceptance by Landlord of a lesser sum than the Fixed Rent, Additional Rent or any other charge then due shall be deemed to be other than on account of the earliest installment of such rent or charge due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or other charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided.

**ARTICLE 9**  
**Rights of Mortgage Holders**

- 9.1 Rights of Mortgage Holders. The word "mortgage" as used herein includes mortgages, deeds of trust or other similar instruments evidencing other voluntary liens or encumbrances, and modifications, consolidations, extensions, renewals, replacements and substitutes thereof. The word "holder" shall mean a mortgagee, and any subsequent holder or holders of a mortgage. Until the holder of a mortgage shall enter and take possession of the Property for the purpose of foreclosure, such holder shall have only such rights of Landlord as are necessary to preserve the integrity of this Lease as security. Upon entry and taking possession of the Property for the purpose of foreclosure, such holder shall have all the rights of Landlord. No such holder of a mortgage shall be liable either as mortgagee or as assignee, to perform, or be liable in damages for failure to perform, any of the obligations of Landlord unless and until such holder shall enter and take possession of the

Property for the purpose of foreclosure. Upon entry for the purpose of foreclosure, such holder shall be liable to perform all of the obligations of Landlord, subject to and with the benefit of the provisions of Section 10.4, provided that a discontinuance of any foreclosure proceeding shall be deemed a conveyance under said provisions to the owner of the equity of the Property.

The covenants and agreements contained in this Lease with respect to the rights, powers and benefits of a holder of a mortgage (particularly, without limitation thereby, the covenants and agreements contained in this Section 9.1) constitute a continuing offer to any person, corporation or other entity, which by accepting a mortgage subject to this Lease, assumes the obligations herein set forth with respect to such holder; such holder is hereby constituted a party of this Lease as an obligee hereunder to the same extent as though its name were written hereon as such; and such holder shall be entitled to enforce such provisions in its own name. Tenant agrees on request of Landlord to execute and deliver from time to time any agreement which may be necessary to implement the provisions of this Section 9.1.

- 9.2 Lease Superior or Subordinate to Mortgages. It is agreed that the rights and interest of Tenant under this Lease shall be (i) subject or subordinate to any present or future mortgage or mortgages and to any and all advances to be made thereunder, and to the interest of the holder thereof in the Premises or any property of which the Premises are a part if Landlord shall elect by notice to Tenant to subject or subordinate the rights and interest of Tenant under this Lease to such mortgage or (ii) prior to any present or future mortgage or mortgages, if Landlord shall elect, by notice to Tenant, to give the rights and interest of Tenant under this Lease priority to such mortgage; in the event of either of such elections and upon notification by Landlord to that effect, the rights and interest of Tenant under this Lease should be deemed to be subordinate to, or have priority over, as the case may be, said mortgage or mortgages, irrespective of the time of execution or time of recording of any such mortgage or mortgages (provided that, in the case of subordination of this Lease to any future mortgages, the holder thereof agrees not to disturb the possession of Tenant so long as Tenant is not in default hereunder). Tenant agrees it will, upon not less than ten (10) days' prior written request by Landlord, execute, acknowledge and deliver any and all instruments deemed by Landlord necessary or desirable to give effect to or notice of such subordination or priority. Tenant also agrees that if it shall fail at any time to execute, acknowledge and deliver any such instrument requested by Landlord, Landlord may, in addition to any other remedies available to it, execute, acknowledge and deliver such instrument as the attorney-in-fact of Tenant and in Tenant's name; and Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney-in-fact, coupled with an interest with full power of substitution, and in its name, place and stead so to do. Any Mortgage to which this Lease shall be subordinated may contain such terms, provisions and conditions as the holder deems usual or customary.

**ARTICLE 10**  
**Miscellaneous Provisions**

- 10.1 Notices from One Party to the Other. All notices required or permitted hereunder shall be in writing and addressed, if to the Tenant, at the Original Notice Address of Tenant or such other address as Tenant shall have last designated by notice in writing to Landlord and, if to Landlord, at the Original Notice Address of Landlord or such other address as Landlord shall have last designated by notice in writing to Tenant. Any notice shall be deemed duly given upon receipt or rejection when mailed to such address postage prepaid, by registered or certified mail, return receipt requested, or on the next business day after being deposited with a nationally recognized overnight courier service for delivery to such address, or when delivered to such address by hand.
- 10.2 Quiet Enjoyment. Landlord agrees that upon Tenant's paying the rent and performing and observing the agreements, conditions and other provisions on its part to be performed and observed, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises during the Term hereof without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject, however, to the terms of this Lease.
- 10.3 Lease not to be Recorded. Tenant agrees that it will not record this Lease. Both parties shall, upon the request of either, execute and deliver a notice or short form of this Lease in such form, if any, as may be permitted by applicable statute. Tenant hereby irrevocably appoints Landlord as Tenant's attorney-in-fact (which appointment shall survive termination of the Term of this Lease) with full power of substitution to execute, acknowledge and deliver a notice of termination of lease in Tenant's name if Tenant fails, within 10 days after request therefor, to either execute, acknowledge or deliver such notice of termination or give Landlord written notice setting forth the reasons why Tenant is refusing to deliver such notice of termination.
- 10.4 Limitation of Landlord's Liability. The term "Landlord" as used in this Lease, so far as covenants or obligations to be performed by Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the Property, and in the event of any transfer or transfers of title to said property, the Landlord (and in case of any subsequent transfers or conveyances, the then grantor) shall be concurrently freed and relieved from and after the date of such transfer or conveyance, without any further instrument or agreement of all liability as respects the performance of any covenants or obligations on the part of the Landlord contained in this Lease thereafter to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord, shall, subject as aforesaid, be binding on the Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership of said leasehold interest or fee, as the case may be. Tenant, its successors and assigns, shall not assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's interest in the Property and in the rents, issues and profits thereof, and Tenant agrees to look solely to such interest for the satisfaction of any liability or claim against Landlord under this Lease, it being specifically agreed that in no event whatsoever shall Landlord (which term shall include, without limitation, any general or limited partner, trustees, beneficiaries, officers, directors, managers, members or stockholders of Landlord) ever be personally liable for any such liability.

- 10.5 Force Majeure. In any case where either party hereto is required to do any act, delays caused by or resulting from Acts of God, war, civil commotion, fire, flood or other casualty, labor difficulties, shortages of labor, materials or equipment, government regulations, unusually severe weather, quarantine, infectious disease, epidemic, pandemic, public health emergency or crisis or other causes beyond such party's reasonable control (any of the foregoing causes being referred to herein as "Force Majeure") shall not be counted in determining the time during which work shall be completed, whether such time be designated by a fixed date, a fixed time or a "reasonable time," and such time shall be deemed to be extended by the period of such delay. During the continuance of any event of Force Majeure, Landlord may temporarily close the Building and/or cease to provide any service or amenity if Landlord deems it necessary, in its sole judgment, for the safety or well-being of the Building, the Property, its tenants and their employees, invitees and contractors. Tenant's inability to pay any sums due Landlord hereunder shall in no way be affected or excused by any of the foregoing causes and shall in no event be deemed a Force Majeure event.
- 10.6 Landlord's Default. Landlord shall not be deemed to be in default in the performance of any of its obligations hereunder unless it shall fail to perform such obligations and such failure shall continue for a period of thirty (30) days or such additional time as is reasonably required to correct any such default after written notice has been given by Tenant to Landlord (and to all mortgagees of which Tenant has notice) specifying the nature of Landlord's alleged default. Notwithstanding any provision contained herein, in no event shall Landlord ever be liable to Tenant, or any person claiming by, through or under Tenant, for any special, indirect, incidental or consequential damages, or for any lost profits. Tenant shall have no right to terminate this Lease for any default by Landlord hereunder and no right, for any such default, to offset or counterclaim against any rent due hereunder.
- 10.7 Brokerage. Tenant warrants and represents that it has dealt with no broker in connection with the consummation of this Lease, other than T3 Advisors and in the event of any brokerage claims, other than by T3 Advisors against Landlord predicated upon prior dealings with Tenant, Tenant agrees to defend the same and indemnify and hold Landlord harmless against any such claim.
- 10.8 Applicable Law and Construction; Merger; Jury Trial. This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and, if any provisions of this Lease shall to any extent be invalid, the remainder of this Lease shall not be affected thereby. This Lease and the Exhibits attached hereto and forming a part hereof constitute all the covenants, promises, agreements, and understandings between Landlord and Tenant concerning the Premises and the Building and there are no covenants, promises, agreements or understandings, either oral or written, between them other than as are set forth in this Lease. Neither Landlord nor Landlord's agents shall be bound to any representations with respect to the Premises, the Building or the Property except as herein expressly set forth, and all representations, either oral or written, shall be deemed to be merged into this Lease. The headings and titles of the Articles and Sections contained herein are for convenience and reference only and shall in no way be held to define, limit, amplify or describe or aid in the interpretation or construction of any provisions of this Lease. Tenant shall and does hereby waive trial by jury in any action, proceeding, or claim brought by or against Landlord regarding any matter arising out of or in any way connected

with this Lease, the relationship of Landlord and Tenant or Tenant's use or occupancy of the Premises. Unless repugnant to the context, the words "Landlord" and "Tenant" appearing in this Lease shall be construed to mean those named above and their respective heirs, executors, administrators, successors and assigns, and those claiming through or under them respectively. If there be more than one person or entity named as tenant, the obligations imposed by this Lease upon Tenant shall be joint and several.

- 10.9 Consents. With respect to any provision of this Lease which either provides or is held to provide that Landlord shall not unreasonably withhold or unreasonably delay any consent or approval, Tenant shall not be entitled to make any claim for, and Tenant hereby expressly waives, any claim for damages, it being understood and agreed that Tenant's sole remedy therefor shall be an action for specific performance.
- 10.10 Authority. In the event the Tenant is a corporation, partnership or limited liability company, Tenant hereby represents and warrants that: the Tenant is a duly constituted corporation, partnership or limited liability company, as the case may be, qualified to do business in the Commonwealth of Massachusetts; that the person executing this Lease is duly authorized to execute and deliver this Lease on behalf of said corporation(s), partnership(s) or limited liability company(ies); and that the by-laws of Tenant authorize to enter into this Lease.
- 10.11 Counterparts. This Lease shall not be valid and binding until executed and delivered by Landlord and may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Any facsimile or other electronic transmittal of original signature versions of this Lease shall be considered to have the same legal effect as execution and delivery of the original document and shall be treated in all manner and respects as the original document.
- 10.12 OFAC Compliance. Tenant hereby warrants and represents that: (a) neither Tenant nor any of its affiliates does business with, sponsors, or provides assistance or support to, the government of, or any person located in, any country, or with any other person, targeted by any of the economic sanctions of the United States administered by The Office of Foreign Assets Control ("OFAC"); Tenant is not owned or controlled (within the meaning of the regulations promulgating such sanctions or the laws authorizing such promulgation) by any such government or person; and any payments and/or proceeds received by Tenant under the terms of this Lease will not be used to fund any operations in, finance any investments or activities in or make any payments to, any country, or to make any payments to any person, targeted by any of such sanctions; (b) no funds tendered to Landlord by Tenant under the terms of this Lease are or will be directly or indirectly derived from activities that may contravene U.S. federal, state or international laws and regulations, including anti-money laundering laws; (c) neither Tenant, nor any person controlling, controlled by, or under common control with, Tenant, nor any person having a beneficial interest in Tenant, nor any person for whom Tenant is acting as agent or nominee, nor any person providing funds to Tenant in connection with this Lease (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws; (ii) has been assessed civil or criminal penalties under any Anti-Money

Laundering Laws; (iii) has had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws; (iv) is a person or entity that resides or has a place of business in a country or territory which is designated as a Non-Cooperative Country or Territory by the Financial Action Task Force on Money Laundering, or whose subscription funds are transferred from or through such a jurisdiction; (v) is a "Foreign Shell Bank" within the meaning of the Patriot Act (i.e., a foreign bank that does not have a physical presence in any country and that is not affiliated with a bank that has a physical presence and an acceptable level of regulation and supervision); (vi) is a person or entity that resides in, or is organized under the laws of, a jurisdiction designated by the Secretary of the Treasury under Section 311 or 312 of the Patriot Act as warranting special measures due to money laundering concerns; (vii) is an entity that is designated by the Secretary of the Treasury as warranting such special measures due to money laundering concerns; or (viii) is a person or entity that otherwise appears on any US.-government provided list of known or suspected terrorists or terrorist organizations. For purposes of this representation, the term "Anti-Money Laundering Laws" shall mean all laws, regulations and executive orders, state and federal, criminal and civil, that (1) limit the use of and/or seek the forfeiture of proceeds from illegal transactions; (2) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; (3) require identification and documentation of the parties with whom a financial institution conducts business; or (4) are designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations, and sanctions shall include, without limitation, the USA PATRIOT Act of 2001, Pub. L. No. 107-56 (the "Patriot Act"), Executive Order 13224, the Bank Secrecy Act, 31 U.S.C. Section 531 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et. seq., the OFAC-administered economic sanctions, and laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

- 10.13 Confidentiality; No Public Statement. Tenant and Landlord agree that the execution of this Lease and the information contained herein shall be kept confidential and shall not be divulged to any third party without the consent of the other party; provided, without such consent, either party may provide such information to its accountants, attorneys, lenders, potential lenders, partners, potential partners, potential purchasers, employees, agents, consultants and any prospective assignee or subtenant, as may be reasonably necessary to perform their duties or in connection with the terms of any re-financing, sale, or assignment or subletting. Neither Landlord nor Tenant shall issue any public statement, announcement or press release regarding the Premises, this Lease or the terms of this Lease, without the approval of the other party. Landlord shall be entitled to withhold its approval of any statement, announcement or press release contemplated by Tenant that would coincide with or precede any public statement, announcement or press release by Landlord regarding this Lease. Tenant shall be permitted to disclose this Lease or portions there to the extent required in order for shares of its stock (or equivalents thereof) to become or remain listed in a securities exchange.
- 10.14 Execution and Delivery. This Lease shall only become effective and binding upon full execution hereof by Landlord and Tenant, and delivery of a signed copy to Tenant. Landlord and Tenant agree that either or both parties may execute this Lease, all

amendments and other associated lease documents, by means of DocuSign (or another mutually acceptable electronic signature method), and that execution of this Lease, amendments and other lease documents by means of DocuSign (or another mutually acceptable electronic signature method) shall be valid and binding, and have the same legal effect as execution with original ink signatures.



WITNESS the execution hereof under seal on the Effective Date:

**LANDLORD:**

**NWP BUILDING 20 LLC**

**By: NDC ASSET MANAGER LLC**

By: /s/ Crosby Nordblom  
Name: Crosby Nordblom, as Manager and not individually  
Title: Manager

By: /s/ Peter C Nordblom  
Name: Peter C Nordblom, as Manager and not individually  
Title: Manager

By: /s/ Adele Olivier  
Name: Adele Olivier, as Manager and not individually  
Title: Manager

**TENANT:**

**DESKTOP METAL OPERATING, INC.**

**A Delaware corporation**

By: /s/ Thomas Nogueira  
Name: Thomas Nogueira  
Title: VP of Operations

EXHIBIT A

PLAN SHOWING THE PREMISES



**EXHIBIT B**

**COMMENCEMENT DATE NOTIFICATION**

To: \_\_\_\_\_

\_\_\_\_\_ (“Landlord”) and \_\_\_\_\_ (“Tenant”) are parties to a lease (“Lease”) dated \_\_\_\_\_, 201\_, of premises in a building known as \_\_\_\_\_, Massachusetts. Landlord hereby notifies Tenant that the Commencement Date is \_\_\_\_\_; the Expiration Date is \_\_\_\_\_; the first Lease Year commenced on \_\_\_\_\_ and will end on \_\_\_\_\_; and the Rent Commencement Date is \_\_\_\_\_. Although not required for this notification to be effective, we would appreciate you confirming the foregoing by signing the enclosed copy of this letter and returning it to us.

\_\_\_\_\_  
(Landlord)

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

Confirmed:

\_\_\_\_\_  
(Tenant)

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

**EXHIBIT C**

[Intentionally Omitted.]

**EXHIBIT D**

[Intentionally Omitted.]

**EXHIBIT E**

**RULES AND REGULATIONS**

2. The sidewalks, entrances, passages, corridors, vestibules, halls, elevators, or stairways in or about the Building shall not be obstructed by Tenant.
3. Tenant shall not place objects against glass partitions, doors or windows which would be unsightly from the Building corridor or from the exterior of the Building.
4. Tenant shall not waste electricity or water in the Building premises and shall cooperate fully with Landlord to assure the most effective operation of the Building heating and air conditioning systems. All regulating and adjusting of heating and air-conditioning apparatus shall be done by the Landlord's agents or employees.
5. Tenant shall not use the Premises so as to cause any increase above normal insurance premiums on the Building.
6. No bicycles, vehicles, or animals of any kind shall be brought into or kept in or about the Premises. No space in the Building shall be used for the sale of merchandise of any kind at auction or for storage thereof preliminary to such sale.
7. Tenant shall cooperate with Landlord in minimizing loss and risk thereof from fire and associated perils.
8. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were designed and constructed and no sweepings, rubbish, rags, acid or like substance shall be deposited therein. All damages resulting from any misuse of the fixtures shall be borne by the Tenant.
9. Landlord reserves the right to establish, modify, and enforce reasonable parking rules and regulations, provided such rules and obligations do not diminish Tenant's rights under the Lease.
10. Landlord reserves the right at any time to rescind, alter or waive any rule or regulation at any time prescribed for the Building and to impose additional reasonable rules and regulations when in its judgment deems it necessary, desirable or proper for its best interest and for the best interest of the tenants and no alteration or waiver of any rule or regulation in favor of one tenant shall operate as an alteration or waiver in favor of any other tenant, provided such rules and regulations do not diminish Tenant's rights under the Lease. Landlord shall not be responsible to any tenant for the nonobservance or violation by any other tenant however resulting of any rules or regulations at any time prescribed for the Building.
11. Tenant acknowledges that the Building has been designated a non-smoking building. At no time shall Tenant permit its agents, employees, contractors, guests or invitees to smoke in the Building or, except in specified locations, directly outside the Building.
12. The normal business hours for the Building are 7:00 A.M. to 6:00 P.M. on Mondays through Fridays, excluding holidays on which the Building is closed.
13. Landlord may from time to time adopt systems and procedures (including, but not limited to, temporary closures and/or suspension of services during a Force Majeure event) for the security and safety of the Building and Property, their occupants, entry, use and contents. Tenant, its agents, employees, contractors, guests and invitees shall comply with Landlord's systems and procedures.

**EXHIBIT E-1**

**CONSTRUCTION RULES AND REGULATIONS**

1. All work shall be performed in accordance with all applicable state laws and in accordance with all requirements and codes of the [*Town of \_\_\_\_\_*] or [*City of Boston Inspectional Services Department*] and guidelines of Landlord's managing agent, Nordblom Management Company ("Building Management"). The Building is occupied and operational and extra care and precautions must be taken to avoid interruption of services.
2. Certificates of Insurance in compliance with the requirements of [*Section 6.2.5*] of the Lease must be provided from general contractor ("Contractor") and its subcontractors at a minimum of seven (7) days prior to the commencement of any work.
3. At least three (3) weeks before construction, Contractor must schedule a pre-construction meeting with the Landlord's project management team. Meeting materials should include detailed schedules; addresses and telephone numbers of supervisors, contractors and subcontractors; copies of permits; proof of current insurance (including all subcontractors); and notice of any contractor's involvement in a labor dispute. Contractor shall supply Building Management with a copy of all permits prior to start of any work.
4. Contractor is required to keep and make available a daily log of personnel entering and exiting the premises. Building Management will provide access cards and keys to direct employees of Contractor. Contractor shall be responsible for providing access to sub-contractors. Building Management reserves the right to restrict access further at any point, and for any reason.
5. Contractor personnel are only permitted within the Building during normal trade working hours plus 30 minutes time before and after normal trade hours for set up and pick up of tools, etc., unless prior approval is given by Building Management.
6. Testing of sprinkler system, fire protection system, demolition, coring, and any other similar type work must be coordinated through Building Management with ten (10) days prior notice. Work on any system within the Building shall be coordinated with Building Management.
7. Elevators will be inspected by the Contractor and Building Management prior to use by Contractor. The Contractor is responsible for returning the elevators to the Landlord in the same good condition as received. Any cost for repair or servicing during the use by construction personnel will be at the cost of the Contractor.
8. If use of the passenger elevator is approved by Building Management, deliveries through the main lobby must be done in a professional manner. Floor protection is required and elevator wall mats must be used. No storage of any items allowed in main lobby or any common area. The Contractor is responsible for leaving the main lobby, elevator, and any other common area in "broom clean" condition. The Contractor will incur costs for the clean-up for areas left dirty. Rubbish cannot be stored in any common area.
9. The loading dock and elevator must be reserved in advance and are not exclusive to Contractor's sole use. Contract will provide Building Management with a weekly delivery schedule.
10. Any common interior paths of travel, including entrances, lobbies, hallways, and elevators, will be properly protected. Protection may include elevator pads, walk off mats, plastic on carpet, Masonite on tile floors, cardboard or Masonite on wall areas, or suitable alternatives approved by Building Management.
11. Contractor shall provide heavy plastic screening for dust protection and/or temporary walls of suitable appearance as required by Building Management.
12. Walk-off mats are to be provided at entrance doors.

13. No utilities (including electricity, gas and water, plumbing or services to the tenants are to be cutoff or interrupted without first having requested, in writing, and secured, in writing, the permission of Building Management. Request for this permission will be submitted in writing by Contactor to Building Management ten (10) business days prior to the planned cutoff.
14. Prior to any building management control work commencing that shall impact the existing Building and control network, Building Management's representative shall need to be consulted.
15. If taking the Building fire alarm points offline is required in connection with any work, the cost of such service will be billable to the Contractor. Contractor can choose to have their subcontractor handle taking the fire alarm points or panel offline, provided the sub-contractor is licensed to do so, and works within the requirements and codes of the *Town of [\_\_\_\_\_]* Fire Department.
16. Should any scope of work require entry to another tenant's space, Tenant and/or Contractor must notify Building Management. If approved by Building Management, the activity shall be under the supervision of Building Management's representative. The cost of said supervision will be billable to the Contractor.
17. Admittance to the roof of the Building is allowed only upon the prior written consent of Building Management. Admittance for the duration of the project may be accommodated, but specific conditions for controlled access may apply.
18. There is a "No Smoking Policy" in effect for all areas of the Building, with the exception of the smoking areas designated at each building. Any personnel caught in violation of this policy will be asked to leave the premises immediately.
19. Contractor will be responsible for daily removal of waste foods, milk, coffee and soft drink containers, etc. Building trash receptacles are not to be used.
20. Construction personnel are not to utilize any vacant space within the Building other than that space which is designated by the Building Management to the Contractor.
21. There will be no radios on the job site.
22. All workers are required to wear a shirt, shoes, and full length trousers.
23. Public spaces, corridors, elevator, bathrooms, lobby, etc., must be cleaned immediately after use. Restrooms for contractor use will be designated to the Contractor. No other restrooms are to be utilized by Contractor personnel.
24. There will be no smoking, eating, or open food containers in the elevator, carpeted areas, or public lobbies. There will be no yelling or boisterous activities; nor is alcohol or controlled substances allowed or tolerated. Individuals under the influence or in possession of such will be prosecuted.
25. Contractor shall post no signs without Building Management's expressed prior approval which may be withheld for any reason.
26. Contractor shall complete work without disruption from labor disputes and in harmony with other trades.
27. The Construction Rules and Regulations are subject to change in Landlord's sole discretion.
28. Landlord reserves the right to prohibit access to the Building by any contractors who fail to comply with these Construction Rules and Regulations.



**EXHIBIT F**

**TENANT ESTOPPEL CERTIFICATE**

TO: \_\_\_\_\_ (“Mortgagee” or “Purchaser”)

THIS IS TO CERTIFY THAT:

1. The undersigned is the tenant (the “Tenant”) under that certain lease (the “Lease”) dated \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ as landlord (the “Landlord”), and the undersigned, as Tenant, covering those certain premises commonly known and designated as \_\_\_\_\_ (the “Premises”) in the building located at \_\_\_\_\_, \_\_\_\_\_, Massachusetts.
2. The Lease is attached hereto as Exhibit A and (i) constitutes the entire agreement between the undersigned and the Landlord with respect to the Premises, (ii) is the only Lease between the undersigned and the Landlord affecting the Premises and (iii) has not been modified, changed, altered or amended in any respect, except (if none, so state):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The undersigned has accepted and now occupies the Premises as of the date hereof, and all improvements, if any, required by the terms of the Lease to be made by the Landlord have been completed and all construction allowances to be paid by Landlord have been paid. In addition, the undersigned has made no agreement with Landlord or any agent, representative or employee of Landlord concerning free rent, partial rent, rebate of rental payments or any other type of rental or other economic inducement or concession except (if none, so state):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (1) The Term of the Lease began (or is scheduled to begin) on \_\_\_\_\_, 20\_\_ and will expire on \_\_\_\_\_, 20\_\_;
- (2) The fixed rent for the Premises has been paid to and including \_\_\_\_\_, 20\_\_;
- (3) The fixed rent being paid pursuant to the Lease is at the annual rate of \$ \_\_\_\_\_; and
- (4) The escalations payable by Tenant under the Lease are currently \$ \_\_\_\_\_, based on a pro rata share of \_\_\_\_\_%, and have been reconciled through \_\_\_\_\_, 20\_\_.

4. (i) No party to the Lease is in default, (ii) the Lease is in full force and effect, (iii) the rental payable under the Lease is accruing to the extent therein provided thereunder, (iv) as of the date hereof the undersigned has no charge, lien or claim of off-set (and no claim for any credit or deduction) under the Lease or otherwise, against rents or other charges due or to become due thereunder or on account of any prepayment of rent more than one (1) month in advance of its due date, and (v) Tenant has no claim against Landlord for any security, rental, cleaning or other deposits, except (if none, so state):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Since the date of the Lease there are no actions, whether voluntary or otherwise, pending against the undersigned under the bankruptcy, reorganization, arrangement, moratorium or similar laws of the United States, any state thereof of any other jurisdiction.
6. Tenant has not sublet, assigned or hypothecated or otherwise transferred all or any portion of Tenant’s leasehold interest.

7. Neither Tenant nor Landlord has commenced any action or given or received any notice for the purpose of terminating the Lease, nor does Tenant have any right to terminate the Lease, except (if none, so state):
8. Tenant has no option or preferential right to purchase all or any part of the Premises (or the real property of which the Premises are a part) nor any right or interest with respect to the Premises or the real property of which the Premises are a part. Tenant has no right to renew or extend the Term of the Lease or expand the Premises except (if none, so state):
9. The undersigned acknowledges that the parties named herein are relying upon this estoppel certificate and the accuracy of the information contained herein in making a loan secured by the Landlord's interest in the Premises, or in connection with the acquisition of the Property of which the Premises is a part.

EXECUTED UNDER SEAL AS OF \_\_\_\_\_, 20\_\_.

TENANT:

\_\_\_\_\_

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

Name:

Title:

Duly Authorized

**EXHIBIT G**

**LANDLORD'S CONSENT AND WAIVER**

WHEREAS, \_\_\_\_\_ (the "Tenant") has or is about to enter into certain financing agreements with \_\_\_\_\_  
\_\_\_\_\_ (the "Bank") pursuant to which the Bank has been or may be granted a security interest in certain property of the Tenant; and

WHEREAS, Tenant is the tenant, pursuant to a lease agreement by and between Tenant and the undersigned (the "Landlord") dated as of  
\_\_\_\_\_ (the "Lease"), of certain demised premises contained in the building located at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and more particularly described in the Lease (the "Premises");

NOW, THEREFORE, for valuable consideration, the Landlord agrees, for as long as Tenant remains indebted to the Bank, as follows:

(a) Landlord acknowledges and agrees that the personal property of Tenant (which for purposes hereof shall not include computer wiring, telephone wiring and systems, and demountable partitions) in which the Bank has been granted a security interest (the "Bank Collateral") may from time to time be located on the Premises;

(b) Landlord subordinates, waives, releases and relinquishes unto the Bank, its successors or assigns, all right, title and interest, if any, which the Landlord may otherwise claim in and to the Bank Collateral, except as provided in subparagraph (d) hereinbelow;

(c) Upon providing the Landlord with at least five (5) business days' prior written notice that Tenant is in default of its obligations to the Bank, the Bank shall then have the right to enter the Premises during business hours for the purpose of removing said Bank Collateral, provided (i) the Bank completes the removal of said Bank Collateral within ten (10) business days following said first written notice of default, and (ii) the Bank restores any part of the Premises which may be damaged by such removal to its condition prior to such removal in an expeditious manner not to exceed ten (10) business days following said first written notice of default;

(d) Upon receipt of written notice from Landlord of the expiration or earlier termination of the Lease, the Bank shall have ten (10) business days to enter the Premises during business hours, remove said Bank Collateral, and restore any part of the Premises which may be damaged by such removal to its condition prior to such removal. If the Bank fails to so remove the Bank Collateral, the Bank agrees that the Bank Collateral shall thereupon be deemed subject to the yield up provisions of the Lease, so the Landlord may treat the Bank Collateral as abandoned, deem it Landlord's property, if Landlord so elects, and retain or remove and dispose of it, all as provided in the Lease;

(e) All notices and other communications under this Landlord's Consent and Waiver shall be in writing, and shall be delivered by hand, by a nationally recognized commercial next day delivery service, or by certified or registered mail, return receipt requested, and sent to the following addresses:

if to the Bank: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

if to the Landlord: c/o Nordblom Management Company, Inc.  
71 Third Avenue  
Burlington, MA 01803

Such notices shall be effective (a) in the case of hand deliveries, when received, (b) in the case of a next day delivery service, on the next business day after being placed in the possession of such delivery service with next day delivery charges prepaid, and (c) in the case of mail, five (5) days after deposit in the postal system, certified or registered mail, return receipt requested and postage prepaid. Either party may change its address and telecopy number by written notice to the other as provided above; and

(f) The Bank shall indemnify and hold harmless the Landlord for any and all damage caused as a result of the exercise of the Bank's rights hereunder.

This Landlord's Consent and Waiver may not be changed or terminated orally and inures to the benefit of and is binding upon the Landlord and its successors and assigns, and inures to the benefit of and is binding upon the Bank and its successors and assigns.

IN WITNESS WHEREOF, Landlord and Bank have each executed this Landlord's Consent and Waiver or caused it to be executed by an officer thereunto duly authorized, and the appropriate seal to be hereunto affixed, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

LANDLORD:

\_\_\_\_\_

By: \_\_\_\_\_  
(Name)  
(Title)

BANK:

\_\_\_\_\_

By: \_\_\_\_\_  
(Name)  
(Title)

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_ County, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared the above-named \_\_\_\_\_, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatories, or  my own

personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by her/him voluntarily for its stated purpose.

Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**STATE OF \_\_\_\_\_**

\_\_\_\_\_ County, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared the above-named \_\_\_\_\_, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatories, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, that he/she signed it as \_\_\_\_\_ for \_\_\_\_\_, and acknowledged the foregoing to be signed by her/him voluntarily for its stated purpose.

Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**LEASE**

**BGO 500 RESEARCH OWNER LLC,  
a Delaware limited liability company**

**Landlord,**

**and**

**DESKTOP METAL OPERATING, INC.,  
a Delaware Corporation**

**Tenant**

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**MULTI-TENANT INDUSTRIAL NET LEASE  
REFERENCE PAGES**

BUILDING: The building located at 500 Research Drive in Wilmington, Massachusetts, containing 109,421 square feet

LANDLORD: **BGO 500 RESEARCH OWNER LLC, a**

LANDLORD'S ADDRESS: c/o BentallGreenOak  
100 High Street, Suite 1075  
Boston, MA 02110  
Attention: Matt Sargent / Asset Management  
Email: Matt.Sargent@bentallgreenoak.com

With a copy to:

Goodwin Procter LLP  
100 Northern Avenue  
Boston, MA 02210  
Attention: Kimberly Ginsburg  
Telephone: (617)570-1608  
Email: KGinsburg@goodwinlaw.com

WIRE INSTRUCTIONS AND/OR ADDRESS FOR RENT PAYMENT: Bank Name: Bank of America  
Account Number: 1257681917  
Account Name: BGO 200 RESEARCH OWNER LLC, CBRE Inc. AAF BGO US CORE PLUS REIT MA LLC  
Wire ABA Number: 026009593  
ACH ABA Number: 122000661  
Bank City/State: Los Angeles, CA

LEASE REFERENCE DATE: October 1, 2021

TENANT: **DESKTOP METAL OPERATING, INC., a Delaware corporation**

TENANT'S NOTICE ADDRESS:

(a) As of beginning of Term: Desktop Metal Operating, Inc.  
63 Third Avenue  
Burlington, MA 01803  
Attn: General Counsel

(b) Prior to beginning of Term (if different): N/A

PREMISES ADDRESS: 500 Research Drive, Wilmington, Massachusetts 01187

PREMISES RENTABLE AREA: That portion of the Building containing approximately 31,826 square feet, as shown on Exhibit A attached hereto and made a part hereof. The term "rentable area" shall mean the rentable area of the Premises or the Building as calculated by the Landlord on the basis of the plans and specifications of the Building including a proportionate share of any common areas. Tenant hereby accepts and agrees to be bound by the figures for the rentable square footage of the Premises and Tenant's Proportionate Share shown on these

Reference Pages; however, Landlord may adjust either or both figures if there is manifest error, addition or subtraction to the Building or any business park or complex of which the Building is a part, re-measurement or other circumstance reasonably justifying adjustment. The term "Building" refers to the structure in which the Premises are located and the common areas (parking lots, sidewalks, landscaping, etc.) appurtenant thereto. If the Building is part of a larger complex of structures, the term "Building" may include the entire complex, where appropriate (such as shared Expenses or Taxes) and subject to Landlord's reasonable discretion.

PERMITTED USE:

Manufacturing, research & development, warehouse and office and related uses, and for no other use or purpose whatsoever without the prior written consent of Landlord.

SCHEDULED COMMENCEMENT DATE:

Upon the full execution and delivery of this Lease by Landlord and Tenant.

TERM OF LEASE:

Approximately eighty-seven (87) months beginning on the Commencement Date and ending on the Termination Date.

TERMINATION DATE:

The last day of the eighty-seventh (87<sup>th</sup>) calendar month following the Commencement Date; provided, however, if the Commencement Date is other than the first day of a calendar month, the expiration of the Term shall be at the close of the last day of the calendar month in which such anniversary falls.

GUARANTOR:

Desktop Metal, Inc., a Delaware corporation.

ANNUAL RENT and MONTHLY INSTALLMENT OF RENT (Article 3):

Dates		Rentable Square Footage	Annual Rent Per Square Foot	Annual Rent	Monthly Installment of Rent
From	Through				
Commencement Date	September 30, 2022	31,826	\$16.75	\$533,085.50*	\$44,423.79
October 1, 2022	September 30, 2023	31,826	\$17.25	\$548,998.50	\$45,749.88
October 1, 2023	September 30, 2024	31,826	\$17.77	\$565,548.02	\$47,129.00
October 1, 2024	September 30, 2025	31,826	\$18.30	\$582,415.80	\$48,534.65
October 1, 2025	September 30, 2026	31,826	\$18.85	\$599,920.10	\$49,993.34
October 1, 2026	September 30, 2027	31,826	\$19.42	\$618,060.92	\$51,505.08
October 1, 2027	September 30, 2028	31,826	\$20.00	\$636,520.00	\$53,043.33
October 1, 2028	December 31, 2028	31,826	\$20.60	\$655,615.60	\$54,634.63

\*Subject to the provisions of Section 3.3 below.

INITIAL ESTIMATED MONTHLY INSTALLMENT OF RENT  
ADJUSTMENTS (Article 4):

\$2.70 per rentable square foot of the Premises for Expenses and \$2.25 per  
rentable square foot of the Premises for Taxes.

TENANT'S PROPORTIONATE SHARE:

Tenant's Proportionate Share shall be 29.10%.

SECURITY DEPOSIT:

\$177,696.00

REAL ESTATE BROKER:

CBRE, representing Landlord and T3 Advisors, representing Tenant

TENANT'S NAICS CODE:

**333249 – Other Industrial Machinery Manufacturing**

The Reference Pages information is incorporated into and made a part of the Lease. In the event of any conflict between any Reference Pages information and the Lease, the Lease shall control. The Lease includes Exhibits A–F, all of which are made a part of the Lease.

## LEASE

By this Lease Landlord leases to Tenant and Tenant leases from Landlord the Premises in the Building as set forth and described on the Reference Pages. The Premises are depicted on the floor plan attached hereto as Exhibit A, and the Building is depicted on the site plan attached hereto as Exhibit A-1. The Reference Pages, including all terms defined thereon, are incorporated as part of this Lease.

### 1. USE AND RESTRICTIONS ON USE.

1.1 The Premises are to be used solely for the purposes set forth on the Reference Pages. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or adjacent properties or injure, annoy, or disturb them, or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purpose, or commit any waste. Tenant shall not do, permit or suffer in, on, or about the Premises the sale of any alcoholic liquor without the prior written consent of Landlord. Tenant shall comply with all laws and ordinances, and all rules, codes, directives, permits, licenses, covenants, orders or regulations (present, future, ordinary, extraordinary, foreseen or unforeseen) of any governmental authority, insurer or mortgagee, including but not limited to the Americans with Disabilities Act, all municipal zoning bylaws, board of health rules and regulations and the Massachusetts Contingency Plan, M.G.L. c. 21E, judgments, and restrictions now or hereafter (collectively "Regulations") applicable to the use of the Premises and its occupancy and shall promptly comply with all governmental orders and directions for the correction, prevention and abatement of any violations in the Building or appurtenant land, caused or permitted by, or resulting from the specific use by, Tenant, or in or upon, or in connection with, the Premises, all at Tenant's sole expense. Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way increase the rate of, invalidate or prevent the procuring of any insurance protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building or any part thereof.

1.2 Tenant shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees (collectively, the "Tenant Entities") to at any time handle, use, manufacture, store or dispose of in or about the Premises or the Building any (collectively, "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any Regulations relating to the protection of the environment or the keeping, use or disposition of Hazardous Materials presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively, "Environmental Laws"), nor shall Tenant suffer or permit any Hazardous Materials to be used in any manner not fully in compliance with all Environmental Laws, in the Premises or the Building and appurtenant land or allow the environment to become contaminated with any Hazardous Materials. Notwithstanding the foregoing, Tenant may utilize Hazardous Materials used in the ordinary course of Tenant's business; provided that Tenant shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Premises, Building and appurtenant land or the environment. Attached as Exhibit F is the current list of Hazardous Materials used in the ordinary course of Tenant's business. Process and product changes may require Tenant to utilize additional Hazardous Materials in the Premises or the Building in the future. Before doing so, Tenant shall obtain Landlord's written consent to amend Exhibit F accordingly, which consent shall not be unreasonably denied. From time to time, Tenant shall complete, execute and deliver to Landlord an Environmental Questionnaire and Disclosure Statement ("Environmental Questionnaire") in the form reasonably requested by Landlord, and Tenant shall certify to Landlord all information contained in the Environmental Questionnaire as true and correct to the best of Tenant's knowledge and belief. The completed Environmental Questionnaire shall be deemed incorporated into this Lease for all purposes, and Landlord shall be entitled to rely fully on the information contained therein. In addition, Tenant has submitted to Landlord, that certain Emergency Action & Contingency Plan dated February 27, 2020 (the "EAP Plan"), that certain Contingency Plan dated 2017 (the "Contingency Plan"), that certain Hazard Communication & Massachusetts Right to Know Safety Plan dated October 6, 2017 (the "MA Plan"), and that certain Laboratory Chemical Hygiene Plan dated October 6, 2017 (the "Hygiene Plan"). Each of the EAP Plan, the Contingency Plan, the MA Plan and the Hygiene Plan shall be deemed to be incorporated into this Lease for all purposes, and Tenant shall adhere to all of the terms, conditions, policies and procedures therein contained, the failure of which shall constitute an Event of Default under this Lease. Tenant shall protect, defend, indemnify and hold each and all of the Landlord Entities (as defined in Article 30) harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of Tenant to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Premises of any Hazardous Materials by Tenant or any Tenant Entity (even though permissible under all applicable Environmental Laws or the provisions of this Lease), or by reason of any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 1.2. The provisions of the preceding sentence shall survive the expiration or termination of this Lease.

1.3 Tenant shall have access to the Building and the Premises for Tenant and its employees 24 hours per day/7 days per week, subject to the terms of this Lease, and any force majeure conditions, and such security or monitoring systems as Landlord may reasonably impose, including, without limitation, sign-in procedures and/or presentation of identification cards to the extent applicable. Tenant shall have the non-exclusive right, in common with other tenants of the Building, to use, on a non-reserved, first come, first served basis, 4.61 parking spaces per 1,000 square feet of space leased by Tenant; based on the foregoing ratio, Tenant shall be entitled to one hundred forty-six (146) parking spaces at the Building as of the Commencement Date, subject to Landlord's rules and regulations regarding such use. The foregoing shall not be deemed to provide Tenant with an exclusive right to any parking spaces or any guaranty of the availability of any particular parking spaces or any specific number of parking spaces. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties. All motor vehicles (including all contents thereof) shall be parked at the sole risk of Tenant, it being expressly agreed and understood Landlord has no duty to insure any of said motor vehicles (including the contents thereof), and Landlord is not responsible for the protection and security of such vehicles. Landlord shall have no liability whatsoever for any property damage or loss which might occur in the parking areas or as a result of or in connection with the parking of motor vehicles in any of the parking spaces.

## 2. TERM.

2.1 The Term of this Lease shall begin on the date ("Commencement Date") that Landlord shall tender possession of the Premises to Tenant, and shall terminate on the date as shown on the Reference Pages as the Termination Date ("Termination Date"), unless sooner terminated by the provisions of this Lease. Landlord shall tender possession of the Premises with the HVAC, mechanical, electrical, lighting, plumbing, underground plumbing, windows, downspouts, sprinkler, parking, utility and life safety facilities serving the Premises in good working condition. Tenant shall, at Landlord's request, execute and deliver a memorandum agreement provided by Landlord in the form of Exhibit C attached hereto, setting forth the actual Commencement Date, Termination Date and, if necessary, a revised Rent schedule. Should Tenant fail to do so within thirty (30) days after Landlord's request, the information set forth in such memorandum provided by Landlord shall be conclusively presumed to be agreed and correct. Notwithstanding the foregoing, Tenant shall be permitted to access the Premises fourteen (14) days prior to the Commencement Date for purposes of installing Tenant's fixtures and equipment provided that Tenant shall be obligated to comply with all of its obligations under this Lease, including Section 11 hereof, and shall not interfere with any of Landlord's work, if any, being conducted within the Premises during such early access.

2.2 Tenant agrees that in the event of the inability of Landlord to deliver possession of the Premises on the Scheduled Commencement Date (i.e. the date upon which the Lease is fully executed and delivered by Landlord and Tenant) set forth on the Reference Pages for any reason, Landlord shall not be liable for any damage resulting from such inability, but except to the extent such delay is the result of a Tenant Delay, Tenant shall not be liable for any Rent until the time when Landlord delivers possession of the Premises to Tenant. No such failure to give possession on the Scheduled Commencement Date shall affect the other obligations of Tenant under this Lease, except that the actual Commencement Date shall be postponed until the date that Landlord delivers possession of the Premises to Tenant, except to the extent that such delay is arising from or related to the acts or omissions of Tenant or any Tenant Entities, including, without limitation as a result of: (a) Tenant's failure to agree to plans and specifications and/or construction cost estimates or bids; (b) Tenant's request for materials, finishes or installations other than Landlord's standard except those, if any, that Landlord shall have expressly agreed to furnish without extension of time agreed by Landlord; (c) Tenant's change in any plans or specifications; or, (d) performance or completion by a party employed by Tenant (each of the foregoing, a "Tenant Delay"). If any delay is the result of a Tenant Delay, the Commencement Date and the payment of Rent under this Lease shall be accelerated by the number of days of such Tenant Delay. Notwithstanding the foregoing, subject to Article 42 of this Lease and except to the extent that any delay in Landlord's delivery of possession to Tenant is caused by a Tenant Delay, Tenant may terminate this Lease immediately and with no further obligation if Landlord is unable to deliver possession to Tenant within sixty (60) days after the Scheduled Commencement Date.

## 3. RENT.

3.1 Subject to the rental abatement contained in Section 3.3. hereof, from and after the Commencement Date, Tenant agrees to pay to Landlord the Annual Rent in effect from time to time by paying the Monthly Installment of Rent then in effect on or before the first day of each full calendar month during the Term, except that the first full month's rent shall be paid upon the execution of this Lease. The Monthly Installment of Rent in effect at any time shall be one-twelfth (1/12) of the Annual Rent in effect at such time. Rent for any period during the Term which is less than a full month shall be a prorated portion of the Monthly Installment of Rent based upon the number of days in such month. Said rent shall be paid to Landlord, without deduction or offset and without notice or demand, at the Rent Payment Address, as set forth on the Reference Pages, or to such other person or at such other place as Landlord may from time to time designate in writing. If an Event of Default

occurs, Landlord may require by notice to Tenant that all subsequent rent payments be made by an automatic payment from Tenant's bank account to Landlord's account, without cost to Landlord. Tenant must implement such automatic payment system prior to the next scheduled rent payment or within ten (10) days after Landlord's notice, whichever is later. Any amount required to be paid by Tenant hereunder (other than Annual Rent and Monthly Installment of Rent) and any charges or expenses incurred by Landlord on behalf of Tenant under the terms of this Lease shall be considered "Additional Rent" payable in the same manner and upon the same terms and conditions as the Annual Rent and Monthly Installment of Rent reserved hereunder, except as set forth herein to the contrary. Annual Rent, Monthly Installment of Rent and Additional Rent are sometimes referred to herein, collectively, as "Rent".

3.2 Tenant recognizes that late payment of any Rent or other sum due under this Lease will result in administrative expense to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if Rent or any other sum is not paid when due and payable pursuant to this Lease, a late charge shall be imposed in an amount equal to the greater of: (a) Fifty Dollars (\$50.00), or (b) six percent (6%) of the unpaid Rent or other payment. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive month until paid. The provisions of this Section 3.2 in no way relieve Tenant of the obligation to pay Rent or other payments on or before the date on which they are due, nor do the terms of this Section 3.2 in any way affect Landlord's remedies pursuant to Article 19 of this Lease in the event said Rent or other payment is unpaid after date due. In addition to the other remedies available to Landlord hereunder, if any payment required to be paid by Tenant to Landlord hereunder shall become overdue, such unpaid amount shall bear interest from the due date thereof to the date of payment at the prime rate of interest, as reported in the Wall Street Journal (the "Prime Rate") plus six percent (6%) per annum; provided, however, such interest rate shall not be less than ten percent (10%) per annum.

3.3 Notwithstanding anything contained herein to the contrary, provided Tenant is not in default under this Lease, Tenant's obligation to pay the Monthly Installment of Rent for the first three (3) full months of the Term (the "Rent Abatement Period") shall be waived by Landlord; however, Tenant shall be obligated to pay for all items of Additional Rent due hereunder during the Rent Abatement Period, including but not limited to utilities. The unamortized portion of the base Rent otherwise payable during the Rent Abatement Period (amortized on a straight-line basis over a period of eighty-seven (87) months) shall become immediately due and payable to Landlord upon the occurrence of a default hereunder.

#### 4. RENT ADJUSTMENTS.

4.1 For the purpose of this Article 4, the following terms are defined as follows:

4.1.1 **Lease Year:** Each fiscal year (as determined by Landlord from time to time) falling partly or wholly within the Term.

4.1.2 **Expenses:** Except for maintenance and repair obligations expressly assumed by Landlord pursuant to Section 7 hereof, all costs of operation, maintenance, repair, replacement and management of the Building (including the amount of any credits which Landlord may grant to particular tenants of the Building in lieu of providing any standard services or paying any standard costs described in this Section 4.1.2 for similar tenants), as determined in accordance with generally accepted accounting principles, including the following costs by way of illustration, but not limitation: water and sewer charges; insurance charges of or relating to all insurance policies and endorsements deemed by Landlord to be reasonably necessary or desirable and relating in any manner to the protection, preservation, or operation of the Building or any part thereof; utility costs, including, but not limited to, the cost of heat, light, power, steam, gas and energy for the Building; the cost of obtaining and/or maintaining the certification of the Building in accordance with Green Building Standards, waste disposal; recycling costs; the cost of common area janitorial services; the cost of security and alarm services (including any central station signaling system); costs of cleaning, repairing, replacing and maintaining the common areas, including parking and landscaping, window cleaning costs, and amounts paid to the owners' association of the business park in which the Building is located for cleaning, repairing, replacing and maintaining the common areas; labor costs; costs and expenses of managing the Building including a management fee not to exceed four percent (4%) of Landlord's gross rental revenues derived from the Building; air conditioning maintenance costs; elevator maintenance fees and supplies; material costs; equipment costs including the cost of maintenance, repair and service agreements and rental and leasing costs; purchase costs of equipment; current rental and leasing costs of items which would be capital items if purchased; tool costs; licenses, permits and inspection fees; wages and salaries; employee benefits and payroll taxes; accounting and legal fees; any sales, use or service taxes incurred in connection therewith. In addition, Landlord shall be entitled to recover, as Additional Rent (which, along with any other capital expenditures constituting Expenses, Landlord may either include in Expenses or cause to be billed to Tenant along with Expenses and Taxes but as a separate item), Tenant's Proportionate Share of: (i) an allocable portion of the cost of capital improvement items which are reasonably calculated to reduce operating expenses, including, without limitation, energy saving improvements; (ii) the cost of

fire sprinklers and suppression systems and other life safety systems or enhance the environmental sustainability of the Property's operations; and (iii) other capital expenses which are required under any Regulations which were not applicable to the Building at the time it was constructed; but the costs described in this sentence shall be amortized over the reasonable life of such expenditures in accordance with such reasonable life and amortization schedules as shall be determined by Landlord in accordance with generally accepted accounting principles, with interest on the unamortized amount at one percent (1%) in excess of the Wall Street Journal prime lending rate announced from time to time. Expenses shall not include depreciation or amortization of the Building or equipment in the Building except as provided herein, loan principal payments, costs of alterations of tenants' premises, leasing commissions, interest expenses on long-term borrowings or advertising costs. The term "Green Building Standards" as used in this Lease shall mean the standards for the certification of environmentally sustainable, high performance buildings or aspects of their performance, including the U.S. EPA's Energy Star® rating and, U.S. Green Building Council's Leadership in Energy and Environmental Design program's standards, as the same are amended or replaced from time to time and similar "green building" standards.

4.1.3 **Taxes:** Real estate taxes and any other taxes, charges and assessments and any license fee, commercial rental tax, margin tax, franchise tax, improvement bond, charges in connection with an improvement district or other similar charge which are levied with respect to the Building or the land appurtenant to the Building, or with respect to any improvements, fixtures and equipment or other property of Landlord, real or personal, located in the Building and used in connection with the operation of the Building and said land, or tax imposed against Landlord's business of leasing the Building, by any authority having the power to so charge or tax, and any payments to any ground lessor in reimbursement of tax payments made by such lessor; and all fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increase in any assessments, levies or the tax rate pertaining to any Taxes to be paid by Landlord in any Lease Year. Taxes shall be determined without regard to any "green building" credit and shall not include any corporate franchise, or estate, inheritance or net income tax, or documentary transfer tax imposed upon any transfer by Landlord of its interest in this Lease or any taxes to be paid by Tenant pursuant to Article 28.

4.2 From and after the Commencement Date, Tenant shall pay as Additional Rent for each Lease Year Tenant's Proportionate Share of Expenses and Taxes incurred for such Lease Year.

4.3 The annual determination of Expenses shall be made by Landlord and shall be binding upon Landlord and Tenant, subject to the provisions of this Section 4.3. Landlord may deliver such annual determination to Tenant via regular U.S. mail. During the Term, Tenant may review, at Tenant's sole cost and expense, the books and records supporting such determination in an office of Landlord, or Landlord's agent, during normal business hours, upon giving Landlord five (5) days advance written notice within sixty (60) days after receipt of such determination, but in no event more often than once in any one (1) year period, subject to execution of a confidentiality agreement acceptable to Landlord, and provided that if Tenant utilizes an independent accountant to perform such review it shall be one of national standing which is reasonably acceptable to Landlord, is not compensated on a contingency basis and is also subject to such confidentiality agreement. If Tenant fails to object to Landlord's determination of Expenses within ninety (90) days after receipt, or if any such objection fails to state with specificity the reason for the objection, Tenant shall be deemed to have approved such determination and shall have no further right to object to or contest such determination. In the event that during all or any portion of any Lease Year, the Building is not fully rented and occupied Landlord shall make an appropriate adjustment in occupancy-related Expenses for such year for the purpose of avoiding distortion of the amount of such Expenses to be attributed to Tenant by reason of variation in total occupancy of the Building, by employing consistent and sound accounting and management principles to determine Expenses that would have been paid or incurred by Landlord had the Building been at least ninety-five percent (95%) rented and occupied, and the amount so determined shall be deemed to have been Expenses for such Lease Year.

4.4 Prior to the actual determination thereof for a Lease Year, Landlord may from time to time estimate Tenant's liability for Expenses and/or Taxes under Section 4.2, Article 6 and Article 28 for the Lease Year or portion thereof. Landlord will give Tenant written notification of the amount of such estimate and Tenant agrees that it will pay, monthly installments of such estimate as Additional Rent in addition to the Monthly Installments of Rent due in such Lease Year. Any such increased rate of Additional Rent pursuant to this Section 4.4 shall remain in effect until further written notification to Tenant pursuant hereto.

4.5 When the above mentioned actual determination of Tenant's liability for Expenses and/or Taxes is made for any Lease Year and when Tenant is so notified in writing, then:

4.5.1 If the total Additional Rent Tenant actually paid pursuant to Section 4.3 on account of Expenses and/or Taxes for the Lease Year is less than Tenant's liability for Expenses and/or Taxes, then Tenant shall pay such deficiency to Landlord as Additional Rent in one lump sum within thirty (30) days of receipt of Landlord's bill therefor; and

4.5.2 If the total Additional Rent Tenant actually paid pursuant to Section 4.3 on account of Expenses and/or Taxes for the Lease Year is more than Tenant's liability for Expenses and/or Taxes, then Landlord shall credit the difference against the then next due payments to be made by Tenant under this Article 4, or, if this Lease has terminated, refund the difference in cash.

4.6 If the Commencement Date is other than January 1 or if the Termination Date is other than December 31, Tenant's liability for Expenses and Taxes for the Lease Year in which said Date occurs shall be prorated based upon a three hundred sixty-five (365) day year.

5. **SECURITY DEPOSIT.** Tenant shall deposit the Security Deposit with Landlord upon the execution of this Lease. Said sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as an advance rental deposit or as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults with respect to any provision of this Lease, Landlord may use any part of the Security Deposit for the payment of any Rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion is so used, Tenant shall within five (5) days after written demand therefor, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at such time after termination of this Lease when Landlord shall have determined that all of Tenant's obligations under this Lease have been fulfilled.

## 6. **ALTERATIONS.**

6.1 Tenant shall not make or suffer to be made any alterations, additions, or improvements, including, but not limited to, the attachment of any fixtures or equipment in, on, or to the Premises or any part thereof or the making of any improvements as required by Article 7, without the prior written consent of Landlord. When applying for such consent, Tenant shall, if requested by Landlord, furnish complete plans and specifications for such alterations, additions and improvements. Landlord's consent shall not be unreasonably withheld with respect to alterations which (i) are not structural in nature, (ii) are not visible from the exterior of the Building, (iii) do not affect or require modification of the Building's electrical, mechanical, plumbing, HVAC or other systems, and (iv) in aggregate do not cost more than \$5.00 per rentable square foot of that portion of the Premises affected by the alterations in question.

6.2 In the event Landlord consents to the making of any such alteration, addition or improvement by Tenant, the same shall be made by using either Landlord's contractor or a contractor reasonably approved by Landlord, in either event at Tenant's sole cost and expense. If Tenant shall employ any contractor other than Landlord's contractor and such other contractor or any subcontractor of such other contractor shall employ any non-union labor or supplier, Tenant shall be responsible for and hold Landlord harmless from any and all delays, damages and extra costs suffered by Landlord as a result of any dispute with any labor unions concerning the wage, hours, terms or conditions of the employment of any such labor. In any event Landlord may charge Tenant a construction management fee not to exceed three percent (3%) of the direct cost (as described more fully in the following sentence) of such work to cover its overhead as it relates to such proposed work, plus third-party costs actually incurred by Landlord in connection with the proposed work and the design thereof, with all such amounts being due ten (10) days after Landlord's demand. The foregoing construction management fee shall not exceed three percent (3%) of the direct cost of the Tenant work, meaning the labor, material and associated contractor overhead for the project, but excluding indirect costs such as permitting, design services, site surveys and other consulting costs.

6.3 All alterations, additions or improvements proposed by Tenant shall be constructed in accordance with all Regulations and with Landlord's Building construction standards (if any) from time to time to the extent applicable (which standards shall be made available to Tenant by Landlord's Building manager upon request). Tenant shall use Building standard materials (including energy efficient and environmentally responsible products in order to maintain or to assist in Landlord obtaining certification of the Building to a Green Building Standard) where applicable, and Tenant shall, prior to construction, provide the additional insurance required under Article 11 in such case. Tenant, at its sole cost and expenses, shall also provide to Landlord all such assurances to Landlord as Landlord shall reasonably require to assure payment of the costs thereof, including but not limited to, notices of non-responsibility, waivers of lien, surety company payment and performance bonds and funded construction escrows and to protect Landlord and the Building and appurtenant land against any loss from any mechanic's, materialmen's or other liens. As a condition precedent to commencing any alterations, additions or improvements, Tenant shall require its contractor to maintain insurance in such amounts and in such form as Landlord may require. Tenant



shall pay in addition to any sums due pursuant to Article 4, any increase in real estate taxes attributable to any such alteration, addition or improvement for so long, during the Term, as such increase is ascertainable; at Landlord's election said sums shall be paid in the same way as sums due under Article 4. Landlord may, as a condition to its consent to any particular alterations or improvements, require Tenant to deposit with Landlord the amount reasonably estimated by Landlord as sufficient to cover the cost of removing such alterations or improvements and restoring the Premises, to the extent required under Section 26.2.

7. **REPAIR.**

7.1 Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises, except that Landlord shall repair and maintain in good condition the structural portions of the roof, foundation and exterior walls of the Building, as well as the plumbing, electrical, heating, ventilating, air-conditioning (except for preventative HVAC maintenance as provided for in Section 7.4 below) and sprinkler systems of the Building (exclusive of equipment installed by Tenant). Landlord reserves the right to install solar panels and related equipment to the roof and exterior walls of the Building at any time. By taking possession of the Premises, Tenant has inspected and accepts the Premises and the Building in their present "AS IS" condition as suitable for the purpose for which the Premises are leased and in the condition in which Landlord is obligated to deliver them. It is hereby understood and agreed that no representations respecting the condition or quality of the Premises or the Building have been made by Landlord to Tenant, except that Landlord represents that, to the best of its knowledge without independent investigation, that: (a) the Premises and Building are in compliance with all Regulations and that Tenant's Permitted Use is consistent with all Regulations; (b) the Premises and Building are free of any material defects and all systems therein are in good working order; and (c) Landlord has provided copies to Tenant of all reports, surveys, assessments and the like regarding the condition of the Premises and the Building, including without limitation any environmental or safety assessments, that Landlord has in its possession or to which Landlord has reasonable access. Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant. Tenant further acknowledges that no representations as to the repair of the Premises or Building nor promises to alter, remodel or improve the Premises or Building have been made by Landlord, unless such are expressly set forth in this Lease.

7.2 Tenant shall at its own cost and expense keep and maintain all parts of the Premises and such portion of the Building and improvements as are within the exclusive control of Tenant in good condition, promptly making all necessary repairs and replacements, whether ordinary or extraordinary, with materials and workmanship of the same character, kind and quality as the original (including, but not limited to, repair and replacement of all fixtures installed by Tenant, water heaters serving the Premises, windows, glass and plate glass, doors, exterior stairs, skylights, any special office entries, interior walls and finish work, floors and floor coverings, dock boards, truck doors, dock bumpers, , and performance of regular removal of trash and debris). Tenant as part of its obligations hereunder shall keep the Premises in a clean and sanitary condition and shall maintain a contract with a janitorial provider approved by Landlord at all times during the Lease Term. Tenant will, as far as possible keep all such parts of the Premises from deterioration due to ordinary wear and from falling temporarily out of repair, and upon termination of this Lease in any way Tenant will yield up the Premises to Landlord in good condition and repair, loss by fire or other casualty excepted (but not excepting any damage to glass). Tenant shall, at its own cost and expense, repair any damage to the Premises or the Building resulting from and/or caused in whole or in part by the negligence or misconduct of Tenant, its agents, employees, contractors, invitees, or any other person entering upon the Premises as a result of Tenant's business activities or caused by Tenant's default hereunder. Repair and maintenance work shall be undertaken in compliance with Landlord's Building construction standards (if any) promulgated from time to time to the extent applicable (which standards shall be made available to Tenant by Landlord's Building manager upon request). Tenant shall use energy efficient and environmentally responsible products and materials in all of its repair and maintenance work.

7.3 Except as provided in Article 22, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or to fixtures, appurtenances and equipment in the Building. Except to the extent, if any, prohibited by law, Tenant waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

7.4 Tenant shall, at its own cost and expense, enter into a regularly scheduled preventive maintenance/service contract with a maintenance contractor approved by Landlord for servicing all HVAC and equipment serving the Premises (and a copy thereof shall be furnished to Landlord). The service contract must include all services suggested by the equipment manufacturer in the operation/maintenance manual and must become effective within thirty (30) days of the date Tenant takes possession of the Premises. Should Tenant fail to do so, Landlord may, upon notice to Tenant, enter into such a maintenance/ service contract on behalf of Tenant or perform the work and in either case, charge Tenant the cost thereof along with a reasonable amount for Landlord's overhead.

8. **LIENS.** Tenant shall keep the Premises, the Building and appurtenant land and Tenant's leasehold interest in the Premises free from any liens arising out of any services, work or materials performed, furnished, or contracted for by Tenant, or obligations incurred by Tenant. In the event that Tenant fails, within ten (10) days following the imposition of any such lien, to either cause the same to be released of record or provide Landlord with insurance against the same issued by a major title insurance company or such other protection against the same as Landlord shall accept (such failure to constitute an Event of Default), Landlord shall have the right to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith shall be payable to it by Tenant within five (5) days of Landlord's demand.

9. **ASSIGNMENT AND SUBLETTING.**

9.1 Tenant shall not have the right to assign or pledge this Lease or to sublet the whole or any part of the Premises whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant, and shall not make, suffer or permit such assignment, subleasing or occupancy without the prior written consent of Landlord, such consent not to be unreasonably withheld, and said restrictions shall be binding upon any and all assignees of this Lease and subtenants of the Premises. In the event Tenant desires to sublet, or permit such occupancy of, the Premises, or any portion thereof, or assign this Lease, Tenant shall give written notice thereof to Landlord at least sixty (60) days but no more than one hundred twenty (120) days prior to the proposed commencement date of such subletting or assignment, which notice shall set forth the name of the proposed subtenant or assignee, the relevant terms of any sublease or assignment and copies of financial reports and other relevant financial information of the proposed subtenant or assignee.

9.2 Notwithstanding any assignment or subletting, permitted or otherwise, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of the Rent specified in this Lease and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Upon the occurrence of an Event of Default, if the Premises or any part of them are then assigned or sublet, Landlord, in addition to any other remedies provided in this Lease or provided by law, may, at its option, collect directly from such assignee or subtenant all Rents due and becoming due to Tenant under such assignment or sublease and apply such Rent against any sums due to Landlord from Tenant under this Lease, and no such collection shall be construed to constitute a novation or release of Tenant from the further performance of Tenant's obligations under this Lease.

9.3 In addition to Landlord's right to approve of any subtenant or assignee, Landlord shall have the option, in its sole discretion, in the event of any proposed subletting of fifty percent (50%) or more of the rentable square footage of the Premises, or assignment, to terminate this Lease, or in the case of a proposed subletting of less than the entire Premises, to recapture the portion of the Premises to be sublet, as of the date the subletting or assignment is to be effective. The option shall be exercised, if at all, by Landlord giving Tenant written notice given by Landlord to Tenant within thirty (30) days following Landlord's receipt of Tenant's written notice as required above. However, if Tenant notifies Landlord, within five (5) days after receipt of Landlord's termination notice, that Tenant is rescinding its proposed assignment or sublease, the termination notice shall be void and this Lease shall continue in full force and effect. If this Lease shall be terminated with respect to the entire Premises pursuant to this Section, the Term of this Lease shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this Lease for the expiration of the Term. If Landlord recaptures under this Section only a portion of the Premises, the Rent to be paid from time to time during the unexpired Term shall abate proportionately based on the proportion by which the approximate square footage of the remaining portion of the Premises shall be less than that of the Premises as of the date immediately prior to such recapture. Tenant shall, at Tenant's own cost and expense, discharge in full any outstanding commission obligation which may be due and owing as a result of any proposed assignment or subletting, whether or not the Premises are recaptured pursuant to this Section 9.3 and rented by Landlord to the proposed tenant or any other tenant.

9.4 In the event that Tenant sells, sublets, assigns or transfers this Lease, Tenant shall pay to Landlord as Additional Rent an amount equal to fifty percent (50%) of any Increased Rent (as defined below), less the Costs Component (as defined below), when and as such Increased Rent is received by Tenant. The remaining fifty percent (50%) of any Increased Rent shall be retained by Tenant. As used in this Section, "Increased Rent" shall mean the excess of (i) all Rent and other consideration which Tenant is entitled to receive by reason of any sale, sublease, assignment or other transfer of this Lease, over (ii) the Rent otherwise payable by Tenant under this Lease at such time. For purposes of the foregoing, any consideration received by Tenant in form other than cash shall be valued at its fair market value as determined by Landlord in good faith. The "Costs Component" is that amount which, if paid monthly, would fully amortize on a straight-line basis, over the entire period for which Tenant is to receive Increased Rent, the reasonable third party costs incurred by Tenant for leasing commissions and tenant improvements in connection with such sublease, assignment or other transfer.

9.5 Notwithstanding any other provision hereof, it shall be considered reasonable for Landlord to withhold its consent to any assignment of this Lease or sublease of any portion of the Premises if at the time of either Tenant's notice of the proposed assignment or sublease or the proposed commencement date thereof, there shall exist any uncured default of Tenant or matter which will become a default of Tenant with passage of time unless cured, or if the proposed assignee or sublessee is an entity: (a) with which Landlord is already in negotiation; (b) that is already an occupant of the Building unless Landlord is unable to provide the amount of space required by such occupant; (c) that is a governmental agency; (d) that is incompatible with the character of occupancy of the Building; (e) with which the payment for the sublease or assignment is determined in whole or in part based upon its net income or profits; (f) whose creditworthiness is then not acceptable to Landlord, (g) with which Landlord currently has or has had a past dispute, or (h) that would subject the Premises to a use which would: (i) involve increased personnel or wear upon the Building; (ii) violate any exclusive right granted to another tenant of the Building; (iii) require any addition to or modification of the Premises or the Building in order to comply with building code or other governmental requirements; or, (iv) involve a violation of Section 1.2 or not be a Permitted Use hereunder. Tenant expressly agrees that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord, Landlord's refusal to consent to any assignment or sublease for any of the reasons described in this Section 9.5, shall be conclusively deemed to be reasonable.

9.6 Upon any request to assign or sublet, Tenant will pay to Landlord the Assignment/Subletting Fee plus, on demand, a sum equal to all of Landlord's costs, including reasonable attorney's fees, incurred in investigating and considering and negotiating and documenting any proposed or purported assignment or pledge of this Lease or sublease of any of the Premises, regardless of whether Landlord shall consent to, or refuse consent for such assignment, pledge or sublease. Any purported sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article 9 shall be void.

9.7 If Tenant is a corporation, limited liability company, partnership or trust, any transfer or transfers of or change or changes within any twelve (12) month period in the number of the outstanding voting shares of the corporation or limited liability company, the general partnership interests in the partnership or the identity of the persons or entities controlling the activities of such partnership or trust resulting in the persons or entities owning or controlling a majority of such shares, partnership interests or activities of such partnership or trust at the beginning of such period no longer having such ownership or control shall be regarded as equivalent to an assignment of this Lease to the persons or entities acquiring such ownership or control and shall be subject to all the provisions of this Article 9 to the same extent and for all intents and purposes as though such an assignment.

9.8 So long as Tenant is not entering into the Permitted Transfer (as defined below) for the purpose of avoiding or otherwise circumventing the remaining terms of this Article 9, Tenant may assign its entire interest under this Lease, without the consent of Landlord, to (a) an affiliate, subsidiary, or parent of Tenant, or a corporation, partnership or other legal entity wholly owned by Tenant (collectively, an "Affiliated Party"), or (b) a successor to Tenant by purchase, merger, consolidation or reorganization, provided that all of the following conditions are satisfied (each such transfer a "Permitted Transfer" and any such assignee or sublessee of a Permitted Transfer, a "Permitted Transferee"): (i) Tenant is not in default under this Lease; (ii) the Permitted Use does not allow the Premises to be used for retail purposes; (iii) Tenant shall give Landlord written notice at least thirty (30) days prior to the effective date of the proposed Permitted Transfer; (iv) with respect to a proposed Permitted Transfer to an Affiliated Party, Tenant continues to have a net worth equal to or greater than Tenant's net worth at the date of this Lease; and (v) with respect to a purchase, merger, consolidation or reorganization or any Permitted Transfer which results in Tenant ceasing to exist as a separate legal entity, (A) Tenant's successor shall own all or substantially all of the assets of Tenant, and (B) Tenant's successor shall have a tangible net worth which is at least equal to the greater of Tenant's tangible net worth at the date of this Lease or Tenant's tangible net worth as of the day prior to the proposed purchase, merger, consolidation or reorganization. Tenant's notice to Landlord shall include information and documentation, including, without limitation, copies of certified financial reports and other relevant financial information, showing that each of the above conditions has been satisfied. If requested by Landlord, Tenant's successor shall sign a commercially reasonable form of assumption agreement. As used herein, (1) "parent" shall mean a company which owns a majority of Tenant's voting equity; (2) "subsidiary" shall mean an entity wholly owned by Tenant or more than fifty percent (50%) of whose voting equity is owned by Tenant; and (3) "affiliate" shall mean an entity controlled, controlling or under common control with Tenant.

10. **INDEMNIFICATION.** None of the Landlord Entities shall be liable and Tenant hereby waives all claims against them for any damage to any property or any injury to any person in or about the Premises or the Building by or from any cause whatsoever (including without limiting the foregoing, rain or water leakage of any character from the roof, windows, walls, basement, pipes, plumbing works or appliances, the Building not being in good condition or repair, gas, fire, oil, electricity or theft), except to the extent caused by or arising from the gross negligence or willful misconduct of Landlord or its agents, employees or contractors. **TENANT SHALL PROTECT, INDEMNIFY AND HOLD THE LANDLORD ENTITIES**

HARMLESS FROM AND AGAINST ANY AND ALL LOSS, CLAIMS, LIABILITY OR COSTS (INCLUDING COURT COSTS AND ATTORNEY'S FEES) INCURRED BY REASON OF (A) ANY DAMAGE TO ANY PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY OF ANY LANDLORD ENTITY) OR ANY INJURY (INCLUDING BUT NOT LIMITED TO DEATH) TO ANY PERSON OCCURRING IN, ON OR ABOUT THE PREMISES OR THE BUILDING TO THE EXTENT THAT SUCH INJURY OR DAMAGE SHALL BE CAUSED BY OR ARISE FROM ANY ACTUAL OR ALLEGED ACT, NEGLIGENCE, FAULT, OR OMISSION BY OR OF TENANT OR ANY TENANT ENTITY TO MEET ANY STANDARDS IMPOSED BY ANY DUTY WITH RESPECT TO THE INJURY OR DAMAGE; (B) THE CONDUCT OR MANAGEMENT OF ANY WORK OR THING WHATSOEVER DONE BY THE TENANT IN OR ABOUT THE PREMISES OR FROM TRANSACTIONS OF THE TENANT CONCERNING THE PREMISES; (C) TENANT'S ACTUAL OR ASSERTED FAILURE TO COMPLY WITH ANY AND ALL REGULATIONS APPLICABLE TO THE CONDITION OR USE OF THE PREMISES OR ITS OCCUPANCY; OR (D) ANY BREACH OR DEFAULT ON THE PART OF TENANT IN THE PERFORMANCE OF ANY COVENANT OR AGREEMENT ON THE PART OF THE TENANT TO BE PERFORMED PURSUANT TO THIS LEASE. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS LEASE WITH RESPECT TO ANY CLAIMS OR LIABILITY ACCRUING PRIOR TO SUCH TERMINATION.

## 11. INSURANCE.

11.1 Tenant shall keep in force throughout the Term: (a) a Commercial General Liability insurance policy or policies to protect the Landlord Entities against any liability to the public or to any invitee of Tenant or a Landlord Entity incidental to the use of or resulting from any accident occurring in or upon the Premises with a limit of not less than \$1,000,000 per occurrence and not less than \$2,000,000 in the annual aggregate, or such larger amount as Landlord may prudently require from time to time, covering bodily injury and property damage liability and \$2,000,000 products/completed operations aggregate, and \$1,000,000 personal injury and advertising injury liability, and including Premises/Operations liability, Products/Completed Operations Liability, Contractual Liability, Broad Form Property Damage Liability, and an Exception to a Pollution Exclusion for Bodily Injury or Property Damage Liability from a hostile fire; (b) Business Auto Liability covering owned, leased, hired and non-owned vehicles used by or on behalf of the Tenant with a limit of not less than \$1,000,000 per accident; (c) Worker's Compensation Insurance with limits as required by statute; (d) Employers Liability with limits of \$1,000,000 each accident, \$1,000,000 disease policy limit, \$1,000,000 disease--each employee; (e) All Risk Replacement Cost Property Insurance at not less than full replacement value or Special Form coverage protecting Tenant against loss of or damage to Tenant's alterations, additions, improvements, carpeting, floor coverings, panelings, decorations, fixtures, inventory and other business personal property situated in or about the Premises to the full replacement value of the property so insured; (f) Business Interruption Insurance for 100% of twelve (12) months actual loss sustained; (g) Pollution Legal Liability Insurance covering bodily injury and property damage liability with a limit of not less than \$1,000,000 per incident and (h) Excess General, Auto and Employer's Liability in the amount of \$5,000,000 per occurrence.

11.2 The aforesaid policies shall (a) be provided at Tenant's expense; (b) name the Landlord Entities, and all other entities with an interest in the Property (as disclosed by Landlord) as additional insureds (General Liability, Auto Liability, and Excess Liability) and loss payee (Property—Special Form); (c) be issued by an insurance company with a minimum Best's rating of "A-VII" during the Term; (d) provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to Landlord; a certificate of Liability insurance on ACORD Form 25 (or comparable form acceptable to Landlord in its sole discretion) and a certificate of Property insurance on ACORD Form 28 (or comparable form acceptable to Landlord in its sole discretion) shall be delivered to Landlord by Tenant upon the Commencement Date and at least thirty (30) days prior to each renewal of said insurance; (e) be endorsed so that they are primary and non-contributing with other insurance available to the additional insureds (other than Worker's Compensation); and (f) include a cross-liability or severability of interests clause (other than Worker's Compensation).

11.3 Whenever Tenant shall undertake any alterations, additions or improvements in, to or about the Premises ("Work") the aforesaid insurance protection must extend to and include injuries to persons and damage to property arising in connection with such Work, without limitation including liability under any applicable structural work act, and such other insurance as Landlord shall require; and the policies of or certificates evidencing such insurance must be delivered to Landlord prior to the commencement of any such Work.

12. **WAIVER OF SUBROGATION.** Tenant and Landlord hereby mutually waive their respective rights of recovery against each other for any loss insured (or required to be insured pursuant to this Lease) by fire, extended coverage, All Risks or other insurance now or hereafter existing for the benefit of the respective party but only to the extent of the net insurance proceeds payable under such policies. Each party shall obtain any special endorsements required by their insurer to evidence compliance with the aforementioned waiver.

13. **SERVICES AND UTILITIES.** From and after the Commencement Date, Tenant shall pay for all water, gas, electricity, heat, light, power, telephone, sewer, sprinkler system charges and other utilities and services used on or from the Premises, together with any taxes, penalties, and surcharges or the like pertaining thereto and any maintenance charges for utilities. Tenant shall furnish all electric light bulbs, tubes and ballasts, battery packs for emergency lighting and fire extinguishers. On the Commencement Date, the Premises will be separately metered for gas and electricity, and Tenant shall obtain in its own name and shall pay directly to the appropriate supplier the cost of such utilities serving the Premises. If any such services are not separately metered to Tenant, Tenant shall pay such proportion of all charges jointly metered with other premises as determined by Landlord, in its sole discretion, to be reasonable. Any such charges paid by Landlord and assessed against Tenant shall be immediately payable to Landlord on demand and shall be Additional Rent hereunder. In addition, if applicable, Landlord may install and shall have access to the Premises to monitor a separate meter (or submeter) to determine the actual use of any utility in the Premises or any shared common area and may make available and share actual whole-project energy and water usage data as necessary to maintain the Building's "green building" certification, if any. If there is no meter or submeter in the Premises, then, upon request, Tenant shall provide monthly utility usage to Landlord in electronic or paper format, including without limitation, copies of all utility bills for the Premises as requested by landlord and will provide permission for Landlord to request information regarding Tenant's utility usage directly from the utility company. Tenant will not, without the written consent of Landlord, contract with a utility provider to service the Premises with any utility, including, but not limited to, telecommunications, electricity, water, sewer or gas, which is not previously providing such service to the Building. Landlord shall in no event be liable for any interruption or failure of utility services on or to the Premises.

14. **HOLDING OVER.** Tenant shall pay Landlord for each day Tenant retains possession of the Premises or part of them after termination of this Lease by lapse of time or otherwise at the rate ("Holdover Rate") which shall be (a) during the first ninety (90) days of such holding over, one hundred fifty percent (150%) of the amount of Annual Rent for the last period prior to the date of such termination plus Tenant's Proportionate Share of Expenses and Taxes under Article 4, and (b) commencing as of the ninety-first (91<sup>st</sup>) day of such holding over, two hundred percent (200%) of the greater of (a) the amount of the Annual Rent for the last period prior to the date of such termination plus Tenant's Proportionate Share of Expenses and Taxes under Article 4; and (b) the then market rental value of the Premises as determined by Landlord assuming a new lease of the Premises of the then usual duration and other terms, in either case, prorated on a daily basis, and also pay all damages sustained by Landlord by reason of such retention. If Landlord gives notice to Tenant of Landlord's election to such effect, such holding over shall constitute renewal of this Lease for a period from month to month or one (1) year, whichever shall be specified in such notice, in either case at the Holdover Rate, but if the Landlord does not so elect, no such renewal shall result notwithstanding acceptance by Landlord of any sums due hereunder after such termination; and instead, a tenancy at sufferance at the Holdover Rate shall be deemed to have been created. In any event, no provision of this Article 14 shall be deemed to waive Landlord's right of reentry or any other right under this Lease or at law.

15. **SUBORDINATION.** Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to (i) ground or underlying leases, (ii) to the lien of any mortgages or deeds of trust now or hereafter placed on, against or affecting the Building, Landlord's interest or estate in the Building (and which may also affect other properties), or any ground or underlying lease; and (iii) to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust, provided, however, that if the lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have Tenant's interest in this Lease be superior to any such instrument, then, by notice to Tenant, this Lease shall be deemed superior, whether this Lease was executed before or after said instrument. Notwithstanding the foregoing, Tenant covenants and agrees to execute and deliver within ten (10) days of Landlord's request such further instruments evidencing such subordination or superiority of this Lease as may be required by Landlord. This provision is hereby declared by Landlord and Tenant to be self-operative and no further instruments shall be required to effect such subordination of this Lease. Tenant expressly recognizes and agrees that the holder of any mortgage or deed to secure debt or any of their successors or assigns or any other holder of such instrument may sell the Building in the manner provided for by law in such instrument; and further, such sale may be made subject to this Lease. In the event of the enforcement by the grantee under any such mortgage or deed to secure debt of the remedies provided for by law or by such mortgage or deed to secure debt, Tenant will, upon request of any person or party succeeding to the interest of said lessor or grantee, as a result of such enforcement, automatically become Tenant of such successor in interest without change in the terms or provisions of this Lease; provided, however, that such successor in interest shall not be bound by (i) any payment of rent for more than one month in advance except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease, or (ii) any amendment or modification of this Lease made without the written consent of such lessor or grantee or such successor in interest if such lessor, grantee or successor in interest had previously notified Tenant in writing of its interest. Notwithstanding anything contained in this Lease to the contrary, in the event of any default by Landlord in performing its covenants or obligations hereunder which would give Tenant the right to terminate this Lease, Tenant shall not exercise such right unless and until (i) Tenant gives written notice of such default (which notice shall specify the exact nature of said default) to any holder(s) of any mortgage or deed to secure debt who has heretofore notified

Tenant in writing of its interest and the address to which notices are to be sent, and (ii) said holder(s) fail to cure said default within sixty (60) days (or such longer period of time as may be reasonably necessary) from the giving of such notice by Tenant. Tenant agrees to execute and deliver at any time and from time to time, upon the request of Landlord or of any holder(s) of any of the indebtedness or other obligations secured by any of the mortgages or deeds of trust be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment. Tenant hereby irrevocably appoints Landlord and the holders of the indebtedness or other obligations secured by the aforesaid mortgages and/or deeds of trust jointly and severally the agent and attorney shall not terminate on disability of the principal. Tenant further waives the provisions of any statute or rule of law, now or hereafter in effect, which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligation of Tenant hereunder in the event any such foreclosure proceedings is brought or trustee's sale occurs and agrees that this Lease shall not be affected in any way whatsoever by any such foreclosure proceeding or trustee's sale unless the holder(s) of the indebtedness or other obligations secured by said mortgages and/or deeds of trust shall declare otherwise.

Notwithstanding the foregoing, upon Tenant's written request made after the Reference Date, Landlord shall use reasonable efforts to provide Tenant with the standard form subordination, non-disturbance and attornment agreement of any then-existing ground lessor or holder of a mortgage on the Building.

16. **RULES AND REGULATIONS.** Tenant shall faithfully observe and comply with all the rules and regulations as set forth in Exhibit D to this Lease and all reasonable and non-discriminatory modifications of and additions to them from time to time put into effect by Landlord. Landlord shall not be responsible to Tenant for the non-performance by any other party of any such rules and regulations.

17. **REENTRY BY LANDLORD.**

17.1 Landlord reserves and shall at all times have the right to re-enter the Premises to inspect the same and use during any such inspections, video equipment to record such inspections, to show said Premises to prospective purchasers, mortgagees or tenants, and to alter, improve or repair the Premises and any portion of the Building, without abatement of Rent, and may for that purpose erect, use and maintain scaffolding, pipes, conduits and other necessary structures and open any wall, ceiling or floor in and through the Building and Premises where reasonably required by the character of the work to be performed, provided entrance to the Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably. Landlord shall have the right at any time to change the arrangement and/or locations of entrances, or passageways, doors and doorways, and corridors, windows, elevators, stairs, toilets or other public parts of the Building and to change the name, number or designation by which the Building is commonly known. In the event that Landlord damages any portion of any wall or wall covering, ceiling, or floor or floor covering within the Premises, Landlord shall repair or replace the damaged portion to match the original as nearly as commercially reasonable but shall not be required to repair or replace more than the portion actually damaged. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by any action of Landlord authorized by this Article 17.

17.2 For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in the Premises, excluding Tenant's vaults and safes or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to any portion of the Premises. As to any portion to which access cannot be had by means of a key or keys in Landlord's possession, Landlord is authorized to gain access by such means as Landlord shall elect and the cost of repairing any damage occurring in doing so shall be borne by Tenant and paid to Landlord within five (5) days of Landlord's demand.

18. **DEFAULT.**

18.1 Except as otherwise provided in Article 20, the following events shall be deemed to be Events of Default under this Lease:

18.1.1 Tenant shall fail to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the Rent reserved by this Lease, any other amount treated as Additional Rent under this Lease, or any other payment or reimbursement to Landlord required by this Lease, whether or not treated as Additional Rent under this Lease, and such failure shall continue for a period of fifteen (15) days after written notice that such payment was not made when due, but if any such notice shall be given, for the twelve (12) month period commencing with the date of such notice, the failure to pay within fifteen (15) days after due any additional sum of money becoming due to be paid to Landlord under this Lease during such period shall be an Event of Default, without notice.

18.1.2 Tenant shall fail to comply with any term, provision or covenant of this Lease which is not provided for in another Section of this Article and shall not cure such failure within twenty (20) days (forthwith, if the failure involves a hazardous condition) after written notice of such failure to Tenant provided, however, that such failure shall not be an event of default if such failure could not reasonably be cured during such twenty (20) day period, Tenant has commenced the cure within such twenty (20) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days.

18.1.3 Tenant shall fail to vacate the Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only.

18.1.4 Tenant or Guarantor shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof.

18.1.5 Tenant shall desert or vacate any substantial portion of the Premises during the term of this Lease.

18.1.6 A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant or Guarantor bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

18.1.7 Tenant shall breach any of the requirements of Article 9.

18.1.8 Tenant shall fail to discharge or bond over any lien placed upon the Premises in violation of this Lease within thirty (30) days after any such lien or encumbrance is filed.

18.1.9 Tenant shall fail to execute any instrument of subordination or attornment or any estoppel certificate within the time periods set forth in Articles 15 and 25 respectively following Landlord's request therefor.

18.1.10 The failure of Tenant or a Tenant Party to observe or comply with any of the material rules and regulations of the Building as the same may be amended from time to time, and such failure shall continue for five (5) days or more after written notice from Landlord to Tenant; provided, however, that if Tenant or a Tenant Party shall breach the same material rule or regulation more than two (2) times in any twelve (12) month period, then the third (3<sup>rd</sup>) such violation shall be deemed an Event of Default (without any notice).

18.1.11 The occurrence of a default under the Guaranty.

## 19. **REMEDIES.**

19.1 Except as otherwise provided in Article 20, upon the occurrence of any of the Events of Default described or referred to in Article 18, to the extent permitted by applicable Regulations, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, concurrently or consecutively and not alternatively:

19.1.1 Landlord may, at its election, terminate this Lease.

19.1.2 Upon any termination of this Lease, whether by lapse of time or otherwise, Tenant shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Premises in such event and to repossess Landlord of the Premises as of Landlord's former estate and to expel or remove Tenant and any others who may be occupying or be within the Premises and to remove Tenant's signs and other evidence of tenancy and all other property of Tenant therefrom without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without incurring any liability for any damage resulting therefrom, Tenant waiving any right to claim damages for such re-entry and expulsion, and without relinquishing Landlord's right to Rent or any other right given to Landlord under this Lease or by operation of law.

19.1.3 Upon any termination of this Lease, whether by lapse of time or otherwise, Landlord shall be entitled to recover as damages, all Rent, including any amounts treated as Additional Rent under this Lease, and other sums due and payable by Tenant as of the date of termination, plus as liquidated damages and not as a penalty, an amount equal to the sum of: (a) an amount equal to the then present value of the Rent reserved in this Lease for the residue of the stated Term of this Lease including any amounts treated as Additional Rent under this Lease and all other sums provided in this Lease to be paid by Tenant, minus the fair rental value of the Premises for such residue; (b) the value of the time and expense necessary to obtain a replacement tenant or tenants, and the estimated expenses described in Section 19.1.4 relating to recovery of the Premises, preparation for reletting and for reletting itself; and (c) the cost of performing any other covenants which would have otherwise been performed by Tenant.

19.1.4 Upon any termination of Tenant's right to possession only without termination of this Lease:

19.1.4.1 Neither such termination of Tenant's right to possession nor Landlord's taking and holding possession thereof as provided in Section 19.1.2 shall terminate this Lease or release Tenant, in whole or in part, from any obligation, including Tenant's obligation to pay the Rent, including any amounts treated as Additional Rent, under this Lease for the full Term, and if Landlord so elects Tenant shall continue to pay to Landlord the entire amount of the Rent as and when it becomes due, including any amounts treated as Additional Rent under this Lease, for the remainder of the Term plus any other sums provided in this Lease to be paid by Tenant for the remainder of the Term.

19.1.4.2 Landlord shall use commercially reasonable efforts to relet the Premises or portions thereof to the extent required by applicable law. Landlord and Tenant agree that nevertheless Landlord shall at most be required to use only the same efforts Landlord then uses to lease premises in the Building generally and that in any case that Landlord shall not be required to give any preference or priority to the showing or leasing of the Premises or portions thereof over any other space that Landlord may be leasing or have available and may place a suitable prospective tenant in any such other space regardless of when such other space becomes available and that Landlord shall have the right to relet the Premises for a greater or lesser term than that remaining under this Lease, the right to relet only a portion of the Premises, or a portion of the Premises or the entire Premises as a part of a larger area, and the right to change the character or use of the Premises. In connection with or in preparation for any reletting, Landlord may, but shall not be required to, make repairs, alterations and additions in or to the Premises and redecorate the same to the extent Landlord deems necessary or desirable, and Tenant shall pay the cost thereof, together with Landlord's expenses of reletting, including, without limitation, any commission incurred by Landlord, within five (5) days of Landlord's demand. Landlord shall not be required to observe any instruction given by Tenant about any reletting or accept any tenant offered by Tenant unless such offered tenant has a credit-worthiness acceptable to Landlord and leases the entire Premises upon terms and conditions including a rate of rent (after giving effect to all expenditures by Landlord for tenant improvements, broker's commissions and other leasing costs) all no less favorable to Landlord than as called for in this Lease, nor shall Landlord be required to make or permit any assignment or sublease.

19.1.4.3 Until such time as Landlord shall elect to terminate this Lease and shall thereupon be entitled to recover the amounts specified in such case in Section 19.1.3, Tenant shall pay to Landlord upon demand the full amount of all Rent, including any amounts treated as Additional Rent under this Lease and other sums reserved in this Lease for the remaining Term, together with the costs of repairs, alterations, additions, redecorating and Landlord's expenses of reletting and the collection of the Rent accruing therefrom (including reasonable attorney's fees and broker's commissions), as the same shall then be due or become due from time to time, less only such consideration as Landlord may have received from any reletting of the Premises; and Tenant agrees that Landlord may file suits from time to time to recover any sums falling due under this Article 19 as they become due. Any proceeds of reletting by Landlord in excess of the amount then owed by Tenant to Landlord from time to time shall be credited against Tenant's future obligations under this Lease but shall not otherwise be refunded to Tenant or inure to Tenant's benefit.

19.2 Upon the occurrence of an Event of Default, Landlord may (but shall not be obligated to) cure such default at Tenant's sole expense. Without limiting the generality of the foregoing, Landlord may, at Landlord's option, enter into and upon the Premises if Landlord determines in its sole discretion that Tenant is not acting within a commercially reasonable time to maintain, repair or replace anything for which Tenant is responsible under this Lease or to otherwise effect compliance with its obligations under this Lease and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage or interruption of Tenant's business resulting therefrom and Tenant agrees to reimburse Landlord within five (5) days of Landlord's demand as Additional Rent, for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, plus interest from the date of expenditure by Landlord at the rate set forth in Section 3.2. .



19.3 If, on account of any breach or default by Tenant in Tenant's obligations under the terms and conditions of this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney or collection agency concerning or to enforce or defend any of Landlord's rights or remedies arising under this Lease or to collect any sums due from Tenant, Tenant agrees to pay all costs and fees so incurred by Landlord, including, without limitation, reasonable attorneys' fees and costs. **TENANT EXPRESSLY WAIVES ANY RIGHT TO: (A) TRIAL BY JURY; AND (B) SERVICE OF ANY NOTICE REQUIRED BY ANY PRESENT OR FUTURE LAW OR ORDINANCE APPLICABLE TO LANDLORDS OR TENANTS BUT NOT REQUIRED BY THE TERMS OF THIS LEASE.**

19.4 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided in this Lease or any other remedies provided by law or in equity (all such remedies being cumulative), nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any Rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants contained in this Lease.

19.5 No act or thing done by Landlord or its agents during the Term shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or accept a surrender of said Premises shall be valid, unless in writing signed by Landlord. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants contained in this Lease shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants contained in this Lease. Landlord's acceptance of the payment of rental or other payments after the occurrence of an Event of Default shall not be construed as a waiver of such Default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord in enforcing one or more of the remedies provided in this Lease upon an Event of Default shall not be deemed or construed to constitute a waiver of such Event of Default or of Landlord's right to enforce any such remedies with respect to such Event of Default or any subsequent Event of Default.

19.6 To secure the payment of all rentals and other sums of money becoming due from Tenant under this Lease, Landlord shall have and Tenant grants to Landlord a first lien upon the leasehold interest of Tenant under this Lease, which lien may be enforced in equity, and a continuing security interest upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper and other personal property of Tenant situated on the Premises, and such property shall not be removed therefrom without the consent of Landlord until all arrearages in Rent as well as any and all other sums of money then due to Landlord under this Lease shall first have been paid and discharged. Upon the occurrence of an Event of Default, Landlord shall have, in addition to any other remedies provided in this Lease or by law, all rights and remedies under the Uniform Commercial Code, including without limitation the right to sell the property described in this Section 19.6 at public or private sale upon five (5) days' notice to Tenant. Tenant shall execute all such financing statements and other instruments as shall be deemed necessary or desirable in Landlord's discretion to perfect the security interest hereby created.

19.7 Any and all property which may be removed from the Premises by Landlord pursuant to the authority of this Lease or of law, to which Tenant is or may be entitled, may be handled, removed and/or stored, as the case may be, by or at the direction of Landlord but at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as by a bill of sale without further payment or credit by Landlord to Tenant.

19.8 If more than one (1) Event of Default occurs during the Term or any renewal thereof, Tenant's renewal options, expansion options, purchase options and rights of first offer and/or refusal, if any are provided for in this Lease, shall be null and void.

## 20. **TENANT'S BANKRUPTCY OR INSOLVENCY.**

20.1 If at any time and for so long as Tenant shall be subjected to the provisions of the United States Bankruptcy Code or other law of the United States or any state thereof for the protection of debtors as in effect at such time (each a "Debtor's Law"):

20.1.1 Tenant, Tenant as debtor-in-possession, and any trustee or receiver of Tenant's assets (each a "Tenant's Representative") shall have no greater right to assume or assign this Lease or any interest in this Lease, or to sublease any of the Premises than accorded to Tenant in Article 9, except to the extent Landlord shall be required to permit such assumption, assignment or sublease by the provisions of such Debtor's Law. Without limitation of the generality of the

foregoing, any right of any Tenant's Representative to assume or assign this Lease or to sublease any of the Premises shall be subject to the conditions that:

20.1.1.1 Such Debtor's Law shall provide to Tenant's Representative a right of assumption of this Lease which Tenant's Representative shall have timely exercised and Tenant's Representative shall have fully cured any default of Tenant under this Lease.

20.1.1.2 Tenant's Representative or the proposed assignee, as the case shall be, shall have deposited with Landlord as security for the timely payment of Rent an amount equal to the larger of: (a) three (3) months' Rent and other monetary charges accruing under this Lease; and (b) any sum specified in Article 5; and shall have provided Landlord with adequate other assurance of the future performance of the obligations of the Tenant under this Lease. Without limitation, such assurances shall include, at least, in the case of assumption of this Lease, demonstration to the satisfaction of the Landlord that Tenant's Representative has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that Tenant's Representative will have sufficient funds to fulfill the obligations of Tenant under this Lease; and, in the case of assignment, submission of current financial statements of the proposed assignee, audited by an independent certified public accountant reasonably acceptable to Landlord and showing a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by such assignee of all of the Tenant's obligations under this Lease.

20.1.1.3 The assumption or any contemplated assignment of this Lease or subleasing any part of the Premises, as shall be the case, will not breach any provision in any other lease, mortgage, financing agreement or other agreement by which Landlord is bound.

20.1.1.4 Landlord shall have, or would have had absent the Debtor's Law, no right under Article 9 to refuse consent to the proposed assignment or sublease by reason of the identity or nature of the proposed assignee or sublessee or the proposed use of the Premises concerned.

21. **QUIET ENJOYMENT.** Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises for the Term without hindrance or molestation from Landlord excepting only the lien for current taxes not yet due, such mortgage or mortgages as are permitted by the terms of this Lease, zoning ordinances and other building and fire ordinances and governmental regulations relating to the use of such Premises, and easements, restrictions and other conditions of record, and subject to the terms and provisions of this Lease. Landlord shall not be liable for any interference or disturbance by other tenants or third persons or on account of Landlord's enforcement of any such governmental orders, legislation or other governmental action limiting or restricting Tenant's ability to access or occupy the Premises, nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance.

## 22. **CASUALTY.**

22.1 In the event the Premises or the Building are damaged by fire or other cause and in Landlord's reasonable estimation such damage can be materially restored within one hundred eighty (180) days following the commencement of restoration, Landlord shall forthwith repair the same and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate abatement in Rent from the date of such damage. Such abatement of Rent shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises from time to time. Within forty-five (45) days from the date of such damage, Landlord shall notify Tenant, in writing, of Landlord's reasonable estimation of the length of time within which material restoration can be made, and Landlord's determination shall be binding on Tenant. For purposes of this Lease, the Building or Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was being used immediately before such damage.

22.2 If such repairs cannot, in Landlord's reasonable estimation, be made within one hundred eighty (180) days following the commencement of restoration, Landlord and Tenant shall each have the option of giving the other, at any time within thirty (30) days after Landlord's notice of estimated restoration time, notice terminating this Lease as of the date of such damage. In the event of the giving of such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate as of the date of such damage as if such date had been originally fixed in this Lease for the expiration of the Term. In the event that neither Landlord nor Tenant exercises its option to terminate this Lease, then Landlord shall repair or restore such damage, this Lease continuing in full force and effect, and the Rent hereunder shall be proportionately abated as provided in Section 22.1.

22.3 Landlord shall not be required to repair or replace any damage or loss by or from fire or other cause to any panelings, decorations, partitions, additions, railings, ceilings, floor coverings, office fixtures or any other property or improvements installed on the Premises by, or belonging to, Tenant. Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

22.4 In the event that Landlord should fail to complete such repairs and material restoration within sixty (60) days after the date estimated by Landlord therefor as extended by this Section 22.4, Tenant may at its option and as its sole remedy terminate this Lease by delivering written notice to Landlord, within fifteen (15) days after the expiration of said period of time, whereupon this Lease shall end on the date of such notice or such later date fixed in such notice as if the date of such notice was the date originally fixed in this Lease for the expiration of the Term; provided, however, that if construction is delayed because of changes, deletions or additions in construction requested by Tenant, strikes, lockouts, casualties, Acts of God, war, material or labor shortages, declared state of emergency or public health emergency; pandemic (including, without limitation, COVID-19); government-mandated quarantine or travel ban; government-mandated closure (including, without limitation, closure of buildings, airports, harbors, railroads and/or pipelines or other infrastructure); other government regulation or control or other causes beyond the reasonable control of Landlord, the period for restoration, repair or rebuilding shall be extended for the amount of time Landlord is so delayed.

22.5 Notwithstanding anything to the contrary contained in this Article: (a) Landlord shall not have any obligation whatsoever to repair, reconstruct, or restore the Premises when the damages resulting from any casualty covered by the provisions of this Article 22 occur during the last twelve (12) months of the Term or any extension thereof, or for which sufficient insurance proceeds to fully cover the repair and restoration are not received by Landlord, but if Landlord determines not to repair such damages Landlord shall notify Tenant and if such damages shall render any material portion of the Premises untenable Tenant shall have the right to terminate this Lease by notice to Landlord within fifteen (15) days after receipt of Landlord's notice; and (b) in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises or Building requires that any insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) days after such requirement is made by any such holder, whereupon this Lease shall end on the date of such damage as if the date of such damage were the date originally fixed in this Lease for the expiration of the Term.

22.6 In the event of any damage or destruction to the Building or Premises by any peril covered by the provisions of this Article 22, it shall be Tenant's responsibility to properly secure the Premises and upon notice from Landlord to remove forthwith, at its sole cost and expense, such portion of all of the property belonging to Tenant or its licensees from such portion or all of the Building or Premises as Landlord shall request.

23. **EMINENT DOMAIN.** If all or any substantial part of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, or conveyance in lieu of such appropriation, either party to this Lease shall have the right, at its option, of giving the other, at any time within thirty (30) days after such taking, notice terminating this Lease, except that Tenant may only terminate this Lease by reason of taking or appropriation, if such taking or appropriation shall be so substantial as to materially interfere with Tenant's use and occupancy of the Premises. If neither party to this Lease shall so elect to terminate this Lease, the rental thereafter to be paid shall be adjusted on a fair and equitable basis under the circumstances. In addition to the rights of Landlord above, if any substantial part of the Building shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and regardless of whether the Premises or any part thereof are so taken or appropriated, Landlord shall have the right, at its sole option, to terminate this Lease. Landlord shall be entitled to any and all income, Rent, award, or any interest whatsoever in or upon any such sum, which may be paid or made in connection with any such public or quasi-public use or purpose, and Tenant hereby assigns to Landlord any interest it may have in or claim to all or any part of such sums, other than any separate award which may be made with respect to Tenant's trade fixtures and moving expenses; Tenant shall make no claim for the value of any unexpired Term.

24. **SALE BY LANDLORD.** In event of a sale or conveyance by Landlord of the Building, the same shall operate to release Landlord from any future liability upon any of the covenants or conditions, expressed or implied, contained in this Lease in favor of Tenant, and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. Except as set forth in this Article 24, this Lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee. If any security has been given by Tenant to secure the faithful performance of any of the covenants of this Lease, Landlord may transfer or deliver said security or credit the amount of such security, as such, to Landlord's successor in interest and thereupon Landlord shall be discharged from any further liability with regard to said security.

25. **ESTOPPEL CERTIFICATES.** Within ten (10) days following any written request which Landlord may make from time to time, Tenant shall execute and deliver to Landlord or mortgagee or prospective mortgagee a sworn statement certifying: (a) the date of commencement of this Lease; (b) the fact that this Lease is unmodified and in full force and effect (or, if there have been modifications to this Lease, that this Lease is in full force and effect, as modified, and stating the date and nature of such modifications); (c) the date to which the Rent and other sums payable under this Lease have been paid; (d) the fact that there are no current defaults under this Lease by either Landlord or Tenant except as specified in Tenant's statement; and (e) such other matters as may be requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Article 25 may be relied upon by any mortgagee, beneficiary or purchaser, and Tenant shall be liable for all loss, cost or expense resulting from the failure of any sale or funding of any loan caused by any material misstatement contained in such estoppel certificate. Tenant irrevocably agrees that if Tenant fails to execute and deliver such certificate within such ten (10) day period Landlord or Landlord's beneficiary or agent may execute and deliver such certificate on Tenant's behalf, and that such certificate shall be fully binding on Tenant.

26. **SURRENDER OF PREMISES.**

26.1 Tenant shall arrange to meet Landlord for two (2) joint inspections of the Premises, the first to occur at least thirty (30) days (but no more than sixty (60) days) before the last day of the Term, and the second to occur not later than forty-eight (48) hours after Tenant has vacated the Premises. In the event of Tenant's failure to arrange such joint inspections and/or participate in either such inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

26.2 All alterations, additions, and improvements in, on, or to the Premises made or installed by or for Tenant, including, without limitation, carpeting (collectively, "Alterations"), shall be and remain the property of Tenant during the Term. Upon the expiration or sooner termination of the Term, all Alterations shall become a part of the realty and shall belong to Landlord without compensation, and title shall pass to Landlord under this Lease as by a bill of sale. At the end of the Term or any renewal of the Term or other sooner termination of this Lease, Tenant will peaceably deliver up to Landlord possession of the Premises, together with all Alterations by whomsoever made, in the same conditions received or first installed, broom clean and free of all debris, excepting only ordinary wear and tear and damage by fire or other casualty. Notwithstanding the foregoing, if Landlord elects by notice given to Tenant at least forty-five (45) days prior to expiration of the Term, Tenant shall, at Tenant's sole cost, remove any Alterations, including carpeting, so designated by Landlord's notice, and repair any damage caused by such removal. Tenant must, at Tenant's sole cost, remove upon termination of this Lease, any and all of Tenant's furniture, furnishings, equipment, movable partitions of less than full height from floor to ceiling and other trade fixtures and personal property, as well as all data/telecommunications cabling and wiring installed by or on behalf of Tenant, whether inside walls, under any raised floor or above any ceiling (collectively, "Personalty"). Personalty not so removed shall be deemed abandoned by the Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale, but Tenant shall remain responsible for the cost of removal and disposal of such Personalty, as well as any damage caused by such removal. In lieu of requiring Tenant to remove Alterations and Personalty and repair the Premises as aforesaid, Landlord may, by written notice to Tenant delivered at least thirty (30) days before the Termination Date, require Tenant to pay to Landlord, as Additional Rent hereunder, the cost of such removal and repair in an amount reasonably estimated by Landlord.

26.3 All obligations of Tenant under this Lease not fully performed as of the expiration or earlier termination of the Term shall survive the expiration or earlier termination of the Term. Upon the expiration or earlier termination of the Term, Tenant shall pay to Landlord the amount, as estimated by Landlord, necessary to repair and restore the Premises as provided in this Lease and/or to discharge Tenant's obligation for unpaid amounts due or to become due to Landlord. All such amounts shall be used and held by Landlord for payment of such obligations of Tenant, with Tenant being liable for any additional costs upon demand by Landlord, or with any excess to be returned to Tenant after all such obligations have been determined and satisfied. Any otherwise unused security deposit shall be credited against the amount payable by Tenant under this Lease.

27. **NOTICES.** Any notice or document required or permitted to be delivered under this Lease shall be addressed to the intended recipient, by fully prepaid registered or certified United States Mail return receipt requested, or by reputable independent contract delivery service furnishing a written record of attempted or actual delivery, and shall be deemed to be delivered when tendered for delivery to the addressee at its address set forth on the Reference Pages, or at such other address as it has then last specified by written notice delivered in accordance with this Article 27, or if to Tenant at either its aforesaid address or its last known registered office or home of a general partner or individual owner, whether or not actually accepted or received by the addressee. Any such notice or document may also be (i) personally delivered if a receipt is signed by and received from, the individual, if any, named in Tenant's Notice Address or (ii) delivered by electronic mail provided that as of the date of the electronic mail transmission a hard copy of such notice is also sent to the intended addressee by means described in the first sentence of this Section 27.

28. **TAXES PAYABLE BY TENANT.** In addition to Rent and other charges to be paid by Tenant under this Lease, Tenant shall reimburse to Landlord, upon demand, any and all taxes payable by Landlord (other than net income taxes) whether or not now customary or within the contemplation of the parties to this Lease: (a) upon, allocable to, or measured by or on the gross or net Rent payable under this Lease, including without limitation any gross income tax or excise tax levied by the State, any political subdivision thereof, or the Federal Government with respect to the receipt of such Rent; (b) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Premises or any portion thereof, including any sales, use or service tax imposed as a result thereof; (c) upon or measured by the Tenant's gross receipts or payroll or the value of Tenant's equipment, furniture, fixtures and other personal property of Tenant or leasehold improvements, alterations or additions located in the Premises; or (d) upon this transaction or any document to which Tenant is a party creating or transferring any interest of Tenant in this Lease or the Premises. In addition to the foregoing, Tenant agrees to pay, before delinquency, any and all taxes levied or assessed against Tenant and which become payable during the term hereof upon Tenant's equipment, furniture, fixtures and other personal property of Tenant located in the Premises.

29. **GUARANTY.** As additional security for this Lease and as further inducement to Landlord to enter into this Lease, simultaneously with Tenant's execution and delivery of this Lease to Landlord, Tenant shall cause Guarantor to deliver to Landlord the guaranty in the form attached hereto as Exhibit E (the "Guaranty").

30. **DEFINED TERMS AND HEADINGS.** The Article headings shown in this Lease are for convenience of reference and shall in no way define, increase, limit or describe the scope or intent of any provision of this Lease. Any indemnification or insurance of Landlord shall apply to and inure to the benefit of all the following "Landlord Entities", being Landlord, Landlord's investment manager, the California Public Employees Retirement System, and the trustees, boards of directors, officers, general partners, beneficiaries, stockholders, employees and agents of each of them. Any option granted to Landlord shall also include or be exercisable by Landlord's trustee, beneficiary, agents and employees, as the case may be. In any case where this Lease is signed by more than one person, the obligations under this Lease shall be joint and several. The terms "Tenant" and "Landlord" or any pronoun used in place thereof shall indicate and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their and each of their respective successors, executors, administrators and permitted assigns, according to the context hereof.

31. **TENANT'S AUTHORITY.**

31.1 If Tenant signs as a corporation, partnership, trust or other legal entity each of the persons executing this Lease on behalf of Tenant represents and warrants that Tenant has been and is qualified to do business in the state in which the Building is located, that the entity has full right and authority to enter into this Lease, and that all persons signing on behalf of the entity were authorized to do so by appropriate actions. Tenant agrees to deliver to Landlord, simultaneously with the delivery of this Lease, a corporate resolution, proof of due authorization by partners, opinion of counsel or other appropriate documentation reasonably acceptable to Landlord evidencing the due authorization of Tenant to enter into this Lease.

31.2 Tenant hereby represents and warrants that neither Tenant, nor any persons or entities holding any legal or beneficial interest whatsoever in Tenant, are (i) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"); (ii) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56, Executive Order 13224 (September 23, 2001) or any Executive Order of the President issued pursuant to such statutes; or (iii) named on the following list that is published by OFAC: "List of Specially Designated Nationals and Blocked Persons." If the foregoing representation is untrue at any time during the Term, an Event of Default will be deemed to have occurred, without the necessity of notice to Tenant.

32. **FINANCIAL STATEMENTS AND CREDIT REPORTS.** At Landlord's request, Tenant (or any proposed subtenant or assignee pursuant to any transfers under Section 9) shall deliver to Landlord a copy, certified by an officer of Tenant as being a true and correct copy, of Tenant's most recent audited financial statement, or, if unaudited, certified by Tenant's chief financial officer as being true, complete and correct in all material respects. Tenant hereby authorizes Landlord to obtain one or more credit reports on Tenant at any time, and shall execute such further authorizations as Landlord may reasonably require in order to obtain a credit report.

33. **COMMISSIONS.** Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease, except as described on the Reference Pages.

34. **TIME AND APPLICABLE LAW.** Time is of the essence of this Lease and all of its provisions. Whenever a period of time is prescribed for the taking of an action by Landlord, the period of time for the performance of such action shall be

extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist acts, pandemics, orders of any governmental authority, civil disturbances and other causes beyond the reasonable control of Landlord.

35. **SUCCESSORS AND ASSIGNS.** Subject to the provisions of Article 9, the terms, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties to this Lease.

36. **ENTIRE AGREEMENT AND COUNTERPARTS.** This Lease, together with its exhibits, contains all agreements of the parties to this Lease and supersedes any previous negotiations. There have been no representations made by the Landlord or any of its representatives or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease. This Lease may be executed in 2 or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature process complying with the U.S. federal ESIGN Act of 2000) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. Electronic signatures shall be deemed original signatures for purposes of this Lease and all matters related thereto, with such electronic signatures having the same legal effect as original signatures.

37. **EXAMINATION NOT OPTION.** Submission of this Lease shall not be deemed to be a reservation of the Premises. Landlord shall not be bound by this Lease until it has received a copy of this Lease duly executed by Tenant and has delivered to Tenant a copy of this Lease duly executed by Landlord, and until such delivery Landlord reserves the right to exhibit and lease the Premises to other prospective tenants. Notwithstanding anything contained in this Lease to the contrary, Landlord may withhold delivery of possession of the Premises from Tenant until such time as Tenant has delivered to Landlord the Security Deposit required by Article 5, prepaid Rent, if any, as set forth in Article 3 and any sum owed pursuant to this Lease.

38. **RECORDATION.** Tenant shall not record or register this Lease or a short form memorandum hereof without the prior written consent of Landlord, and then shall pay all charges and taxes incident such recording or registration.

39. **OPTIONS TO EXTEND.** Tenant, provided this Lease is in full force and effect and Tenant is not in default under any of the other terms and conditions of this Lease at the time of notification or commencement, shall have one (1) option to extend ("Extension Option") this Lease, for a term of five (5) years ("Extension Term"), for the portion of the Premises being leased by Tenant as of the date the applicable Extension Term is to commence, on the same terms and conditions set forth in this Lease, except as modified by the terms, covenants and conditions as set forth below:

39.1 If Tenant elects to exercise the applicable Extension Option, then Tenant shall provide Landlord with written notice ("Option Notice") no earlier than the date which is twelve (12) months prior to the expiration of the then current Term of this Lease but no later than the date which is nine (9) months prior to the expiration of the then current Term of this Lease. If Tenant fails to provide such Option Notice, Tenant shall have no further or additional right to extend or renew the Term of this Lease.

39.2 The Annual Rent and Monthly Installment of Rent in effect at the expiration of the then current Term of this Lease shall be increased to reflect the Prevailing Market (defined below) rate as of the date the applicable Extension Term is to commence, taking into account the specific provisions of this Lease which will remain constant. Landlord shall advise Tenant in writing of the new Annual Rent and Monthly Installment of Rent for the Premises no later than thirty (30) days after receipt of Tenant's written request therefor which request will be made by Tenant in writing no earlier than the date which is twelve (12) months prior to the expiration of the then current Term of this Lease but no later than the date which is nine (9) months prior to the expiration of the then current Term of this Lease. Said notification from Landlord of the new Annual Rent may include a provision for its escalation to provide for a change in fair market rental between the time of notification and the commencement of the applicable Extension Term. In no event shall the Annual Rent and Monthly Installment of Rent for the applicable Extension Term be less than the Annual Rent and Monthly Installment of Rent in the preceding period.

39.3 The Extension Options are not transferable; the parties hereto acknowledge and agree that they intend that the aforesaid options to extend this Lease shall be "personal" to Tenant as set forth above and that in no event will any assignee or sublessee have any rights to exercise the aforesaid options to extend.

39.4 If Tenant fails to validly exercise the first Extension Option, Tenant shall have no further right extend the Term of this Lease. In addition, if both Extension Options are validly exercised or if Tenant fails to validly exercise the second Extension Option, Tenant shall have no further right to extend the Term of this Lease.

39.5 Notwithstanding anything herein to the contrary, the Extension Options are subject and subordinate to the expansion rights (whether such rights are designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Building existing on the date hereof.

39.6 For purposes of this Article 39, "Prevailing Market" shall mean the arm's length fair market annual rental rate per rentable square foot under extension leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder for space comparable to the Premises in the Building and buildings comparable to the Building in the greater Foxborough, Massachusetts area as of the date the applicable Extension Term is to commence, taking into account the specific provisions of this Lease which will remain constant, and may, if applicable, include parking and trailer storage charges. The determination of Prevailing Market shall take into account any material economic differences between the terms of this Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses, insurance costs and taxes.

#### 40. SIGNAGE.

40.1 All signs, decorations, advertising media, blinds, draperies and other window treatment or bars or other security installations visible from outside the Premises shall be subject to Landlord's prior written approval and shall conform in all respects to Landlord's requirements and all Legal Requirements. Tenant shall not make any changes to the exterior of the Premises, install any exterior lights, decorations, balloons, flags, pennants, banners, or painting, or erect or install any fascia signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises without Landlord's prior written consent. Landlord shall not be required to notify Tenant of whether it consents to any sign until it (a) has received detailed, to-scale drawings thereof specifying design, material composition, color scheme, and method of installation, and (b) has had a reasonable opportunity to review them. Upon surrender or vacation of the Premises, Tenant shall remove all signs and repair, paint, and/or replace the building fascia surface to which its signs are attached. Tenant shall obtain all applicable governmental permits and approvals for sign and exterior treatments.

40.2 To the extent Landlord maintains any directory signage for the Building which identifies all Building tenants respectively, Landlord shall place Tenant's name on such sign(s) after Tenant opens for business in the Premises.

40.3 Tenant, at its sole cost and expense, may install Building standard signage on the entry door to the Premises as permitted by Legal Requirements and provided Tenant complies with all zoning and other municipal and county regulations (the "Entry Door Signage"). The Entry Door Signage shall be maintained and repaired by Tenant, and shall comply with all Legal Requirements. Landlord shall have the right to approve the Entry Door Signage, including the size, color and style, which approval shall not be unreasonably withheld, conditioned or delayed. Upon the expiration or earlier termination of this Lease, Tenant shall remove the Entry Door Signage.

41. **LIMITATION OF LANDLORD'S LIABILITY.** Redress for any claim against Landlord under this Lease shall be limited to and enforceable only against and to the extent of Landlord's interest in the Building. The obligations of Landlord under this Lease are not intended to be and shall not be personally binding on, nor shall any resort be had to the private properties of, any of Landlord's or its investment manager's, trustees, directors, officers, partners, beneficiaries, members, stockholders, employees, or agents, and in no case shall Landlord be liable to Tenant hereunder for any lost profits, damage to business, or any form of special, indirect or consequential damages.

42. **DELAYS IN NONMONETARY OBLIGATIONS.** No party hereto shall be required to perform any term, obligation, covenant or condition of this Lease (except with respect to the payment of any monetary obligations hereunder) ,so long as such performance is delayed or prevented by force majeure (as defined below), and the time for performance of such term, obligation, covenant or condition shall be extended by the number of days equivalent to the number of days of such delay or prevention. In addition, any time periods or deadlines given in this Lease to a party for the pursuit or completion of due diligence, permitting, satisfaction of contingencies or conditions, construction or installation of improvements, or other activities or purposes (including, without limitation, the period provided to Landlord to complete any delivery obligations and the period provided to Tenant (to complete construction and open for business) between delivery of the Premises and commencement of the Term and payment of rent) shall be extended by the number of days such party is delayed by force majeure in such activities or purposes for which the time period or deadline is given. The term "force majeure" or "Force

Majeure” shall mean any acts of God; enemy acts; acts of war; acts of terrorism or bioterrorism; riot, insurrection or other civil commotion; intervention by civil or military authorities of government; declared state of emergency or public health emergency; pandemic (including, without limitation, COVID-19); government-mandated quarantine or travel ban; government-mandated closure (including, without limitation, closure of buildings, airports, harbors, railroads and/or pipelines or other infrastructure); general unavailability of certain materials; strikes, boycotts, lockouts, labor disputes or work stoppage; and/or any other cause not reasonably within the control of such party and which, by the exercise of due diligence, such party is unable, wholly or in part, to prevent or overcome. In no event shall insufficiency of funds required to perform any term, covenant or condition of this Lease constitute force majeure.

43. **CFIUS.** (a) (i) Tenant has reviewed, inspected and investigated the terms of this Lease and the Premises at the sole cost and expense of Tenant, to determine whether this lease and any transaction set forth herein or contemplated hereby are reasonably likely to require a CFIUS Filing, or necessitate a review by CFIUS, or a CFIUS Investigation. (ii) Based on the review, inspection and investigation referenced in the foregoing clause (i), Tenant represents and warrants to Landlord that: (a) no CFIUS Filing is necessary and no CFIUS Investigation or CFIUS Notice has taken place, or has been filed, as of the date hereof; (b) this Agreement and the matters contemplated hereby is neither: (1) a “covered transaction” under FIRRMA Section 1703(a)(4)(B)(ii); nor (2) a “covered real estate transaction” as such term is defined under proposed, interim and final regulations promulgated as of the date hereof by the U.S. Department of the Treasury on behalf of CFIUS, including but not limited to 31 C.F.R. Part 802 and other regulations implementing or proposing to implement DPA, FINSAs and FIRRMA.

(b) Tenant shall use its best efforts to fully and promptly respond to (i) CFIUS- related requests by Landlord; and (ii) requests by CFIUS, in connection with the preparation of any CFIUS Notice, any CFIUS Filing, CFIUS Investigation, or any matter involving CFIUS, and Tenant shall at its sole cost and expense fully cooperate with Landlord in that regard.

(c) The parties hereto acknowledge and agree that in the event that this Lease and any matter set forth herein or contemplated hereby is delayed, restructured, interrupted, becomes subject to mitigation measures or is unwound by CFIUS, Landlord shall be entitled to pursue any and all remedies available under law or at equity, including but not limited to an order of specific performance and compensatory, indirect, incidental, consequential, special, speculative or punitive damages, including, without limitation, damages for loss of opportunity or bargain, loss of anticipated profits or savings and loss of goodwill or reputation and attorneys’ fees, regardless of the form of action and regardless of whether Tenant has been advised of the possibility of any such damages. Tenant shall defend Landlord with respect to any threatened claim, inquiry or other action relating in any way to CFIUS or its member agencies and this Lease.

(d) Definitions.

(i) “CFIUS” means (i) the Committee on Foreign Investment in the United States first established pursuant to Executive Order 11858 of May 7, 1975, and (ii) any replacement or successor thereto, including, without limitation, pursuant to DPA, FINSAs or FIRRMA.

(ii) “CFIUS Filing” means the filing of a declaration or notice, whether voluntary or mandatory, or formal or informal consultation with CFIUS in accordance with the DPA, FINSAs or FIRRMA or on an informal basis.

(iii) “CFIUS Investigation” means the initiation, whether by written notice or otherwise, of any action by CFIUS or any member agency of CFIUS with reference to or involving the provisions of DPA, FINSAs or FIRRMA.

(iv) “CFIUS Notice” means a written or verbal notice of the initiation, continuation or conclusion of a formal or informal CFIUS Investigation, inquiry or question concerning national security or any activity relating to or involving DPA, FINSAs or FIRRMA.

(v) “DPA” means The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. §§4501 et seq.), as the same may have been or may hereafter be amended, restated, supplemented or otherwise modified, all laws and regulations related thereto and all executive orders, mandates, requirements, powers and similar requirements imposed or exercised thereunder or in connection therewith.

(vi) “FINSAs” means the Foreign Investment and National Security Act of 2007 (P.L. 110-49, 121 Stat. 246), as the same may have been or may hereafter be amended, restated, supplemented or otherwise modified, all laws and regulations related thereto and all executive orders, mandates, requirements, powers and similar requirements imposed or exercised thereunder or in connection therewith.

(vii) “FIRRMA” means the Foreign Investment Risk Review Modernization Act of 2018 (Title XVII, P.L. 115-232), as the same may have been or may hereafter be amended, restated, supplemented or otherwise modified, all laws and regulations related thereto and all executive orders, mandates, requirements, powers and similar requirements imposed or exercised thereunder or in connection therewith.



(signature page follows)

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Lease Reference Date set forth in the Reference Pages of this Lease.

**LANDLORD:**

**TENANT:**

**BGO 500 RESEARCH OWNER LLC, a Delaware  
limited liability company**

**DESKTOP METAL OPERATING, INC., a Delaware  
corporation**

By: /s/ Matt Sargent  
Name: Matt Sargent, as Manager and not individually  
Title: Principal  
Dated: October 8, 2021

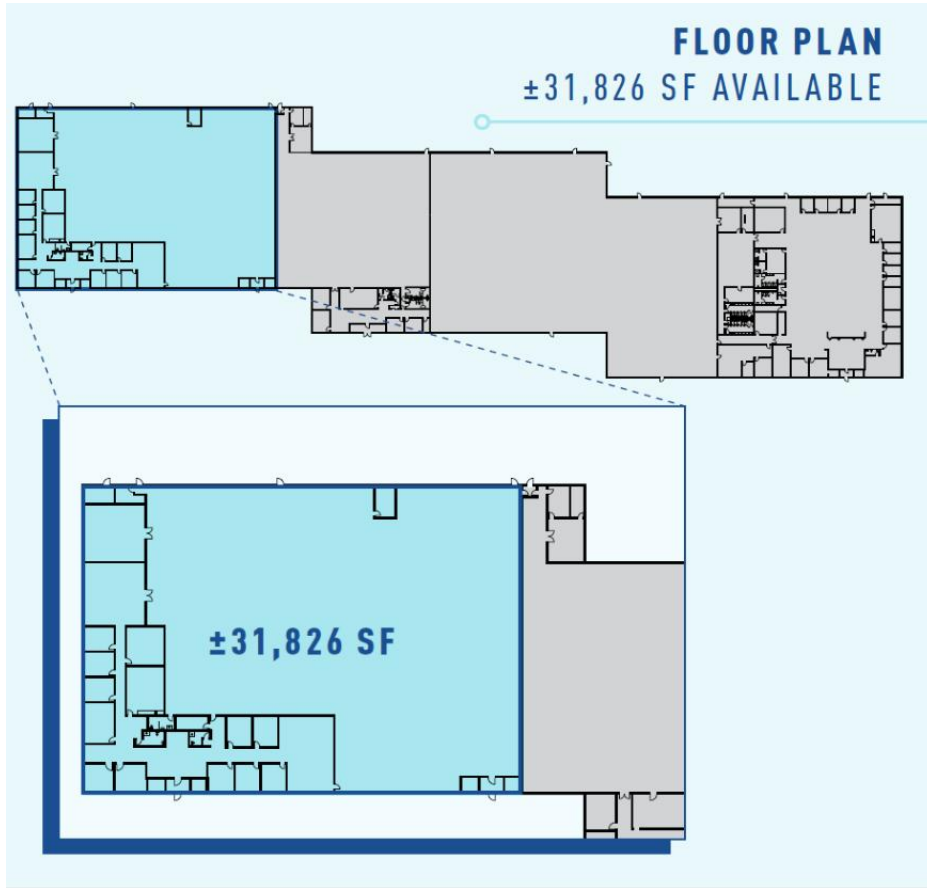
By: /s/ James Haley  
Name: James Haley  
Title: Chief Financial Officer  
Dated: October 7, 2021

By: /s/ Mark Reinikka  
Name: Mark Reinikka, as Manager and not individually  
Title: Managing Director  
Dated: October 8, 2021

**EXHIBIT A – FLOOR PLAN DEPICTING THE PREMISES**

**attached to and made a part of the Lease bearing the  
Lease Reference Date of October 1, 2021, between  
BGO 500 Research Owner LLC, as Landlord and  
Desktop Metal Operating, Inc., as Tenant**

Exhibit A is intended only to show the general layout of the Premises as of the beginning of the Term of the Lease. It does not in any way supersede any of Landlord's rights set forth in Article 17 of the Lease with respect to arrangements and/or locations of public parts of the Building and changes in such arrangements and/or locations. It is not to be scaled; any measurements or distances shown should be taken as approximate.



## EXHIBIT B –TENANT WORK

1. Tenant, following the delivery of the Premises by Landlord and the full and final execution and delivery of the Lease to which this Exhibit B is attached and all prepaid rental, the Security Deposit and insurance certificates required under the Lease, shall have the right to perform alterations and improvements in the Premises (the “Tenant Work”). Notwithstanding the foregoing, Tenant and its contractors shall not have the right to perform the Tenant Work in the Premises unless and until Tenant has complied with all of the terms and conditions of Article 6 of the Lease, including, without limitation, approval by Landlord of the final plans for the Tenant Work and the contractors to be retained by Tenant to perform such Tenant Work. Tenant shall be responsible for all elements of the design of Tenant’s plans (including, without limitation, compliance with law, functionality of design, the structural integrity of the design, the configuration of the Premises and the placement of Tenant’s furniture, appliances and equipment), and Landlord’s approval of Tenant’s plans shall in no event relieve Tenant of the responsibility for such design. In addition to the foregoing, Tenant shall be solely liable for all costs and expenses associated with or otherwise caused by Tenant’s performance and installment of the Tenant Work (including, without limitation, any legal compliance requirements arising outside of the Premises). Landlord’s approval of the contractors to perform the Tenant Work shall not be unreasonably withheld. The parties agree that Landlord’s approval of the general contractor to perform the Tenant Work shall not be considered to be unreasonably withheld if any such general contractor (a) does not have trade references reasonably acceptable to Landlord, (b) does not maintain insurance as required pursuant to the terms of the Lease, (c) does not have the ability to be bonded for the work in an amount of no less than one hundred fifty percent (150%) of the total estimated cost of the Tenant Work, (d) does not provide current financial statements reasonably acceptable to Landlord, (e) does not execute the Responsible Contractor Policy Statement provided by Landlord, or (f) is not licensed as a contractor in the state/municipality in which the Premises is located. Tenant acknowledges the foregoing is not intended to be an exclusive list of the reasons why Landlord may reasonably withhold its consent to a general contractor.
2. Provided Tenant is not in default, Landlord agrees to contribute (i) the sum of \$413,738.00 (i.e., \$ 13.00 per rentable square foot of the Premises) (the “Allowance”) toward the cost of performing the Tenant Work in preparation of Tenant’s occupancy of the Premises, which Allowance may only be used for hard and soft costs in connection with the Tenant Work including upgrades to the restrooms, subject to Landlord’s review and approval of the plans therefor, as well as (ii) the sum of \$37,000.00 (i.e. \$1.16 per rentable square foot)(the “Lighting Allowance”) to be used in connection with the performance of any installations required to upgrade the lighting within the Premises (the “Tenant’s Lighting Work”) (the “Lighting Allowance”). Each of the Allowance and Lighting Allowance shall be paid to Tenant or, at Landlord’s option, to the order of the general contractor that performed the Tenant Work or the Tenant’s Lighting Work, as applicable, within thirty (30) days following receipt by Landlord of (a) receipted bills covering all labor and materials expended and used in the Tenant Work or the Tenant’s Lighting Work, as applicable; (b) a sworn contractor’s affidavit from the general contractor and a request to disburse from Tenant containing an approval by Tenant of the work done, as applicable; (c) full and final waivers of lien; (d) as-built plans of the Tenant Work and/or the Tenant’s Lighting Work, as applicable; and (e) the certification of Tenant and its architect that the Tenant Work and/or the Tenant’s Lighting Work, as applicable, have been completed in a good and workmanlike manner in accordance with the approved plans, and in accordance with applicable Regulations. The Allowance and/or the Lighting Allowance, as applicable, shall be disbursed in the amount reflected on the receipted bills meeting the requirements above. Notwithstanding anything herein to the contrary, Landlord shall not be obligated to disburse any portion of the Allowance or the Lighting Allowance, as applicable, during the continuance of an uncured default under the Lease, and Landlord’s obligation to disburse shall only resume when and if such default is cured.
3. In no event shall either the Allowance or Lighting Allowance be used for the purchase of equipment, cabling, furniture or other items of personal property of Tenant. If Tenant does not submit a request for payment of the entire Allowance and/or the Lighting Allowance, as applicable, to Landlord in accordance with the provisions contained in this Exhibit B by the date which is twelve (12) months after the Commencement Date, any unused amount shall accrue to the sole benefit of Landlord, it being understood that Tenant shall not be entitled to any credit, abatement or other concession in connection therewith. Tenant shall be responsible for all applicable state sales or use taxes, if any, payable in connection with the Tenant Work and/or Allowance or Lighting Allowance, as applicable. Landlord shall be entitled to deduct from the Allowance and/or the Lighting Allowance, as applicable, a construction management fee for Landlord’s oversight of the Tenant Work or Tenant’s Lighting Work , as applicable, in an amount equal to five percent (5%) of the total cost of the Tenant Work or Tenant’s Lighting Work, as applicable.
4. Tenant agrees to accept the Premises in its “as-is” condition and configuration, it being agreed that Landlord shall not be required to perform any work or, except as provided above with respect to the Allowance or Lighting Allowance, incur any costs in connection with the construction or demolition of any improvements in the Premises.
5. This Exhibit B shall not be deemed applicable to any additional space added to the Premises at any time or from time to time, whether by any options under the Lease or otherwise, or to any portion of the original Premises or any additions to the Premises in the event of a renewal or extension of the original Term of the Lease, whether by any options under the Lease or otherwise, unless expressly so provided in the Lease or any amendment or supplement to the Lease.

**EXHIBIT C – COMMENCEMENT DATE MEMORANDUM**

**attached to and made a part of the Lease bearing the  
Lease Reference Date of October 1, 2021, between  
BGO 500 Research Owner LLC, as Landlord and  
Desktop Metal Operating, Inc., as Tenant**

**COMMENCEMENT DATE MEMORANDUM**

THIS MEMORANDUM, made as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (“Landlord”) and \_\_\_\_\_ (“Tenant”).

Recitals:

- A. Landlord and Tenant are parties to that certain Lease, dated for reference \_\_\_\_\_, 20\_\_\_\_ (the “Lease”) for certain premises (the “Premises”) consisting of approximately \_\_\_\_\_ square feet at the building commonly known as \_\_\_\_\_.
- B. Tenant is in possession of the Premises and the Term of the Lease has commenced.
- C. Landlord and Tenant desire to enter into this Memorandum confirming the Commencement Date, the Termination Date and other matters under the Lease.

NOW, THEREFORE, Landlord and Tenant agree as follows:

- 1. The actual Commencement Date is \_\_\_\_\_.
- 2. The actual Termination Date is \_\_\_\_\_.
- 3. The schedule of the Annual Rent and the Monthly Installment of Rent set forth on the Reference Pages is deleted in its entirety, and the following is substituted therefor:

*[insert rent schedule]*

- 4. Capitalized terms not defined herein shall have the same meaning as set forth in the Lease.

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

**LANDLORD:**

**TENANT:**

By: DO NOT SIGN \_\_\_\_\_

By: DO NOT SIGN \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## EXHIBIT D – RULES AND REGULATIONS

**attached to and made a part of the Lease bearing the  
Lease Reference Date of October 1, 2021, between  
BGO 500 Research Owner LLC, as Landlord and  
Desktop Metal Operating, Inc., as Tenant**

### RULES AND REGULATIONS

1. No sign, placard, picture, advertisement, name or notice (collectively referred to as “Signs”) shall be installed or displayed on any part of the outside of the Building without the prior written consent of the Landlord which consent shall be in Landlord’s sole discretion. All approved Signs shall be printed, painted, affixed or inscribed at Tenant’s expense by a person or vendor approved by Landlord and shall be removed by Tenant at Tenant’s expense upon vacating the Premises. Landlord shall have the right to remove any Sign installed or displayed in violation of this rule at Tenant’s expense and without notice.
2. If Landlord objects in writing to any curtains, blinds, shades or screens attached to or hung in or used in connection with any window or door of the Premises or Building, Tenant shall immediately discontinue such use. No awning shall be permitted on any part of the Premises. Tenant shall not place anything or allow anything to be placed against or near any glass partitions or doors or windows which may appear unsightly, in the opinion of Landlord, from outside the Premises.
3. Tenant shall not alter any lock or other access device or install a new or additional lock or access device or bolt on any door of its Premises without the prior written consent of Landlord. Tenant, upon the termination of its tenancy, shall deliver to Landlord the keys or other means of access to all doors.
4. If Tenant requires telephone, data, burglar alarm or similar service, the cost of purchasing, installing and maintaining such service shall be borne solely by Tenant. No boring or cutting for wires will be allowed without the prior written consent of Landlord. Landlord shall direct electricians as to where and how telephone, data, and electrical wires are to be introduced or installed. The location of burglar alarms, telephones, call boxes or other office equipment affixed to the Premises shall be subject to the prior written approval of Landlord.
5. Tenant shall not place a load upon any floor of its Premises, including mezzanine area, if any, which exceeds the load per square foot that such floor was designed to carry and that is allowed by law. Heavy objects shall stand on such platforms as determined by Landlord to be necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.
6. Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Building without Landlord’s prior written consent which consent shall be in Landlord’s sole discretion.
7. Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork, plaster or drywall (except for pictures and general office uses) or in any way deface the Premises or any part thereof. Tenant shall not affix any floor covering to the floor of the Premises or paint or seal any floors in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.
8. No cooking shall be done or permitted on the Premises, except that Underwriters’ Laboratory approved microwave ovens or equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted, provided that such equipment and use is in accordance with all applicable Regulations.
9. Tenant shall not use any hand trucks except those equipped with the rubber tires and side guards, and may use such other material-handling equipment as Landlord may approve. Tenant shall not bring any other vehicles of any kind into the Building. Forklifts which operate on asphalt areas shall only use tires that do not damage the asphalt.
10. Tenant shall not use the name of the Building or any photograph or other likeness of the Building in connection with or in promoting or advertising Tenant’s business except that Tenant may include the Building name in Tenant’s address. Landlord shall have the right, exercisable without notice and without liability to any tenant, to change the name and address of the Building.

11. All trash and refuse shall be contained in suitable receptacles at locations approved by Landlord. Tenant shall not place in the trash receptacles any personal trash or material that cannot be disposed of in the ordinary and customary manner of removing such trash without violation of any law or ordinance governing such disposal.
12. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governing authority.
13. Tenant assumes all responsibility for securing and protecting its Premises and its contents including keeping doors locked and other means of entry to the Premises closed.
14. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without Landlord's prior written consent. Tenant shall not permit space heaters in the Premises.
15. No person shall go on the roof without Landlord's permission.
16. Tenant shall not permit any animals (including birds and other fowl), reptiles, amphibians or fish (including fish tanks), other than service animals, e.g. seeing-eye dogs, to be brought or kept in or about the Premises or any common area of the property.
17. Except for industrial vehicles used in the ordinary course of Tenant's business on the Premises or in the Building, Tenant shall not permit any motor vehicles to be washed or mechanical work or maintenance of motor vehicles to be performed on any portion of the Premises or parking lot.
18. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of any premises in the Building. Landlord may waive any one or more of these Rules and Regulations for the benefit of any tenant or tenants, and any such waiver by Landlord shall not be construed as a waiver of such Rules and Regulations for any or all tenants.
19. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety and security, for care and cleanliness of the Building and for the preservation of good order in and about the Building. Tenant agrees to abide by all such rules and regulations herein stated and any additional rules and regulations which are adopted. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests.
20. Any toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown into them. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.
21. Tenant shall not permit smoking or carrying of lighted cigarettes or cigars in areas reasonably designated by Landlord or any applicable governmental agencies as non-smoking areas.
22. Any directory of the Building or project of which the Building is a part ("Project Area"), if provided, will be exclusively for the display of the name and location of tenants only and Landlord reserves the right to charge for the use thereof and to exclude any other names.
23. Canvassing, soliciting, distribution of handbills or any other written material in the Building or Project Area is prohibited and each tenant shall cooperate to prevent the same. No tenant shall solicit business from other tenants or permit the sale of any goods or merchandise in the Building or Project Area without the written consent of Landlord.
24. Any equipment belonging to Tenant which causes noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord or to any tenants in the Building shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate the noise or vibration.
25. Driveways, sidewalks, halls, passages, exits, entrances and stairways ("Access Areas") shall not be obstructed by tenants or used by tenants for any purpose other than for ingress to and egress from their respective premises. Access areas are not for the use of the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building or its tenants.

26. Tenant shall comply with Landlord's recycle policy for the Building, including, without limitation, Tenant shall sort and separate its trash into separate recycling containers as required by law or which may be furnished by Landlord and located in the Premises. Tenant shall comply with all Regulations regarding the collection, sorting, separation, and recycling of garbage, waste products, trash and other refuse at the Building. Landlord reserves the right to refuse to collect or accept from Tenant any trash that is not separated and sorted as required by law or pursuant to Landlord's recycling policy, and to require Tenant to arrange for such collection at Tenant's cost, utilizing a contractor reasonably satisfactory to Landlord.

27. Tenant acknowledges that the Building, at Landlord's option, may be operated in accordance with standards for the certification of environmentally sustainable, high performance buildings or aspects of their performance, including the U.S. EPA's Energy Star® rating and, U.S. Green Building Council's Leadership in Energy and Environmental Design program's standards, as the same are amended or replaced from time to time and similar "green building" standards (hereinafter collectively referred to as "Green Building Standards"). To support Landlord's sustainability practices, Tenant shall use reasonable efforts to use proven energy, water carbon reduction, and other sustainable measures, such as for example using energy efficient bulbs in task lighting, installing lighting controls, such as automatic sensors; turning off lights at the end of the work day; and utilizing water filtration systems to avoid the use of bottled water.

28. Landlord reserves the right to designate the use of parking areas and spaces. Tenant shall not park in visitor, reserved, or unauthorized parking areas. Tenant and Tenant's guests shall park between designated parking lines only and shall not park motor vehicles in those areas designated by Landlord for loading and unloading. Vehicles in violation of the above shall be subject to being towed at the vehicle owner's expense. Tenant will from time to time, upon the request of Landlord, supply Landlord with a list of license plate numbers of vehicles owned or operated by its employees or agents.

29. No trucks, tractors or similar vehicles can be parked anywhere other than in Tenant's own truck dock area. Tractor-trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks under the dolly wheels to prevent damage to the asphalt paving surfaces. No parking or storing of such trailers will be permitted in the parking areas or on streets adjacent thereto.

30. During periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow and loading and unloading areas of other tenants. All products, materials or goods must be stored within the Tenant's Premises and not in any exterior areas, including, but not limited to, exterior dock platforms, against the exterior of the Building, parking areas and driveway areas. Tenant agrees to keep the exterior of the Premises clean and free of nails, wood, pallets, packing materials, barrels and any other debris produced from their operation.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



**EXHIBIT E – GUARANTY**

**attached to and made a part of the Lease bearing the  
Lease Reference Date of October 1, 2021, between  
BGO 500 Research Owner LLC, as Landlord and  
Desktop Metal Operating, Inc., as Tenant**

**GUARANTY**

THIS GUARANTY (this “Guaranty”) dated as of the \_\_\_ day of \_\_\_\_\_, 2021 is made by DESKTOP METAL, INC., a Delaware corporation (“Guarantor”), in favor of BGO 500 RESEARCH OWNER LLC, a Delaware limited liability company, having an address of c/o BentallGreenOak, 100 High Street, Suite 1075, Boston, Massachusetts 02110 (“Landlord”).

WITNESSETH

WHEREAS, Landlord and Desktop Metal Operating, Inc., a Delaware corporation (“Tenant”) are concurrently herewith entering into a certain lease (the “Lease”) dated of even date herewith with respect to certain premises (the “Premises”) in the building located at 500 Research Drive, Wilmington, Massachusetts 01187;

WHEREAS, Guarantor owns a substantial interest in Tenant and as such Guarantor will derive substantial benefit from the Lease; and

WHEREAS, Guarantor acknowledges that Landlord would not agree to enter into the Lease unless Guarantor executes and delivers this Guaranty.

NOW, THEREFORE, in order to induce Landlord to enter into the Lease and in consideration of Landlord’s entering into the Lease, and for other good and valuable consideration, the receipt and sufficiency of which Guarantor hereby acknowledges, Guarantor hereby covenants, acknowledges and agrees as follows:

(1) All capitalized terms contained in this Guaranty and not otherwise defined herein shall, for the purposes hereof, have the same meanings ascribed to them in the Lease.

(2) Guarantor hereby guarantees, individually, jointly and severally, unconditionally and absolutely, to Landlord, its successors and assigns (without requiring any notice of nonpayment, nonkeeping, nonperformance or nonobservance or proof of notice or demand whereby to charge Guarantor, all of which Guarantor hereby expressly waives) that all Rent and all sums, costs, expenses, charges, payments and deposits (including sums payable as damages upon a default under the Lease) which are at any time payable by Tenant under the provisions of the Lease will be paid when due (whether at the stated due date or by acceleration or otherwise) and that Tenant will observe each and every covenant to be performed by Tenant in accordance with the provisions of the Lease; if any default shall be made by Tenant under the Lease, Guarantor shall pay, and hereby agrees to pay Landlord such Rent, sums, costs, expenses, charges, payments and deposits, and shall satisfy all covenants to be performed by Tenant thereunder.

(3) As a further inducement to Landlord to enter into the Lease and in consideration thereof, Guarantor represents and warrants that:

(a) Guarantor is the owner and holder, directly or indirectly, of all of the common stock of Tenant;

(b) This Guaranty has been duly authorized by all necessary corporate action on Guarantor’s part, has been duly executed and delivered by a duly authorized officer of Guarantor, and constitutes Guarantor’s valid and legally binding agreement in accordance with its terms;

(c) If Guarantor is a natural individual and person, Guarantor is not married and is a single individual; and

(d) Guarantor, as of the date hereof, is not in violation of any decree, ruling, judgment, order or injunction applicable to it nor any law, ordinance, rule or regulation of whatever nature applicable to it, which violation would materially and adversely affect its ability to carry out any of the terms, covenants and conditions of this Guaranty, nor are there to Guarantor’s actual knowledge any actions, proceedings or investigations pending or threatened against Guarantor (or any basis therefor known to Guarantor) before or by any court, arbitrator, administrative agency or other governmental authority, any of which is reasonably expected

by Guarantor to be adversely decided, and which, if adversely decided, is reasonably expected by Guarantor to materially and adversely affect the ability of Guarantor to carry out any of the terms, covenants and conditions of this Guaranty.

(4) The obligations hereunder of Guarantor shall not be terminated or affected in any way or manner whatsoever by reason of Landlord's resort, or Landlord's omission to resort, to any summary or other proceedings, actions or remedies for the enforcement of any of Landlord's rights under the Lease or with respect to the Premises or by reason of any extensions of time or indulgences granted by Landlord, or by reason of the assignment, transfer or surrender of all or any part of the Lease or the term and estate thereby granted or all or any part of the Premises. The liability of Guarantor is coextensive with that of Tenant and also joint and several with the liability of Tenant, and action or suit may be brought against Guarantor and carried to final judgment and/or completion and recovery had, either with or without making Tenant a party thereto. Insofar as the payment by Tenant of any sums of money to Landlord is involved, this Guaranty is a guaranty of payment and not of collection. Guarantor waives any right to require that any action be brought against Tenant or to require that resort be had to any security or to any other credit in favor of Tenant or to claim, if there is resort to any security, that resort thereto reduces Guarantor's obligations hereunder in the amount of such application.

(5) If, pursuant to law or to any option granted by the Lease, the Lease shall be renewed, or its term extended, for any period beyond the date specified in the Lease for the expiration of said term, or if pursuant to any such option, additional space shall be included in, or substituted for all or any part of, the Premises, or if the Lease be modified by agreement between Landlord and Tenant in any other similar or dissimilar respect, the obligations of Guarantor hereunder shall extend and apply with respect thereto.

(6) Neither the giving nor the withholding by Landlord of any consent or approval provided for in the Lease shall in any way affect the obligations of Guarantor hereunder.

(7) (a) Neither Guarantor's obligation to make payment in accordance with the terms of this Guaranty nor any remedy for the enforcement of this Guaranty shall be impaired, modified, changed, stayed, released or limited in any manner whatsoever by any impairment, modification, change, release, limitation or stay of the liability of Tenant or its estate in bankruptcy or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the Bankruptcy Code of the United States or other statute of any other jurisdiction, domestic or foreign, or from the decision of any court interpreting any of the same, and Guarantor shall be obligated under this Guaranty as if no such impairment, stay, modification, change, release or limitation had occurred.

(b) If Landlord shall be obligated by any bankruptcy, insolvency or other legal proceedings to repay to Guarantor or to Tenant, or to any trustee, receiver or other representative of any of them, any amounts previously paid by Guarantor pursuant to this Guaranty, this Guaranty shall be deemed reinstated to the extent of that repayment made by Landlord.

(8) This Guaranty, and all of the terms hereof, shall be binding upon and shall inure to the benefit of Guarantor and Landlord and their respective successors and assigns.

(9) Guarantor hereby waives the right to trial by jury in any action or proceeding that may hereafter be instituted by Landlord against Guarantor in respect of this Guaranty.

(10) Guarantor shall pay to Landlord all of Landlord's expenses, including, but not limited to, attorneys' fees and expenses, in enforcing the obligations of Tenant under the Lease, enforcing the obligations of Guarantor under this Guaranty, and/or exercising any remedy permitted under the Lease or hereunder or at law or in equity as against Tenant or Guarantor.

(11) This Guaranty shall remain in full force and effect until Guarantor has paid all amounts payable under this Guaranty and performed all of its obligations under this Guaranty (whether or not the Lease shall have been terminated).

(12) This Guaranty and Guarantor's obligations hereunder are and shall at all times continue to be absolute, present, primary, and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to this Guaranty and the obligations of Guarantor under this Guaranty or the obligations of any other person or party (including, without limitation, Tenant) relating to this Guaranty or the obligations of Guarantor hereunder or otherwise with respect to the Lease.

(13) This Guaranty sets forth the entire agreement and understanding of Landlord and Guarantor, and Guarantor absolutely, unconditionally and irrevocably waives any and all rights to assert any defense, set-off, counterclaim or cross-claim of any nature whatsoever with respect to this Guaranty or the obligations of any other person or party (including, without limitation, Tenant) relating to this Guaranty or the obligations of Guarantor hereunder or otherwise with respect to the Lease in any action or proceeding brought by Landlord with respect to the Lease or the obligations of Guarantor hereunder. No oral or other agreements, understandings,

representations or warranties exist with respect to this Guaranty or with respect to the obligations of Guarantor hereunder except as specifically set forth in this Guaranty.

(14) The Lease and this Guaranty shall be interpreted under the laws of the State of Massachusetts without regard to principles of conflicts of law, and such laws shall apply in any action or proceeding arising out of, under or in connection with this Guaranty.

(15) Guarantor hereby expressly and irrevocably (a) submits to the jurisdiction of the state courts of the State of Massachusetts situated in Middlesex County and to the jurisdiction of the United States District Court for the District of Massachusetts, for the purposes of each and every suit, action or other proceeding arising out of or based upon this Guaranty or the subject matter hereof brought by Landlord, it being expressly understood and agreed that this consent to jurisdiction shall be self-operative and no further instrument or action, other than service of process as permitted by applicable law, shall be necessary in order to confer jurisdiction upon Guarantor in any such court, (b) waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding brought in any such court, any claim that Guarantor is not subject personally to the jurisdiction of the above-named courts, that Guarantor's property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court, and (c) appoints Tenant to act as agent for service of process in any action or proceeding under this Guaranty, provided that nothing contained in this paragraph 15 shall affect the right of Landlord to serve legal process in any other manner permitted by law.

(16) Nothing herein contained is intended or shall be construed to give to Guarantor any right of subrogation under the Lease or any right to participate in any way therein or in Tenant's or Landlord's right, title and interest in the Lease. Notwithstanding any payments made under this Guaranty, all rights of subrogation and participation are expressly waived and released by Guarantor for so long as Tenant is an affiliate of Guarantor and until all of the obligations of Tenant under the Lease are fully paid and performed or are no longer required to be paid and performed.

(17) All notices, demands, requests, consents, approvals or other communications (collectively, "Notices") desired or required to be given under this Guaranty shall be in writing and shall be given and deemed given in the manner set forth in the Lease, except that any Notices to Guarantor shall be sent to Guarantor as follows: **Desktop Metal, Inc. 63 Third Avenue, Burlington, MA 01803 Attn. General Counsel**. Either party may change the persons or addresses to whom such notices shall be sent, by delivering a notice of such change in the aforesaid manner.

(18) No remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other available remedy given under this Guaranty or hereafter existing at law or in equity and shall not limit or prejudice any other legal or equitable remedy which Landlord may have. No delay or failure to exercise any right or power accruing upon any default, omission or failure or performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. If any provision contained in this Guaranty should be breached by Guarantor and thereafter duly waived by Landlord, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by Landlord and Guarantor.

(19) Guarantor shall not merge or consolidate with any entity or sell all or substantially all of its assets (or consummate any comparable transaction) (an "Ownership Event") unless either (a) Guarantor shall be the surviving entity or (b) contemporaneously with such Ownership Event, the surviving or purchasing entity (the "Successor Guarantor") executes and delivers to Landlord a guaranty of the Lease, substantially in the form and substance of this Guaranty, (together with reasonably satisfactory evidence of the due authorization, execution, delivery, validity, binding effect and enforceability thereof), but whether or not such execution and delivery shall take place the Successor Guarantor shall automatically be bound by this Guaranty as if it had so executed and delivered such guaranty.

(20) The invalidity or unenforceability of any one or more of the phrases, sentences, clauses or sections of this Guaranty shall not affect the validity or enforceability of the remaining portion of this Guaranty or any part hereof.

(21) Guarantor agrees that it will, from time to time, within ten (10) business days after Landlord's request, execute, acknowledge and deliver to Landlord a statement certifying that this Guaranty is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating such modifications) and that to the certifying party's knowledge, Guarantor is not in default hereunder (or if there is such a default, describing such default in reasonable detail).

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

GUARANTOR:

**DESKTOP METAL, INC.,**  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT F – HAZARDOUS MATERIALS**

THIS EXHIBIT HAS BEEN OMITTED BECAUSE IT IS (I) NOT MATERIAL AND (II) WOULD LIKELY CAUSE COMPETITIVE HARM TO THE COMPANY IF DISCLOSED.

**Subsidiaries**


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Desktop Metal Operating, Inc.  
 Desktop Metal GMBH  
 Desktop Metal Securities Corporation  
 addLEAP AB  
 Forust Corporation  
 Figur Machine Tools LLC  
 EnvisionTEC US LLC  
 Envisiontec GmbH  
 EnvisionTec Group Canada, Inc.  
 3DBotics, Inc.  
 Gulf Filtration Systems, Inc.  
 Adaptive3D LLC  
 Adaptive 3D Technologies, LLC  
 Syzygy Memory Plastics Corporation  
 Beacon Bio, Inc.  
 DM Belgium B.V.  
 Aerosint S.A.  
 Dental Arts Laboratories, Inc.  
 A.I.D.R.O. Srl  
 Ermione Srl  
 Meta Additive Ltd.  
 Larry Brewer Dental Lab, Inc.  
 Brewer Tafla Dental Technologies, LLC  
 May Dental Arts, LLC  
 ExOne Americas, LLC  
 ExOne Operating, LLC  
 ExOne GmbH  
 ExOne Property GmbH  
 ExOne KK

**Jurisdiction of Incorporation**


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Delaware  
 Germany  
 Massachusetts  
 Sweden  
 Delaware  
 New Jersey  
 Delaware  
 Germany  
 Canada  
 Michigan  
 Michigan  
 Delaware  
 Texas  
 Delaware  
 Delaware  
 Belgium  
 Belgium  
 Illinois  
 Italy  
 Italy  
 United Kingdom  
 Oklahoma  
 Oklahoma  
 Missouri  
 Delaware  
 Delaware  
 Germany  
 Germany  
 Japan

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-261152 and 333-256722 on Form S-8 of our reports dated March 15, 2022, relating to the financial statements of Desktop Metal, Inc. and the effectiveness of Desktop Metal, Inc.'s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2021.

/s/ Deloitte & Touche LLP

Boston, Massachusetts  
March 15, 2022

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CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO RULE 13a-14(a) of RULE 15d-14(a)  
OF THE SECURITIES EXCHANGE ACT OF 1934

I, Ric Fulop, certify that:

1. I have reviewed this Annual Report on Form 10-K of Desktop Metal, Inc. for the year ended December 31, 2021;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present, in all material respects, the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the 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:
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 15, 2022

/s/ Ric Fulop  
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Ric Fulop  
Chief Executive Officer  
(Principal Executive Officer)

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CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO RULE 13a-14(a) OR RULE 15d-14(a)  
OF THE SECURITIES EXCHANGE ACT OF 1934

I, James Haley, certify that:

1. I have reviewed this Annual Report on Form 10-K of Desktop Metal, Inc. for the year ended December 31, 2021;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present, in all material respects, the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the 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:
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 15, 2022

/s/ James Haley

James Haley  
Chief Financial Officer  
(Principal Financial Officer and Principal Accounting Officer)

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

In connection with the Annual Report of Desktop Metal, Inc. (the "Company") on Form 10-K for the year ended December 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Ric Fulop, the Chief Executive Officer of the Company, and James Haley, the Chief Financial Officer of the Company, each hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

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

March 15, 2022	<u>/s/ Ric Fulop</u> Ric Fulop	Chief Executive Officer (Principal Executive Officer)
March 15, 2022	<u>/s/ James Haley</u> James Haley	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)

A signed original of this written statement required by 18 U.S.C. Section 1350 has been provided to Desktop Metal, Inc. and will be retained by Desktop Metal, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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