Risk Factors Comparison 2024-04-16 to 2023-04-17 Form: 10-K

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An investment in our common stock involves significant risks. You should carefully consider the following risks and all other information set forth in this Annual Report before deciding to invest in our common stock. If any of the events or developments described below occurs, our business, financial condition and results of operations may suffer. In that case, the value of our common stock may decline and you could lose all or part of your investment. You should consider each of the following risk factors and any other information set forth in this Annual Report and the other reports filed by the Company with the SEC, including the Company' s financial statements and related notes, in evaluating the Company' s business and prospects. The risks and uncertainties described below are not the only ones that impact on the Company' s operations and business. Additional risks and uncertainties not presently known to the Company, or that the Company currently considers immaterial, may also impair its business or operations. If any of the following risks actually occurs, the Company' s business and financial condition, results or prospects could be harmed. Please also read carefully the section entitled " **Cautionary** Note About Forward- Looking Statements " at the beginning of this Annual Report. **46** Risks Related to Our Company **We have an evolving business model, which increases the complexity of our business. Our business model has evolved in the past and continues to do so. In prior years we have added additional types of services and product offerings and in some cases, we have modified or discontinued those offerings. We intend to continue to try to offer additional types of products or services, and we do not know whether any of them will be successful. From time to time we have also modified aspects of our business model relating to our product mix. We do not know whether these or any other modifications will be successful. The additions and modifications to our business have increased the complexity of our business and placed significant strain on our management, personnel, operations, systems, technical performance, financial resources, and internal financial control and reporting functions. Future additions to or modifications of our business are likely to have similar effects. Further, any new business or website we launch that is not favorably received by the market could damage our reputation or our brand. The occurrence of any of the foregoing could have a material adverse effect on our business. We are heavily dependent on our senior management, and a loss of a member of our senior management team could cause our stock price to suffer. If we lose the services of Milton C. Ault, III, our Executive Chairman, William B. Horne, our Chief Executive Officer, Henry Nisser, our President and General Counsel, or Ken Cragun, our Chief Financial Officer and / or certain key employees, we may not be able to find appropriate replacements on a timely basis, and our business could be adversely affected. Our existing operations and continued future development depend to a significant extent upon the performance and active participation of these individuals and certain key employees. Although we have entered into employment agreements with Messrs. Ault, Horne and Nisser, and we may enter into employment agreements with additional key employees in the future, we cannot guarantee that we will be successful in retaining the services of these individuals. If we were to lose any of these individuals, we may not be able to find appropriate replacements on a timely basis and our financial condition and results of operations could be materially adversely affected. We rely on highly skilled personnel and the continuing efforts of our executive officers and, if we are unable to retain, motivate or hire qualified personnel, our business may be severely disrupted. Our performance largely depends on the talents, knowledge, skills, know- how and efforts of highly skilled individuals and in particular, the expertise held by our Executive Chairman, Milton C. Ault, III. His absence, were it to occur, would materially and adversely impact development and implementation of our projects and businesses. Our future success depends on our continuing ability to identify, hire, develop, motivate and retain highly skilled personnel for all areas of our organization. Our continued ability to compete effectively depends on our ability to attract, among others, new technology developers and to retain and motivate our existing contractors. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Therefore, our business may be severely disrupted, and we may incur additional expenses to recruit and retain new officers. In addition, if any of our executives joins a competitor or forms a competing company, we may lose some customers. We may not be able to utilize our net operating loss carryforwards. As of December 31, 2023, we had federal and state net operating loss carryforwards (" NOLs ") for income tax purposes of approximately $ 23. 7 million and $ 104. 2 million, respectively, after application of the limitations set forth in Section 382 of the Internal Revenue Code. In accordance with Section 382, future utilization of our NOLs is subject to an annual limitation as a result of ownership changes that occurred previously. We also maintain NOLs in various foreign jurisdictions. Our corporate structure and intercompany arrangements are subject to the tax laws of various jurisdictions, and we could face greater than anticipated tax liabilities, which would harm our results of operations. We are subject to tax laws in the U. S. and certain foreign jurisdictions, including Israel and the U. K. Our income tax obligations are based in part on our corporate structure and intercompany arrangements. The tax laws applicable to our business are increasingly complex, are subject to interpretation and their application can be uncertain. The amount of taxes we pay in the jurisdictions in which we operate could increase substantially as a result of changes in the applicable tax principles, including increased tax rates, new tax laws or revised interpretations of existing tax laws and precedents. We are subject to the examination of our income tax returns by the IRS and foreign tax authorities in the jurisdictions in which we operate, and we may be subject to assessments or audits in the future in any such jurisdictions. The tax authorities in these jurisdictions may aggressively interpret their laws in an effort to raise additional tax revenue and may claim that various withholding requirements apply to us or our subsidiaries, challenge**

the availability to us or our subsidiaries of certain benefits under tax treaties, and challenge our methodologies for valuing developed technology or intercompany arrangements or our revenue recognition policies, which could result in an increase of our worldwide effective tax rate and have a material adverse effect on our financial condition and operating results. 47 Risks Related to Our Indebtedness and Liquidity We will need to raise additional capital to fund our operations in furtherance of our business plan. Until we are profitable, we will need to quickly raise additional capital in order to fund our operations in furtherance of our business plan. The proposed financing may include shares of common stock, shares of preferred stock, warrants to purchase shares of common stock or preferred stock, debt securities, units consisting of the foregoing securities, equity investments from strategic development partners or some combination of each. Any additional equity financings may be financially dilutive to, and will be dilutive from an ownership perspective to, our stockholders, and such dilution may be significant based upon the size of such financing. Additionally, we cannot assure that such funding will be available on a timely basis, in needed quantities, or on terms favorable to us, if at all. **If we are unable to comply with the covenants or restrictions contained in the Loan Agreement with our senior secured lender, the lender could declare all amounts outstanding under the Loan Agreement to be due and payable and foreclose on its collateral, which could materially adversely affect our financial condition and operations. As previously announced, on December 14, 2023, we, along with our wholly owned subsidiaries Sentinum, Third Avenue, ACS, BNI Montana, Ault Lending, Ault Aviation and AGREE, entered into the Loan Agreement with institutional lenders, pursuant to which Ault & Company borrowed $ 36 million and issued Secured Notes to the lenders in the aggregate amount of $ 38, 918, 919. Pursuant to the Loan Agreement, we, and the other Guarantors, agreed to act as guarantors for repayment of the Secured Notes. In addition, certain Guarantors entered into various agreements as collateral in support of the guarantee of the Secured Notes, including (i) a security agreement by Sentinum, pursuant to which Sentinum granted to the Lenders a security interest in (a) the Miners, (b) all of the digital currency mined or otherwise generated from the Miners and (c) the membership interests of ACS, (ii) a security agreement by the Company, Ault Lending, BNI Montana and AGREE, pursuant to which those entities granted to the lenders a security interest in substantially all of their assets, as well as a pledge of equity interests in Ault Aviation, AGREE, Sentinum, Third Avenue, Ault Energy, ADTC, Eco Pack, and Circle 8 Holdco, (iii) a mortgage and security agreement by Third Avenue on the Florida Property, (iv) a future advance mortgage by ACS on the Michigan Property, (v) an aircraft mortgage and security agreement by Ault Aviation on the Aircraft, and (vi) deposit account control agreements over certain bank accounts held by certain of our subsidiaries. The Loan Agreement has customary representations, warranties and covenants including restrictions on indebtedness, liens, restricted payments and dividends, investments, asset sales and similar covenants and contains customary events of default. The covenants and other restrictions contained in the Loan Agreement and other current or future debt agreements could, among other things, restrict our ability to dispose of assets, incur additional indebtedness, pay dividends or make other restricted payments, create liens on assets, make investments, loans or advances, make acquisitions, engage in mergers or consolidations and engage in certain transactions with affiliates. These restrictions could limit our ability to plan for or react to market conditions or meet extraordinary capital needs or otherwise restrict corporate activities. In addition, substantially all of our borrowed money obligations are secured by certain of our assets. A failure to comply with any restrictions or covenants in the Loan Agreement, or to make payments into the Segregated Account when due or make other payments we are obligated to make under Loan Agreement, could have serious consequences to our financial condition or result in a default under the Loan Agreement and under other agreements containing cross- default provisions. A default would permit lenders to accelerate the maturity of the debt under these debt agreements and to foreclose upon collateral securing the debt, among other remedies. Furthermore, an event of default or an acceleration under one of our debt agreements could also cause a cross- default or cross- acceleration of another debt instrument or contractual obligation, which would adversely impact our liquidity. Under these circumstances, we might not have sufficient funds or other resources to satisfy all of our obligations.** We **may not be granted waivers** ~~have an evolving business model, which increases the complexity of our~~ - **or** ~~business. Our business model has evolved in the~~ **other amendments** ~~past and continues~~ to ~~do so. In prior years~~ **these debt agreements if for any reason** we **are unable to comply with these debt agreements** ~~have added additional types of services and product offerings and in some cases~~ , **and** we ~~have modified~~ **may not be able to restructure or refinance** ~~or~~ **our** ~~discontinued~~ **debt on terms acceptable to us, or at all. Whether or not** those **kinds** ~~offerings. We intend to continue to try to offer additional types~~ of ~~products or services~~ **actions are successful** , ~~and~~ we **might seek protections** ~~do not know whether any~~ of **applicable bankruptcy laws. Additionally, all of our indebtedness is senior to** ~~them~~ - **the** ~~will be successful~~ **existing common stock in our capital structure** . **If** ~~From time to time~~ we **were** ~~have also modified aspects of our business model relating~~ to **seek certain restructuring transactions,** our ~~product mix~~ **creditors would experience better returns as compared to our equity holders** . **Any of** ~~We do not know whether~~ these ~~or any other modifications will be successful. The additions~~ **actions** ~~and modifications to our business have increased the complexity of our business and placed significant strain on our management, personnel, operations, systems, technical performance, financial resources, and internal financial control and reporting functions. Future additions to or modifications of our business are likely to have similar effects. Further, any new business or website we launch that is not favorably received by the market could damage our reputation or our brand. The occurrence of any of the foregoing~~ could have a material adverse effect on **the value of our equity and on** our business **, financial performance, and liquidity** . ~~We received a subpoena from~~ **48 To service any future indebtedness and** ~~the~~ **other obligations** ~~Commission in the investigation now known as " In the Matter of DPW Holdings~~ , ~~Inc~~ **we will require a significant amount of cash** . **Our ability to generate cash depends on many factors beyond our control** , ~~" the consequences~~ **and any failure to meet our debt service obligations,** of which ~~are unknown. We received a subpoena~~ **we currently have very few but may** in ~~November of 2019 from~~ the ~~Commission that stated that the staff~~ **future incur, including our obligations under our indebtedness or**

future outstanding shares of **preferred stock, could harm our business, financial condition and results of operations. Our ability to make payments on and to refinance any indebtedness and outstanding preferred stock and to fund working capital needs and planned capital expenditures will depend on our ability to generate cash in** the ~~Commission~~ **future. This, to a certain extent,** is ~~conducting~~ **subject to general economic, financial, competitive, business, legislative, regulatory** ~~an~~ **and** ~~investigation now known as " In the Matter of DPW Holdings, Inc. " We understand that the subpoena was issued as part of an investigation as to whether we and certain of our officers, directors, employees, partners, subsidiaries and / or affiliates, and / or~~ other **factors** ~~persons or entities, directly or indirectly, violated certain provisions of the Securities Act and the Exchange Act, in connection with the offer and sale of our securities. Certain affiliates and related parties of ours have also been subpoenaed. Although the order states that the Commission may have information relating to such alleged violations, the subpoena expressly provides that the inquiry is not to be construed as an indication by the Commission or its staff that any violations of the federal securities laws have occurred. We have produced documents in response to the subpoena. Since the original subpoena was issued, we have received further subpoenas seeking additional documents and testimony from certain members of our management team. We do not know when the Commission' s investigation will be concluded or what action, if any, might be taken in the future by the Commission or its staff as a result of the matters~~ that are **beyond** ~~the subject to its investigation or~~ **our** ~~what impact,~~ **control. If our business does not generate sufficient cash flow from operations or** if **future borrowings are not available to us in an amount sufficient to enable us and our subsidiaries to pay our indebtedness or make dividend payments with respect to our** any **shares of preferred stock that we may issue** , **or to fund our** ~~the~~ **other** ~~cost of continuing~~ **liquidity needs, we may need** to ~~respond to subpoenas might have~~ **refinance all or a portion of our indebtedness or redeem the preferred stock,** on ~~our -~~ **or** ~~financial position~~ **before the maturity thereof, sell assets, reduce** or ~~results of operations. We have not established~~ **delay capital investments or seek to raise additional capital,** any ~~provision for losses in respect~~ of **which** ~~this matter. In addition, complying with any such future requests by the Commission for documents or testimony would distract the time and attention of our officers and directors or divert our resources away from ongoing business matters. This investigation has resulted in, and may continue to result in, significant legal expenses, the diversion of management' s attention from our business,~~ could ~~cause damage to our business and reputation, and could subject us to a wide range of remedies, including enforcement actions by the Commission. There can be no assurance that any final resolution of this or any similar matters will not~~ have a material adverse effect on **us** ~~our financial condition or results of operations~~ . **In addition** ~~37 We are heavily dependent on our senior management, and a loss of a member of our senior management team could cause our stock price to suffer. If we lose the services of Milton C. Ault, III, our Executive Chairman, William B. Horne, our Chief Executive Officer, Henry Nisser, our President and General Counsel, or Ken Cragun, our Chief Financial Officer and / or certain key employees~~ , we may not be able to ~~find appropriate replacements~~ **effect any of these actions, if necessary,** on **commercially reasonable terms** ~~a timely basis, and our -~~ **or** ~~business~~ **at all. Our ability to restructure or refinance our indebtedness or redeem the preferred stock will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt or financings related to the redemption of any shares of preferred stock that we may issue** could be ~~adversely affected. Our existing~~ **at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business** operations ~~and continued~~ **. The terms of** future ~~development depend to a significant extent upon the performance and active participation~~ **debt instruments or preferred stock may limit or prevent us from taking any** of these **actions** ~~individuals and certain key employees~~ . **In** ~~Although we have entered into employment agreements with Messrs. Ault, Horne and Nisser, and we may enter into employment agreements with additional~~ -- **addition** ~~key employees in the~~ **, any failure to make scheduled payments of interest and principal on any** future ~~, we cannot guarantee~~ **outstanding indebtedness or dividend payments on any shares of preferred stock** that we ~~will~~ **may issue could harm our ability to incur additional indebtedness or otherwise raise capital on commercially reasonable terms or at all. Our inability to generate sufficient cash flow to satisfy any future debt service and other obligations, or to refinance or restructure our obligations on commercially reasonable terms or at all, would have an adverse effect, which could** be **material** ~~successful in retaining the services of these individuals. If we were to lose any of these individuals~~ , ~~we may not be able to find appropriate replacements~~ on ~~a timely basis and~~ our **business,** financial condition and results of operations ~~could be materially adversely affected. We rely on highly skilled personnel and the continuing efforts of our executive officers and, if we are unable to retain, motivate or hire qualified personnel, our business may be severely disrupted. Our performance largely depends on the talents, knowledge, skills, know- how and efforts of highly skilled individuals and in particular, the expertise held by our Executive Chairman, Milton C. Ault, III. His absence, were it to occur, would materially and adversely impact development and implementation of our projects and businesses. Our future success depends on our continuing ability to identify, hire, develop, motivate and retain highly skilled personnel for all areas of our organization. Our continued ability to compete effectively depends on our ability to attract, among others, new technology developers and to retain and motivate our existing contractors. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Therefore, our business may be severely disrupted, and we may incur additional expenses to recruit and retain new officers. In addition, if any of our executives joins a competitor or forms a competing company, we may lose some customers. We may be classified as an inadvertent investment company. We are not engaged in the business of investing, reinvesting, or trading in securities, and we do not hold ourselves out as being engaged in those activities. Under the Investment Company Act, however, a company may be deemed an investment company under Section 3 (a) (1) (C) of the Investment Company Act if the value of its investment securities is more than 40 % of its total assets (exclusive of government securities and cash items) on an unconsolidated basis. Further, per the Investment Company Act of 1940 companies who are not making, and do not propose to make, a public offering of its securities and whose outstanding securities (other than short- term paper) are beneficially owned by fewer than 100 persons are excluded from the definition of an investment company. Our lending subsidiary, Ault Lending, operates under California Finance Lending License~~

60DBO- 77905 and is regulated by the California Department of Financial Protection and Innovation as a finance lender. Substantially all of Ault Lending' s business consists of providing funding to smaller businesses through making small loans and, in some cases, investments. Ault Lending offers a variety of loan types including commercial loans, convertible notes and revolving lines of credit. Ault Lending is engaged in providing commercial loans to smaller companies throughout the United States to provide them with operating capital to finance the growth of their businesses. The loans are primarily short- term, ranging from six to 12 months (but may be longer in duration), and are generally in an amount of not more than $ 4. 0 million. We believe Ault Lending qualifies for the exemption from being an " investment company " pursuant to Section 3 (c) (4) of the Investment Company Act. Under this exemption, " any person substantially all of whose business is confined to making small loans, industrial banking, or similar businesses " is not an investment company. We believe that Ault Lending is subject to this exemption from registration under the Investment Company Act because it is in the business of making small loans. Additionally, by being licensed and regulated under California' s financing laws, Ault Lending' s business will not be in need of safeguards of the sort that the Investment Company Act imposes on the operations and investment policies of investment companies. We have commenced digital asset mining, the output of which is Bitcoin, which the SEC has not indicated it deems a security. In the event that securities we hold, including any digital assets that may in the future be deemed securities, exceed 40 % of our total assets, exclusive of cash, we would inadvertently become an investment company. An inadvertent investment company can avoid being classified as an investment company if it can rely on one of the exclusions under the Investment Company Act. One such exclusion, Rule 3a- 2 under the Investment Company Act, allows an inadvertent investment company a grace period of one year from the earlier of (a) the date on which an issuer owns securities and / or cash having a value exceeding 50 % of the issuer' s total assets on either a consolidated or unconsolidated basis and (b) the date on which an issuer owns or proposes to acquire investment securities having a value exceeding 40 % of the value of such issuer' s total assets (exclusive of government securities and cash items) on an unconsolidated basis. We are putting in place policies that we expect will work to keep the investment securities held by us at less than 40 % of our total assets, which may include acquiring assets with our cash, liquidating our investment securities or seeking a no- action letter from the SEC if we are unable to acquire sufficient assets or liquidate sufficient investment securities in a timely manner. 38 As Rule 3a- 2 is available to a company no more than once every three years, and assuming no other exclusion were available to us, we would have to keep within the 40 % limit for at least three years after we cease being an inadvertent investment company. This may limit our ability to make certain investments or enter into joint ventures that could otherwise have a positive impact on our earnings. In any event, we do not intend to become an investment company engaged in the business of investing and trading securities. Classification as an investment company under the Investment Company Act requires registration with the SEC. If an investment company fails to register, it would have to stop doing almost all business, and its contracts would become voidable. Registration is time consuming and restrictive and would require a restructuring of our operations, and we would be very constrained in the kind of business we could do as a registered investment company. Further, we would become subject to substantial regulation concerning management, operations, transactions with affiliated persons and portfolio composition, and would need to file reports under the Investment Company Act regime. The cost of such compliance would result in our incurring substantial additional expenses, and the failure to register if required would have a materially adverse impact to conduct our operations. We will not be able to successfully execute our business strategy if we are deemed to be an investment company under the Investment Company Act. U. S. companies that (i) are, or hold themselves out as being, engaged primarily in the business of investing, reinvesting or trading in securities (Section 3 (a) (1) (A)), (ii) are engaged or propose to engage in the business of issuing face- amount certificates of the installment type (or have been engaged in such business and have any such certificate outstanding) (Section 3 (a) (1) (B)) or (iii) are engaged or propose to engage in the business of investing, reinvesting, owning, holding or trading securities, and own or propose to acquire investment securities having a value exceeding 40 percent of the value of the company' s total assets (exclusive of Government securities and cash items) on an unconsolidated basis (Section 3 (a) (1) (C)) are subject to regulation under the Investment Company Act, unless the company is able to satisfy an exemption from the definition of " investment company " in either Section 3 (b) or 3 (c) of the Investment Company Act (or the rules adopted thereunder) or is otherwise not required to register as an " investment company " under the Investment Company Act. To qualify for a Section 3 (b) (1) exemption from the Act, a company must demonstrate that it is primarily engaged in a business other than investing or trading in securities. To make such a determination, the SEC and the courts have analyzed five factors: (1) a company' s historical development; (2) its public representations of policy; (3) the activities of its officers and directors; (4) the nature of its present assets; and (5) the source of its present income. Generally, if a company has historically been engaged in an operating business, if the vast majority of its officers, directors and employees are engaged in that operating business, if less than 45 % of its assets are comprised of securities, and if less than 45 % of the company' s income is generated by investments in securities, the company may qualify for an exemption from the Act, notwithstanding an investment in securities which exceeds 40 % of the company' s assets. Section 3 (a) (1) of the Act defines an investment company as a company which either is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. The SEC and the courts have applied the same five factor analysis under Section 3 (a) (1), which they have used in determining the availability of a Section 3 (b) (1) exemption. In applying the tests under Section 3 (a) (1) and (3) of the Act to our company, we believe it is clear that we are primarily engaged in businesses other than investing in securities and a substantial part of our assets consists of, and a substantial part of our income is derived from, interests in wholly owned and majority- owned subsidiaries and companies that we primarily control. Further, because Bitcoin is not deemed to be a security, we do not fall under the 40 % investment securities test in Section 3 (a) (1) (C) for purposes of the Investment Company Act. 39 Regardless, if Bitcoin and other virtual currencies were to be deemed securities for purposes of the Investment Company Act, or if we were to own minority positions in or otherwise not operate one or more of our subsidiaries, we would have difficulty avoiding classification and regulation as an investment company. As such, we would be forced to

~~comply with substantive requirements under the Act, including limitations on our ability to borrow, limitations on our capital structure; restrictions on acquisitions of interests in associated companies, prohibitions on transactions with affiliates, restrictions on specific investments, and compliance with reporting, record keeping, voting, proxy disclosure and other rules and regulations. If we were forced to comply with the rules and regulations of the Investment Company Act, our operations would significantly change, and we would be prevented from successfully executing our business strategy. To avoid regulation under the Investment Company Act and related rules promulgated by the Commission, we would need to sell Bitcoin and other assets which we would otherwise want to retain and could be unable to sell assets which we would otherwise want to sell. In addition, we could be forced to acquire additional, or retain existing, income- generating or loss- generating assets which we would not otherwise have acquired or retained and could need to forgo opportunities to acquire Bitcoin and other assets that would benefit our business. If we were forced to sell, buy or retain assets in this manner, we could be prevented from successfully executing our business strategy. Securitization of our assets subjects us to various risks. We may securitize assets to generate cash for funding new investments. We refer to the term securitize to describe a form of leverage under which a company (sometimes referred to as an " originator " or " sponsor ") transfers income producing assets to a single- purpose, bankruptcy- remote subsidiary (also referred to as a " special purpose entity " or " SPE "), which is established solely for the purpose of holding such assets and entering into a structured finance transaction. The SPE would then issue notes secured by such assets. The special purpose entity may issue the notes in the capital markets either publicly or privately to a variety of investors, including banks, non- bank financial institutions and other investors. There may be a single class of notes or multiple classes of notes, the most senior of which carries less credit risk and the most junior of which may carry substantially the same credit risk as the equity of the SPE. An important aspect of most debt securitization transactions is that the sale and / or contribution of assets into the SPE be considered a true sale and / or contribution for accounting purposes and that a reviewing court would not consolidate the SPE with the operations of the originator in the event of the originator' s bankruptcy based on equitable principles. Viewed as a whole, a debt securitization seeks to lower risk to the note purchasers by isolating the assets collateralizing the securitization in an SPE that is not subject to the credit and bankruptcy risks of the originator. As a result of this perceived reduction of risk, debt securitization transactions frequently achieve lower overall leverage costs for originators as compared to traditional secured lending transactions. In accordance with the above description, to securitize loans, we may create a wholly owned subsidiary and contribute a pool of our assets to such subsidiary. The SPE may be funded with, among other things, whole loans or interests from other pools and such loans may or may not be rated. The SPE would then sell its notes to purchasers whom we would expect to be willing to accept a lower interest rate and the absence of any recourse against us to invest in a pool of income producing assets to which none of our creditors would have access. We would retain all or a portion of the equity in the SPE. An inability to successfully securitize portions of our portfolio or otherwise leverage our portfolio through secured and unsecured borrowings could limit our ability to grow our business and fully execute our business strategy, and could decrease our earnings, if any. However, the successful securitization of portions of our portfolio exposes us to a risk of loss for the equity we retain in the SPE and might expose us to greater risk on our remaining portfolio because the assets we retain may tend to be those that are riskier and more likely to generate losses. A successful securitization may also impose financial and operating covenants that restrict our business activities and may include limitations that could hinder our ability to finance additional loans and investments. The Investment Company Act may also impose restrictions on the structure of any securitizations. Interests we hold in the SPE, if any, will be subordinated to the other interests issued by the SPE. As such, we will only receive cash distributions on such interests if the SPE has made all cash interest and other required payments on all other interests it has issued. In addition, our subordinated interests will likely be unsecured and rank behind all of the secured creditors, known or unknown, of the SPE, including the holders of the senior interests it has issued. Consequently, to the extent that the value of the SPE' s portfolio of assets has been reduced as a result of conditions in the credit markets, or as a result of defaults, the value of the subordinated interests we retain would be reduced. Securitization imposes on us the same risks as borrowing except that our risk in a securitization is limited to the amount of subordinated interests we retain, whereas in a borrowing or debt issuance by us directly we would be at risk for the entire amount of the borrowing or debt issuance. We may also engage in transactions utilizing SPEs and securitization techniques where the assets sold or contributed to the SPE remain on our balance sheet for accounting purposes. If, for example, we sell the assets to the SPE with recourse or provide a guarantee or other credit support to the SPE, its assets will remain on our balance sheet. Consolidation would also generally result if we, in consultation with our auditors, determine that consolidation would result in a more accurate reflection of our assets, liabilities and results of operations. In these structures, the risks will be essentially the same as in other securitization transactions but the assets will remain our assets for purposes of the limitations described above on investing in assets that are not qualifying assets and the leverage incurred by the SPE will be treated as borrowings incurred by us for purposes of our limitation on the issuance of senior securities. 40 We may not be able to utilize our net operating loss carry forwards. As of December 31, 2022, we had federal and state net operating loss carry forwards (" NOLs ") for income tax purposes of approximately $ 23. 7 million and $ 104. 2 million, respectively, after application of the limitations set forth in Section 382 of the Internal Revenue Code. In accordance with Section 382, future utilization of our NOLs is subject to an annual limitation as a result of ownership changes that occurred previously. We also maintain NOLs in various foreign jurisdictions. Our corporate structure and intercompany arrangements are subject to the tax laws of various jurisdictions, and we could face greater than anticipated tax liabilities, which would harm our results of operations. We are subject to tax laws in the U. S. and certain foreign jurisdictions, including Israel and the U. K. Our income tax obligations are based in part on our corporate structure and intercompany arrangements. The tax laws applicable to our business are increasingly complex, are subject to interpretation and their application can be uncertain. The amount of taxes we pay in the jurisdictions in which we operate could increase substantially as a result of changes in the applicable tax principles, including increased tax rates, new tax laws or revised interpretations of existing tax laws and precedents. We are subject to the examination of our income tax returns by the Internal Revenue Service and foreign tax~~

~~authorities in the jurisdictions in which we operate, and we may be subject to assessments or audits in the future in any such jurisdictions. The tax authorities in these jurisdictions may aggressively interpret their laws in an effort to raise additional tax revenue and may claim that various withholding requirements apply to us or our subsidiaries, challenge the availability to us or our subsidiaries of certain benefits under tax treaties, and challenge our methodologies for valuing developed technology or intercompany arrangements or our revenue recognition policies, which could result in an increase of our worldwide effective tax rate and have a material adverse effect on our financial condition and operating results~~ . Risks Related to Circle 8 Circle 8 uses substantial leverage in its capital structure which could adversely affect its financial condition. Although Circle 8' s debt- to- EBITDA ratio is below the industry median, operational disruptions or economic shocks could hinder Circle 8' s ability to service its debt and impact its solvency. Additionally, the industry tends to heavily rely on debt to finance expansionary initiatives, whether through organic growth or acquisitions. Circle 8 currently has a substantial amount of outstanding debt. As of December 31, ~~2022~~ **2023** , it had total outstanding indebtedness of approximately $ ~~25~~ **22** . ~~6~~ **5** million, of which $ 15. ~~1~~ **9** million was borrowed from **First Citizens Bank** ~~CIT Northbridge Credit, LLC~~ (" ~~CITN~~ **FCB** ") in a senior secured asset- based revolving line of credit and $ ~~10~~ **4** . ~~6~~ **8** million consists of outstanding equipment notes **with** ~~transferred from~~ De Lage Landen Group, LLC (" DLL ") **and MidCap Equipment Finance (" MicCap ")** . Circle 8 has the ability to increase the ~~CITN~~ **FCB** loan by $ 10 million. Circle 8 may further increase its debt balance where permitted by incumbent lenders for growth and expansionary purposes. Circle 8' s substantial indebtedness could have important consequences. For example, it may: ~~•~~ **·** increase Circle 8' s vulnerability to general adverse economic, industry and competitive conditions; ~~•~~ **·** require management to dedicate a substantial portion of Circle 8' s cash flow from operations to interest payments and principal repayment, thereby reducing the availability of cash flow to fund working capital, capital expenditures, acquisitions, dividend payments to its owners and other general corporate purposes; ~~•~~ **·** limit Circle 8' s flexibility in planning for, or reacting to, changes in Circle 8' s specific business and the industry in which it operates; ~~•~~ **·** place Circle 8 at a competitive disadvantage compared to its competitors that have less debt; and ~~•~~ **·** limit Circle 8' s ability to obtain additional financing for working capital, capital expenditures, acquisitions or general corporate purposes. **49** Circle 8 expects to use cash flow from operations and borrowings under the ~~CITN~~ **FCB** commitment to meet current and future financial obligations, including funding operations, debt service and capital expenditures. Circle 8' s ability to make these payments depends on future operational performance, which will be affected by financial, business, economic and other factors, many of which Circle 8 cannot control. Circle 8' s business may not generate sufficient cash flow from operations in the future or be able to appropriately adjust operations to suit organic industry developments, which could result in Circle 8' s inability to service its debt obligations, or to fund other liquidity needs. If Circle 8 has insufficient capital to cover its debt obligations, it may be forced to reduce or delay ongoing or growth activities and capital expenditures, sell assets, obtain additional debt or dilutive equity capital or restructure or refinance all or a portion of its debt, including the incumbent ~~CITN and~~ **FCB,** DLL **and MidCap** loans, and any other incremental loans, on or before maturity. There can be no assurance that Circle 8 will be able to accomplish any of these alternatives on terms acceptable to it or to us, if at all. In addition, the terms of existing or future indebtedness, including the agreements governing the incumbent loans, may limit Circle 8' s ability to pursue any ~~of~~ other alternatives. ~~41~~ While Circle 8 has had an industry- leading safety record throughout its history, it operates in a potentially hazardous industry, and any safety incident could significantly impact its operations. A blemish on Circle 8' s safety record could lead to direct consequences such as fines, levies, and increased insurance premiums, as well as indirect consequences such as customers preferring competitors with better safety records. The lifting solutions business is inherently risky, and accidents can occur due to a variety of factors, including negligence and unforeseeable events. Despite this, Circle 8 has maintained an industry- leading safety record and has not experienced any incidents that have significantly impacted its operations. While Circle 8 has a safety program in place, it cannot guarantee protection against unforeseeable events or " acts of God. " Any safety transgressions can have a material impact on sales and operating results, leading to fines and levies, and potentially causing customers to prefer competitors with better safety records. Therefore, Circle 8 places a great emphasis on maintaining its safety program and continually improving its practices to minimize the risk of incidents occurring. The lifting solutions business is dependent on the domestic oil markets' activity, oil pricing, construction and industrial activities, and the overall economic conditions. Any downturn in these areas could adversely affect the demand for lifting solutions, leading to decreased sales and lower lifting solutions prices, which may result in a decline in Circle 8' s revenues, gross margins and operating results. Circle 8 primarily provides lifting solutions for the U. S. domestic oil market. As such, any downturn in the U. S. domestic oil market or the economy as a whole could result in reduced demand for its services or lower sales prices. Additionally, its business may face temporary or long- term negative impacts due to: ~~•~~ **·** a reduction in extraction levels by customers due to increased costs and break- even oil price and lower levels of reserves due to depletion of existing reserves and resources; ~~•~~ **·** exploration and drilling are capital intensive and results are uncertain, which may limit Circle 8' s current clients' demand for Circle 8' s services and adversely affect its ability to generate new clients; ~~•~~ **·** until it executes on its expansion program, dependence on a limited number of clients in a niche oil services market could make Circle 8 vulnerable compared to larger industry incumbents with greater client diversity; ~~•~~ **·** unfavorable credit and equity markets affecting end- user access to capital or cost of capital, also potentially increasing the all- in cash costs and break- even oil prices may make operations of its current and future clients no longer economically viable; ~~•~~ **·** adverse changes in federal, state, tribal and local government infrastructure spending; ~~•~~ **50 ·** an increase in the cost of consumables and construction materials related to oil extraction and infrastructure construction; ~~•~~ **·** adverse weather conditions or natural disasters which may affect a particular region; ~~•~~ **·** a decrease in the level of exploration, development, production activity and capital spending by oil and natural gas companies; ~~•~~ **·** an increase in inflationary pressure on materials and labor; ~~•~~ **·** labor issues such as strikes or worker shortages; ~~•~~ **·** a prolonged shutdown of the U. S. government; ~~•~~ **·** an increase in interest rates; ~~•~~ **·** supply chain disruptions; ~~•~~ **·** changes in federal and state regulations related to climate change and greenhouse gas emissions may materially adversely impact Circle 8' s and / or its clients' revenues, operating results and profitability; ~~•~~ **·** public health crises and epidemics ~~, such as COVID- 19~~ ; or ~~•~~ **·** terrorism or hostilities involving the United States and / or its allies. Weakness or deterioration in the oil services industry, renewables infrastructure construction, plant turn- around and public and industrial infrastructure construction sectors caused by the above or other factors could have a material adverse effect on Circle 8' s financial position, results of operations and cash flows in the future and may also have a material adverse effect on residual values realized on the disposition of the existing and future rental fleet. ~~42~~ Circle 8' s business is highly reliant on the availability of specialized skilled labor, and this dependency is particularly pronounced given the current scarcity of domestic U. S. skilled labor. This scarcity is at an all- time high, which is further compounded as labor requirements to operate in Circle 8 ' s business becomes even more specialized. The lifting solutions business requires licensed operators to operate safely and within U. S. domestic regulatory requirements. It takes several months and material funding to be trained to become a licensed crane operator, making the availability of qualified labor scarce for the lifting solutions industry in general and specifically in remote locations in which Circle 8' s client set operates its oil services. Availability of labor may have a significant impact on Circle 8' s ability to service its current client set and to be able to execute on its expansion program. Additionally, the training and licensing requirements for crane operators can vary by state and even by municipality, which can create further challenges for Circle 8 in sourcing and deploying qualified labor in different geographic locations. Moreover, the competitive labor market for skilled workers in the oil services industry could potentially drive **-** up labor costs for Circle 8, which would impact its profitability and competitiveness. Circle 8' s business is, directly and indirectly, dependent on a functioning global supply chain system. The oil and steel markets are global, and many suppliers, vendors, OEM' s and parts manufacturers for Circle 8 and its clients' industries are offshore. The lifting solutions business success is heavily dependent on the availability and efficient conversion to elevated utilization rates of the lifting assets. ~~This~~ **These** metrics can be fundamentally impacted by the functionality of the global supply chain, which plays several roles in the lifting solutions business. For example, supply chain disruptions could delay the delivery of critical parts and components needed for maintenance and repair of lifting assets, leading to longer downtime periods and reduced utilization rates. In addition, fluctuations in commodity prices could impact the cost of raw materials needed to manufacture lifting assets, potentially affecting the company' s profitability. These fluctuations, among others, could impact the efficiency and profitability of Circle 8' s lifting solutions business and can be impacted by a variety of factors, including the following: ~~•~~ **·** possible geopolitical unrest and conflict may impact ability to receive new parts or new cranes in a timely manner, if at all, to optimize utilization and ultimately, profitability; ~~•~~ **51 ·** reliance on foreign suppliers for cranes and exposure to trade embargoes could impede its ability to procure necessary parts and equipment to execute its growth strategies and maintain its fleet; ~~•~~ **·** inflationary pressures resulting from supply chain disruptions and labor shortages could make it difficult for Circle 8 to repair and replace its crane equipment at regular costs; ~~•~~ **·** fuel price escalation could have a material impact on gross profit since it is typically approximately 7 % of the operating cost structure in recent history; ~~•~~ **·** oil market sanctions and political pressure on domestic production reduction may adversely impact Circle 8' s core clients and its revenues and profitability; or ~~•~~ **·** steel market sanctions, trade embargoes and other supply chain shocks may adversely impact public and private infrastructure and renewables new construction and maintenance projects, ultimately slowing Circle 8' s strategic transition to diversify its end markets and client base. Furthermore, as Circle 8 expands its operations, it may need to rely on suppliers and logistics partners in new geographic regions, which could expose the company to additional supply chain risks. Circle 8' s reliance on a limited number of equipment manufacturers exposes the company to significant risks, as the termination or disruption of relationships with any of these manufacturers could adversely impact Circle 8' s ability to obtain equipment in a timely or adequate manner, potentially leading to operational disruptions and financial losses. Circle 8 purchases most of its equipment from a leading, nationally recognized ~~original equipment manufacturer ("~~ OEM ~~")~~ . For the year ended December 31, ~~2022~~ **2023** , the company did not purchase any new ~~equipment~~ **cranes** as it was in a period of restructuring and right sizing its fleet. Prior **thereto** ~~to that~~ , it purchased 100 % of its equipment from Manitowoc **/ Grove, one of the leading worldwide heavy equipment manufacturers** . **Utilizing one OEM reduces the number of parts and inventory items kept on hand resulting in savings, while still allowing for efficient and timely repairs and maintenance of** Circle 8 ~~plans to~~ **' s cranes. Circle 8 may** diversify its **equipment** supplier ~~base~~ **options** going forward to ~~alleviate this~~ **diversify its fleet somewhat. Utilizing a new OEM equipment manufacturer creates** risk **from requiring** ~~to some extent. The termination of its existing relationship with any~~ - **an** ~~major supplier~~ **increase in parts inventory and** could have **an** ~~a material~~ adverse effect on the business, financial condition or results of operations if ~~it~~ **the new OEM** were unable to ~~obtain equipment~~ **supply Circle 8** in an adequate or timely manner. ~~43~~ Circle 8 faces risks related to heightened inflation, recession, financial and credit market disruptions and other economic conditions. Circle 8 **' s** financial results, operations and forecasts depend significantly on worldwide economic and geopolitical conditions, the demand for Circle 8' s products, and the financial condition of its customers and suppliers. Economic weakness and geopolitical uncertainty have in the past resulted, and may result in the future, in reduced demand for lifting solutions resulting in decreased sales, margins and earnings. In 2022 **and 2023** , the U. S. experienced significantly heightened inflationary pressures which have continued into ~~2023~~ **2024** . It is difficult to fully mitigate the impact of inflation through price increases passed through to customers that are operating in commodity sector with global end market pricing mechanisms, productivity initiatives and cost savings, which could have an adverse effect on Circle 8' s financial results and position. In addition, if the U. S. economy enters a recession, Circle 8' s sales may decline, which could have an adverse effect on its overall business, operating results and financial condition. Similarly, disruptions in financial and / or credit markets may impact Circle 8' s ability to manage normal commercial relationships with its customers, suppliers and creditors. Further, in the event of a recession or threat of a recession, Circle 8' s customers and suppliers may suffer their own financial and economic challenges and as a result they may demand pricing accommodations, delay payment, or become insolvent, which could harm Circle 8' s ability to meet its customer demands or collect revenue or otherwise could harm the business and its ability to service incumbent loans, ultimately leading to possible insolvency. An economic or credit crisis could occur and impair credit availability and Circle 8' s ability to raise capital as required for ongoing working capital, maintenance capital and expansion capex. A disruption in the financial markets could impair Circle 8’ s banking or other business partners, on whom it relies for access to capital. In addition, changes in tax or interest rates in the U. S. or other nations, whether due to recession, economic disruptions or other reasons, could have an adverse effect on Circle 8’ s operating results. Economic weakness and geopolitical uncertainty may also lead to asset impairment, restructuring actions or adjust Circle 8’ s operating strategy and reduce expenses in response to decreased sales or margins. Circle 8 may not be able to adequately adjust its cost structure in a timely fashion, which could have an adverse effect on its operating results and financial condition. Uncertainty about economic conditions may increase foreign currency volatility in markets in which it transacts business, which could have an adverse effect on Circle 8 **’ s** operating results. **52** The inability to forecast trends accurately may have an adverse impact on Circle 8’ s business and financial condition. An economic downturn or economic uncertainty makes it difficult to forecast trends. For example, the economic uncertainty caused by COVID- 19, and its impact on Circle 8’ s ~~future~~ operational and financial performance was highly dependent on the depth and duration of the pandemic, as well as the government- mandated restrictions on economic activity and government economic stimulus packages passed in response to the economic downturn. More recently, rising interest rates, higher than expected inflation, and several bank failures also underscore the potential impact of ongoing economic risks to Circle 8’ s operations and financial performance. These factors can lead to increased borrowing costs, reduced consumer spending, and reduced access to credit, among other potential challenges. This uncertainty makes it difficult to forecast Circle 8’ s future operating performance, cash flows and financial position, which could have an adverse impact on its business and financial condition. Additionally, uncertainty regarding future oil and natural gas prices have negatively impacted the exploration, production and construction activity of Circle 8’ s customers in those markets. Uncertainty regarding future lifting solutions demand could cause Circle 8 to maintain excess equipment inventory and increase its equipment inventory carrying costs, decrease utilization and cause a technical default in certain covenants. Alternatively, difficulty forecasting, in addition to labor shortages and supply chain disruptions could cause a shortage incremental rental equipment that could result in an inability to satisfy demand for Circle 8 service and a loss of market share. Circle 8’ s revenue and operating results may fluctuate, which could result in a decline in profitability and make it more difficult to grow the business. Circle 8’ s revenue and operating results have historically varied from month to month and quarter to quarter. Periods of decline could result in an overall decline in profitability and make it more difficult to adequately service indebtedness and grow the business using incremental leverage. It can be expected that Circle 8’ s quarterly results will continue to fluctuate in the future due to a number of factors, including the following: ~~•~~ · general economic conditions in the markets in which the company operates; · ~~44 •~~ the cyclical nature of Circle 8’ s customers’ business, particularly Circle 8’ s oil services customer and prospective customers in the construction industry; ~~•~~ · sales patterns in general in the construction industry, with sales activity tending to be lower in the winter months, which causes significant volatility in utilization; ~~•~~ · changes in the size of Circle 8’ s fleet due to rapid growth followed by a slow- down and Circle 8’ s ability to service and maintain its fleet in a timely manner; ~~•~~ · an overcapacity of fleet in the crane services industry; ~~•~~ · severe weather and seismic conditions temporarily affecting the regions in which Circle 8 operates; ~~•~~ · supply chain or other disruptions that impact its ability to obtain equipment and other supplies from key suppliers on acceptable terms or at all; ~~•~~ · changes in corporate spending for plants and facilities or changes in government spending for infrastructure projects; ~~•~~ · changes in interest rates and related changes in Circle 8’ s interest expense and debt service obligations; or ~~•~~ · the possible need, from time to time, to record impairment charges or other write- offs or charges due to a variety of occurrences, such as the impairment of assets, existing location divestitures, dislocation in the equity and / or credit markets, consolidations or closings, restructurings, or the refinancing of existing indebtedness. **53** Circle 8 is subject to competition, which may have a material adverse effect on its business by reducing its ability to increase or maintain revenues or profitability. The full- service crane services and lifting solutions industry is highly competitive and fragmented. Many of the markets in which Circle 8 operates are served by numerous competitors, ranging from global, national and multi- regional equipment rental companies to small, independent businesses with a limited number of locations. Circle 8 has historically competed on the ~~bases~~ **basis** of availability, quality, reliability, delivery and price. Some of Circle 8’ s competitors have significantly greater financial, marketing and other resources than it does, and may be able to reduce rates. Circle 8 may encounter increased competition from existing competitors or new market entrants in the future, which could have a material adverse effect on its business, financial condition and results of operations. The cost of new Circle 8 rental fleet units may increase and therefore may require a larger equity investment equipment. In some cases, it may not be possible to procure equipment on a timely basis due to supplier constraints, among other reasons. The cost of new equipment from manufacturers of Circle 8 fleet may increase because of increased raw material costs, including increases in the cost of steel, which is a primary material used in almost all of the equipment Circle 8 uses, labor shortages, supply chain disruptions or due to increased regulatory requirements, such as those related to emissions. In addition, in an effort to combat climate change, Circle 8’ s customers may require Circle 8’ s fleet to meet certain standards which may not be able to be met without capital intensive and time- consuming fleet unit retrofits or ultimately cost prohibitive replacements. If such retrofits or replacements cannot be achieved in a timely manner, or at all, Circle 8’ s sales, financial results and financial position would be materially adversely impacted. These increases could materially impact Circle 8 **’ s** financial condition or results of operations in future periods if Circle 8 is not able to pass such cost increases through to its customers. Circle 8’ s fleet is subject to residual value risk upon disposition. The market value of any given piece of equipment could be less than its depreciated value at the time it is sold. The market value of used rental equipment depends on several factors, including: · ~~• the market price for new equipment of a like kind; •~~ wear and tear on the equipment relative to its age; ~~•~~ · the time of year that it is sold (prices are generally higher during the busy season); ~~•~~ · worldwide and domestic demands for used equipment; ~~•~~ · the supply of used equipment on the market; and ~~•~~ · general economic conditions. Circle 8 typically includes in operating income the difference between the sales price and the depreciated value of an item of equipment sold. Although for the year ended December 31, ~~2022~~ **2023** , Circle 8 sold used equipment from Circle 8 rental fleet reducing its fleet from ~~65~~ **75** to ~~54~~ **55** cranes at an average selling price above of net orderly liquidation value, it cannot be assured that used equipment selling prices will not decline. Any significant decline in the selling prices for used equipment could have a material adverse effect on Circle 8' s business, financial condition, results of operations or cash flows. ~~45~~ As Circle 8' s rental fleet ages, its operating costs may increase, it may be unable to pass along such costs to customers, and earnings may decrease. The costs of new fleet units may increase, requiring Circle 8 to spend more for replacement equipment or preventing it from procuring equipment on a timely basis. If Circle 8' s rental equipment ages, the costs of maintaining such equipment, if not replaced within a certain period of time, will likely increase. The costs of maintenance may materially increase in the future and could lead to material adverse effects on Circle 8' s results of operations. The cost of new equipment for use in Circle 8' s rental fleet could also increase due to increased material costs for its suppliers (including tariffs on raw materials) or other factors beyond Circle 8' s control. Such increases could materially adversely impact Circle 8' s financial condition and results of operations in future periods. Furthermore, changes in customer demand could cause certain of Circle 8' s existing equipment to become obsolete and require Circle 8 to purchase new equipment at increased costs. **54** Labor disputes could disrupt Circle 8 **' s** ability to serve its customers and / or lead to higher labor costs. As of December 31, ~~2022~~ **2023** , Circle 8 had approximately ~~110~~ **143** employees in Texas, Louisiana and Oklahoma, none of whom is unionized. While Circle 8 has no current plans to unionize any of its locations, it recognizes the possibility of a branch or group of branches in a state becoming unionized against Circle 8' s wishes in the future. However, Circle 8 is committed to maintaining positive and productive relationships with its employees without union influence, prioritizing open communication and collaboration to address any concerns and ensure a positive work environment. **Any** Circle 8 ~~-~~ employee' s union organizing efforts or collective bargaining negotiations could potentially lead to work stoppages and / or slowdowns or strikes by certain ~~of~~ Circle 8 employees, which could adversely affect its ability to serve its customers. Climate change, climate change regulations and greenhouse effects may materially adversely impact Circle 8 operations and markets. Climate change and its association with greenhouse gas emissions is receiving increased attention from the scientific and political communities. The U. S. federal government, certain U. S. states and certain other countries and regions have adopted or are considering legislation or regulation imposing overall caps or taxes on greenhouse gas emissions from certain sectors or facility categories. Such new laws or regulations, or stricter enforcement of existing laws and regulations, could increase the costs of operating Circle 8' s businesses, reduce the demand for its products and services and impact the prices charged to customers, any or all of which could adversely affect Circle 8' s results of operations. Failure to comply with any legislation or regulations could potentially result in substantial fines, criminal sanctions or operational changes. Moreover, even without such legislation or regulation, the perspectives of Circle 8' s customers, employees and other stakeholders regarding climate change are continuing to evolve, and increased awareness of, or any adverse publicity regarding, the effects of greenhouse gases could harm Circle 8' s reputation or reduce customer demand for Circle 8' s products and services. Additionally, as severe weather events become increasingly common, Circle 8' s and its customers' operations may be disrupted, which could result in increased operational costs or reduced demand for its products and services, which could have an adverse effect on Circle 8' s results of operations. In addition, climate change may also reduce the availability or increase the cost of insurance for weather- related events **and** ~~as well as~~ may impact the global economy, including as a result of disruptions to supply chains. Circle 8 anticipates that climate change- related risks will increase over time. Risks Related to Our Bitcoin Operations Risks Related to Our Bitcoin Operations – General To remain competitive in our industry, we **would need to** seek to grow our hash rate to match the growing network hash rate and increasing network difficulty of the Bitcoin blockchain, and if we are unable to grow our hash rate at pace with the network hash rate, our chance of earning Bitcoin from our Mining operations would decline. As the adoption of Bitcoin has increased, the price of Bitcoin has generally appreciated, causing the demand for new Bitcoin rewards for successfully solving blocks on the Bitcoin blockchain to likewise increase. This has encouraged more miners to attempt to mine Bitcoin, which increases the global network hash rate deployed in support of the Bitcoin blockchain. ~~46~~ Because a miner' s relative chance of successfully solving a block and earning a new Bitcoin reward is generally a function of the ratio the miner' s individual hash rate bears to the global network hash rate, as the global network hash rate increases, a miner must increase its individual hash rate to maintain its chances of earning new Bitcoin rewards. Therefore, as new miners enter the industry and as miners deploy greater and greater numbers of increasingly powerful machines, existing miners must seek to continually increase their hash rate to remain competitive. Thus, a feedback loop is created: as Bitcoin gains popularity and its relative market price increases, more miners attempt to mine Bitcoin and the Bitcoin network hash rate is increased; in response, existing miners and new miners devote more and more hash rate to the Bitcoin blockchain by deploying greater numbers of increasingly powerful machines in an attempt to ensure their ability to earn additional Bitcoin rewards does not decrease. Compounding this feedback loop, the network difficulty of the Bitcoin network (i. e., the amount of work (measured in hashes) necessary to solve a block) is periodically adjusted to maintain the pace of new block additions (with one new block added to the blockchain approximately every ten minutes), and thereby control the supply of Bitcoin. As miners deploy more hash rate and the Bitcoin network hash rate is increased, the Bitcoin network difficulty is adjusted upwards by requiring more hash rate to be deployed to solve a block. Thus, miners are further incentivized to grow their hash rate to maintain their chance of earning new Bitcoin rewards. In theory, these dual processes should continually replicate themselves until the supply of available Bitcoin is exhausted. In response, miners have attempted to achieve greater hash rate by deploying increasingly sophisticated miners and expensive miners in ever greater quantities. This has become the Bitcoin mining industry' s great " arms race. " Moreover, because there are very few manufacturers of miners capable of producing a sufficient number of miners of adequate quality to meet this need, scarcity results, leading to higher prices. Compounding this phenomenon, it has been observed that some manufacturers of Bitcoin miners may increase the prices for new miners as the market price of Bitcoin increases. **55** Accordingly, to maintain our chances of earning new Bitcoin rewards and remaining competitive in our industry, we ~~must~~ **would need to** seek to continually add new miners to grow our hash rate at pace with the growth in the Bitcoin network hash rate. However **, until such time as we have access to a sufficient amount of power to run all of our existing Bitcoin miners outside of our Michigan Facility, we do**

not anticipate purchasing additional miners to grow our hash rate. Further , as demand has increased and scarcity in the supply of new miners has resulted, the price of new miners has increased sharply, and we expect this process to continue in the future as demand for Bitcoin increases. Therefore **, if and when we do look to purchase additional miners** , if the price of Bitcoin is not sufficiently high to allow us to fund our hash rate growth through new miner acquisitions and if we are otherwise unable to access additional capital to acquire these miners, our hash rate may **further** stagnate and we may fall behind our competitors. If this happens, our chances of earning new Bitcoin rewards would decline and, as such, our results of operations and financial condition may suffer. Acceptance and / or widespread use of Bitcoin is uncertain. Currently, there is a limited use of any Bitcoin in the retail and commercial marketplace, thus contributing to price volatility that could adversely affect an investment in our securities. Banks and other established financial institutions may refuse to process funds for Bitcoin transactions or process wire transfers to or from Bitcoin exchanges, Bitcoin- related companies or service providers, which we have experienced, or maintain accounts for persons or entities transacting in Bitcoin. Conversely, a significant portion of Bitcoin demand is generated by investors seeking a long- term store of value or speculators seeking to profit from the short- or long- term holding of the asset. Price volatility undermines ~~any~~ Bitcoin' s role as a medium of exchange, as retailers are much less likely to accept it as a form of payment. Market capitalization for a Bitcoin as a medium of exchange and payment method may always be low. The relative lack of acceptance of Bitcoins in the retail and commercial marketplace, or a reduction of such use, limits the ability of end users to use them to pay for goods and services. Such lack of acceptance or decline in acceptances could have a material adverse effect on our ability to continue as a going concern or to pursue our business strategy at all, which could have a material adverse effect on our business, prospects or operations and potentially the value of Bitcoins we mine or otherwise acquire or hold for our own account. The development and acceptance of cryptographic and algorithmic protocols governing the issuance of and transactions in cryptocurrencies is subject to a variety of special economic, geopolitical and regulatory factors, which could slow the growth of the industry in general and our company as a result. The use of cryptocurrencies, including Bitcoin, to, among other things, buy and sell goods and services and complete transactions, is part of a new and rapidly evolving industry that employs cryptocurrency assets based upon a computer- generated mathematical and / or cryptographic protocol. Large- scale acceptance of cryptocurrencies as a means of payment has not, and may never, occur. The growth of this industry in general, and the use of Bitcoin in particular, is subject to a high degree of uncertainty, and the slowing or stopping of the development or acceptance of developing protocols may occur unpredictably. The factors include, but are not limited to: ~~●~~ **·** the progress of worldwide growth in the adoption and use of Bitcoin and other cryptocurrencies as a medium of exchange; ~~●~~ **·** the experience of businesses in using Bitcoin; **·** ~~47 ●~~ the impact from prominent business leaders in criticizing Bitcoin' s potential harm to the environment and the effect of announcements critical of Bitcoin, such as those that occurred with Elon Musk of Tesla; ~~●~~ **·** governmental and organizational regulation of Bitcoin and other cryptocurrencies and their use, or restrictions on or regulation of access to and operation of the network or similar cryptocurrency systems (such as the ~~recent~~ **2021** ban in China); ~~●~~ **56 ·** changes in consumer demographics and public tastes and preferences, including as may result from coverage of Bitcoin or other cryptocurrencies by journalists and other sources of information and media; ~~●~~ **·** the maintenance and development of the open- source software protocol of the network; ~~●~~ **·** the increased consolidation of contributors to the Bitcoin blockchain through mining pools and scaling of mining equipment by well- capitalized market participants; ~~●~~ **·** the availability and popularity of other forms or methods of buying and selling goods and services, including new means of using fiat currencies; ~~●~~ **·** the use of the networks supporting Bitcoin or other cryptocurrencies for developing smart contracts and distributed applications; ~~●~~ **·** general economic conditions and the regulatory environment relating to Bitcoin and other cryptocurrencies; ~~●~~ **·** the impact of regulators focusing on cryptocurrencies and the costs, financial and otherwise, associated with such regulatory oversight; and ~~●~~ **·** a decline in the popularity or acceptance of Bitcoin could adversely affect an investment in us. The outcome of these factors could have negative effects on our ability to continue as a going concern or to pursue our business strategy, which could have a material adverse effect on our business, prospects or operations as well as potentially negative effects on the value of any Bitcoin or other cryptocurrencies we mine or otherwise acquire, which would harm investors in our securities. If Bitcoin or other cryptocurrencies we mine do not gain widespread market acceptance or accrete in value over time, our prospects and your investment in us would diminish. ~~There~~ -- **The** ~~has been a recent disruption in the crypto asset markets and a loss of confidence in the participants in the~~ digital asset ~~ecosystem,~~ **exchanges on** which **cryptocurrencies, including Bitcoin, trade are relatively new and largely unregulated, and thus** may ~~continue or could get worse~~ **be exposed to fraud and failure. Such failures may result in a reduction in the price of Bitcoin and other cryptocurrencies and can adversely affect an investment in us** . Digital asset exchanges on which cryptocurrencies trade are relatively new and, in most cases, largely unregulated. Many digital exchanges do not provide the public with significant information regarding their ownership structure, management teams, corporate practices or regulatory compliance. As a result, the marketplace ~~and customer demand in particular~~ may lose confidence in, or may experience problems relating to, cryptocurrency exchanges, including prominent exchanges handling a significant portion of the volume of digital asset trading ~~. During 2022 and more recently in 2023, a number of companies in the crypto industry have declared bankruptcy, including Celsius Network, Voyager Digital, BlockFi, FTX and Genesis Global. In June 2022, Celsius began pausing all withdrawals and transfers between accounts on its platform, and in July 2022, it filed for Chapter 11 bankruptcy protection. Further, in November 2022, FTX, one of the major cryptocurrency exchanges, also filed for Chapter 11 bankruptcy. Such bankruptcies have contributed, at least in part, to further price decreases in Bitcoin, a loss of confidence in the participants of the digital asset ecosystem and negative publicity and reputational harm surrounding digital assets more broadly, and other participants and entities in the digital asset industry, like our company, have been, and may continue to be, negatively affected. These events have also negatively impacted the liquidity of the digital assets markets as certain entities affiliated with FTX engaged in significant trading activity. These events have also contributed to the collapse of several banks and lenders that had conducted business in the crypto market including Silvergate Capital, Silicon Valley Bank and Signature Bank. Shortly FTX' s bankruptcy, its CEO resigned and FTX and several~~

~~affiliates of FTX filed for bankruptcy. The U. S. Department of Justice (" DOJ ") subsequently brought criminal charges, including charges of fraud, violations of federal securities laws, money laundering, and campaign finance offenses, against FTX' s former CEO and others. FTX is also under investigation by the SEC, the DOJ, and the CFTC, as well as by various regulatory authorities in the Bahamas, Europe and other jurisdictions. In response to these events, the digital asset markets have experienced extreme price volatility and declines in liquidity, and regulatory and enforcement scrutiny has increased, including from the DOJ, the SEC, the CFTC, the White House and Congress. The SEC also brought charges against Genesis Global Capital, LLC and Gemini Trust Company, LLC on January 12, 2023 for their alleged unregistered offer and sale of securities to retail investors. 48 We are dependent on the overall crypto assets industry, and such recent events have contributed, at least in part, to depreciation in and volatility to our and our peers stock price as well as the price of Bitcoin. If the liquidity of the digital assets markets continues to be negatively impacted, digital asset prices (including the price of bitcoin) may continue to experience significant volatility and confidence in the digital asset markets may be further undermined~~ . A perceived lack of stability in the digital asset exchange market and the closure or temporary shutdown of digital asset exchanges due to business failure, hackers or malware, government- mandated regulation, or fraud, may reduce confidence in digital asset networks and result in greater volatility in cryptocurrency values. These potential consequences of a digital asset exchange' s failure could adversely affect an investment in **us** ~~our company~~ . We ~~cannot provide any assurance that we will~~ **may face several risks due to disruptions in the digital asset markets, including but** not ~~be materially impacted~~ **limited to the risk from depreciation** in **our stock price, financing risk, risk of increased losses or impairments in our investments or** ~~the~~ **other** ~~future~~ **assets, risks of legal proceedings and government investigations, and risks from price declines or price volatility of digital assets. In the second half of 2022 and beginning of 2023, some of the well- known digital asset market participants, including Celsius Network, Voyager Digital Ltd., Three Arrows Capital and Genesis Global Holdco LLC, declared bankruptcy, resulting in a loss of confidence in participants of the digital asset ecosystem and negative publicity surrounding digital assets more broadly. In November 2022, FTX, the third- largest digital asset exchange** by **volume at the time, halted customer withdrawals, and shortly thereafter, FTX and its subsidiaries filed for** ~~bankrupteies~~ **bankruptcy** ~~of participants in~~ **. In response to** ~~the~~ **these** ~~crypto~~ **and other similar events (including significant activity by various regulators regarding digital** asset ~~space~~ **activities** , such as **enforcement actions, against a variety of digital asset entities, including Coinbase and Binance), the digital asset markets, including the market for Bitcoin specifically, have experienced extreme price volatility and several** ~~the~~ **other** ~~recent bankruptcy filings~~ **entities in the digital asset industry have been, and may continue to be, negatively affected, further undermining confidence in the digital asset markets and in Bitcoin. These events have also negatively impacted the liquidity of the digital asset markets as certain entities affiliated with FTX and platforms such as Coinbase and Binance have engaged, or may continue to engage, in significant trading activity. If the liquidity of the digital asset markets continues to be negatively impacted** by ~~Celsius Network~~ **these events** , ~~Voyager Digital~~ **digital asset prices (including** ~~, BlockFi, FTX and Genesis Global, or by potential liquidity or insolvency issues of our service providers and other~~ -- **the** ~~counterparties. We~~ **price of Bitcoin) may** continue to ~~monitor~~ **experience significant volatility and confidence in** the digital ~~assets~~ - **asset** ~~industry as a whole, though~~ **markets may be further undermined.** ~~these~~ **These** events are continuing to develop and it is not possible **to predict** at this time ~~to predict~~ all of the risks ~~stemming from these events~~ that **they** may ~~result~~ **pose** to us, our service providers ~~, including custodians, our~~ - **or on** ~~counterparties, and~~ the ~~broader~~ **digital asset** industry as a whole. **57 Although** ~~At this time, Gemini Trust Company, LLC is the only company~~ we ~~use~~ **had no direct exposure** to ~~store~~ **FTX** ~~our~~ - **or any of the above- mentioned cryptocurrency companies, nor any material assets that may not be recovered or may otherwise be lost or misappropriated due to the above- mentioned bankruptcies, the failure or insolvency of large exchanges like FTX or other significant players in the digital asset space may cause the price of Bitcoin to fall and decrease confidence in the ecosystem, which could adversely affect an investment in us. To date, the disruptions to the** digital assets **markets have** ~~, and we do~~ not **materially impacted** ~~utilize any other custodians. In the past we have used other custodians and may do so again in the future, subject to diligence on the security of any such custodian. Any of these events may adversely affect~~ our operations ~~and results of operations and, consequently, an investment in our~~ - **or** ~~company~~ **financial condition** . **However** ~~We rely on a sole supplier for our Bitcoin mining machines~~ , ~~and may not~~ - **no assurances** ~~be able to find replacements or immediately transition to alternative suppliers. If we were to lose Bitmain as a supplier, or if Bitmain were unable or unwilling to fulfill our orders, any delay or interruption in planned delivery could seriously interrupt our business. We rely on Bitmain as the sole supplier for our Bitcoin miners. According to Bitmain, it supplies approximately 80 % of the global market for ASIC miners, which are used to mine Bitcoin. Currently, we have contracts with Bitmain for the delivery of 20, 600 miners, of which approximately 16, 017 S19j Pro Antminers and 4, 424 S19 XP Antminers have been delivered to date with another 204 S19 XP Antminers in the hands of our carrier and in route to our Facility, which brings us to a total of 20, 645 S19j Pro and S19 XP Antminers in our possession. The remaining miners scheduled to be delivered monthly through December 2023. The market price and availability of new mining machines fluctuates with the price of Bitcoin and~~ can be **given that** ~~volatile. Higher Bitcoin prices increase the demand for mining equipment and increases the cost. In addition, as more companies seek to enter the mining industry, the demand for machines may outpace supply and create mining machine equipment shortages. Any~~ future **disruptions will not have** ~~purchase orders with Bitmain for additional miners are subject to availability and price considerations. If we were to lose Bitmain as~~ a **material and adverse effect** ~~supplier, or if Bitmain were unable or unwilling to fulfill our orders or make miners available to use in the future~~ on ~~terms acceptable to us, there can be no assurance that we will be able to identify or~~ **our results** ~~enter into agreements with alternative suppliers on a timely basis or on acceptable terms, if at all. Any delay or interruption in the planned delivery~~ of **operations** ~~our~~ - **or** ~~contracted miners, whether due to supply shortages, foreign country hostilities, extended national holidays or otherwise, could significantly affect our business,~~ financial condition ~~and results of operations~~ . Political or economic crises may motivate large- scale sales of cryptocurrencies, which could result in a reduction in values of cryptocurrencies such as Bitcoin and adversely affect an investment in us. Geopolitical crises, in particular major ones such as Russia' s invasion of Ukraine **and the conflict between Israel and Hamas as well as its supporters** , may motivate large- scale purchases of Bitcoin and other cryptocurrencies, which could increase the price of Bitcoin and other cryptocurrencies rapidly. This may increase the likelihood of a subsequent price decrease as crisis- driven purchasing behavior dissipates, adversely affecting the value of our Bitcoin following such downward adjustment. Such risks are similar to the risks of purchasing commodities in general uncertain times, such as the risk of purchasing, holding or selling gold. Alternatively, as an emerging asset class with limited acceptance as a payment system or commodity, global crises and general economic downturn may discourage investment in cryptocurrencies as investors focus their investment on less volatile asset classes as a means of hedging their investment risk. ~~49~~ As an alternative to fiat currencies that are backed by central governments, cryptocurrencies, which are relatively new, are subject to supply and demand forces. How such supply and demand will be impacted by geopolitical events is largely uncertain but could be harmful to us and investors in our common stock. Political or economic crises may motivate large- scale acquisitions or sales of cryptocurrencies either globally or locally. Such events could have a material adverse effect on our ability to continue as a going concern or to pursue our new strategy at all, which could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin or any other cryptocurrencies we mine or otherwise acquire or hold for our own account. Negative media attention and public perception surrounding energy consumption by cryptocurrency mining may adversely affect our reputation and, consequently, our stock price; particularly in the eyes of some of our investors who may be more interested in our non- crypto operations as a holding company. Cryptocurrency mining has experienced negative media attention surrounding its perceived high electricity use and environmental impact, which has adversely influenced public perception of the industry as a whole. We believe these factors are overstated for the cryptocurrency mining industry because of the informational disparity between cryptocurrency mining and other energy intensive industries. Cryptocurrency miners (particularly Bitcoin miners) have freely and publicly disclosed their energy consumption statistics because electricity usage, and the associated utility fees, is a cost of production. As increasing numbers of publicly traded cryptocurrency miners enter the market, more data, reliably disclosed in compliance with **generally accepted accounting principles in the United States of America ("** GAAP **")** , has become available; however, such data has not been made as readily available for competitive payment systems and fiat currencies. Nevertheless, this negative media attention and public perception may materially and adversely affect our reputation and, consequently, our stock price, particularly in the eyes of our investors who are more interested in our non- crypto operations as a holding company. As a single company within the broader cryptocurrency industry, we are likely incapable of effectively countering this negative media attention and affecting public perception. Therefore, we may not be able to adequately respond to these external pressures, which may cause a significant decline in the price of our common stock. **58** Banks and financial institutions may not provide banking services, or may cut off services, to businesses like us that engage in cryptocurrency- related activities. A number of companies that engage in Bitcoin and / or other cryptocurrency- related activities have been unable to find banks or financial institutions that are willing to provide them with bank accounts and other services. Similarly, a number of companies and individuals or businesses associated with cryptocurrencies may have had and may continue to have their existing bank accounts closed or services discontinued with financial institutions in response to government action. The difficulty that many businesses that provide Bitcoin and / or derivatives on other cryptocurrency- related activities have and may continue to have in finding banks and financial institutions willing to provide them services may be decreasing the usefulness of cryptocurrencies as a payment system and harming public perception of cryptocurrencies, and could decrease their usefulness and harm their public perception in the future. The usefulness of cryptocurrencies as a payment system and the public perception of cryptocurrencies could be damaged if banks or financial institutions were to close the accounts of businesses engaging in Bitcoin and / or other cryptocurrency- related activities. This could occur as a result of compliance risk, cost, government regulation or public pressure. The risk applies to securities firms, clearance and settlement firms, national securities exchanges and derivatives on commodities exchanges, the over- the- counter market, and the Depository Trust Company (" DTC "), which, if any of such entities adopts or implements similar policies, rules or regulations, could negatively affect our relationships with financial institutions and impede our ability to convert cryptocurrencies to fiat currencies. Such factors could have a material adverse effect on our ability to continue as a going concern or to monetize our mining efforts, which could have a material adverse effect on our business, prospects or operations and harm investors. The price of cryptocurrencies may be affected by the sale of such cryptocurrencies by other vehicles investing in cryptocurrencies or tracking cryptocurrency markets. Such events could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine. The global market for cryptocurrency is characterized by supply constraints that differ from those present in the markets for commodities or other assets such as gold and silver. The mathematical protocols under which certain cryptocurrencies are mined permit the creation of a limited, predetermined amount of digital currency, while others have no limit established on total supply. Increased numbers of miners and deployed mining power globally will likely continue to increase the available supply of Bitcoin and other cryptocurrencies, which may depress their market price. Further, large " block sales " involving significant numbers of Bitcoin following appreciation in the market price of Bitcoin may also increase the supply of Bitcoin available on the market, which, without a corresponding increase in customer demand, may cause its price to fall. Currently, the loss of customer demand is also accentuated by disruptions in the crypto assets market. Additionally, to the extent that other vehicles investing in cryptocurrencies or tracking cryptocurrency markets form and come to represent a significant proportion of the customer demand for cryptocurrencies, **including the recent approval of Bitcoin exchange traded funds,** large redemptions of the securities of those vehicles and the subsequent sale of cryptocurrencies by such vehicles could negatively affect cryptocurrency prices and therefore affect the value of the cryptocurrency inventory we hold. Such events could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin or other cryptocurrencies we may in the future mine. ~~50 Tariffs~~ **The nature of our business requires the application of complex financial accounting rules, and there is limited guidance from accounting standard setting bodies. If financial**

accounting standards undergo significant changes, our operating results could be adversely affected. The accounting rules and regulations that we must comply with are complex and subject to interpretation by the Financial Accounting Standards Board (" FASB "), the SEC, and various bodies formed to promulgate and interpret appropriate accounting principles. In addition, the accounting policies of many companies are being subjected to heightened scrutiny by regulators and the public, and we have ~~increased costs~~ **received comments from the staff** of ~~digital asset mining equipment, and new~~ **the SEC' s Division of Corporation Finance Office of Crypto Assets (the " Staff ") during fiscal year 2023 related to the accounting of** ~~or~~ **our** ~~additional tariffs or~~ **Bitcoin- related operations, among** other ~~restrictions on~~ **things. A change in** ~~the~~ **these principles** ~~import of equipment necessary for~~ - **or interpretations** ~~digital asset mining~~ could have a **significant** ~~material adverse~~ effect on our **reported financial results, and may even affect the reporting of transactions completed before the announcement or effectiveness of a change. Recent actions and public comments from the FASB and the SEC have focused on the integrity of financial reporting and internal controls. In addition, many companies' accounting policies are being subject to heightened scrutiny by regulators and the public. Further, there have been limited precedents for the financial accounting of crypto assets and related valuation and revenue recognition. As such, there remains significant uncertainty on how companies can account for crypto asset transactions, crypto assets, and related revenue. Uncertainties in or changes to in regulatory or financial accounting standards, particularly as they relate to the Company, the financial accounting of our Bitcoin- related operations, and the SEC comments we have received in respect of such matters, could result in the need to changing our accounting methods and restate our financial statements and impair our ability to provide timely and accurate financial information, which could adversely affect our financial statements, result in a loss of investor confidence, and more generally impact our** business, **operating results, and** financial condition **. Recent additional FASB** and **additional guidance may also impact our business, including our accounting policies and procedures. In addition, receipt of SEC comments as a** ~~results~~ - **result** of **the limited precedent set for financial accounting of digital assets may impact or delay our ability to register certain securities and our ability to access capital markets needed to fund our ongoing growth and** operations. ~~Equipment necessary~~ **59 Since there has been a limited precedent set** for **financial accounting of** digital ~~asset~~ **assets** ~~mining~~ **, including Bitcoin, it** is **unclear how we will be required** ~~almost entirely manufactured outside of the U. S. There is currently significant uncertainty about the future relationship between the U. S. and various other countries, including Russia, China, the European Union, Canada, and Mexico, with respect~~ to **account for transactions involving** ~~trade policies, treaties, tariffs and customs duties, and taxes. For example, since 2019, the U. S. Government has implemented significant changes to U. S. trade policy with respect to China. These tariffs have subjected certain~~ digital ~~asset~~ **assets** ~~mining equipment manufactured overseas to additional import duties of up to 25 %. The amount of the additional tariffs and the number of products subject to them has changed numerous times based on action by the U. S. Government. These tariffs have increased costs of digital asset mining equipment, and new or additional tariffs or other restrictions on the import of equipment necessary for digital asset mining could have a material adverse effect on our business, financial condition and results of operations~~ . Because there has been limited precedent set for **the** financial accounting **of cryptocurrencies** ~~for Bitcoin and other digital assets, the determinations that we have made for how to account for digital assets transactions may be subject to change. Because there has been limited precedent set for the financial accounting for Bitcoin and other digital assets~~ and related revenue recognition and no official guidance has yet been provided by the **FASB** ~~Financial Accounting Standards Board~~ or the SEC **for Bitcoin miners** , it is unclear how ~~companies~~ **Bitcoin miners** may in the future be required to account for **cryptocurrency** ~~digital asset~~ transactions and assets and related revenue recognition. A change in regulatory or financial accounting standards **or interpretations by the SEC, particularly as they relate to the Company and the financial accounting of our Bitcoin- related operations,** could result in **changes in our accounting and** the necessity to ~~change the accounting methods we currently intend to employ in respect of our anticipated revenues and assets and~~ restate ~~any~~ **our** financial statements ~~produced based on~~ **. In addition,** ~~those~~ -- **the** ~~methods~~ **accounting policies of many companies are being subjected to heightened scrutiny by regulators and the public, and we have received comments from the Staff during fiscal year 2023 related to the accounting of our Bitcoin- related operations** . Such ~~a restatement~~ **continued uncertainty with regard to financial accounting matters, particularly as they relate to the Company, the financial accounting of our bitcoin- related operations and the SEC comments we have received in respect of such matters,** could ~~adversely affect~~ **negatively impact** our business, prospects, financial condition and results of **operations and our ability to raise capital. In addition, receipt of SEC comments may impact or delay our ability to register certain securities and our ability to access capital markets needed to fund our ongoing growth and** operations. Risks Related to Our Bitcoin Operations – Operational and Financial Our results of operations are expected to be impacted by fluctuations in the price of Bitcoin because a significant portion of our revenue is expected to come from Bitcoin mining production. The price of Bitcoin has experienced significant fluctuations over its relatively short existence and may continue to fluctuate significantly in the future. Bitcoin prices ranged from approximately $ ~~29, 002 per coin as of December 31, 2020 and $ 46, 306 per coin as of December 31, 2021 to $~~ 16, 548 per coin as of December 31, 2022 **to** ~~, with a high of~~ $ ~~68~~ **42** , ~~790~~ **280** per coin **as of December 31, 2023, with a high of $ 44, 705 per coin** and a low of $ ~~28~~ **16** , ~~804~~ **521** per coin during ~~2021~~ **2023** , according to Coin Market Cap. ~~The fluctuation during~~ **During the first three months of** ~~2022~~ **2024 , Bitcoin prices have** ranged ~~between a~~ **as low as $ 38, 522 and as** high ~~of~~ **as** $ ~~48~~ **73** , **750** ~~087 to a low of $ 15, 683, according to Coin Market Cap~~ . As of April ~~14~~ **10** , ~~2023~~ **2024** , the price of Bitcoin was approximately $ ~~30~~ **70** , ~~400~~ **500** . We expect our results of operations to continue to be affected by the Bitcoin price as a significant portion of our revenue is expected to come from Bitcoin mining production. Any future significant reductions in the price of Bitcoin will likely have a material and adverse effect on our results of operations and financial condition. We cannot assure you that the Bitcoin price will remain high enough to sustain our operations or that the price of Bitcoin will not decline significantly in the future. Further, fluctuations in the Bitcoin price can have an immediate impact on the trading price of our shares even before our financial performance is affected, if at all. Various factors, mostly beyond our control, could impact the Bitcoin price. For example, the usage of Bitcoins in the retail and commercial marketplace is relatively low in comparison with the usage for speculation, which contributes to Bitcoin' s price volatility. Additionally, the reward for Bitcoin mining will decline over time, with the most recent halving event having occurred in May 2020 and the next one expected to occur in **April** 2024, which may further contribute to Bitcoin price volatility. Risk ~~Related~~ **related** to ~~Technological~~ **technological** ~~Advancements~~ **advancements** and ~~Obsolescence~~ **obsolescence** of ~~Current~~ **current** ~~Bitcoin~~ **bitcoin** ~~Mining~~ **mining** ~~Equipment~~ **equipment .** Our operations are exposed to the risk of rapid technological advancements in the development and production of Bitcoin mining equipment, which could render our existing mining infrastructure obsolete and adversely impact our financial performance. ~~51~~ The Bitcoin mining industry is characterized by rapid technological change, with companies continually developing and deploying new mining equipment and techniques to enhance computational efficiency and reduce energy consumption. These advancements may outpace our ability to adapt, maintain, and upgrade our mining equipment, thereby negatively affecting our competitive position and operational efficiency. As a result, we may be required to make significant capital investments to acquire and implement new technology to maintain our competitiveness. **60** If we are unable to anticipate or adapt to such advancements, or if we fail to allocate our resources efficiently, we may be forced to rely on outdated equipment that becomes increasingly inefficient and expensive to maintain. Moreover, the emergence of more advanced mining technologies could lead to an increase in the overall mining difficulty, further reducing the effectiveness of our existing equipment and diminishing our mining rewards. Additionally, there is a risk that our competitors, who may have greater financial resources and flexibility, will be better positioned to adopt emerging technologies and gain a competitive advantage. This could result in a decline in our market share, revenue, and profitability. Inability to manage these risks could have a material adverse effect on our business, financial condition, and operating results. Because of our focus on Bitcoin mining, the trading price of shares of our common stock may increase or decrease with the trading price of Bitcoin, which subjects investors to pricing risks, including " bubble " type risks, and volatility. The trading prices of our common stock may at times be tied to the trading prices of Bitcoin. Specifically, we may experience adverse effects on our stock price when the value of Bitcoin drops. Furthermore, if the market for Bitcoin mine operators' shares or the stock market in general experiences a loss of investor confidence, the trading price of our stock could decline for reasons unrelated to our business, operating results or financial condition. The trading price of our common stock could be subject to arbitrary pricing factors that are not necessarily associated with traditional factors that influence stock prices or the value of non- cryptocurrency assets such as revenue, cash flows, profitability, growth prospects or business activity since the value and price, as determined by the investing public, may be influenced by uncertain contingencies such as future anticipated adoption or appreciation in value of cryptocurrencies or blockchains generally, and other factors over which we have little or no influence or control. Bitcoin and other cryptocurrency market prices, which have historically been volatile and are impacted by a variety of factors, are determined primarily using data from various exchanges, over- the- counter markets and derivative platforms. Furthermore, such prices may be subject to factors such as those that impact commodities, more so than business activities, which could be affected by additional influence from fraudulent or illegitimate actors, real or perceived scarcity, and political, economic, regulatory or other conditions. Pricing may be the result of, and may continue to result in, speculation regarding future appreciation in the value of cryptocurrencies, or our share price, making their market prices more volatile or creating " bubble " type risks for the trading price of Bitcoin. The price of Bitcoin has experienced significant fluctuations over its relatively short existence and may continue to fluctuate significantly in the future. **For example, the price of** Bitcoin ~~prices~~ ranged from approximately $ ~~29~~ **17** , ~~002 per coin~~ **000 to approximately $ 44, 000 during 2023, and was approximately $ 70, 500** as of ~~December 31~~ **April 10** , ~~2020~~ **2024** ~~and $ 46, 306 per coin as of December 31, 2021 to $ 16, 548 per coin as of December 31, 2022, with a high of $ 68, 790 per coin and a low of $ 28, 804 per coin during 2021, according to Coin Market Cap. The fluctuation during 2022 ranged between a high of $ 48, 087 to a low of $ 15, 683~~ , according to Coin Market Cap. There can be no assurance that similar fluctuations in the trading price of Bitcoin will not occur in ~~2023~~ **2024** and in the future. Accordingly, since our revenue will depend in part on the price of Bitcoin, and the trading price of our securities may therefore at times be connected to the trading price of Bitcoin, if the trading price of Bitcoin again experiences a significant decline, we could experience a similar decline in revenue and / or in the trading price for shares of our common stock. If this occurs, you may lose some or all of your investment. ~~52~~ Our future success will depend in ~~large~~ part upon the value of Bitcoin. The value of Bitcoin may be subject to pricing risk and has historically been subject to wide swings. Our operating results from this sector will depend in ~~large~~ part upon the value of Bitcoin because it is the sole digital asset we currently mine. Specifically, our revenues from our Bitcoin mining operations are principally based upon two factors: the number of Bitcoin rewards we successfully mine and the value of Bitcoin. We also receive transaction fees paid in Bitcoin by participants who initiated transactions associated with new blocks that we mine. ~~In addition, our operating results are directly impacted by changes in the value of Bitcoin. Digital currencies are recorded at cost less any impairment. An intangible asset with an indefinite useful life is not amortized but assessed for impairment annually, or more frequently, when events or changes in circumstances occur indicating that it is more likely than not that the indefinite- lived asset is impaired. Impairment exists when the carrying amount exceeds its fair value. Our operating results are subject to volatility based upon changes in the value of Bitcoin that could lead to increased losses or impairments in our investments or other assets.~~ Our strategy currently focuses primarily on Bitcoin (as opposed to other digital assets). Further, our miners are principally utilized for mining Bitcoin and cannot mine other digital assets ~~, such as ETH,~~ that are not mined utilizing the " SHA- 256 algorithm. " If other digital assets were to achieve acceptance at the expense of Bitcoin, causing the value of Bitcoin to decline, or if Bitcoin were to switch its proof of work algorithm from SHA- 256 to another algorithm for which our miners are not specialized, or the value of Bitcoin were to decline for other reasons, particularly if such decline were significant or over an extended period of time, our operating results would be adversely affected, and there could be a material adverse effect on our ability to continue as a going concern or to pursue our business strategy at all, which could have a material adverse effect on our business, prospects or operations, and harm investors. **61** Bitcoin and other cryptocurrency market prices, which have historically been volatile and are impacted by a variety of factors are determined primarily using data from various exchanges, over- the- counter markets and derivative platforms. Such prices may be subject to factors such as those that impact commodities, more so than business activities, which could be subject to additional influence from fraudulent or illegitimate actors, real or perceived scarcity, and political, economic, regulatory or other conditions. Pricing may be the result of, and may continue to result in, speculation regarding future appreciation in the value of digital assets, or our share price, inflating and making their market prices more volatile or creating " bubble " type risks for both Bitcoin and our shares of common stock. We ~~lack a significant operating history in the cryptocurrency mining space, and our focus on this relatively new business is subject to a number of significant risks and uncertainties that could affect our future viability. We recently transferred all our mining activity from former AAI to BNI. While the former AAI has been dissolved, BNI remains a wholly owned subsidiary of our company. As of the date of this annual report, excluding the investment in our data center in Michigan, we have invested approximately $ 145 million towards the development of our new Bitcoin mining business. These investments include the price of the Bitcoin miners, fees payable in connection with obtaining the ability to enter into the Bitcoin miner purchase contracts, shipping of the Bitcoin miners and third- party commissions. BNI was formed to conduct our Bitcoin operations, and has assumed the agreements for the acquisition of miners from Bitmain and other agreements for the acquisition of equipment and services originally entered into by the Former AAI, but has only recently commenced Bitcoin mining operations. In order to proceed, we have installed miners and mining infrastructure at our mining facility in Michigan, as well as entered into a long- term contract to purchase electric power from the power grid in our data center in Michigan and use the power to mine cryptocurrencies. Among the risks and uncertainties are: ● We are currently in discussions with a number of key players in this industry, but have not yet executed any agreements to purchase the power needed over the 28 megawatts (" MW ") we currently possess. While we are in negotiations with one entity in particular that we believe would increase our available power to approximately 300 MW' s at our Michigan facility, we cannot assure you that we will reach an agreement satisfactory to us with this provider on a timely basis, if at all. Even if we do obtain that level of energy at our Michigan facility, we will need to obtain more capacity at a different location to be able to install and power the total of 23, 065 miners purchased from Bitmain. If we are able to enter into agreements for additional power, the terms may not be as attractive as we currently expect, which may inhibit the profitability of this venture; ● There is a limited number of available miners and the demand from competitors is fierce; ● Because of supply chain disruptions including those relating to computer chips, we could in the future encounter delivery delays or other difficulties with the purchase, installing and operating of our mining equipment at our facility, which would adversely affect our ability to generate material revenue from our operations; ● There are a growing number of well capitalized cryptocurrency mining companies including some that have agreed to merge with special purpose acquisition companies, which competitors have significant capital resources, a large supply of miners and operators with experience in cryptocurrency mining. For example, in 2021 Cipher Mining Inc. and Core Scientific, Inc., large cryptocurrency mining companies, entered into business combinations with Nasdaq- listed special purpose acquisition vehicles; ● Bans from governments such as China, together with pending legislation in Congress and other regulatory initiatives threaten the ability to use cryptocurrencies as a medium of exchange; and ● We may not be able to liquidate our holdings of cryptocurrencies at our desired prices if a precipitous decline in market prices occurs and this could negatively impact our future operations. For all of these reasons, our cryptocurrency mining business may not be successful. 53 We~~ may be unable to raise additional capital needed to grow our Bitcoin **mining** business. We have operated and expect to continue to operate at a loss as we continue to establish our business model and as Bitcoin prices continue to **experience significant volatility** ~~be low or decline further~~. In addition, we expect to need to raise additional capital to fund our working capital requirements, expand our operations, pursue our growth strategy and to respond to competitive pressures or working capital requirements. We may not be able to obtain additional debt or equity financing on favorable terms, if at all, which could impair our growth and adversely affect our existing operations. The global economy, including credit and financial markets, has recently experienced extreme volatility and disruptions, including diminished credit availability, rising interest and inflation rates, declines in consumer confidence, declines in economic growth, increases in unemployment rates and uncertainty about economic stability. Such macroeconomic conditions could also make it more difficult for us to incur additional debt or obtain equity financing. If we raise additional equity financing, our stockholders may experience significant dilution of their ownership interests, and the per share value of our common stock could decline. Further, if we engage in additional debt financing, the holders of debt likely would have priority over the holders of our common stock on order of payment preference. We may be required to accept terms that restrict our ability to incur additional indebtedness, take other actions including accepting terms that require us to maintain specified liquidity or other ratios that could otherwise not be in the interests of our stockholders. Further, the crypto assets industry has been negatively impacted by recent events such as the bankruptcies of Celsius Network, Voyager Digital, BlockFi, FTX and Genesis Global. In response to these events, the digital asset markets, including the market for Bitcoin specifically, have experienced extreme price volatility and several other entities in the digital asset industry have been, and may continue to be, negatively affected, further undermining confidence in the digital assets markets and in Bitcoin. Increased credit pressures on the cryptocurrency industry, such as banks, investors and other companies reducing or eliminating their exposure to the cryptocurrency industry through lending, have had and may continue to have a material impact on our business. In light of conditions impacting our industry, it may be more difficult for us to obtain equity or debt financing in the future. The emergence of competing blockchain platforms or technologies may harm our business as presently conducted by preventing us from realizing the anticipated profits from our investments and forcing us to expend additional capital in an effort to adapt. If blockchain platforms or technologies which compete with Bitcoin and its blockchain, including competing cryptocurrencies which our miners may not be able to mine, such as cryptocurrencies being developed or that may be developed by popular social media platforms, online retailers, or government sponsored cryptocurrencies, consumers may use such alternative platforms or technologies. If that were to occur, we would face difficulty adapting to such emergent digital ledgers, blockchains, or alternative platforms, cryptocurrencies or other digital assets. This may adversely affect us by preventing us from realizing the anticipated profits from our investments and forcing us to expend additional capital in an effort to adapt. Further, to the extent we cannot adapt, be it due to our specialized miners or otherwise, we could be forced to cease our mining or other cryptocurrency- related operations. Such circumstances would have a material adverse effect on our business, and in turn your investment in our securities. There is a risk that some or all of the Bitcoin we hold could be lost or stolen. There is a risk that some or all of the Bitcoin we hold could be lost or stolen. In general, cryptocurrencies are stored in cryptocurrency sites commonly referred to as " wallets " by holders of cryptocurrencies which may be accessed to exchange a holder' s cryptocurrency assets. Access to our Bitcoin could also be restricted by cybercrime (such as a denial of service attack). While we **have** ~~plan to take~~ **taken** steps to attempt to secure the Bitcoin we hold, there can be no assurance our efforts to protect our cryptocurrencies will be successful. Hackers or malicious actors may launch attacks to steal, compromise or secure cryptocurrencies, such as by attacking the cryptocurrency network source code, exchange miners, third- party platforms, cold and hot storage locations or software, or by other means. Any of these events may adversely affect our operations and, consequently, our ability to generate revenue and become profitable. The loss or destruction of a private key required to access our digital wallets may be irreversible and we may be denied access for all time to our Bitcoin holdings. Our loss of access to our private keys or our experience of a data loss relating to our digital wallets could adversely affect our business. ~~54~~ **62** Cryptocurrencies are controllable only by the possessor of both the unique public and private keys relating to the local or online digital wallet in which they are held, which wallet' s public key or address is reflected in the network' s public blockchain. We will be required to publish the public key relating to digital wallets in use when we verify the receipt of transfers and disseminate such information into the network, but we will need to safeguard the private keys relating to such digital wallets. To the extent such private keys are lost, destroyed or otherwise compromised, we will be unable to access our Bitcoin rewards and such private keys may not be capable of being restored by any network. Any loss of private keys relating to digital wallets used to store our mined Bitcoin could have a material adverse effect on our results of operations and ability to continue as a going concern, which could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine. For example, the New York Times reported in January 2021 that about 20 % of existing Bitcoin appears to be " lost " due to password issues. We rely on one or more third parties for depositing, storing and withdrawing the Bitcoin we receive, which could result in a loss of assets, disputes and other liabilities or risks which could adversely impact our business. We currently use a custodial wallet to store the Bitcoin we receive. In order to own, transfer and use Bitcoin on the blockchain network, we must have a private and public key pair associated with a network address, commonly referred to as a " wallet. " Each wallet is associated with a unique " public key " and " private key " pair, each of which is a string of alphanumerical characters. To deposit Bitcoin into our digital wallet, we must direct the transaction to the public key of a wallet that our Gemini custodial account controls and provides to us, and broadcast the deposit transaction onto the underlying blockchain network. To withdraw Bitcoin from our custodial account, an assigned account representative must initiate the transaction from our custodial account, then an approver must approve the transaction. Once the custodian has verified that the request is valid and who the recipient is through Know Your Customer / Anti- Money Laundering protocols, the custodian then " signs " a transaction authorizing the transfer. In addition, some cryptocurrency networks require additional information to be provided in connection with any transfer of cryptocurrency such as Bitcoin. A number of errors or other adverse events can occur in the process of depositing, storing or withdrawing Bitcoin into or from our custodial account, such as typos, mistakes or the failure to include the information required by the blockchain network. For instance, a user may incorrectly enter our wallet' s public key or the desired recipient' s public key when depositing and withdrawing Bitcoin. Additionally, our reliance on third parties such as Gemini and the maintenance of keys to access and utilize our digital wallet will expose us to enhanced cybersecurity risks from unauthorized third parties employing illicit operations such as hacking, phishing and social engineering, notwithstanding the security systems and safeguards employed by us and others. Cyberattacks upon systems across a variety of industries, including the cryptocurrency industry, are increasing in frequency, persistence and sophistication and, in many cases, are being conducted by sophisticated, well- funded, and organized groups and individuals. For example, attacks may be designed to deceive employees and service providers into releasing control of the systems on which we depend to a hacker, while others may aim to introduce computer viruses or malware into such systems with a view to stealing confidential or proprietary data. These attacks may occur on our digital wallet or the systems of our third- party service providers or partners, which could result in asset losses and other adverse consequences. Insurance held by third parties may not cover related losses. Alternatively, we may inadvertently transfer Bitcoin to a wallet address that we do not own, control or hold the private keys to. In addition, a Bitcoin wallet address can only be used to send and receive Bitcoin, and if the Bitcoin is inadvertently sent to an Ethereum or other cryptocurrency wallet address, or if any of the foregoing errors occur, all of the Bitcoin will be permanently and irretrievably lost with no means of recovery. Such incidents could result in asset loss or disputes, any of which could materially and adversely affect our business. If a malicious actor or botnet obtains control of more than 50 % of the processing power on a cryptocurrency network, such actor or botnet could manipulate blockchains to adversely affect us, which would adversely affect an investment in our company and our ability to operate. If a malicious actor or botnet (a volunteer or hacked collection of computers controlled by networked software coordinating the actions of the computers) obtains a majority of the processing power dedicated to mining a cryptocurrency, it may be able to alter blockchains on which transactions of cryptocurrency reside and rely by constructing fraudulent blocks or preventing certain transactions from completing in a timely manner, or at all. The malicious actor or botnet could control, exclude or modify the ordering of transactions, though it could not generate new units or transactions using such control. The malicious actor could " double- spend " its own cryptocurrency (i. e., spend the same Bitcoin in more than one transaction) and prevent the confirmation of other users' transactions for as long as it maintained control. To the extent that such malicious actor or botnet does not yield its control of the processing power on the network or the cryptocurrency community does not reject the fraudulent blocks as malicious, reversing any changes made to blockchains may not be possible. The foregoing description is not the only means by which the entirety of blockchains or cryptocurrencies may be compromised but is only an example. ~~55~~ **63** Although we are unaware of any reports of malicious activity or control of blockchains achieved through controlling over 50 % of the processing power on the network, it is believed that certain mining pools may have exceeded the 50 % threshold in Bitcoin. The possible crossing of the 50 % threshold indicates a greater risk that a single mining pool could exert authority over the validation of Bitcoin transactions. To the extent that the Bitcoin community, and the administrators of mining pools, do not act to ensure greater decentralization of Bitcoin mining processing power, the feasibility of a botnet or malicious actor obtaining control of the blockchain' s processing power will increase, because such botnet or malicious actor could more readily infiltrate and seize control over the blockchain by compromising a single mining pool, if the mining pool compromises more than 50 % of the mining power on the blockchain, than it could if the mining pool had a smaller share of the blockchain' s total hashing power. Conversely, if the blockchain remains decentralized it is inherently more difficult for the botnet or malicious actor to aggregate enough processing power to gain control of the blockchain. If this were to occur, the public may lose confidence in the Bitcoin blockchain, and blockchain technology more generally. This would likely have a material and adverse effect on the price of Bitcoin, which could have a material adverse effect on our business, financial results and operations, and harm investors. **Our reliance on a third- party mining pool service provider for our mining revenue payouts may have a negative impact on our operations such as a result of cyber- attacks against the mining pool operator and / or our limited recourse against the mining pool operator with respect to rewards paid to us. We receive crypto asset mining rewards from our mining activity through a third- party mining pool operator. Mining pools allow miners to combine their processing power, increasing their chances of solving a block and getting paid by the network. The rewards are distributed by the pool operator, proportionally to our contribution to the pool' s overall mining power, used to generate each block. Should the pool operator' s system suffer downtime due to a cyber- attack, software malfunction or other similar issues, it will negatively impact our ability to mine and receive revenue. Furthermore, we are dependent on the accuracy of the mining pool operator' s record keeping to accurately record the total processing power provided to the pool for a given Bitcoin mining application in order to assess the proportion of that total processing power we provided. While we have internal methods of tracking both our power provided and the total used by the pool, the mining pool operator uses its own recordkeeping to determine our proportion of a given reward. We have little means of recourse against the mining pool operator if we determine the proportion of the reward paid out to us by the mining pool operator is incorrect, other than leaving the pool. If we are unable to consistently obtain accurate proportionate rewards from our mining pool operators, we may experience reduced reward for our efforts, which would have an adverse effect on our business and operations. Crypto assets may have concentrated ownership and large sales or distributions by holders of such crypto assets could have an adverse effect on the market price of such crypto asset. As of December 31, 2023, the largest 111 and 2, 103 Bitcoin wallets held approximately 15 % and 44 %, respectively, of the Bitcoin in circulation. Moreover, it is possible that other persons or entities control multiple wallets that collectively hold a significant number of Bitcoins, even if they individually only hold a small amount, and it is possible that some of these wallets are controlled by the same person or entity. Similar or more concentrated levels of concentrated ownership may exist for other crypto assets as well. As a result of this concentration of ownership, large sales or distributions by such holders could have an adverse effect on the market price of Bitcoin and other crypto assets.** Risks Related to Our Bitcoin Operations – Legal and Regulatory We are subject to a highly evolving regulatory landscape and any adverse changes to, or our failure to comply with, any laws and regulations could adversely affect our business, prospects or operations. Our business is subject to extensive laws, rules, regulations, policies and legal and regulatory guidance, including those governing securities, commodities, crypto asset custody, exchange and transfer, data governance, data protection, cybersecurity and tax. Many of these legal and regulatory regimes were adopted prior to the advent of the Internet, mobile technologies, crypto assets and related technologies. As a result, they do not contemplate or address unique issues associated with the crypto economy, are subject to significant uncertainty, and vary widely across U. S. federal, state and local and international jurisdictions. These legal and regulatory regimes, including the laws, rules and regulations thereunder, evolve frequently and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another. Moreover, the complexity and evolving nature of our business and the significant uncertainty surrounding the regulation of the crypto economy requires us to exercise our judgement as to whether certain laws, rules and regulations apply to us, and it is possible that governmental bodies and regulators may disagree with our conclusions. To the extent we have not complied with such laws, rules and regulations, we could be subject to significant fines and other regulatory consequences, which could adversely affect our business, prospects or operations. As Bitcoin has grown in popularity and in market size, the Federal Reserve Board, U. S. Congress and certain U. S. agencies (e. g., the CFTC, SEC, ~~the Financial Crimes Enforcement Network ("~~ FinCEN ~~")~~ and the **FBI** ~~Federal Bureau of Investigation~~) have begun to examine the operations of the Bitcoin network, Bitcoin users and the Bitcoin exchange market. Regulatory developments and / or our business activities may require us to comply with certain regulatory regimes. For example, to the extent that our activities cause us to be deemed a money service business under the regulations promulgated by FinCEN under the authority of the **BSA** ~~U. S. Bank Secrecy Act~~ , we may be required to comply with FinCEN regulations, including those that would mandate us to implement certain anti- money laundering programs, make certain reports to FinCEN and maintain certain records. **64** On November 23, 2022, the governor of New York signed into law a two **-** year moratorium on new or renewed permits for certain electricity- generating facilities that use fossil fuel and provide energy for proof- of- work digital asset mining operations. While this action does not directly impact our current operations, as our power generation plans are currently located in Michigan and we have no plans to establish any facilities in New York, it may be the beginning of a new wave of climate change regulations aimed at preventing or reducing the growth of Bitcoin mining in jurisdictions in the United States, including potentially jurisdictions in which we now operate or may in the future operate. The above- described developments could also demonstrate the beginning of a regional or global regulatory trend in response to environmental and energy preservation or other concerns surrounding crypto assets, and similar action in a jurisdiction in which we operate or in general could have a devastating effect on our operations. If further regulation follows, it is possible that the Bitcoin mining industry may not be able to adjust to a sudden and dramatic overhaul to our ability to deploy energy towards the operation of mining equipment. We are not currently aware of any legislation in Michigan being a near- term possibility. If further regulatory action is taken by various governmental entities, our business may suffer and investors in our securities may lose part or all of their investment. We cannot quantify the effects of this regulatory action on our industry as a whole. If further regulation follows, it is possible that our industry may not be able to cope with the sudden and extreme loss of mining power. Because we are unable to influence or predict future regulatory actions taken by governments in China, the United States, or elsewhere, we may have little opportunity or ability to respond to rapidly evolving regulatory positions which may have a materially adverse effect on our industry and, therefore, our business and results of operations. ~~56~~ Ongoing and future regulatory actions may impact our ability to continue to operate, and such actions could affect our ability to continue as a going concern or to pursue our strategy at all, which could have a material adverse effect on our business, prospects or operations. The crypto economy is novel and has little to no access to policymakers or lobbying organizations, which may harm our ability to effectively react to proposed legislation and regulation of crypto assets or crypto asset platforms adverse to our business. As crypto assets have grown in both popularity and market size, various U. S. federal, state and local and foreign governmental organizations, consumer agencies and public advocacy groups have been examining the operations of crypto networks, users and platforms, with a focus on how crypto assets can be used to launder the proceeds of illegal activities, fund criminal or terrorist enterprises, and the safety and soundness of platforms and other service providers that hold crypto assets for users. Many of these entities have called for heightened regulatory oversight, and have issued consumer advisories describing the risks posed by crypto assets to users and investors. For instance, in July 2019, then- U. S. Treasury Secretary Steven Mnuchin stated that he had " very serious concerns " about crypto assets. In recent months, members of Congress have made inquiries into the regulation of crypto assets, and Gary Gensler, Chair of the ~~Commission~~ **SEC** , has made public statements regarding increased regulatory oversight of crypto assets. Outside the United States, several jurisdictions have banned so- called initial coin offerings, such as China and South Korea, while Canada, Singapore, Hong Kong, have opined that token offerings may constitute securities offerings subject to local securities regulations. In July 2019, the United Kingdom' s Financial Conduct Authority proposed rules to address harm to retail customers arising from the sale of derivatives and exchange- traded notes that reference certain types of crypto assets, contending that they are " ill- suited " to retail investors due to extreme volatility, valuation challenges and association with financial crimes. In May 2021, the Chinese government called for a crackdown on Bitcoin mining and trading, and in September 2021, Chinese regulators instituted a blanket ban on all crypto mining and transactions, including overseas crypto exchange services taking place in China, effectively making all crypto- related activities illegal in China. In January 2022, the Central Bank of Russia called for a ban on cryptocurrency activities ranging from mining to trading, and on March 8, 2022, President Biden announced an executive order on cryptocurrencies which seeks to establish a unified federal regulatory regime for currencies. The crypto economy is novel and has little to no access to policymakers and lobbying organizations in many jurisdictions. Competitors from other, more established industries, including traditional financial services, may have greater access to lobbyists or governmental officials, and regulators that are concerned about the potential for crypto assets for illicit usage may affect statutory and regulatory changes with minimal or discounted inputs from the crypto economy. As a result, new laws and regulations may be proposed and adopted in the United States and internationally, or existing laws and regulations may be interpreted in new ways, that harm the crypto economy or crypto asset platforms, which could adversely impact our business. **65** Pending regulation related to electricity consumption by mining companies may impact our ~~result~~ **results** of ~~operation~~ **operations** . On September 16, 2022, the U. S. Department of the Treasury (" Treasury "), the Department of Justice (the " DOJ "), and other U. S. government agencies released eight reports (the " Reports "), including Action Plan to Address Illicit Financial Risks of Digital Assets issued by Treasury, Crypto- Assets: Implications for Consumers, Investors and Businesses issued by Treasury, The Future of Money and Payments issued by Treasury, Climate and Energy Implications of Crypto- Assets in the United States issued by the White House, Policy Objectives for a U. S. Central Bank Digital Currency System issued by the White House, Technical Evaluation for a U. S. Central Bank Digital Currency System issued by the White House, The Role of Law Enforcement in Directing, Investigating, and Prosecuting Criminal Activity Related to Digital Assets issued by the DOJ, and Responsible Advancement of US Competitiveness in Digital Assets issued by the U. S. Department of Commerce. The Reports were issued in response to White House Executive Order 14067 on Ensuring Responsible Development of Digital Assets, which calls for a whole- of- government alignment of the federal government' s approach to digital assets. In December 2022, Senator Edward J. Markey, Chair of the Senate Environment and Public Works Subcommittee on Clean Air, Climate, and Nuclear Safety, and Representative Jared Huffman Senate introduced the Crypto- Asset Environmental Transparency Act. The legislation would require the Environmental Protection Agency to conduct a comprehensive impact study of U. S. crypto mining activity and require the reporting of greenhouse gas emissions from crypto mining operations that consume more than 5 megawatts of power. If the bill is passed by both the Senate and the House and signed into law, mining facilities may be required to report greenhouse gas emissions and to obtain permits and the price to rent mining facilities may increase. If the price ~~increase~~ **increases** significantly and if we are not able to find alternative facilities with reasonable ~~price~~ **prices** acceptable to us, our operation will be disrupted and our results of operation will be negatively ~~impact~~ **impacted** . ~~57~~ A particular digital asset' s status as a " security " in any relevant jurisdiction is subject to a high degree of uncertainty and if **a regulator disagrees with our characterization of a digital asset,** we ~~did not or are unable to properly characterize our digital assets, we~~ may ~~become~~ **be** subject to regulatory scrutiny, investigations, fines **,** and ~~other~~ penalties, which may adversely affect our business, operating results and financial condition. ~~A~~ **Furthermore, a** determination that Bitcoin **or any other digital asset that we own or mine** is a " security " may adversely affect the value of Bitcoin and our business. The SEC and its staff have taken the position that certain digital assets fall within the definition of a " security " under **the** U. S. federal securities laws. The legal test for determining whether any given digital asset is a security **, as described below,** is a highly complex, fact- driven analysis **that may evolve over time, and the outcome is difficult to predict** . Our determination that the digital assets we hold are not securities is a risk- based assessment and not a legal standard or one binding on regulators. The SEC generally does not provide advance guidance or confirmation on the status of any particular digital asset as a security. **Furthermore, the SEC' s views in this area have evolved over time and it is difficult to predict the direction or timing of any continuing evolution.** It is **also** possible that a change in the governing administration or the appointment of new SEC commissioners could **substantially** impact the views of the SEC and its staff. Public statements made by senior officials at the SEC indicate that the SEC does not intend to take the position that Bitcoin is a security (as currently offered and sold ~~; in this context, it should be noted that we have no intention of conducting any initial coin offerings~~). However, such statements are not official policy statements by the SEC and reflect only the speakers' views, which are not binding on the SEC or any other agency or court and cannot be generalized to any other digital asset. As of ~~April __, 2023~~ **the date of this Annual Report** , with the exception of certain centrally issued digital assets that have received " no- action " letters from the SEC staff, Bitcoin and Ethereum ~~' s ether~~ are the only digital assets which senior officials at the SEC have publicly stated are unlikely to be considered securities. As a Bitcoin mining company, we do not believe we are an issuer of any " securities " as defined under **the** ~~U. S.~~ federal securities laws. Our internal process for determining whether the digital assets we hold or plan to hold is based upon the public statements of the SEC and existing case law. ~~Although~~ **The digital assets we hold or plan to hold,** ~~the~~ **other than Bitcoin, may have been created by an issuer as an investment contract under the Howey test,** SEC ~~' s Strategic Hub~~ **v. Howey Co., 328 U. S. 293 (1946), and may be deemed to be securities by the SEC. However, the Company was not the issuer that created these digital assets and is holding them on an interim basis until liquidated. Should the SEC state that Bitcoin, or other digital assets we hold should be deemed to be securities, we may no longer be able to hold any of these digital assets. It will then likely become difficult or impossible** for ~~Innovation and Financial Technology published a framework~~ **such digital asset to be traded, cleared** ~~for~~ **or** ~~analyzing whether any given~~ **custodied in the United States through the same channels used by non- security digital assets, which in addition to materially and adversely affecting the trading value of the** digital asset is ~~a security in April 2019~~ **likely to cause substantial volatility and significantly impact its liquidity and market participants' ability to convert the digital asset into U. S. dollars. Our inability to exchange Bitcoin for fiat or other digital assets (and vice versa) to administer our treasury management objectives may decrease our earnings potential and have an adverse impact on our business and financial condition. 66 Under the Investment Company Act** , ~~this framework~~ **a company may fall within the definition of an investment company under section 3 (c) (1) (A) thereof if it** is **or holds itself out as being engaged primarily, or proposes to engage primarily in the business of investing, reinvesting or trading in securities, or under section 3 (a) (1) (C) thereof if it is engaged or proposes to engage in business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire " investment securities " (as defined therein) having a value exceeding 40 % of its total assets (exclusive of government securities and cash items) on an unconsolidated basis. There is no authoritative law, rule or binding guidance published by the SEC regarding the status of digital assets as " securities " or " investment securities " under the Investment Company Act. Although we believe that we are** not **engaged in the business** ~~a rule, regulation or statement~~ of **investing, reinvesting, or trading in investment securities, and we do not hold ourselves out as being primarily engaged, or proposing to engage primarily, in the business of investing, reinvesting or trading in securities, to the extent the digital assets which we mine, own, or otherwise acquire may be deemed " securities " or " investment securities " by** the SEC **or a court of competent jurisdiction, we may meet the definition of** ~~and~~ **an investment company. If we fall within the definition of an investment company under the Investment Company Act, we would be required to register with the SEC. If an investment company fails to register, it likely would have to stop doing almost all business, and** ~~is~~ **its contracts would become voidable. Generally speaking, non- U. S. issuers may** not ~~binding on the~~ **register as an investment company without an** SEC **order** . The classification of a digital asset as a security under applicable law has wide- ranging implications for the regulatory obligations that flow from the ~~offer~~ **mining** , sale ~~,~~ **and** trading ~~and clearing~~ of such assets. For example, a digital asset that is a security **in the United States** may generally only be offered or sold **in the United States** pursuant to a registration statement filed with the SEC or in an offering that qualifies for an exemption from registration. Persons that effect transactions in digital assets that are securities **in the United States** may be subject to registration with the SEC as a " broker " or " dealer. " ~~Platforms that bring together purchasers and sellers to trade digital assets that are securities are generally subject to registration as national securities exchanges, or must qualify for an exemption, such as by being operated by a registered broker- dealer as an alternative trading system (" ATS "), in compliance with rules for ATS' s. Persons facilitating clearing and settlement of securities may be subject to registration with the SEC as a clearing agency. We analyze whether the digital assets that we mine, hold and sell for our own account could be deemed to be a " security " under applicable laws. Our procedures do not constitute a legal standard, but rather represent our management' s assessment regarding the likelihood that a particular digital asset could be deemed a " security " under applicable laws. Regardless of our conclusions, we could be subject to legal or regulatory action in the event the SEC, a foreign regulatory authority, or a court were to determine that a digital asset currently held by us is a " security " under applicable laws. If the digital assets mined and held by us are deemed securities, it could limit distributions, transfers or other actions involving such digital assets, including mining.~~ There can be no assurances that we ~~have~~ **will** properly ~~characterized~~ **characterize** any given digital asset as a security or non- security for purposes of determining which digital assets to mine, hold and trade, or that the SEC, or a court, if the question was presented to it, would agree with our assessment. We could be subject to judicial or administrative sanctions for failing to offer or sell digital assets in compliance with the registration requirements, or for acting as a broker or dealer without appropriate registration. Such an action could result in injunctions, cease and desist orders, as well as civil monetary penalties, fines, and disgorgement, criminal liability, and reputational harm. For instance, all transactions in such supported digital asset would have to be registered with the SEC, or conducted in accordance with an exemption from registration, which could severely limit its liquidity, usability and transactability. Further, it could draw negative publicity and a decline in the general acceptance of the digital asset. Also, it may make it difficult for such digital asset to be traded, cleared **,** and custodied as compared to other digital assets that are not considered to be securities **. If the SEC or another regulatory body considers Bitcoin to be a security under U. S. securities laws, we may be required to comply with significant SEC registration and / or other requirements. In general, novel or unique assets such as Bitcoin and other digital assets may be classified as securities if they meet the definition of investment contracts under U. S. law. In recent years, the offer and sale of digital assets other than Bitcoin, most notably Kik Interactive Inc.' s Kin tokens and Telegram Group Inc.' s TON tokens, have been deemed to be investment contracts by the SEC. While we believe that Bitcoin is unlikely to be considered an investment contract, and thus a security under the investment contract definition, we cannot provide any assurances that digital assets that we mine or otherwise acquire or hold for our own account, including Bitcoin, will never be classified as securities under U. S. law. This would obligate us to comply with registration and other requirements by the SEC and, therefore, cause us to incur significant, non- recurring expenses, thereby materially and adversely impacting an investment in the Company** . Several foreign jurisdictions have taken a broad- based approach to classifying crypto assets as " securities, " while other foreign jurisdictions, such as Switzerland, Malta, and Singapore, have adopted a narrower approach. As a result, certain crypto assets may be deemed to be a " security " under the laws of some jurisdictions but not others. Various foreign jurisdictions may, in the future, adopt additional laws, regulations, or directives that affect the characterization of crypto assets as " securities. " If Bitcoin or any other supported crypto asset is deemed to be a security under any U. S. federal, state, or foreign jurisdiction, or in a proceeding in a court of law or otherwise, it may have adverse consequences for such supported crypto asset. For instance, all transactions in such supported crypto asset would have to be registered with the SEC or other foreign authority, or conducted in accordance with an exemption from registration, which could severely limit its liquidity, usability and transactability. Moreover, the networks on which such supported crypto assets are utilized may be required to be regulated as securities intermediaries, and subject to applicable rules, which could effectively render the network impracticable for its existing purposes. ~~58~~ **Further, it could draw negative publicity and a decline in the general acceptance of the crypto asset. Also, it may make it difficult for such supported crypto asset to be traded, cleared, and custodied as compared to other crypto assets that are not considered to be securities. 67** Current interpretations require the regulation of Bitcoin under the Commodity Exchange Act by the Commodity Futures Trading Commission, and we may be required to register and comply with such regulations. Any disruption of our operations in response to the changed regulatory circumstances may be at a time that is disadvantageous to our investors. Current and future legislation, regulation by the Commodity Futures Trading Commission (the " CFTC ") and other regulatory developments, including interpretations released by a regulatory authority, may impact the manner in which Bitcoin and other cryptocurrencies are treated for classification and clearing purposes. In particular, derivatives on these assets are not excluded from the definition of " commodity future " by the CFTC. We cannot be certain as to how future regulatory developments will impact the treatment of Bitcoin and other cryptocurrencies under the law. Bitcoin has been deemed to fall within the definition of a commodity and, we may be required to register and comply with additional regulation under the Commodity Exchange Act, including additional periodic report and disclosure standards and requirements. Moreover, we may be required to register as a commodity pool operator and to register as a commodity pool with the CFTC through the National Futures Association. Such additional registrations may result in extraordinary, non- recurring expenses, thereby materially and adversely impacting an investment in us. If we determine not to comply with such additional regulatory and registration requirements, we may seek to cease certain of our operations. Any such action may adversely affect an investment in us. Additionally, governments may develop and deploy their own blockchain- based digital assets, which may have a material adverse impact on Bitcoin' s price and utility. Governmental action against digital assets and Bitcoin mining may have a materially adverse effect on the industry, and could affect us if widely adopted. We and the cryptocurrencies on which our operations will depend are and could become subject to bans and other regulations aimed at preventing what are perceived as some of the negative attributes of Bitcoin and Bitcoin mining. For example, on September 24, 2021, China declared all transactions in and mining of cryptocurrencies, including Bitcoin, illegal. While the ultimate long- term effect of this ban remains uncertain, it could significantly hinder our prospects by limiting a large market for cryptocurrencies within a growing economy. In the hours following China' s announcement of the ban, the price of Bitcoin, which is tied to some extent to public perception of its future value as a form of currency, dropped by nearly $ 4, 000. The ban followed piecemeal regulatory action within China against cryptocurrencies, which was due in part to concerns about the potential for manipulative practices and excessive energy consumption. This could demonstrate the beginning of a regional or global regulatory trend in response to these or other concerns surrounding cryptocurrencies, and similar action in a jurisdiction in which we operate or in general could have devastating effects to our operations. If further regulation follows, it is possible that our industry may not be able to adjust to a sudden and dramatic overhaul to our ability to deploy energy towards the operation of mining equipment. Because we are unable to influence or predict future regulatory actions taken by governments, we may face difficulty monitoring and responding to rapid regulatory developments affecting Bitcoin mining, which may have a materially adverse effect on our industry and, therefore, our business and results of operations. If further regulatory action is taken by governments in the U. S., our business may be materially harmed, and you could lose some or all of your investment. The markets for Bitcoin and other cryptocurrencies and the existing markets may be under- regulated and, as a result, the market price of Bitcoin may be subject to significant volatility or manipulation, which could decrease consumer confidence in cryptocurrencies and have a materially adverse effect on our business and results of operations. Cryptocurrencies that are represented and trade on a ledger- based platform and those who hold them may not enjoy the same benefits as traditional securities available on trading markets and their investors. Stock exchanges have listing requirements and vet issuers, requiring them to be subjected to rigorous listing standards and rules, and monitor investors transacting on such platform for fraud and other improprieties. These conditions may not necessarily be replicated on a distributed ledger platform, depending on the platform' s controls and other policies. The more lax a distributed ledger platform is about vetting issuers of cryptocurrency assets or users that transact on the platform, the higher the potential risk for fraud or the manipulation of the ledger due to a control event. We believe that Bitcoin is not a security under federal and state law. ~~59~~ Bitcoin and other cryptocurrency market prices have historically been volatile, are impacted by a variety of factors, and are determined primarily using data from various exchanges, over- the- counter markets and derivative platforms. Furthermore, such prices may be subject to factors such as those that impact commodities, more so than business activities, which could be subjected to additional influence from fraudulent or illegitimate actors, real or perceived scarcity, and political, economic, regulatory or other conditions. Pricing may be the result of, and may continue to result in, speculation regarding future appreciation in the value of cryptocurrencies, or our share price, making their market prices more volatile or creating " bubble " type risks for both Bitcoin and shares of our common stock. **68** These factors may inhibit consumer trust in and market acceptance of cryptocurrencies as a means of exchange which could have a material adverse effect on our business, prospects, or operations and potentially the value of any Bitcoin or other cryptocurrencies we mine or otherwise acquire. We are subject to risks associated with our need for significant electrical power. Government regulators may potentially restrict the ability of electricity suppliers to provide electricity to mining operations, such as ours. The operation of a Bitcoin ~~or other Bitcoin mine~~ **mining center, as well as AI hyperscale data centers,** can require massive amounts of electrical power. We presently have access to ~~28 megawatt~~ **approximately 30 MWs of** capacity at our **Michigan** Facility, ~~but~~ **which we plan to dedicate to our AI hyperscale data center operations, and 10 MWs of capacity at our Montana Facilities for our mining operations. However, we** require ~~an~~ additional ~~37 megawatt~~ capacity to operate ~~the~~ **all of our** miners ~~that we expect~~ **outside the Michigan Facility and Montana Facilities and** to ~~receive from Bitmain during 2022~~ **support the growing power demands of our AI hyperscale data centers** . Our mining operations can only be successful and ultimately profitable if the costs, including electrical power costs, associated with mining a Bitcoin are lower than the price of a Bitcoin. **Similarly, our AI hyperscale data centers require a reliable and cost- effective power supply to ensure optimal performance and profitability.** As a result, any ~~mine~~ **facilities** we establish can only be successful if we can obtain sufficient electrical power ~~for that mine~~ on a cost- effective basis **. The** ~~, and our~~ establishment of new ~~mines~~ **mining and AI hyperscale data centers** requires us to find locations where ~~that~~ **this** is the case. There may be significant competition for suitable ~~mine~~ locations ~~,~~ **for both mining operations** and **AI hyperscale data centers.** ~~government~~ **Government** regulators may potentially restrict the ability of electricity suppliers to provide electricity to ~~mining~~ **these** operations in times of electricity shortage or may otherwise potentially restrict or prohibit the provision ~~or~~ **of** electricity to ~~mining~~ **such** operations. Any shortage of electricity supply or increase in electricity cost in a jurisdiction may negatively impact the viability and the expected economic return for **our** Bitcoin mining activities **and AI hyperscale data center operations** in that jurisdiction. Our interactions with a blockchain may expose us to specially designated nationals or blocked persons or cause us to violate provisions of law that did not contemplate distributed ledger technology. The Office of Financial Assets Control of the U. S. Department of Treasury (" OFAC ") requires us to comply with its sanction program and not conduct business with persons named on its specially designated nationals (" SDN ") list. However, because of the pseudonymous nature of blockchain transactions, we may inadvertently and without our knowledge engage in transactions with persons named on OFAC' s SDN list. Our internal policies prohibit any transactions with such SDN individuals, but we may not be adequately capable of determining the ultimate identity of the individual with whom we transact with respect to selling digital assets. In addition, in the future OFAC or another regulator may require us to screen transactions for OFAC addresses or other bad actors before including such transactions in a block, which may increase our compliance costs, decrease our anticipated transaction fees and lead to decreased traffic on our network. Any of these factors, consequently, could have a material adverse effect on our business, prospects, financial condition, and operating results. Moreover, federal law prohibits any U. S. person from knowingly or unknowingly possessing any visual depiction commonly known as child pornography. Recent media reports have suggested that persons have imbedded such depictions on one or more blockchains. Because our business requires us to download and retain one or more blockchains to effectuate our ongoing business, it is possible that such digital ledgers contain prohibited depictions without our knowledge or consent. To the extent government enforcement authorities literally enforce these and other laws and regulations that are impacted by decentralized distributed ledger technology, we may be subject to investigation, administrative or court proceedings, and civil or criminal monetary fines and penalties, all of which could harm our reputation and could have a material adverse effect on our business, prospects, financial condition, and operating results. Risks Related to Our Bitcoin Operations – Technological Cryptocurrencies face significant scaling obstacles that can lead to high fees or slow transaction settlement times and attempts to increase the volume of transactions may not be effective, which could adversely affect an investment in our securities. Cryptocurrencies face significant scaling obstacles that can lead to high fees or slow transaction settlement times and attempts to increase the volume of transactions may not be effective. Scaling cryptocurrencies is essential to the widespread acceptance of cryptocurrencies as a means of payment, which widespread acceptance is necessary to the continued growth and development of our business. Many Bitcoin networks face significant scaling challenges. For example, cryptocurrencies are limited with respect to how many transactions can occur per second. Participants in the Bitcoin ecosystem debate potential approaches to increasing the average number of transactions per second that the network can handle and have implemented mechanisms or are researching ways to increase scale, such as increasing the allowable sizes of blocks, and therefore the number of transactions per block, and sharding (a horizontal partition of data in a database or search engine), which would not require every single transaction to be included in every single miner' s or validator' s block. However, there is no guarantee that any of the mechanisms in place or being explored for increasing the scale of settlement of Bitcoin transactions will be effective, or how long they will take to become effective, which could adversely affect an investment in our securities. ~~60~~ **69** There is a possibility of Bitcoin mining algorithms transitioning to proof of stake validation and other mining related risks, which could make us less competitive and ultimately adversely affect our business and the value of our shares. The protocol pursuant to which transactions are confirmed automatically on the Bitcoin blockchain through mining is known as proof of work. Proof of stake is an alternative method in validating digital asset transactions. Should the Bitcoin algorithm shift from a proof of work validation method to a proof of stake method, mining would require less energy and may render any company that maintains advantages in the current climate (for example, from lower priced electricity, processing, real estate, or hosting) less competitive **. For example, in September 2022, the Ethereum network transitioned from a proof of work to a proof of stake method** . We, as a result of our efforts to optimize and improve the efficiency of our Bitcoin mining operations, may be exposed to the risk in the future of losing the benefit of our capital investments and the competitive advantage we hope to gain from this as a result, and may be negatively impacted if a switch to proof of stake validation were to occur. This may additionally have an impact on other various investments of ours. Such events could have a material adverse effect on our ability to continue as a going concern or to pursue our business strategy at all, which could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin or other digital assets we mine or otherwise acquire or hold for our own account. Bitcoin is subject to halving, meaning that the Bitcoin rewarded for solving a block will be reduced in the future and its value may not commensurately adjust to compensate us for such reductions, and the overall supply of Bitcoin is finite. Bitcoin is subject to " halving, " which is the process by which the Bitcoin reward for solving a block is reduced by 50 % for every 210, 000 blocks that are solved. This means that the amount of Bitcoin we (or any other mining company) are rewarded for solving a block in the blockchain is permanently cut in half. For example, the latest halving having **is expected to** ~~occurred~~ --- **occur** in ~~May~~ **April** ~~2020~~ **2024** , with a revised payout of ~~6~~ **3** . ~~25~~ **125** Bitcoin per block solved, down from the ~~previous~~ **current** reward rate of ~~12~~ **6** . ~~5~~ **25** Bitcoin per block solved. There can be no assurance that the price of Bitcoin will sufficiently increase to justify the increasingly high costs of mining for Bitcoin given the halving feature. If a corresponding and proportionate increase in the trading price of these cryptocurrencies does not follow these anticipated halving events, the revenue we earn from our mining operations would see a corresponding decrease, which would have a material adverse effect on our business and operations. To illustrate, even if the price of Bitcoin remains at its current price, all other factors being equal (including the same number of miners and a stable hash rate), our revenue would decrease substantially upon the next halving. Further, due to the halving process, unless the underlying code of the Bitcoin blockchain is altered (which may be unlikely given its decentralized nature), the supply of Bitcoin is finite. Once 21 million Bitcoin have been generated by virtue of solving blocks in the blockchain, the network will stop producing more which is anticipated to occur in approximately 2140. Currently, there are approximately 19 **. 7** million Bitcoin in circulation representing about ~~90~~ **93. 6** % of the total supply of Bitcoin under the current source code. For the foregoing reasons, the halving feature exposes us to inherent uncertainty and reliance upon the historically volatile price of Bitcoin, rendering an investment in us particularly speculative, especially in the long- term. If the price of Bitcoin does not significantly increase in value, your investment in our common stock could decline significantly. Bitcoin has forked multiple times and additional forks may occur in the future which may affect the value of Bitcoin that we hold or mine. To the extent that a significant majority of users and mining companies on a cryptocurrency network install software that changes the cryptocurrency network or properties of a cryptocurrency, including the irreversibility of transactions and limitations on the mining of new cryptocurrency, the cryptocurrency network would be subject to new protocols and software. However, if less than a significant majority of users and mining companies on the cryptocurrency network consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a " fork " of the network, with one prong running the pre- modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of the cryptocurrency running in parallel yet lacking interchangeability and necessitating exchange- type transaction to convert currencies between the two forks. Additionally, it may be unclear following a fork which fork represents the original cryptocurrency and which is the new cryptocurrency. Different metrics adopted by industry participants to determine which is the original asset include: referring to the wishes of the core developers of a cryptocurrency, blockchains with the greatest amount of hashing power contributed by miners or validators; or blockchains with the longest chain. A fork in the network of a particular cryptocurrency could adversely affect an investment in our securities or our ability to operate. ~~61~~ **70** Since August 1, 2017, Bitcoin' s blockchain was forked multiple times creating alternative versions of the cryptocurrency such as Bitcoin Cash, Bitcoin Gold and Bitcoin SV. The forks resulted in a new blockchain being created with a shared history, and a new path forward. The value of the newly created versions including Bitcoin Cash, Bitcoin Gold and Bitcoin SV may or may not have value in the long run and may affect the price of Bitcoin if interest is shifted away from Bitcoin to the newly created cryptocurrencies. The value of Bitcoin after the creation of a fork is subject to many factors including the value of the fork product, market reaction to the creation of the fork product, and the occurrence of forks in the future. As such, the value of Bitcoin could be materially reduced if existing and future forks have a negative effect on Bitcoin' s value. The characteristics of crypto assets have been, and may in the future continue to be, exploited to facilitate illegal activity such as fraud, money laundering, tax evasion and ransomware scams; if any of our customers do so or are alleged to have done so, it could adversely affect us. Digital currencies and the digital currency industry are relatively new and, in many cases, lightly regulated or largely unregulated. Some types of digital currency have characteristics, such as the speed with which digital currency transactions can be conducted, the ability to conduct transactions without the involvement of regulated intermediaries, the ability to engage in transactions across multiple jurisdictions, the irreversible nature of certain digital currency transactions and encryption technology that anonymizes these transactions, that make digital currency particularly susceptible to use in illegal activity such as fraud, money laundering, tax evasion and ransomware scams. Two prominent examples of marketplaces that accepted digital currency payments for illegal activities include Silk Road, an online marketplace on the dark web that, among other things, facilitated the sale of illegal drugs and forged legal documents using digital currencies and AlphaBay, another darknet market that utilized digital currencies to hide the locations of its servers and identities of its users. Both of these marketplaces were investigated and closed by U. S. law enforcement authorities. U. S. regulators, including the SEC, CFTC and Federal Trade Commission, as well as non- U. S. regulators, have taken legal action against persons alleged to be engaged in Ponzi schemes and other fraudulent schemes involving digital currencies. In addition, the FBI has noted the increasing use of digital currency in various ransomware scams. While our board and management believe that our risk management processes and policies in light of current crypto asset market conditions, which include thorough reviews we conduct as part of our due diligence process, is reasonably designed to detect any such illicit activities conducted by our potential or existing counterparties, we cannot ensure that we will be able to detect any such illegal activity in all instances. Because the speed, irreversibility and anonymity of certain digital currency transactions make them more difficult to track, fraudulent transactions may be more likely to occur. We or our potential banking counterparties may be specifically targeted by individuals seeking to conduct fraudulent transfers, and it may be difficult or impossible for us to detect and avoid such transactions in certain circumstances. If one of our customers (or in the case of digital currency exchanges, their customers) were to engage in or be accused of engaging in illegal activities using digital currency, we could be subject to various fines and sanctions, including limitations on our activities, which could also cause reputational damage and adversely affect our business, financial condition and results of operations. Incorrect or fraudulent cryptocurrency transactions may be irreversible and it is possible that, through computer or human error, or through theft or criminal action, our cryptocurrency rewards could be transferred in incorrect amounts or to unauthorized third parties. Cryptocurrency transactions are irrevocable and stolen or incorrectly transferred cryptocurrencies may be irretrievable. As a result, any incorrectly executed or fraudulent cryptocurrency transactions, such as a result of a cybersecurity breach against our Bitcoin holdings, could adversely affect our investments and assets. This is because cryptocurrency transactions are not, from an administrative perspective, reversible without the consent and active participation of the recipient of the cryptocurrencies from the transaction. Once a transaction has been verified and recorded in a block that is added to a blockchain, an incorrect transfer of a cryptocurrency or a theft thereof generally will not be reversible and we may not have sufficient recourse to recover our losses from any such transfer or theft. Further, it is possible that, through computer or human error, or through theft or criminal action, our cryptocurrency rewards could be transferred in incorrect amounts or to unauthorized third parties, or to uncontrolled accounts. If an errant or fraudulent transaction in our Bitcoin were to occur, we would have very limited means of seeking to reverse the transaction or seek recourse. To the extent that we are unable to recover our losses from such action, error or theft, such events could have a material adverse effect on our business. ~~62~~ **71** Because many of our digital assets may in the future be held by digital asset exchanges, we could face heightened risks from cybersecurity attacks and financial stability of digital asset exchanges. We may transfer our digital assets from our wallet to digital asset exchanges prior to selling them. Digital assets not held in our wallet are subject to the risks encountered by digital asset exchanges including a DDoS Attack or other malicious hacking, a sale of the digital asset exchange, loss of the digital assets by the digital asset exchange and other risks similar to those described herein. We do not expect to maintain a custodian agreement with any of the digital asset exchanges that may in the future hold our digital assets. These digital asset exchanges do not provide insurance and may lack the resources to protect against hacking and theft. If this were to occur, we may be materially and adversely affected **. Cryptocurrencies, including those maintained by or for us, may be exposed to cybersecurity threats and hacks. As with any computer code generally, flaws in crypto asset codes, including Bitcoin codes, may be exposed by malicious actors. Several errors and defects have been found previously, including those that disabled some functionality for users and exposed users' information. Exploitation of flaws in the source code that allow malicious actors to take or create money have previously occurred. Additionally, as AI capabilities improve and are increasingly adopted, we may see cyberattacks created through AI. These attacks could be crafted with an AI tool to directly attack information systems with increased speed and / or efficiency than a human threat actor or create more effective phishing emails. Despite our efforts and processes to prevent breaches, our devices, as well as our miners, computer systems and those of third parties that we use in our operations, are vulnerable to cyber security risks, including cyber- attacks such as viruses and worms, phishing attacks, denial- of- service attacks, physical or electronic break- ins, employee theft or misuse, and similar disruptions from unauthorized tampering with our miners and computer systems or those of third parties that we use in our operations. As technological change occurs, the security threats to our cryptocurrencies will likely change and previously unknown threats may emerge. Human error and the constantly evolving state of cybercrime and hacking techniques may render present security protocols and procedures ineffective in ways which we cannot predict. Such events could have a material adverse effect on our ability to continue as a going concern or to pursue our strategy at all, which could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine or otherwise acquire or hold for our own account** . Our use of third- party mining pools exposes us to additional risks. We receive Bitcoin rewards from our mining activity through third- party mining pool operators. Mining pools allow miners to combine their processing power, increasing their chances of solving a block and getting paid by the network. The rewards are distributed by the pool operator, proportionally to our contribution to the pool' s overall mining power, used to solve a block on the Bitcoin blockchain. Should the pool operator' s system suffer downtime due to a cyber- attack, software malfunction or other issue, it will negatively impact our ability to mine and receive revenue. Furthermore, we are dependent on the accuracy of the mining pool operator' s record keeping to accurately record the total processing power provided to the pool for a given Bitcoin mining application in order to assess the proportion of that total processing power we provided. While we have internal methods of tracking both the hash rate we provide and the total used by the pool, the mining pool operator uses its own record- keeping to determine our proportion of a given reward, which may not match our own. If we are unable to consistently obtain accurate proportionate rewards from our mining pool operators, we may experience reduced reward for our efforts, which would have an adverse effect on our business and operations. Risks Related to Our Status as a Holding Company Our inability to successfully integrate new acquisitions could adversely affect our combined business; our operations are widely disbursed. Our growth strategy through acquisitions is fraught with risk. **Since** ~~On June 2,~~ 2017, we acquired a majority interest in Microphase, **all of**

~~on May 23, 2018 we acquired~~ Enertec, **all of** ~~on November 30, 2020 we acquired~~ Relec, ~~on January 29, 2021 we acquired~~ the **Michigan** Facility ~~in Michigan~~ , ~~on December 16, 2021, we acquired~~ a majority interest in IMHC, ~~on December 22, 2021 we acquired~~ the four **hotel** ~~Properties~~ **properties** in and around Madison, **Wisconsin** ~~on December 30~~ , ~~2021, we acquired~~ certain real property located in St. Petersburg, Florida ~~and in June 2022~~ , ~~we acquired~~ a majority interest in SMC ~~. On December 19~~ , ~~2022, we acquired~~ substantially all the assets and certain specified liabilities of Circle 8 Crane Service **and a position in ROI with which we consolidate as a VIE** . Our strategy and business plan are dependent on our ability to successfully integrate ~~Microphase' s, Enertec' s and our other~~ acquisitions ~~' operations, particularly those of Relec and Gresham Power~~ . In addition, while we are based in Las Vegas, NV, our finance **and legal** ~~department~~ **departments** ~~is~~ **are located elsewhere** in ~~Newport Beach~~ **the U. S.** , ~~CA, Microphase~~ **and certain subsidiary** ' s operations are located **across** ~~in Shelton, Connecticut, Enertec' s operations are located in Karmiel, Israel, Gresham Power' s operations are located in Salisbury, England, Madison is located in or near Wisconsin and~~ the ~~St~~ **U** . **S. and internationally** ~~Petersburg property is located in Florida~~ . These distant locations and others that we may become involved with in the future will stretch our resources and management time. Further, failure to quickly and adequately integrate all of these operations and personnel could adversely affect our combined business and our ability to achieve our objectives and strategy. No assurance can be given that we will realize synergies in the areas we currently operate. **72** If we make any additional acquisitions, they may disrupt or have a negative impact on our business. We have plans to eventually make additional acquisitions ~~beyond Microphase, Enertec, Relec, the Facility, IMHC, the Madison Properties, the St. Petersburg property, SMC and Circle 8 Crane Services~~ . Whenever we make acquisitions, we could have difficulty integrating the acquired companies' personnel and operations with our own. In addition, the key personnel of the acquired business may not be willing to work for us. We cannot predict the effect expansion may have on our core business. Regardless of whether we are successful in making an acquisition, the negotiations could disrupt our ongoing business, distract our management and employees and increase our expenses. In addition to the risks described above, acquisitions are accompanied by a number of inherent risks, including, without limitation, the following: ~~●~~ **·** If senior management and / or management of future acquired companies terminate their employment prior to our completion of integration; ~~●~~ **·** difficulty of integrating acquired products, services or operations; ~~●~~ **·** integration of new employees and management into our culture while maintaining focus on operating efficiently and providing consistent, high- quality goods and services; **·** ~~63 ●~~ potential disruption of the ongoing businesses and distraction of our management and the management of acquired companies; ~~●~~ **·** unanticipated issues with transferring customer relationships; ~~●~~ **·** complexity associated with managing our combined company; ~~●~~ **·** difficulty of incorporating acquired rights or products into our existing business; ~~●~~ **·** difficulties in disposing of the excess or idle facilities of an acquired company or business and expenses in maintaining such facilities; ~~●~~ **·** difficulties in maintaining uniform standards, controls, procedures and policies; ~~●~~ **·** potential impairment of relationships with employees and customers as a result of any integration of new management personnel; ~~●~~ **·** potential inability or failure to achieve additional sales and enhance our customer base through cross- marketing of the products to new and existing customers; ~~●~~ **·** effect of any government regulations which relate to the business acquired; and ~~●~~ **·** potential unknown liabilities associated with acquired businesses or product lines, or the need to spend significant amounts to retool, reposition or modify the marketing and sales of acquired products or the defense of any litigation, whether or not successful, resulting from actions of the acquired company prior to our acquisition. Our business could be severely impaired if and to the extent that we are unable to succeed in addressing any of these risks or other problems encountered in connection with these acquisitions, many of which cannot be presently identified, these risks and problems could disrupt our ongoing business, distract our management and employees, increase our expenses and adversely affect our results of operations. We may not be able to successfully identify suitable acquisition targets and complete acquisitions to meet our growth strategy, and even if we are able to do so, we may not realize the full anticipated benefits of such acquisitions, and our business, financial conditions and results of operations may suffer. Increasing revenues through acquisitions is one of the key components of our growth strategy. Identifying suitable acquisition candidates can be difficult, time- consuming and costly, and we may not be able to identify suitable candidates or complete acquisitions in a timely manner, on a cost- effective basis or at all. **73** We will have to pay cash, incur debt, or issue equity as consideration in any future acquisitions, each of which could adversely affect our financial condition or the market price of our common stock. The sale of equity or issuance of equity- linked debt to finance any future acquisitions could result in dilution to our stockholders. The incurrence of indebtedness would result in increased fixed obligations and could limit our flexibility in managing our business due to covenants or other restrictions contained in debt instruments. Further, we may not be able to realize the anticipated benefits of completed acquisitions. Some acquisition targets may not have a developed business or are experiencing inefficiencies and incur losses. Additionally, small defense contractors which we consider suitable acquisition targets may be uniquely dependent on their prior owners and the loss of such owners' services following the completion of acquisitions may adversely affect their business. Therefore, we may lose our investment in the event that the acquired businesses do not develop as planned, we cannot retain key employees or that we are unable to achieve the anticipated cost efficiencies or reduction of losses. Additionally, our acquisitions have previously required, and any similar future transactions may also require, significant management efforts and expenditures. Regardless of whether we are successful in making an acquisition, the negotiations could disrupt our ongoing business, divert the attention of our management and key employees and increase our expenses. We face risks with respect to the evaluation and management of future platform or add- on acquisitions. A component of our strategy is to continue to acquire additional add- on businesses for our existing businesses. Generally, because such acquisition targets are held privately, we may experience difficulty in evaluating potential target businesses as the information concerning these businesses is not publicly available. In addition, we and our subsidiary companies may have difficulty effectively managing or integrating acquisitions. We may experience greater than expected costs or difficulties relating to such acquisition, in which case we might not achieve the anticipated returns from any particular acquisition, which may have a material adverse effect on our financial condition, business and results of operations. ~~64~~ We may not be able to successfully fund future acquisitions of new businesses due to the lack of availability of debt or equity financing at the parent company level on acceptable terms, which could impede the implementation of our acquisition strategy and materially adversely impact our financial condition, business and results of operations. In order to make future acquisitions, we intend to raise capital primarily through debt financing, additional equity offerings, the sale of stock or assets of our businesses, or by undertaking a combination of any of the above. Since the timing and size of acquisitions cannot be readily predicted, we may need to be able to obtain funding on short notice to benefit fully from attractive acquisition opportunities. Such funding may not be available on acceptable terms, if at all. In addition, the level of our indebtedness that we may incur may impact our ability to borrow. Another source of capital for us may be the sale of additional shares, subject to market conditions and investor demand for the shares at prices that we consider to be in the interests of our stockholders. These risks may materially adversely affect our ability to pursue our acquisition strategy successfully and materially adversely affect our financial condition, business ~~and results of operations. To service any future indebtedness and other obligations, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control, and any failure to meet our debt service obligations, of which we currently have very few but may in the future incur, including our obligations under our indebtedness or future outstanding shares of preferred stock, could harm our business, financial condition and results of operations. Our ability to make payments on and to refinance any indebtedness and outstanding preferred stock and to fund working capital needs and planned capital expenditures will depend on our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, business, legislative, regulatory and other factors that are beyond our control. If our business does not generate sufficient cash flow from operations or if future borrowings are not available to us in an amount sufficient to enable us and our subsidiaries to pay our indebtedness or make dividend payments with respect to our any shares of preferred stock that we may issue, or to fund our other liquidity needs, we may need to refinance all or a portion of our indebtedness or redeem the preferred stock, on or before the maturity thereof, sell assets, reduce or delay capital investments or seek to raise additional capital, any of which could have a material adverse effect on us. In addition, we may not be able to effect any of these actions, if necessary, on commercially reasonable terms or at all. Our ability to restructure or refinance our indebtedness or redeem the preferred stock will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt or financings related to the redemption of any shares of preferred stock that we may issue could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations. The terms of future debt instruments or preferred stock may limit or prevent us from taking any of these actions. In addition, any failure to make scheduled payments of interest and principal on any future outstanding indebtedness or dividend payments on any shares of preferred stock that we may issue could harm our ability to incur additional indebtedness or otherwise raise capital on commercially reasonable terms or at all. Our inability to generate sufficient cash flow to satisfy any future debt service and other obligations, or to refinance or restructure our obligations on commercially reasonable terms or at all, would have an adverse effect, which could be material, on our business, financial condition~~ and results of operations. Because we face significant competition for acquisition and business opportunities, including from numerous companies with a business plan similar to ours, it may be difficult for us to fully execute our business strategy. Additionally, our subsidiaries also operate in highly competitive industries, limiting their ability to gain or maintain their positions in their respective industries. We expect to encounter intense competition for acquisition and business opportunities from both strategic investors and other entities having a business objective similar to ours, such as private investors (which may be individuals or investment partnerships), blank check companies including special purpose acquisition companies, and other entities, domestic and international, competing for the type of businesses that we may acquire. Many of these competitors possess greater technical, human and other resources, or more local industry knowledge, or greater access to capital, than we do, and our financial resources may be relatively limited when contrasted with those of many of these competitors. These factors may place us at a competitive disadvantage in successfully completing future acquisitions and investments. In addition, while we believe that there are numerous target businesses that we could potentially acquire or invest in, our ability to compete with respect to the acquisition of certain target businesses that are sizable will be limited by our available financial resources. We may need to obtain additional financing in order to consummate future acquisitions and investment opportunities and cannot assure you that any additional financing will be available to us on acceptable terms, or at all, or that the terms of our existing financing arrangements will not limit our ability to do so. This inherent competitive limitation gives others an advantage in pursuing acquisition and investment opportunities. ~~65~~ **74** Furthermore, our subsidiaries also face competition from both traditional and new market entrants that may adversely affect them as well, as discussed elsewhere in these risk factors. We may be required to expend substantial sums in order to bring the companies we have acquired or may acquire in the future, into compliance with the various reporting requirements applicable to public companies and / or to prepare required financial statements, and such efforts may harm our operating results or be unsuccessful altogether. The Sarbanes- Oxley Act requires our management to assess the effectiveness of the internal control over financial reporting for the companies we acquire and our external auditor to audit these companies. In order to comply with the Sarbanes- Oxley Act, we will need to implement or enhance internal control over financial reporting at acquired companies and evaluate the internal controls. We do not conduct a formal evaluation of companies' internal control over financial reporting prior to an acquisition. We may be required to hire additional staff and incur substantial costs to implement the necessary new internal controls at the companies we acquire. Any failure to implement required internal controls, or difficulties encountered in their implementation, could harm our operating results or increase the risk of material weaknesses in internal controls, which could, if not remediated, adversely affect our ability to report our financial condition and results of operations in a timely and accurate manner. Future acquisitions or business opportunities could involve unknown risks that could harm our business and adversely affect our financial condition and results of operations. We are a diversified holding company that owns interests in a number of different businesses across several industries. We have in the past, and intend in the future, to acquire businesses or make investments, directly or indirectly through our subsidiaries, that involve unknown risks, some of which will be particular to the industry in which the investment or acquisition targets operate, including risks in industries with which we are not familiar or experienced. There can be no assurance our due diligence investigations will identify every matter that could have a material adverse effect on us or the entities that we may acquire. We may be unable to adequately address the financial, legal and operational risks raised by such investments or acquisitions, especially if we are unfamiliar with the relevant industry, which can lead to significant losses on material investments. The realization of any unknown risks could expose us to unanticipated costs and liabilities and prevent or limit us from realizing the projected benefits of the investments or acquisitions, which could adversely affect our financial condition and liquidity. In addition, our financial condition, results of operations and the ability to service our debt may be adversely impacted depending on the specific risks applicable to any business we invest in or acquire and our ability to address those risks. We face certain risks associated with the acquisition or disposition of businesses and lack of control over certain of our investments. In pursuing our corporate strategy, we may acquire, dispose of or exit businesses or reorganize existing investments. The success of this strategy is dependent upon our ability to identify appropriate opportunities, negotiate transactions on favorable terms and ultimately complete such transactions. In the course of our acquisitions, we may not acquire 100 % ownership of certain of our operating subsidiaries or we may face delays in completing certain acquisitions, including in acquiring full ownership of certain of our operating companies. Once we complete acquisitions or reorganizations there can be no assurance that we will realize the anticipated benefits of any transaction, including revenue growth, operational efficiencies or expected synergies. If we fail to recognize some or all of the strategic benefits and synergies expected from a transaction, goodwill and intangible assets may be impaired in future periods. The negotiations associated with the acquisition and disposition of businesses could also disrupt our ongoing business, distract management and employees or increase our expenses. In addition, we may not be able to integrate acquisitions successfully and we could incur or assume unknown or unanticipated liabilities or contingencies, which may impact our results of operations. If we dispose of or otherwise exit certain businesses, there can be no assurance that we will not incur certain disposition related charges, or that we will be able to reduce overhead related to the divested assets. ~~66~~ **75** In the ordinary course of our business, we evaluate the potential disposition of assets and businesses that may no longer help us meet our objectives or that no longer fit with our broader strategy ~~, such as the planned merger between TOGI and IMHC~~. When we decide to sell assets or a business, we may encounter difficulty in finding buyers or alternative exit strategies on acceptable terms in a timely manner, which could delay the accomplishment of our strategic objectives, or we may dispose of a business at a price or on terms which are less than we had anticipated. In addition, there is a risk that we sell a business whose subsequent performance exceeds our expectations, in which case our decision would have potentially sacrificed enterprise value. Our development stage companies may never produce revenues or income. We have made investments in and own stakes, either majority or minority, in a certain development stage companies. Each of these companies is at an early stage of development and is subject to all business risks associated with a new enterprise, including constraints on their financial and personnel resources, lack of established credit, the need to establish meaningful and beneficial vendor and customer relationships and uncertainties regarding product development and future revenues. We anticipate that many of these companies will continue to incur substantial additional operating losses for at least the next several years and expect their losses to increase as research and development efforts expand. There can be no assurance as to when or whether any of these companies will be able to develop significant sources of revenue or that any of their respective operations will become profitable, even if any of them is able to commercialize any products. As a result, we may not realize any returns on our investments in these companies for a significant period of time, if at all, which could adversely affect our business, results of operations, financial condition or liquidity. Divestitures and contingent liabilities from divested businesses could adversely affect our business and financial results. We continually evaluate the performance and strategic fit of all of our businesses and may sell businesses or product lines. Divestitures involve risks, including difficulties in the separation of operations, services, products and personnel, the diversion of management ~~'~~**’**s attention from other business concerns, the disruption of our business, the potential loss of key employees and the retention of uncertain contingent liabilities, including environmental liabilities, related to the divested business. When we decide to sell assets or a business, we may encounter difficulty in finding buyers or alternative exit strategies on acceptable terms in a timely manner, which could delay the achievement of our strategic objectives. We may also dispose of a business at a price or on terms that are less desirable than we had anticipated, which could result in significant asset impairment charges, including those related to goodwill and other intangible assets, that could have a material adverse effect on our financial condition and results of operations. In addition, we may experience greater dis- synergies than expected, the impact of the divestiture on our revenue growth may be larger than projected, and some divestitures may be dilutive to earnings. There can be no assurance whether the strategic benefits and expected financial impact of the divestiture will be achieved. We cannot assure you that we will be successful in managing these or any other significant risks that we encounter in divesting a business or product line, and any divestiture we undertake could materially and adversely affect our business, financial condition, results of operations and cash flows. Risks Related to Related Party Transactions There may be conflicts of interest between our company and certain of our related parties and their respective directors and officers which might not be resolved in our favor. More importantly, there may be conflicts between certain of our related parties and their respective directors and officers which might not be resolved in our favor. These risks are set forth below appurtenant to the relevant related party. ~~Ault & Company~~ Our relationship with Ault & Company may enhance the difficulty inherent in obtaining financing for us as well as expose us to certain conflicts of interest. As of April ~~17~~ **15** , ~~2023~~ **2024** , Ault & Company, of which Milton C. (Todd) Ault **,** III is the chief executive officer, beneficially owned ~~52~~ **452** , **443** ~~666, 882~~ shares of our common stock, consisting of (i) **229** ~~1, 658, 916~~ shares of common stock owned ~~,~~ **and** (ii) **452, 214** ~~warrants to purchase 94~~ shares of common stock **issuable upon conversion** ~~that are currently exercisable, (iii) 1, 000, 000 shares of common stock purchasable by Ault & Company pursuant to a securities purchase agreement entered into on June 11, 2021 between Ault & Company and BitNile, (iv) 50, 000, 000 shares owned by Ault Alpha, of which Ault & Company is the sole member of Ault Alpha GP LLC, the general partner of Ault Alpha, and (v) 7, 872 shares owned by Philou Ventures, LLC (“ Philou ”), of which Ault & Company is the Manager, consisting of: (A) 125, 000~~

~~shares~~ of Series ~~B~~ **C Convertible** Preferred Stock ~~that are convertible into 2, 232 shares of common stock, (B) warrants to purchase 2, 232 shares of common stock that are currently exercisable and (C) 3, 408 shares of common stock~~ . ~~As~~ **While as** of April ~~17~~ **15** , ~~2023~~ **2024** , Ault & Company beneficially owned ~~12~~ **1** . ~~6~~ **5** % of our common stock **, Ault & Company owned additional shares of Series C Convertible Preferred Stock and warrants to purchase shares of common stock that cannot be converted and / or exercised in accordance with the rules and regulations of the NYSE American, LLC unless we first obtain stockholder approval** . ~~67~~ **If stockholder approval was obtained and there were no restrictions on the conversion and / or exercise of the Series C Convertible Preferred Stock and warrants owned by Ault & Company as of April 15, 2024, then Ault & Company would beneficially own 82. 2 % of our common stock. In addition, pursuant to the November 2023 SPA, as amended in March 2024, Ault & Company has the right to purchase up to an additional $ 31. 5 million of Series C Convertible Preferred Stock and Series C Warrants, which would further increase their beneficial ownership.** Given the close relationship between Ault & Company, on the one hand, and our company, on the other, it is not inconceivable that we could **further amend the November 2023 SPA or** enter into additional securities purchase agreements with Ault & Company. **76** Although we have relied on **Ault & Company** ~~Philou, which no longer beneficially owns a meaningful number of our shares of common stock,~~ to finance us in the past, we cannot assure you that ~~either Philou or~~ Ault & Company will assist us in the future. We would far prefer to rely on ~~these entities~~ **Ault & Company** ’ **s** assistance compared to other sources of financing as the terms they provide us are in general more favorable to us than we could obtain elsewhere. However, Messrs. Ault, Horne and Nisser could face a conflict of interest in that they serve on the board of directors of each of Ault & Company and our company. If they determine that an investment in our company is not in Ault & Company’ s best interest, we could be forced to seek financing from other sources that would not necessarily be likely to provide us with equally favorable terms. Other conflicts of interest between us, on the one hand, and Ault & Company, on the other hand, may arise relating to commercial or strategic opportunities or initiatives. Mr. Ault, as the controlling stockholder of Ault & Company, may not resolve such conflicts in our favor. For example, we cannot assure you that Ault & Company would not pursue opportunities to provide financing to other entities whether or not it currently has a relationship with such other entities. Furthermore, our ability to explore alternative sources of financing other than Ault & Company may be constrained due to Mr. Ault’ s vision for us and he may not wish for us to receive any financing at all other than from entities that he controls. Alzamend Our relationship with Alzamend may expose us to certain conflicts of interest. ~~In August~~ **As of April 15,** ~~2020~~ **2024** , **we beneficially** ~~Alzamend entered into a securities purchase agreement with our company to sell a convertible promissory note of Alzamend, in the aggregate principal amount of $ 50, 000 and issue a 5- year warrant to purchase 16, 667 of shares of its common stock. The convertible promissory note bears interest at 8 % per annum, which principal and all accrued and unpaid interest was due six months after the date of issuance. The principal and interest earned on~~ **own 2, 092, 427** ~~the convertible promissory note was convertible into~~ shares of Alzamend’ s common stock ~~at $~~ **, representing approximately 25. 5 %, consisting of (i)** 1 **, 111** ~~. 50 per share~~ **shares underlying currently exercisable warrants we own, (ii) 768, 365 shares held by Ault Lending and (iii) 1, 322, 951 shares issuable upon conversion of series B convertible preferred stock of Alzamend (the “ ALZN Series B Preferred ”) held by Ault Lending** . ~~The~~ **In addition, Ault Lending owns additional shares of ALZN Series B Preferred and warrants to purchase shares of common stock that cannot be converted and / or exercised in accordance with the rules and regulations of the Nasdaq Stock Market unless Alzamend first obtains stockholder approval. In addition, the warrants are either not currently exercisable, as the initial** exercise ~~price of~~ **dates are six months after issuance, while** ~~the~~ **other** ~~warrant~~ **warrants** ~~is $ 3~~ **contain beneficial ownership blockers** . ~~00 per share. In December~~ **If stockholder approval was obtained and there were no restrictions on the conversion and / or exercise of the ALZN Series B Preferred and warrants owned by Ault Lending as of April 15,** ~~2020~~ **2024** , **then** we ~~provided Alzamend $ 0~~ **would beneficially own 43** . 8 **%** ~~million in short- term advances and in March of 2021 we entered into an agreement with Alzamend under which we agreed to purchase $ 10 million worth of shares~~ of Alzamend’ s common stock. ~~We paid for~~ **In addition, pursuant to** the ~~last tranche of~~ **January 2024 SPA, Ault Lending has the right to purchase up to an additional** $ 4 **. 0** million ~~on April 26, 2022. Consequently, as~~ of ~~the date of this annual report~~ **ALZN Series B Preferred and warrants** , **which would further increase our beneficial ownership. Beyond the securities** we ~~have funded~~ **beneficially own, Mr. Ault, our Chief Executive Officer, beneficially owns** an ~~aggregate~~ **additional 1, 168, 560 shares** of ~~$ 10 million pursuant~~ **common stock, consisting of (i) 166, 865 shares held by Mr. Ault, (ii) 996, 197 shares held by Ault Life Sciences, Inc. (“ ALSI ”) and (iii) 5, 498 shares held by Ault Life Sciences Fund, LLC (“ ALSF ”). Mr. Ault has sole voting and investment power with respect** to the securities **held** ~~purchase agreement and have thus acquired all~~ of **record** ~~the shares and warrants issuable~~ by **ALSI and ALSF** ~~Alzamend to us under the agreement~~ . Messrs. **Ault,** Horne and Nisser could face a conflict of interest in that they serve on the board of directors of each of Alzamend and our company. Avalanche We have lent a substantial amount of funds to Avalanche, a related party, whose ability to repay us is subject to significant doubt; in addition, we currently beneficially own a significant percentage of Avalanche’ s issued and outstanding shares of common stock, for which there is presently no market. On September 6, 2017, we entered into a Loan and Security Agreement with Avalanche (as amended, the “ AVLP Loan Agreement ”) with an effective date of August 21, 2017 pursuant to which we provided Avalanche a non- revolving credit facility. The AVLP Loan Agreement was increased to up to $ 20. 0 million in June of 2021 and extended to December 31, 2023. ~~Until recently, we held a convertible note issued to us by AVLP in the amount of $ 20. 0 million (the “ Prior AVLP Note ”).~~ While Avalanche received funds from a third party in the amount of $ 2. 75 million in early April of 2019 in consideration for its issuance of a convertible promissory note to such third party (the “ Third Party Note ”), $ 2. 7 million was used to pay an outstanding receivable due us and no amount was used to repay the debt Avalanche owes us pursuant to the AVLP Loan Agreement. On October 12, 2021, Ault Alpha **LP (“ Ault Alpha ”)** , **an entity that was** an affiliate of ours **at that time** , repaid the Third Party Note in full and also acquired a warrant to purchase 1. 6 million shares of AVLP common stock. In consideration therefor, AVLP issued Ault Alpha a term note in the principal amount of $ 3. 6 million, which term note had a maturity date of June 30, 2022. ~~68~~ **77** On June 27, 2022, AVLP exchanged the term note it had issued to Ault Alpha for a 10 % senior secured convertible note in the principal face amount of $ 3. 8 million due June 15, 2024 (the " Ault Alpha Note "). The Ault Alpha Note is convertible, subject to adjustment, at $ 0. 50 per share. AVLP also issued Ault Alpha a warrant to purchase an aggregate of 1, 617, 647 shares of Avalanche common stock at an exercise price of $ 0. 50. Pursuant to a security agreement entered into by Avalanche and Ault Alpha, as amended by an intercreditor agreement entered into by and among the foregoing parties, our company and certain other persons, Ault Alpha ~~has~~ **was granted** a second priority interest in AVLP' s assets securing the repayment of the Ault Alpha Note **. In connection with the liquidation of Ault Alpha in December 2023, Ault Lending assumed the Ault Alpha Note, the warrants to purchase Avalanche common stock and the secured party rights** . On July 11, 2022, AVLP issued us a 10 % senior secured convertible note in the principal face amount of $ 3. 0 million due July 10, 2024 (the " AVLP Note "). The AVLP Note is convertible, subject to adjustment, at $ 0. 50 per share. AVLP also issued us warrants to purchase an aggregate of 41. 0 million shares of Avalanche common stock at an exercise price of $ 0. 50. Pursuant to a security agreement entered into by Avalanche and Ault Alpha, as amended by an intercreditor agreement entered into by and among the foregoing parties, our company and certain other persons, we have a first priority interest in AVLP' s assets securing the repayment of the AVLP Note. **We previously held a convertible note issued to us by AVLP in the amount of $ 20. 0 million, referred to as the AVLP Loan Agreement.** On June 1, 2022, we converted the entire principal and accrued interest on the ~~Prior~~ AVLP ~~Note~~ **Loan Agreement** into an aggregate of 51. 9 million shares of common stock of Avalanche, representing approximately 90. 2 % of Avalanche' s issued and outstanding shares of common stock. There is currently no liquid market for the Avalanche common stock. Consequently, even if we were inclined to sell such shares of common stock on the open market, our ability to do so would be severely limited. Avalanche is not current in its filings with the ~~Commission~~ **SEC** and is not required to register the shares of its common stock underlying the ~~Prior~~ AVLP ~~Note~~ **Loan Agreement** or any other loan arrangement we have made with Avalanche described above. There is ~~some~~ doubt as to whether Avalanche will ever have the ability to repay its debt to us, as well as our ability to sell the shares we beneficially own since at present there is no market for these shares. If we are unable to recoup our investment in Avalanche in the foreseeable future or at all, such failure would have a materially adverse effect on our financial condition and future prospects. Milton C. Ault, III and William B. Horne, our Executive Chairman and Chief Executive Officer, respectively, and two of our directors are directors of Avalanche. Milton C. Ault, III and William B. Horne, our Executive Chairman and Chief Executive Officer, respectively, and two of our directors, are also directors of Avalanche. Certain conflicts of interest between us, on the one hand, and Avalanche, on the other hand, may arise relating to commercial or strategic opportunities or initiatives, in addition to the conflicts related to the debt that Avalanche owes us. For example, Messrs. Ault and Horne may find it difficult to determine how to meet their fiduciary duties to us as well as Avalanche, which could result in a less favorable result for us than would be the case if they were solely directors of our company. Further, even if Messrs. Ault and Horne were able to successfully meet their fiduciary obligations to us and Avalanche, the fact that they are members of the board of directors of both companies could attenuate their ability to focus on our business and best interests, possibly to the detriment of both companies. **Our relationship** ~~Risks Related to BNC Risks Related to the transaction~~ with **ROI** ~~BitNile Metaverse BitNile Metaverse~~ may **expose** ~~not obtain approval of its shareholders to issue~~ us ~~the~~ **to certain conflicts of interest. As of April 15, 2024, we beneficially own 1, 701, 969** shares ~~we are entitled to. As stated above, on February 8, 2023, we entered into a Share Exchange Agreement (the " Agreement ") with BitNile Metaverse (formerly known as Ecoark Holdings, Inc.), or BMI, and the other signatories thereto. The Agreement provides that, subject to the terms and conditions set forth therein, BMI will acquire all~~ of **ROI' s common** ~~the outstanding shares of capital~~ stock ~~of our then subsidiary~~ , **consisting** ~~BNC,~~ of ~~which we owned approximately 86 %, and the remaining 14 % was owned by minority shareholders (the " Minority Shareholders "), as well as Ault Iconic (formerly Ault Media Group) and the securities of Earnity beneficially owned by BNC (which represented approximately 19. 9 % of the outstanding equity securities of Earnity as of the date of the Agreement), in exchange for the following:~~ (i) ~~8~~ **745** , ~~637~~ **244 shares held by Ault Lending, (ii) 293, 358 shares issuable upon the conversion of outstanding shares of Series A Convertible Redeemable Preferred Stock (" ROI Series A Preferred ") we own, and (iii) 663, 367 shares issuable upon the conversion of outstanding shares of ROI Series D Preferred we own** . **While as of April 15, 2024, we beneficially owned approximately** 5 **. 1 % of ROI' s common stock, we own** shares of ~~newly designated~~ Series B Convertible Preferred Stock ~~of BMI to be issued to our company~~ (~~the~~ " **ROI** Series B Preferred ") ~~,~~ and **additional** ~~(ii) 1, 362. 5~~ shares of **ROI** ~~newly designated~~ Series **D** ~~C Convertible~~ Preferred **that cannot** ~~Stock of BMI to~~ be **converted unless we first obtain** ~~issued to the to the Minority Shareholders~~ - **shareholder** ~~(~~ **approval, in addition to beneficial ownership blockers and other restrictions. If shareholder approval was obtained and there were no restrictions on the conversion of the securities we own, as of April 15, 2024,** ~~the~~ **then we would beneficially own 58** ~~" Series C Preferred, " and together with the Series B Preferred, the " Preferred Stock ")~~ . **2 %** ~~The Series B Preferred and the Series C Preferred each have a stated value~~ of **ROI' s** ~~$ 10, 000 per share (the " Stated Value "), for a combined stated value of the Preferred Stock to be issued by BMI, of $ 100, 000, 000, and subject to adjustment, are convertible into an aggregate of 400, 000, 000 shares of~~ common stock **. 78 Messrs. Ault and Nisser could face a conflict** of ~~BMI (~~ **interest in that** ~~the~~ **they serve** ~~" BMI Common Stock "), which would represent approximately 92. 4 % of the outstanding BMI Common Stock~~ on ~~a fully-diluted basis as of the date of the Agreement. However, pending approval of the transaction by BMI' s shareholders, the Preferred Stock is subject to a 19. 9 % beneficial ownership limitation, including the Series A Convertible Preferred Stock that we acquired from BMI in June of 2022. The Agreement provides that BMI will seek shareholder approval (the " Shareholder Approval ") following the closing. 69 However, there~~ -- **the board** ~~can be no assurance that BMI will obtain Shareholder Approval on a timely basis, if at all, particularly since we will not be permitted to vote on that proposal under Nasdaq' s rules. Should we not be able to be issued the shares~~ of **directors of each of ROI** ~~Preferred Stock that we are entitled to under the Agreement, we will effectively have sold an~~ **and our company** ~~asset we determined to be worth $ 100 million in consideration for shares of BMI worth far less than that figure~~ . **Risks Related to RiskOn Risks Related to BNC** If BNC does not successfully develop its business, the shares that we own as well as those we are entitled to may have very little value, if any. We sold BNC to ~~BMI~~ **ROI** under the assumption that BNC is worth $ 100 million, of which we would receive shares of Series B Preferred valued at $ 86 million, assuming ~~BMI~~ **ROI** obtains Shareholder Approval, as discussed above. However, if BNC does not successfully develop its business within the foreseeable future, ~~it~~ **ROI** could be required to seek additional capital, which could result in a decrease in the value of our shares of Series B Preferred, whether due to dilution or the terms of such financing. There can be no assurance that ~~BMI~~ **ROI** would be able to raise the requisite financing to maintain or develop its business on reasonably favorable terms, whether to it or to us, if at all. Further, whether or not BNC seeks or receives additional financing, if its business never develops, then our shares of Series B Preferred will in all likelihood have no value at all. Risks Related to BNC' s Product Offerings If BNC fails to retain existing users or add new users, or if BNC' s users decrease their level of engagement with BNC' s products, BNC' s revenue, financial results, and business may be significantly harmed. The size of BNC' s user base and BNC' s users' level of engagement across BNC' s products are critical to BNC' s success. BNC' s financial performance will be significantly determined by BNC' s success in adding, retaining, and engaging active users of BNC' s products that deliver ad impressions. User growth and engagement are also impacted by a number of other factors, including competitive products and services, such as TikTok, that could reduce some users' engagement with BNC' s products and services, as well as global and regional business, macroeconomic, and geopolitical conditions. Any future declines in the size of BNC' s active user base, which to date is minimal, may adversely impact BNC' s ability to deliver ad impressions and, in turn, BNC' s financial performance. If people do not perceive BNC' s products to be useful, reliable, and trustworthy, BNC may not be able to attract or retain users or otherwise maintain or increase the frequency and duration of their engagement. A number of other social networking companies that achieved early popularity have since seen their active user bases or levels of engagement decline, in some cases precipitously. There is no guarantee that BNC will not experience a similar inability to generate a significant used baser or, if achieved, subsequent erosion of BNC' s active user base or engagement levels. User engagement can be difficult to measure, particularly as BNC introduces new and different products and services. Any number of factors can negatively affect user retention, growth, and engagement, including if: ~~•~~ · users increasingly engage with other competitive products or services; ~~•~~ · BNC fails to introduce new features, products, or services that users find engaging or if BNC introduces new products or services, or makes changes to existing products and services, that are not favorably received; ~~•~~ · users feel that their experience is diminished as a result of the decisions BNC makes with respect to the frequency, prominence, format, size, and quality of ads that BNC displays; ~~•~~ · users have difficulty installing, updating, or otherwise accessing BNC' s products on mobile devices as a result of actions by BNC or third parties that BNC relies on to distribute BNC' s products and deliver BNC' s services; ~~•~~ · BNC is unable to develop products for mobile devices that users find engaging, that work with a variety of mobile operating systems and networks, and that achieve a high level of market acceptance; ~~•~~ · there are decreases in user sentiment due to questions about the quality or usefulness of BNC' s products or BNC' s user data practices, concerns about the nature of content made available on BNC' s products, or concerns related to privacy, safety, security, well- being, or other factors; ~~•~~ **79** · BNC is unable to manage and prioritize information to ensure users are presented with content that is appropriate, interesting, useful, and relevant to them; ~~•~~ · BNC is unable to obtain or attract engaging third- party content; ~~•~~ · BNC is unable to successfully maintain or grow usage of and engagement with applications that integrate with BNC' s products; · ~~70 •~~ users adopt new technologies where BNC' s products may be displaced in favor of other products or services, or may not be featured or otherwise available; ~~•~~ · there are changes mandated by legislation, government and regulatory authorities, or litigation that adversely affect BNC' s products or users; ~~•~~ · BNC is unable to offer a number of BNC' s products and services in Europe, or are otherwise limited in BNC' s business operations, as a result of European regulators, courts, or legislative bodies determining that BNC' s reliance on Standard Contractual Clauses or other legal ~~bases~~ **basis** BNC may rely upon to transfer user data from the European Union to the United States is invalid; ~~•~~ · there is decreased engagement with BNC' s products, or failure to accept BNC' s terms of service, as part of privacy- focused changes that BNC has implemented or may implement in the future, whether voluntarily, in connection with the General Data Protection Regulation (" GDPR "), the European Union' s ePrivacy Directive, the California Privacy Rights Act (" CPRA "), or other laws, regulations, or regulatory actions, or otherwise; ~~•~~ · technical or other problems prevent BNC from delivering its products in a rapid and reliable manner or otherwise affect the user experience, such as security breaches or failure to prevent or limit spam or similar content, or users feel their experience is diminished as a result of BNC' s efforts to protect the security and integrity of the Platform; ~~•~~ · BNC adopts terms, policies, or procedures related to areas such as sharing, content, user data, or advertising, or BNC takes, or fails to take, actions to enforce BNC' s policies, that are perceived negatively by BNC' s users or the general public; ~~•~~ · BNC elects to focus its product decisions on longer- term initiatives that do not prioritize near- term user growth and engagement; ~~•~~ · BNC makes changes in its user account login or registration processes or changes in how BNC promotes different products and services across its family of products; ~~•~~ · initiatives designed to attract and retain users and engagement, including the use of new technologies such as artificial intelligence, are unsuccessful, whether as a result of actions by BNC, its competitors, or other third parties, or otherwise; ~~•~~ · there is decreased engagement with BNC' s products as a result of taxes imposed on the use of social media or other mobile applications in certain countries, internet shutdowns, or other actions by governments that affect the accessibility of BNC' s products in their countries; ~~•~~ · BNC fails to provide adequate customer service to users, marketers, developers, or other partners; or ~~•~~ · BNC, developers whose products are integrated with BNC' s products, or other partners and companies in BNC' s industry are the subject of adverse media reports or other negative publicity, including as a result of BNC' s or its user data practices. **80** From time to time, certain of these factors have negatively affected user retention, growth, and engagement to varying degrees. If BNC are unable to maintain or increase BNC' s user base and user engagement, particularly for BNC' s significant revenue- generating products like Facebook and Instagram, BNC' s revenue and financial results may be adversely affected. Any significant decrease in user retention, growth, or engagement could render BNC' s products less attractive to users, marketers, and developers, which is likely to have a material and adverse impact on BNC' s ability to deliver ad impressions and, accordingly, BNC' s revenue, business, financial condition, and results of operations. As the size of BNC' s active user base fluctuates in one or more markets from time to time, BNC will become increasingly dependent on BNC' s ability to maintain or increase levels of user engagement and monetization in order to grow revenue. BNC' s user growth, engagement, and monetization on mobile devices depend upon effective operation with mobile operating systems, networks, technologies, products, and standards that BNC does not control. The substantial majority of BNC' s revenue is expected to be generated from advertising on mobile devices. There is no guarantee that popular mobile devices will feature BNC' s products, or that mobile device users will ever use BNC' s products rather than competing products. BNC is dependent on the interoperability of BNC' s products with popular mobile operating systems, networks, technologies, products, and standards that BNC does not control, such as the Android and iOS operating systems and mobile browsers. Changes, bugs, or technical issues in such systems, or changes in BNC' s relationships with mobile operating system partners, handset manufacturers, browser developers, or mobile carriers, or in the content or application of their terms of service or policies that degrade BNC' s products' functionality, reduce or eliminate BNC' s ability to update or distribute BNC' s products, give preferential treatment to competitive products, limit BNC' s ability to deliver, target, or measure the effectiveness of ads, or charge fees related to the distribution of BNC' s products or BNC' s delivery of ads have in the past adversely affected, and could in the future adversely affect, the usage of BNC' s products and monetization on mobile devices. ~~71~~ BNC' s products and changes to such products could fail to attract or retain users or generate revenue and profits, or otherwise adversely affect BNC' s business. BNC' s ability to retain, increase, and engage its user base and to increase BNC' s revenue depends heavily on BNC' s ability to continue to evolve BNC' s existing products and to create successful new products, both independently and in conjunction with developers or other third parties. BNC may introduce significant changes to BNC' s products or acquire or introduce new and unproven products, including using technologies with which BNC has little or no prior development or operating experience. For example, BNC does not have significant experience with consumer hardware products or virtual or augmented reality technology, which may adversely affect BNC' s ability to successfully develop and market these products and technologies. BNC will incur substantial costs, and BNC may not be successful in generating profits, in connection with these efforts. These efforts, including the introduction of new products or changes to existing products, may result in new or enhanced governmental or regulatory scrutiny, litigation, ethical concerns, or other complications that could adversely affect BNC' s business, reputation, or financial results. If BNC' s new products or changes to existing products fail to engage users, marketers, or developers, or if BNC' s business plans are unsuccessful, BNC may fail to attract or retain users or to generate sufficient revenue, operating margin, or other value to justify BNC' s investments, and BNC' s business may be adversely affected. BNC may not be successful in its metaverse strategy and investments, which could adversely affect BNC' s business, reputation, or financial results. BNC believes that the metaverse, an embodied internet where people have immersive experiences beyond two-dimensional screens, is the next evolution in social technology. BNC intends to focus on helping to bring the metaverse to life. BNC expects this will be a complex, evolving, and long- term initiative that will involve the development of new and emerging technologies, require significant investment in infrastructure as well as privacy, safety, and security efforts, and collaboration with other companies, developers, partners, and other participants. However, the metaverse may not develop in accordance with BNC' s expectations, and market acceptance of features, products, or services BNC may build for the metaverse is uncertain. BNC intends to regularly evaluate BNC' s product roadmaps and make significant changes as BNC' s understanding of the technological challenges and market landscape and BNC' s product ideas and designs evolve. In addition, BNC has virtually no experience with consumer hardware products and virtual and augmented reality technology, which may enable other companies to compete more effectively than it can. BNC may be unsuccessful in BNC' s future research and product development efforts, including if BNC is unable to develop relationships with key participants in the metaverse or develop products that operate effectively with metaverse technologies, products, systems, networks, or standards. BNC hopes to make investments in virtual and augmented reality and other technologies to support these efforts, and BNC' s ability to support these efforts is dependent on generating sufficient profits from BNC' s business. In addition, as BNC' s metaverse efforts evolve, BNC may be subject to a variety of existing or new laws and regulations in the United States and international jurisdictions, including in the areas of privacy, safety, competition, content regulation, consumer protection, and e- commerce, which may delay or impede the development of BNC' s products and services, increase BNC' s operating costs, require significant management time and attention, or otherwise harm BNC' s business. As a result of these or other factors, BNC' s metaverse strategy and investments may not be successful in the foreseeable future, or at all, which could adversely affect BNC' s business, reputation, or financial results. **81** BNC may not be able to successfully grow usage of and engagement with applications that integrate with BNC' s products. BNC hopes to make investments to enable developers to build, grow, and monetize applications that integrate with BNC' s products. Such existing and prospective developers may not be successful in building, growing, or monetizing applications that create and maintain user engagement. Additionally, developers may choose to build on other platforms, including platforms controlled by third parties, rather than building products that integrate with BNC' s products. BNC is continuously seeking to balance the distribution objectives of BNC' s developers with BNC' s desire to provide an optimal user experience, and BNC may not be successful in achieving a balance that attracts or retains such developers. In addition, as part of BNC' s efforts related to privacy, safety, and security, BNC intends to conduct investigations and audits of platform applications from time to time. In some instances, these actions will adversely affect BNC' s relationships with developers. If BNC is not successful in BNC' s efforts to grow the number of developers that choose to build products that integrate with BNC' s products or if BNC is unable to continue to build and maintain good relations with such developers, BNC' s user growth and user engagement as well as its financial results may be adversely affected. ~~72~~ Risks Related to BNC' s Business Operations and Financial Results Our business is highly competitive. Competition presents an ongoing threat to the success of BNC' s business. BNC expects to compete with companies providing connection, sharing, discovery, and communication products and services to users online, as well as companies that sell advertising to businesses looking to reach consumers and / or develop tools and systems for managing and optimizing advertising campaigns. BNC faces significant competition in every aspect of BNC' s business, including, but not limited to, companies that facilitate the ability of users to create, share, communicate, and discover content and information online or enable marketers to reach their existing or prospective audiences. BNC expects to compete to attract, engage, and retain people who use BNC' s products, to attract and retain businesses that use BNC' s free or paid business and advertising services, and to attract and retain developers who build compelling applications that integrate with BNC' s products. BNC also expects to compete with companies that develop and deliver virtual and augmented reality products and services. As BNC introduces or acquires new products, or as other companies introduce new products and services, including as part of efforts to develop the metaverse or innovate through the application of new technologies such as artificial intelligence, BNC may become subject to additional competition. Virtually all BNC' s current and potential competitors have greater resources, experience, or stronger competitive positions in the product segments, geographic regions, or user demographics in which BNC intends to operate than BNC does. For example, some of BNC' s competitors may be domiciled in different countries and subject to political, legal, and regulatory regimes that enable them to compete more effectively than BNC could. These factors may allow BNC' s competitors to respond more effectively than BNC to new or emerging technologies and changes in market conditions. In the event that users engage with other products and services, BNC may never see any growth in use and engagement in key user demographics or more broadly, in which case BNC' s business would be harmed. BNC' s competitors may develop products, features, or services that are similar to its own or that achieve greater acceptance, may undertake more far- reaching and successful product development efforts or marketing campaigns, or may adopt more aggressive pricing policies. Some competitors may gain a competitive advantage against BNC, including: by making acquisitions; by limiting BNC' s ability to deliver, target, or measure the effectiveness of ads; by imposing fees or other charges related to BNC' s delivery of ads; by making access to BNC' s products more difficult or impossible; by making it more difficult to communicate with BNC' s users; or by integrating competing platforms, applications, or features into products they control such as mobile device operating systems, search engines, browsers, or e- commerce platforms. BNC' s competitors may, and in some cases will, acquire and engage users or generate advertising or other revenue at the expense of BNC' s own efforts, which would negatively affect BNC' s business and financial results. In addition, from time to time, BNC may take actions in response to competitive threats, but BNC cannot assure you that these actions will be successful or that they will not negatively affect BNC' s business and financial results. Real or perceived inaccuracies in BNC' s community and other metrics may harm BNC' s reputation and negatively affect BNC' s business. The numbers for BNC' s key metrics are calculated using internal company data based on the activity of user accounts, at times augmented by other sources. While these numbers are based on what BNC believes to be reasonable estimates of BNC' s user base for the applicable period of measurement, there are inherent challenges in measuring usage of BNC' s products across online and mobile populations around the world. The methodologies used to measure these metrics require significant judgment and are also susceptible to algorithm or other technical errors. In addition, BNC is seeking to establish mechanisms to improve its estimates of its user base, and such estimates may change due to improvements or changes in BNC' s methodology. BNC intends to regularly review BNC' s processes for calculating these metrics, and from time to time BNC expects to discover inaccuracies in these metrics or make adjustments to improve their accuracy. **82** The lack of comprehensive encryption for communications on the Platform may increase the impact of a data security incident. Communications on the Platform are not comprehensively encrypted at this time. As such, any data security incident that involves unauthorized access, acquisition, disclosure, or use may be highly impactful to BNC' s business. BNC may experience considerable incident response forensics, data recovery, legal fees, and costs of notification related to any such potential incident, and BNC may face an increased risk of reputational harm, regulatory enforcement, and consumer litigation, which could further harm BNC' s business, financial condition, results of operations, and future business opportunities. ~~73~~ Risks Related to Government Regulation and Enforcement **Regarding BNC** Actions by governments that restrict access to BNC' s products in their countries, censor or moderate content on BNC' s products in their countries, or otherwise impair BNC' s ability to sell advertising in their countries, could substantially harm BNC' s business and financial results. BNC expects that governments will from time to time seek to censor or moderate content available on BNC' s products, should such products ever be developed, distributed and used by customers, in their country, restrict access to BNC' s products from their country partially or entirely, or impose other restrictions that may affect the accessibility of BNC' s products in their country for an extended period of time or indefinitely. In addition, government authorities may seek to restrict user access to BNC' s products if they consider us to be in violation of their laws or a threat to public safety or for other reasons. It is also possible that government authorities could take action that impairs BNC' s ability to sell advertising, including in countries where access to BNC' s consumer- facing products may be blocked or restricted. In the event that content shown on BNC' s products is subject to censorship, access to BNC' s products is restricted, in whole or in part, in one or more countries, BNC would be required to or could elect to make changes to BNC' s future operations, or other restrictions are imposed on BNC' s products, or BNC' s competitors are able to successfully penetrate new geographic markets or capture a greater share of existing geographic markets that BNC cannot access or where BNC face other restrictions, BNC' s ability to increase BNC' s user base, user engagement, or the level of advertising by marketers may be adversely affected, and BNC may not be able to grow BNC' s revenue as anticipated, and BNC' s financial results could be adversely affected. Our business is subject to complex and evolving U. S. and foreign laws and regulations regarding privacy, data use and data protection, content, competition, safety and consumer protection, e- commerce, and other matters. Many of these laws and regulations are subject to change and uncertain interpretation, and could result in claims, changes to BNC' s products and business practices, monetary penalties, increased cost of operations, or declines in user growth or engagement, or otherwise harm BNC' s business. BNC is subject to a variety of laws and regulations in the United States and abroad that will involve matters central to BNC' s business, including privacy, data use, data protection and personal information, biometrics, encryption, rights of publicity, content, integrity, intellectual property, advertising, marketing, distribution, data security, data retention and deletion, data localization and storage, data disclosure, artificial intelligence and machine learning, electronic contracts and other communications, competition, protection of minors, consumer protection, civil rights, accessibility, telecommunications, product liability, e- commerce, taxation, economic or other trade controls including sanctions, anti- corruption and political law compliance, securities law compliance, and online payment services. The introduction of new products, expansion of BNC' s activities in certain jurisdictions, or other actions that BNC may take may subject it to additional laws, regulations, or other government scrutiny. In addition, foreign data protection, privacy, content, competition, consumer protection, and other laws and regulations can impose different obligations or be more restrictive than those in the United States. These U. S. federal, state, and foreign laws and regulations, which in some cases can be enforced by private parties in addition to government entities, are constantly evolving and can be subject to significant change. As a result, the application, interpretation, and enforcement of these laws and regulations are often uncertain, particularly in the new and rapidly evolving industry in which BNC operates, and may be interpreted and applied inconsistently from jurisdiction to jurisdiction and inconsistently with BNC' s current policies and practices. For example, regulatory or legislative actions or litigation affecting the manner in which BNC displays content to BNC' s users, moderate content, or obtain consent to various practices could adversely affect user growth and engagement. Such actions could affect the manner in which BNC provides its services or adversely affect BNC' s financial results. **83** As its business develops, BNC expects to become subject to significant legislative and regulatory developments, and proposed or new legislation and regulations could significantly affect BNC' s business in the future. For example, BNC intends to implement certain product changes and controls as a result of requirements under the European General Data Protection Regulation (" GDPR "), and may implement additional changes in the future. The interpretation of the GDPR is still evolving and draft decisions in investigations are subject to review by several European privacy regulators as part of the GDPR' s consistency mechanism, which may lead to significant changes in the final outcome of such investigations. As a result, the interpretation and enforcement of the GDPR, as well as the imposition and amount of penalties for non- compliance, are subject to significant uncertainty. The California Consumer Privacy Act (" CCPA "), as amended by the California Privacy Rights Act (" CPRA "), also establishes certain transparency rules and creates new data privacy rights for users, including limitations on BNC' s use of certain sensitive personal information and more ability for users to control the purposes for which their data is shared with third parties. Other states have proposed or enacted similar comprehensive privacy laws that afford users with similar data privacy rights and controls. These laws and regulations are evolving and subject to interpretation, and resulting limitations on BNC' s advertising services, or reductions of advertising by marketers, could adversely affect BNC' s advertising business. These laws and regulations, as well as any associated claims, inquiries, or investigations or any other government actions, have in the past led to, and may in the future lead to, unfavorable outcomes including increased compliance costs, loss of revenue, delays or impediments in the development of new products, negative publicity and reputational harm, increased operating costs, diversion of management time and attention, and remedies that harm BNC' s business, including fines or demands or orders that BNC modify or cease existing business practices. ~~74~~ Changes in laws affecting gaming and gambling or the public perception of gaming and gambling may adversely impact ~~our or~~ BNC' s business. BNC offers a number of products and services, which may include a selection of gaming options, including games, sweepstakes, gambling, and social gaming experiences. Social gaming experiences have recently been the subject of civil lawsuits, and some jurisdictions have taken an adverse position to interactive social gaming, including " social casinos " and sweepstakes- based gaming. This could lead to states adopting legislation or imposing a regulatory framework to govern interactive social gaming or social casino or sweepstakes- based gaming specifically. These could also result in a prohibition on interactive social gaming or social casino or sweepstakes- based gaming altogether, restrict BNC' s ability to advertise its games, or substantially increase BNC or our costs to comply with these regulations, all of which could have an adverse effect on our or BNC' s results of operations, cash flows and financial condition. It is not possible to predict the likelihood, timing, scope, or terms of any such legislation or regulation or the extent to which they may affect our or BNC' s business. Regulators in the future may pass additional rules and regulations that could adversely affect our or BNC' s business. In May 2019, the World Health Organization adopted a new edition of its International Classification of Diseases, which lists gaming addiction as a disorder. The American Psychiatric Association (" APA ") and U. S. regulators have yet to decide whether gaming addiction should be considered a behavioral disorder, but the APA has noted that research and the debate on its classification are ongoing. Certain countries, including China and South Korea, have enacted regulations, such as imposing both gaming curfews and spending limits for minors, and established treatment programs aimed at addressing gaming addiction. It is not possible to predict the likelihood, timing, scope, or terms of any similar regulations in any of the markets in which BNC operates, or the extent to which implementation of such regulations may adversely affect our or BNC' s reputation and business. Consumer protection and health concerns regarding games and gambling such as BNC' s have been raised in the past and may again be raised in the future. Such concerns could lead to increased scrutiny over the manner in which BNC' s games are designed, developed, distributed, and presented. We and BNC cannot predict the likelihood, timing or scope of any concern reaching a level that will impact its business, or whether it would suffer any adverse impacts to our or BNC' s results of operations, cash flows and financial condition. Our reputation may be harmed due to unfamiliarity or negative press associated with activities BNC is undertaking, including the online metaverse landscape, virtual markets, real world goods marketplaces, gaming, social activities, sweepstakes, gambling, and digital assets. BNC is focused on the development of the online metaverse landscape and is focused on immersive digital experiences, including virtual markets, real world goods marketplaces, gaming, social activities, sweepstakes, gambling, and more. The activities BNC is undertaking are based on technology that is relatively new. Many companies operating in similar industries are unlicensed, unregulated and / or operate without supervision by any governmental authorities. As a result, users and the general public may lose confidence in BNC' s products and services. Companies like BNC that deal in digital assets are appealing targets for hackers and malware and may also be more likely to be targets of regulatory enforcement actions. Negative perception, a lack of stability and standardized regulation in the industries in which BNC operates and the failure of similar companies due to fraud, business failure, hackers or malware, or government mandated regulation, may reduce confidence in our or BNC' s business. Any of these events could have a material and adverse impact on our or BNC' s reputation and business. **84** We may be subject to regulatory and other government investigations, enforcement actions, settlements, and other inquiries in the future, which could cause us to incur substantial costs or require us or BNC to change its business practices in a manner materially adverse to its business. Should BNC' s business ever expand to a significant degree, we and BNC' s management expects to receive formal and informal inquiries from government authorities and regulators regarding BNC' s compliance with laws and regulations, many of which are evolving and subject to interpretation. In such a scenario, we and BNC expect to be the subject of investigations, inquiries, data requests, requests for information, actions, and audits in the United States, particularly in the areas of privacy and data protection, including with respect to minors, law enforcement, consumer protection, civil rights, content moderation, blockchain technologies, sweepstakes, promotions, gaming, gambling, and competition. In addition, we or BNC may in the future be subject to regulatory orders or consent decrees. ~~75~~ We or BNC may also become subject to various litigation and formal and informal inquiries and investigations by competition authorities in the United States, which may relate to many aspects of BNC' s future business, including with respect to users and advertisers, as well as BNC' s industry. Such inquiries, investigations, and lawsuits concern, among other things, BNC' s business practices in the areas of social networking or social media services, digital advertising, gambling, and sweepstakes activities and / or mobile or online applications. Orders issued by, or inquiries or enforcement actions initiated by, government or regulatory authorities could cause us or BNC to incur substantial costs, expose us to civil and criminal liability (including liability for personnel) or penalties (including substantial monetary remedies), interrupt or require us or BNC to change its business practices in a manner materially adverse to our or BNC' s business (including changes products or user data practices), result in negative publicity and reputational harm, divert resources and the time and attention of management from our or BNC' s business, or subject us or BNC to other structural or behavioral remedies that adversely affect our or BNC' s business. BNC expects, should its business ever develop, to be subject to regulatory and other government investigations, enforcement actions, settlements and other inquiries in the future, which could cause us BNC incur substantial costs or require BNC to change its business practices in a manner materially adverse to its business. Should BNC' s business ever expand and to a significant degree, its management expects it to receive formal and informal inquiries from government authorities and regulators regarding BNC' s compliance with laws and regulations, many of which are evolving and subject to interpretation. In such a scenario, BNC expects to be the subject of investigations, inquiries, data requests, requests for information, actions, and audits in the United States, Europe, and around the world, particularly in the areas of privacy and data protection, including with respect to minors, law enforcement, consumer protection, civil rights, content moderation, and competition. In addition, BNC may in the future be subject to regulatory orders or consent decrees. BNC may also become subject to various litigation and formal and informal inquiries and investigations by competition authorities in the United States, Europe, and other jurisdictions, which may relate to many aspects of BNC' s future business, including with respect to users and advertisers, as well as BNC' s industry. Such inquiries, investigations, and lawsuits concern, among other things, BNC' s business practices in the areas of social networking or social media services, digital advertising, and / or mobile or online applications. Orders issued by, or inquiries or enforcement actions initiated by, government or regulatory authorities could cause BNC to incur substantial costs, expose us to civil and criminal liability (including liability for BNC' s personnel) or penalties (including substantial monetary remedies), interrupt or require BNC to change its business practices in a manner materially adverse to BNC' s business (including changes to BNC' s products or user data practices), result in negative publicity and reputational harm, divert resources and the time and attention of management from BNC' s business, or subject it to other structural or behavioral remedies that adversely affect BNC' s business. **85** Payment transactions may subject us to additional regulatory requirements and other risks that could be costly and difficult to comply with or that could harm BNC' s business. Several of BNC' s future products may offer payments functionality, including enabling BNC' s users to purchase tangible, virtual, and digital goods from merchants and developers that offer applications using BNC' s payment infrastructure, send money to other users, and make donations to certain charitable organizations, among other activities. BNC is or may become subject to a variety of laws and regulations in the United States, Europe and elsewhere, including those governing anti- money laundering and counter- terrorist financing, money transmission, stored value, gift cards and other prepaid access instruments, electronic funds transfer, virtual currency, consumer protection, charitable fundraising, trade sanctions, and import and export restrictions. Depending on how BNC' s payment products evolve, BNC may also be subject to other laws and regulations including those governing gambling, banking, and lending. In some jurisdictions, the application or interpretation of these laws and regulations is not clear. BNC' s efforts to comply with these laws and regulations could be costly and result in diversion of management time and effort and may still not guarantee compliance. In the event that BNC is found to be in violation of any such legal or regulatory requirements, BNC may be subject to monetary fines or other penalties such as a cease and desist order, or BNC may be required to make product changes, any of which could have an adverse effect on BNC' s business and financial results. ~~76~~ Risks Related to Data, Security, and Intellectual Property Security breaches, improper access to or disclosure of BNC' s data or user data, other hacking and phishing attacks on BNC' s systems, or other cyber incidents could harm BNC' s reputation and adversely affect BNC' s business. BNC' s industry is prone to cyber- attacks by third parties seeking unauthorized access to BNC' s data or users' data or to disrupt BNC' s ability to provide service. BNC' s products and services involve the collection, storage, processing, and transmission of a large amount of data. Any failure to prevent or mitigate security breaches and improper access to or disclosure of BNC' s data or user data, including personal information, content, or payment information from users, or information from marketers, could result in the loss, modification, disclosure, destruction, or other misuse of such data, which could harm BNC' s business and reputation and diminish BNC' s competitive position. In addition, computer malware, viruses, social engineering (such as spear phishing attacks), scraping, and general hacking continue to be prevalent in BNC' s industry and are expected to occur on BNC' s systems in the future. BNC expects to regularly encounter attempts to create false or undesirable user accounts, purchase ads, or take other actions on BNC' s platform for purposes such as spamming, spreading misinformation, or other objectionable ends. Such attacks may cause interruptions to the services BNC intends to provide, degrade the user experience, cause users or marketers to lose confidence and trust in BNC' s products, impair BNC' s internal systems, or result in financial harm to BNC. BNC' s efforts to protect its data or the information BNC receives, and to disable undesirable activities on BNC' s platform, may also be unsuccessful due to software bugs or other technical malfunctions; employee, contractor, or vendor error or malfeasance, including defects or vulnerabilities in BNC' s vendors' information technology systems or offerings; government surveillance; breaches of physical security of BNC' s facilities or technical infrastructure; or other threats that evolve. In addition, third parties may attempt to fraudulently induce employees or users to disclose information in order to gain access to BNC' s data or BNC' s users' data. Cyber- attacks continue to evolve in sophistication and volume, and inherently may be difficult to detect for long periods of time. Although BNC intends to try to develop systems and processes that are designed to protect BNC' s data and user data, to prevent data loss, to disable undesirable accounts and activities on BNC' s platform, and to prevent or detect security breaches, BNC cannot assure you that such measures, if implemented, will provide adequate security, that BNC will be able to react in a timely manner, or that BNC' s remediation efforts will be successful. The changes in BNC' s work environment as a result of certain personnel working remotely could also impact the security of BNC' s systems, as well as BNC' s ability to protect against attacks and detect and respond to them quickly. In addition, some of BNC' s developers or other partners, such as those that help us measure the effectiveness of ads, may receive or store information provided by us or by BNC' s users through mobile or web applications integrated with BNC' s products. BNC provide limited information to such third parties based on the scope of services provided to us. However, if these third parties or developers fail to adopt or adhere to adequate data security practices, or in the event of a breach of their networks, BNC' s data or BNC' s users' data may be improperly accessed, used, or disclosed. **To date,** BNC **has not, to its knowledge, experienced a cyber- attack or other security incident, however, it does** ~~expects~~ **expect** to experience such cyber- attacks and other security incidents of varying degrees from time to time, and BNC expects to incur significant costs in protecting against or remediating such incidents. In addition, BNC is subject to a variety of laws and regulations in the United States and abroad relating to cybersecurity and data protection. As a result, affected users or government authorities could initiate legal or regulatory actions against BNC in connection with any actual or perceived security breaches or improper access to or disclosure of data, which has occurred in the past and which could cause BNC to incur significant expense and liability or result in orders or consent decrees forcing BNC to modify its business practices. Such incidents or BNC' s efforts to remediate such incidents may also result in a decline in BNC' s active user base or engagement levels. Any of these events could have a material and adverse effect on BNC' s business, reputation, or financial results. **86** We anticipate that BNC' s efforts related to privacy, safety, security, and content review will identify additional instances of misuse of user data or other undesirable activity by third parties on BNC' s platform. In addition to BNC' s efforts to mitigate cybersecurity risks, BNC intends to make investments in privacy, safety, security, and content review efforts to combat misuse of BNC' s services and user data by third parties, including investigations and audits of platform applications, as well as other enforcement efforts. As a result of these efforts BNC anticipates that BNC will discover and announce additional incidents of misuse of user data or other undesirable activity by third parties. BNC may not discover all such incidents or activity, whether as a result of BNC' s data or technical limitations, including BNC' s lack of visibility over BNC' s encrypted services, the allocation of resources to other projects, or other factors, and BNC may be notified of such incidents or activity by the FTC, the media or other third parties. Such incidents and activities may in the future include the use of user data or BNC' s systems in a manner inconsistent with BNC' s terms, contracts or policies, the existence of false or undesirable user accounts, improper advertising practices, activities that threaten people' s safety on or offline, or instances of spamming, scraping, data harvesting, unsecured datasets, or spreading misinformation. BNC may also be unsuccessful in its efforts to enforce BNC' s policies or otherwise remediate any such incidents. Consequences of any of the foregoing developments include negative effects on user trust and engagement, harm to BNC' s reputation, changes to BNC' s business practices in a manner adverse to BNC' s business, and adverse effects on BNC' s business and financial results. Any such developments may also subject BNC to additional litigation and regulatory inquiries, which could subject BNC to monetary penalties and damages, divert management' s time and attention, and lead to enhanced regulatory oversight. ~~77~~ BNC' s products and internal systems rely on software and hardware that is highly technical, and any errors, bugs, or vulnerabilities in these systems, or failures to address or mitigate technical limitations in BNC' s systems, could adversely affect BNC' s business. BNC' s products and internal systems rely on software and hardware, including software and hardware developed or maintained internally and / or by third parties, that is highly technical and complex. In addition, BNC' s products and internal systems depend on the ability of such software and hardware to store, retrieve, process, and manage considerable amounts of data. The software and hardware on which BNC relies is expected to contain, errors, bugs, or vulnerabilities, and BNC' s systems are subject to certain technical limitations that may compromise BNC' s ability to meet BNC' s objectives. Some errors, bugs, or vulnerabilities inherently may be difficult to detect and may only be discovered after the code has been released for external or internal use. Errors, bugs, vulnerabilities, design defects, or technical limitations within the software and hardware on which BNC relies, or human error in using such systems, may in the future lead to outcomes including a negative experience for users and marketers who use BNC' s products, compromised ability of BNC' s products to perform in a manner consistent with BNC' s terms, contracts, or policies, delayed product introductions or enhancements, targeting, measurement, or billing errors, compromised ability to protect the data of BNC' s users and / or BNC' s intellectual property or other data, or reductions in BNC' s ability to provide some or all of BNC' s services. In addition, any errors, bugs, vulnerabilities, or defects in BNC' s systems or the software and hardware on which BNC relies, failures to properly address or mitigate the technical limitations in BNC' s systems, or associated degradations or interruptions of service or failures to fulfill BNC' s commitments to BNC' s users, are expected to lead to outcomes including damage to BNC' s reputation, loss of users, loss of marketers, prevention of its ability to generate revenue, regulatory inquiries, litigation, or liability for fines, damages, or other remedies, any of which could adversely affect BNC' s business and financial results. If BNC is unable to protect BNC' s intellectual property, the value of its brands and other intangible assets may be diminished, and its business may be adversely affected. BNC relies, and expects to continue to rely on a combination of confidentiality, assignment, and license agreements with BNC' s employees, consultants, and third parties with whom BNC has relationships, as well as intellectual property laws, to protect BNC' s proprietary rights. In the United States and internationally, BNC expects to file various applications for protection of certain aspects of BNC' s intellectual property. Third parties may knowingly or unknowingly infringe BNC' s proprietary rights, third parties may challenge proprietary rights held by BNC in the future, and future trademark and patent applications may not be approved. In addition, effective intellectual property protection may not be available in every country in which BNC operates or intends to operate. In any or all of these cases, BNC may be required to expend significant time and expense in order to prevent infringement or to enforce BNC' s rights. Although BNC expects to take measures to protect BNC' s proprietary rights, there can be no assurance that others will not offer products or concepts that are substantially similar to BNC' s and compete with BNC' s business. If the protection of BNC' s proprietary rights is inadequate to prevent unauthorized use or appropriation by third parties, the value of BNC' s brands and other intangible assets may be diminished and competitors may be able to more effectively mimic BNC' s products, services and methods of operations. Any of these events could have an adverse effect on BNC' s business and financial results. **87** BNC expects to be party to patent lawsuits and other intellectual property rights claims that are expensive and time consuming and, if resolved adversely, could have a significant impact on BNC' s business, financial condition, or results of operations. Companies, in particular established ones, in the internet, technology, and media industries typically own large numbers of patents, copyrights, trademarks, and trade secrets, and frequently enter into litigation based on allegations of infringement, misappropriation, or other violations of intellectual property or other rights. In the event that BNC ever develops a significant intellectual property portfolio, it would face similar challenges that established companies do. In addition, various ~~"~~ **"** non-practicing entities ~~"~~ **"** that own patents and other intellectual property rights often attempt to aggressively assert their rights in order to extract value from technology companies. Furthermore, from time to time BNC may introduce or acquire new products, which could increase BNC' s exposure to patent and other intellectual property claims from competitors and non- practicing entities. From time to time, BNC may receive notices from patent holders and other parties alleging that certain of BNC' s products and services, or user content, infringe their intellectual property rights. BNC expects, should its business ever develop, to be involved in a number of intellectual property lawsuits. Defending patent and other intellectual property litigation is costly and can impose a significant burden on management and employees, and there can be no assurances that favorable final outcomes will be obtained in all or even most cases. In addition, plaintiffs may seek, and BNC may become subject to, preliminary or provisional rulings in the course of any such litigation, including potential preliminary injunctions requiring us to cease some or all of BNC' s anticipated operations. BNC may seek, if possible, to settle such lawsuits and disputes on terms that are unfavorable to it. Similarly, if any litigation to which BNC is a party is resolved adversely, BNC may be subject to an unfavorable judgment that may not be reversed upon appeal, if appealed. The terms of such a settlement or judgment may require us to cease some or all of BNC' s operations or require us pay substantial amounts to the other party, which we may not be able to afford. In addition, BNC may have to seek a license to continue practices found to be in violation of a third party' s rights, which may not be available on reasonable terms, or at all, and may significantly increase BNC' s operating costs and expenses. As a result, BNC may also be required to develop alternative non- infringing technology or practices or discontinue the practices. The development of alternative non- infringing technology or practices could require significant effort and expense, could result in less effective technology or practices or otherwise negatively affect the user experience, or may not be feasible. BNC' s business, financial condition, and results of operations could be adversely affected as a result of an unfavorable resolution of the disputes and litigation referred to above ~~78~~ **.** Risks Related to ~~Our~~ **askROI askROI is heavily dependent upon on an exclusive licensing agreement. askROI is heavily dependent upon one single exclusive licensing agreement (the " License Agreement "), which involves a number of risks, not all of which may be adequately summarized in this section. Primarily, however, they consist of the following: (i) reliance on a single licensing agreement for core technology could lead to significant disruptions if the License Agreement is terminated, not renewed, or does not provide the benefits that askROI presently expects to derive from it; and (ii) the exclusive nature of the licensing agreement may restrict askROI' s ability to expand its operations beyond North America, potentially limiting growth opportunities. If askROI' s rights benefits under the License Agreement do not materialize in the way it presently expects, its** ~~Business~~ **business and future prospects could be materially and adversely affected. askROI is heavily dependent on its LLM provider. askROI is heavily dependent on its Large Language Model (" LLM ") provider, which presents a number of risks, which are related to the risks outlined immediately above and include the following: (i) askROI' s platform heavily relies on the LLM technology provided by its development partner, or licensor of the License Agreement (the " Licensor "), which means that any issues with the LLM' s performance, reliability, or adaptability could directly and adversely impact askROI' s product quality and customer satisfaction; (ii) any disputes or disagreements over intellectual property rights related to the LLM technology or jointly developed components could lead to legal challenges and operational disruptions, and (iii) any divergence in strategic objectives, priorities, or values between askROI and the Licensor, which is the same entity that provides services to RiskOn with respect to BNC, could strain the relationship and hinder effective collaboration. Further, any negative publicity, security breaches, or ethical controversies associated with the Licensor could indirectly impact askROI' s reputation and customer trust. In addition, the Licensor' s financial instability or a change in ownership of the Licensor could disrupt the partnership and force askROI to seek alternative providers, which it may or may not be able to do, whether on a timely basis or at all. 88 Moreover, any unfavorable changes in the Licensor' s pricing model or license fees could increase askROI' s operational costs and reduce its profit margins, if any, and any uncertainty around the renewal terms of the licensing agreement or partnership contract could create long- term planning challenges for askROI. If any of the foregoing risks were to materialize, askROI' s business**

and future prospects could be materially and adversely affected. askROI faces risks commonly associated with start- up companies. askROI faces risks commonly associated with start- up companies. As a start- up company, askROI may face difficulties in validating market demand for its AI- powered insights platform, which could adversely impact its ability to attract and acquire customers. Further, enterprise sales cycles can be lengthy, particularly for a start- up company without ~~and -~~ **an established track record. Prolonged sales cycles could strain askROI' s cash flow and hinder growth, and (iii) reliance on a few large customers could make askROI vulnerable to revenue volatility and adversely impact its bargaining power. If any of the foregoing risks were to materialize, askROI' s business and future prospects could be materially and adversely affected. askROI faces adoption and integration and other challenges. askROI faces adoption and integration challenges. Complex onboarding processes or steep learning curves could slow customer adoption and time- to- value realization. Further, its software could be difficult to integrate with a customer' s legacy systems, leading to challenges with customers' legacy systems and tools. Any difficulties associated with integration of different systems could limit askROI' s market penetration and customer satisfaction. In addition, the Licensor' s development team may have limited capacity to support askROI' s platform development needs, particularly if askROI were to begin seeing significant growth and require more rapid iterations and customizations. Also, the LLM technology may not be optimized for the scale and performance requirements of askROI' s growing user base, leading to performance bottlenecks and customer dissatisfaction. Additionally, as a new entrant in the market, askROI may struggle to establish brand awareness and credibility, making it harder to attract customers and partners. Similarly, any negative publicity or customer complaints could disproportionately impact askROI' s reputation as a startup, hindering its growth and ability to compete against established players. If any of the foregoing risks were to materialize, askROI' s business and future prospects could be materially and adversely affected. Customer retention risks could pose a challenge for askROI. askROI may experience difficulties in retaining customers. Any failure on its part to achieve strong product- market fit could lead to high customer churn rates, as businesses may not perceive sufficient value in askROI' s offerings. Further, as a newly formed entity, askROI may struggle to provide the level of customer support expected by enterprise clients, which could have a materially adverse impact on customer satisfaction and retention. Finally, low barriers to entry and minimal switching costs in the AI and analytics market could make it easier for customers to move to competitors, thereby increasing askROI' s customer retention risks. If any of these developments were to occur, askROI' s business and future prospects could be materially and adversely affected. Ethical AI concerns. The AI** ~~Industry~~ **industry** ~~– Hotel Properties We~~ **is commonly associated with ethical concerns, whether real or perceived, which askROI must overcome in order to successfully develop its business. Such concerns include the risk that unintended biases in askROI' s AI models could lead to discriminatory or unfair outcomes, damaging the entity' s reputation and exposing it to legal risks, and that difficulty in providing clear explanations for AI- generated insights could erode customer trust and hinder adoption of askROI' s product offerings. If askROI cannot substantially mitigate or prevent such concerns from arising, its business and future prospects could be materially and adversely affected. 89 Risks Related to GuyCare GuyCare' s limited operating history and evolving business model make it difficult to evaluate GuyCare' s future prospects and may increase the risk of your investment. As a newly launched subsidiary in 2023, GuyCare faces significant challenges in establishing its brand presence, attracting and retaining customers, and achieving profitability in a competitive market. GuyCare' s limited operating history makes it difficult for investors, analysts, and other stakeholders to evaluate its business model, financial performance, and future prospects accurately, all the more so as GuyCare is merely one subsidiary of RiskOn, which has other subsidiaries. GuyCare may encounter unexpected obstacles, such as market resistance to its offerings, difficulties in scaling its operations, or unforeseen regulatory hurdles, which could hinder its ability to execute its business plan effectively. Additionally, as a new entrant, GuyCare may need to invest heavily in marketing, technology infrastructure, and talent acquisition to gain market share and compete with established players, which could strain its and its parent RiskOn' s financial resources and delay profitability. GuyCare** ~~operate~~ **operates** in a **highly regulated industry with complex and evolving healthcare laws and regulations, which could adversely affect GuyCare' s business, financial condition, and results of operations. GuyCare operates in the highly regulated healthcare industry, which is subject to a complex web of laws and regulations at both the state and federal levels. These regulations cover various aspects of GuyCare' s business, including telehealth services, data privacy, healthcare marketing, and the practice of medicine. As a new entrant, GuyCare may face a steep learning curve in ensuring compliance with all applicable regulations, which could divert management' s attention and resources from other critical business functions. Failure to comply with these regulations could result in significant penalties, legal liabilities, and reputational damage. Moreover, the regulatory landscape for telehealth and men' s health is constantly evolving, with new laws, regulations, and enforcement priorities emerging in response to technological advancements and public health concerns. GuyCare must proactively monitor these changes and adapt its business practices accordingly to mitigate compliance risks and maintain its competitive edge. This may require significant investments in legal and compliance resources, which could impact GuyCare' s financial performance. The rapidly evolving telehealth industry presents unique challenges and risks for GuyCare as a new entrant in the market. GuyCare' s business model is heavily reliant on telehealth services, which have gained significant traction in recent years due to advancements in technology and the COVID- 19 pandemic. However, the telehealth industry is still relatively new and evolving rapidly, which presents several risks for GuyCare as a new entrant. First, GuyCare may face challenges in ensuring the quality, reliability, and security of its telehealth platform, which could impact customer satisfaction and loyalty. Second, GuyCare may encounter resistance from traditional healthcare providers or regulatory bodies who are skeptical of telehealth' s efficacy or concerned about its potential risks. Third, the telehealth market is becoming increasingly crowded, with numerous players vying for market share and customer attention. GuyCare must differentiate its offerings and value proposition to stand out in this**

competitive landscape. Finally, the long- term sustainability of telehealth as a primary mode of healthcare delivery is still uncertain, as it may be impacted by factors such as changes in reimbursement policies, technological disruptions, or shifts in consumer preferences. GuyCare must navigate these risks and uncertainties to establish a strong foothold in the telehealth industry and drive long- term growth. GuyCare’ s hybrid business model, which includes brick- and- mortar clinics, exposes GuyCare to additional operational risks and challenges. While GuyCare will focus primarily on telehealth services, GuyCare’ s hybrid model also includes operating brick- and- mortar clinics, which presents a unique set of risks and challenges. As a new entrant, GuyCare may face significant upfront costs in acquiring or leasing clinic space, purchasing equipment and supplies and hiring clinical staff. These investments may strain GuyCare’ s and thereby RiskOn’ s financial resources and divert management’ s attention from other critical business functions. Additionally, operating physical clinics exposes GuyCare to various operational risks, such as property maintenance, staffing challenges, and potential liability for on- site accidents or medical malpractice. GuyCare must also ensure compliance with a wide range of regulations governing the operation of healthcare facilities, including safety standards, accessibility requirements, and waste management protocols. Any lapses in compliance or negative incidents at GuyCare’ s clinics could result in legal liabilities, regulatory penalties and reputational damage. 90 GuyCare faces intense competition from established players in the men’ s health market, which could hinder GuyCare’ s ability to gain market share and achieve profitability. The men’ s health market is becoming increasingly crowded, with numerous established players and new entrants vying for market share. As a new company in the men’ s health market, GuyCare faces intense competition from various sources, including traditional healthcare providers, telehealth platforms, direct- to- consumer health brands, and retail pharmacies. Many of these competitors have significant advantages over GuyCare, such as greater brand recognition, larger customer bases, more extensive provider networks, and vastly greater financial resources. To survive in this competitive landscape, GuyCare must differentiate itself through innovative offerings, personalized customer experiences, and compelling marketing campaigns. GuyCare must also continuously monitor and adapt to changes in competitor strategies, pricing, and market positioning to avoid being outmaneuvered. However, as a new entrant, GuyCare may lack the market intelligence, customer insights, and agility to respond quickly to competitive threats, which could hinder its ability to gain market share and achieve profitability. Additionally, intense competition may lead to price wars, margin erosion, and customer churn, which could further strain GuyCare’ s financial performance. As a healthcare company collecting sensitive customer information, GuyCare faces significant cybersecurity and data privacy risks that could expose GuyCare to legal liabilities, regulatory penalties, and reputational damage. As a healthcare company that collects, stores, and processes sensitive customer information, including personal health data, GuyCare is a prime target for cybersecurity threats and data breaches. A successful cyber- attack or data breach could result in the unauthorized access, disclosure, or theft of customer data, which could lead to significant legal liabilities, regulatory penalties, and reputational damage. For example, under state and federal consumer privacy laws, such as the California Consumer Privacy Act, companies that collect personal data must provide customers with certain rights and protections, such as the right to access, delete, or opt out of the sale of their data. Violations of these laws could lead to significant penalties and class- action lawsuits. As a new entrant, GuyCare may lack the robust cybersecurity infrastructure and data privacy controls needed to safeguard customer data effectively. GuyCare must invest heavily in building a secure, compliant data management system and training its employees in data privacy best practices. GuyCare must also regularly monitor and adapt to changes in cybersecurity threats and regulatory requirements to stay ahead of potential risks. GuyCare’ s reliance on third- party suppliers, manufacturers, and partners exposes GuyCare to various operational and financial risks. GuyCare’ s business model depends heavily on third- party suppliers, manufacturers, and partners for various aspects of its operations, including pharmaceutical products, medical supplies, technology infrastructure and marketing services. As a new entrant, GuyCare may lack the bargaining power and established relationships needed to secure favorable terms and reliable service from these third parties. Any disruptions or quality issues in GuyCare’ s supply chain or partner network could significantly impact GuyCare’ s ability to serve its customers and maintain business continuity. For example, if a key supplier experiences production delays or quality control issues, GuyCare may face shortages of critical products or be forced to recall defective items, which could lead to customer dissatisfaction, legal liabilities, and financial losses. Similarly, if a technology partner experiences a service outage or data breach, GuyCare’ s telehealth platform may become unavailable or compromised, leading to lost revenue and reputational damage. As a new business, GuyCare faces significant challenges in developing, protecting, and commercializing its proprietary technology and other intellectual property assets. GuyCare’ s success depends on its ability to develop, protect, and commercialize its proprietary technology, trade secrets, and other intellectual property (“ IP ”) assets. As a new entrant in the highly competitive ~~industry~~ men’ s health market, GuyCare may face significant challenges in securing and enforcing its IP rights. For example, GuyCare may lack the financial resources and legal expertise needed to file and prosecute patent applications effectively, or to defend against IP infringement claims by competitors. Additionally, GuyCare’ s IP may be vulnerable to reverse engineering, unauthorized disclosure, or independent development by third parties, particularly if GuyCare fails to implement adequate safeguards and confidentiality agreements. Any loss or compromise of GuyCare’ s IP could significantly undermine its competitive position and ability to differentiate itself in the market. 91 Relying on contracted medical groups or hired doctors in certain states introduces additional legal, operational, and quality control risks for GuyCare. In states where GuyCare cannot directly provide telemedicine services through the use of a nurse practitioner, GuyCare will need to rely on contracted medical groups or hired doctors. These relationships may introduce additional legal, operational, and quality control risks, as GuyCare will have less direct oversight over the care provided to its clients in these states. GuyCare may face increased exposure to malpractice claims or other legal issues arising from the actions of contracted or hired healthcare providers. While these providers should carry their own malpractice insurance, GuyCare could still be named in lawsuits or face reputational damage if the quality of care provided does not meet GuyCare’ s standards. Furthermore, GuyCare may have limited ability to enforce its own quality control measures and clinical guidelines when working with external providers. Inconsistencies in the quality of care, adherence to best practices, or bedside manner of contracted or hired providers could undermine GuyCare' s brand reputation and customer loyalty. GuyCare' s ambitious multi- state expansion plan may face unforeseen challenges, potentially impacting its financial performance and growth prospects. GuyCare plans to rapidly expand its telemedicine services to all 41 states that all nurse practitioners to provide its services, which is anticipated to occur within the next five months, is ambitious and may face unforeseen challenges. Delays in obtaining licenses, recruiting providers, or setting up necessary infrastructure could impact GuyCare’ s ability to meet its expansion targets and may negatively affect its financial performance and growth prospects . The ~~lodging industry~~ loss of key management or healthcare professionals could significantly disrupt GuyCare’ s operations and hinder GuyCare’ s ability to achieve its growth objectives. As a new subsidiary, GuyCare’ s success is heavily dependent on the skills, experience, and leadership of its key management and healthcare professionals. These individuals play a critical role in setting GuyCare’ s strategic direction, building its organizational culture, and executing its business plan. The loss of one or more key personnel, whether due to resignation, illness, or other reasons, could significantly disrupt GuyCare’ s operations and hinder its ability to achieve its growth objectives. As a provider of healthcare products and services, GuyCare faces inherent risks related to product liability claims and lawsuits, which could result in significant legal expenses, damages, and reputational harm. As a provider of healthcare products and services, GuyCare faces inherent risks related to product liability claims and lawsuits. If a customer experiences an adverse event or injury while using one of GuyCare’ s products or services, they may take legal action against GuyCare for damages. Product liability claims can be costly to defend and settle, even if they are ultimately found to be without merit. Additionally, negative publicity surrounding a product liability lawsuit could significantly damage GuyCare’ s brand reputation and customer trust, particularly as a new entrant in the market. Economic downturns or uncertainties could lead to reduced demand for GuyCare’ s products and services, negatively impacting GuyCare’ s revenue and growth prospects. As a new business operating in the discretionary healthcare market, GuyCare is particularly vulnerable to economic downturns and uncertainties. During times of economic stress, consumers may cut back on non- essential health and wellness spending, such as elective procedures, preventive care and premium products. This could lead to reduced demand for GuyCare’ s offerings, lower revenue, and increased customer churn. Additionally, economic uncertainties may make it harder for GuyCare to secure funding from investors or lenders, particularly as a new entrant with a limited track record of financial performance. This could hinder GuyCare’ s ability to invest in growth initiatives, such as new product development, market expansion, and talent acquisition. Negative publicity or customer feedback could significantly damage GuyCare’ s brand reputation and customer trust, hindering GuyCare’ s ability to attract and retain customers. As a new entrant in the highly competitive ~~. Our principal competitors are other owners~~ men’ s health market, GuyCare’ s success depends heavily on its ability to build and maintain a strong ~~and~~ brand ~~investors in full- service hotels~~ reputation. A positive brand image can help GuyCare attract and retain customers, partners, and employees, as well as ~~major hospitality chains~~ differentiate itself from competitors. However, building and maintaining a strong brand is a complex and ongoing process that requires significant investments in marketing, customer experience, and product quality. As a new business, GuyCare may face challenges in establishing brand awareness and credibility, particularly in a market where established players have a strong presence. Additionally, any negative publicity or customer feedback, whether justified or not, can quickly erode brand trust and loyalty. 92 GuyCare faces significant risks and challenges in executing its marketing and advertising strategy effectively and compliantly in the highly regulated healthcare industry. As a new entrant in the men’ s health market, GuyCare must invest heavily in marketing and advertising to build brand awareness, generate demand, and attract new customers. However, GuyCare faces significant risks and challenges in executing its marketing strategy effectively and compliantly. For example, the healthcare industry is subject to strict regulations around marketing and advertising, particularly with ~~well~~ respect to product claims, testimonials, and disclosures. Failure to comply with these regulations could result in legal penalties, reputational damage, and loss of customer trust. Additionally, the digital advertising landscape is becoming increasingly complex and competitive, with numerous players vying for consumer attention and data. This can make it difficult for GuyCare to achieve its desired return on investment and to differentiate itself from competitors. GuyCare may face intellectual property infringement claims from competitors or other third parties, which could result in costly legal battles and damage to GuyCare’ s reputation and financial performance. As GuyCare develops and commercializes its proprietary products and technologies, it may face the risk of intellectual property infringement claims from competitors, patent trolls, or other third parties. These claims can be costly and time - consuming ~~established and recognized brands. Our hotels face competition for individual guests, group reservations and conference business. We also compete against smaller hotel chains and independent and local hotel owners and operators. Additionally, we face competition from peer-~~ to ~~- peer inventory sources that allow travelers~~ defend, even if they are ultimately found to ~~stay at homes and apartments booked from owners. New hotels may~~ be without merit. In ~~constructed, and these additions create new competitors, in~~ some cases ~~without corresponding increases in demand~~ , GuyCare may be forced to pay significant damages ~~for~~ - or royalties ~~hotel rooms. Our competitors may have greater commercial~~ , ~~financial~~ or to cease using certain technologies or products altogether. Additionally, the publicity surrounding ~~and~~ - an intellectual property dispute can damage GuyCare’ s reputation and customer relationships, particularly as a new entrant in the ~~marketing~~ --- market ~~resources and more efficient~~ . Any disruptions, outages, or security breaches in GuyCare’ s technology infrastructure ~~platforms, which~~ could significantly impact GuyCare’ s ~~allow them to improve their properties and expand and~~

~~improve their marketing efforts in ways that could affect our~~ ability to **deliver its products** ~~compete for guests effectively~~ and **services** ~~adversely affect our revenues and profitability~~ as well as ~~limit or slow~~ **and maintain customer trust and loyalty. GuyCare' s digital- first approach to men' s health relies heavily on its technology infrastructure, including its telehealth platform, mobile apps, and data management systems. Any disruptions, outages,** ~~our~~ - **or** ~~future~~ **security breaches in these systems could significantly impact GuyCare' s ability to deliver its products and services, and to maintain customer trust and loyalty. For example, if GuyCare' s telehealth platform experiences a prolonged outage or a data breach, customers may be unable to access care or may have their personal health information compromised. This could result in lost revenue, regulatory penalties, and reputational damage. Additionally, as a new entrant, GuyCare may face challenges in building and maintaining a scalable and resilient technology infrastructure that can keep pace with its** growth **and evolving customer needs** . ~~The~~ **Pursuing strategic acquisitions or investments could introduce significant risks and challenges for GuyCare, particularly as a new entrant with limited experience in mergers and acquisitions. As GuyCare grows and expands its business, it may pursue strategic acquisitions or investments to accelerate its** growth **, enter new markets, or acquire new capabilities. However, these transactions can also introduce significant risks and challenges, particularly for a new entrant with limited experience in mergers and acquisitions. For example, GuyCare may face difficulties in integrating the acquired company' s technology, products, and personnel into its own operations, leading to culture clashes, redundancies, or loss** of **key talent. Additionally, the acquisition may not deliver the expected synergies or financial returns, leading to a loss of RiskOn' s shareholder value and confidence. As a new business, GuyCare may face challenges in securing the necessary financing to fund its growth and expansion plans, which could hinder GuyCare' s ability to achieve its strategic objectives As a new business operating in a highly competitive and rapidly evolving market, GuyCare may require significant capital to fund its growth and expansion plans. However, securing financing can be challenging for a new entrant, particularly if it has a limited track record of revenue and profitability. Additionally, the terms of any financing, such as** ~~internet~~ - **interest** ~~reservation channels~~ **rates, covenants, and dilution, can have a significant impact on GuyCare' s financial flexibility and long- term value creation. 93 GuyCare' s dependence on key suppliers and vendors for critical products and services could expose GuyCare to significant operational and financial risks. GuyCare' s ability to deliver high- quality products and services to its customers depends heavily on its relationships with key suppliers and vendors, such as manufacturers, distributors, and technology providers. However, as a new entrant, GuyCare may have limited bargaining power and may be vulnerable to supply chain disruptions, price increases, or quality issues. Additionally, if GuyCare becomes overly dependent on a single supplier or vendor, it may be exposed to significant risks if that relationship** is **terminated or becomes strained. GuyCare' s success heavily depends on its ability to attract, retain, and motivate a skilled and diverse workforce in a highly competitive and regulated industry. As a new business in a highly regulated and customer- facing industry, GuyCare' s success depends heavily on its ability to attract, retain, and motivate a skilled and diverse workforce. However, GuyCare may face significant challenges in competing for talent, particularly in a tight labor market or in high- cost locations. Additionally, any allegations of discrimination, harassment, or** ~~another~~ -- **other** ~~source of competition that~~ **employment- related issues** could **expose GuyCare to legal and reputational risks and impact its ability to attract and retain employees. Expanding into prescription medications and other regulated substances could expose GuyCare to increased regulatory scrutiny, legal liabilities, and reputational risks. As GuyCare expands its product offerings to include prescription medications and other regulated substances, it may face increased risks and complexities related to pharmaceutical regulations and safety. For example, GuyCare may be subject to strict licensing, manufacturing, labeling, and distribution requirements, as well as ongoing monitoring and reporting obligations. Additionally, any adverse events or safety issues related to GuyCare' s products could expose GuyCare to legal and reputational risks and impact its ability to operate in certain markets. As a new entrant in the highly regulated and litigious healthcare industry, GuyCare may face a heightened risk of litigation and regulatory investigations related to its products, services, or business practices. As a new entrant in the highly regulated and litigious healthcare industry, GuyCare may face a heightened risk of litigation and regulatory investigations related to its products, services, or business practices. These legal and regulatory challenges can be costly, time- consuming, and distracting for GuyCare, and may impact its reputation, financial performance, and ability to operate in certain markets. Additionally, GuyCare may be subject to regulatory investigations or enforcement actions related to its compliance with healthcare laws and regulations. Risks Related to RiskOn Our dependence on key speakers and attendees may** adversely affect our ~~business~~ **conference' s impact and overall success** . ~~A~~ **The success of RiskOn 360' s annual conference heavily relies on the participation of high- profile speakers and the attendance of key industry professionals. If RiskOn 360 fails to secure the involvement of influential speakers or experiences a** significant **decline in attendee numbers** ~~percentage of hotel rooms for individual customers are booked through internet travel intermediaries. As intermediary bookings increase~~ , ~~they~~ - **the conference' s impact** ~~may be able to obtain higher commissions, reduced room rates or other significant contract concessions from our hotels. While internet travel intermediaries traditionally have competed to attract transient business rather than group and convention business, in recent years they have expanded their business to include marketing to large group and convention business. If that expansion continues, it could both divert group and convention business away from our hotels and increase our cost of sales for group and convention business and materially adversely affect our revenues and profitability. Our franchisors and brand~~ -- **and overall** ~~managers require us to make capital expenditures pursuant to property improvement plans (" PIPs "), and any failure on our part to make the expenditures required under the PIPs or to comply with brand standards could cause the franchisors or hotel brands to terminate the franchise, management or operating lease agreements. In connection with our acquisition of the Properties in December 2021, our franchisors and brand managers required us to agree to undertake PIPs in the amount of $ 13. 7 million. If we do not satisfy the PIP renovation requirements, the franchisor or hotel brand may have the right to terminate the applicable agreement. In addition, in the event~~

~~that we are in default under any franchise agreement as a result of our failure to comply with the PIP requirements, in general, we will be required to pay the franchisor liquidated damages, generally equal to a percentage of gross room revenue for the preceding two-, three- or five- year period for the hotel or a percentage of gross revenue for the preceding twelve- month period for all hotels operated under the franchised brand if the hotel has not been operating for at least two years. In addition, our franchisors and brand managers may require that we make renovations to certain of our hotels in connection with revisions to our franchise, management or operating lease agreements. In addition, upon regular inspection of our hotels, our franchisors and hotel brands may determine that additional renovations are required to bring the physical condition of our hotels into compliance with the specifications and standards each franchisor or hotel brand has developed. All of our hotels operate under a brand owned by Marriott or Hilton. Should either of these brands experience a negative event, or receive negative publicity, our operating results may be harmed. All of our hotels are operated under nationally recognized brands, either Marriott or Hilton, which are among the most respected and widely recognized brands in the lodging industry. As a result, a significant concentration of our~~ success ~~is dependent in part on the success of Marriott and Hilton. Consequently, if market recognition or the positive perception of Marriott and / or Hilton is reduced or compromised, the goodwill associated with our Marriott and / or Hilton branded hotels~~ may be adversely affected, **potentially harming RiskOn 360' s reputation and financial performance. Prevailing economic and market conditions may influence the demand for our conferences and speaking engagements. The demand for business conferences and speaking engagements may be influenced by prevailing economic and market conditions. In times of economic uncertainty or downturn, companies and individuals may be less willing to invest in attending conferences or hiring speakers,** which ~~may have an adverse effect on our results of operations. Additionally, any negative perceptions or negative impact to operating results from any proposed or future consolidations between nationally recognized brands~~ could ~~have an adverse effect on our results -~~ **result in reduced revenue** ~~of operations. 79 Our franchisors and brand managers may change certain policies or~~ **for RiskOn 360 and** ~~cost allocations that could~~ negatively impact ~~our hotels~~ **its ability to organize successful events** . ~~Our franchisors and~~ **94 RiskOn 360 operates in a competitive landscape,** ~~brand~~ -- **and its market** ~~managers incur certain costs that are~~ **share** ~~allocated to our hotels subject to our franchise, management, or operating lease agreements. Those costs may increase over time or our franchisors and brand~~ -- **and** ~~managers may elect to introduce new programs that could increase costs allocated to our hotels. In addition, certain policies, such as our third- party managers' frequent guest programs, may be altered resulting in reduced~~ revenue ~~or increased costs to our hotels. Because our hotels are operated under franchise agreements or are brand managed, termination of these franchise, management or operating lease agreements could cause us to lose business at our hotels or lead to a default or acceleration of our obligations under certain of our debt instruments. All of our hotels are operated under franchise, management or operating lease agreements with franchisors or hotel management companies, such as Marriott and Hilton. In general, under these arrangements, the franchisor or brand manager provides marketing services and room reservations and certain other operating assistance, but requires us to pay significant fees to it and to maintain the hotel in a required condition. If we fail to maintain these required standards, then the franchisor or hotel brand may terminate its agreement with us and obtain damages for any liability we may have caused. Moreover, from time to time, we may receive notices from franchisors or the hotel brands regarding our alleged non-compliance with the franchise agreements or brand standards, and we may disagree with these claims that we are not in compliance. Any disputes arising under these agreements could also lead to a termination of a franchise, management or operating lease agreement and a payment of liquidated damages. Such a termination may trigger a default or acceleration of our obligations under some of our debt instruments. In addition, as our franchise, management or operating lease agreements expire, we may not be able to renew them on favorable terms or at all. If we were to lose a franchise or hotel brand for a particular hotel, it could harm the operation, financing or value of that hotel due to the loss of the franchise or hotel brand name, marketing support and centralized reservation system. Furthermore, the loss of a franchise license at a particular hotel could harm our relationship with the franchisor or brand manager and cause us to incur significant costs to obtain a new franchise license or brand management agreement for the particular hotel. Accordingly, if we lose one or more franchise licenses or brand management agreements, it could materially and adversely affect our results of operations and profitability as well as limit or slow our future growth. Our hotels are geographically concentrated and, accordingly, we could be disproportionately harmed by adverse changes to these markets, natural disasters, regulations, or terrorist attacks. Our hotels are located in a single geographic market, which exposes us to greater risk to local economic or business conditions, changes in hotel supply in this market, and other conditions than more geographically diversified hotel owners. An economic downturn, an increase in hotel supply, a force majeure event, a natural disaster, changing weather patterns, a terrorist attack or similar event in this market likely would cause a decline in the hotel market and adversely affect occupancy rates, the financial performance of our hotels and our overall results of operations, which could be material, and could significantly increase our costs. The need for business- related travel, and, therefore, demand for rooms in our hotels~~ may be adversely affected by ~~the~~ **other** ~~increased use of~~ **conferences and events. RiskOn 360 operates in a competitive landscape, with numerous companies organizing similar** business ~~- related technology. During 2020 and into 2023, the COVID- 19 pandemic caused a significant decrease in business- related travel as companies turned to virtual meetings in order to protect the health and safety of their employees. While business transient demand improved in 2022 as compared to 2020, it remains below pre- pandemic levels. The increased use of teleconferencing and video- conference~~ **conferences** ~~technology by businesses may continue in the future, which could result in further decreases in business travel as companies become accustomed to the use of technologies that allow multiple parties from different locations to participate in meetings without traveling to a centralized meeting location, such as our hotels. To the extent that such technologies, or new technologies, play an~~ **and** ~~increased role in day-~~ **events. If competitors are able** to ~~- day business interactions and the necessity~~ **attract a larger audience, secure more prominent speakers,** ~~for -~~ **or offer more compelling content** ~~business- related travel decreases~~ , ~~demand for hotel rooms may decrease~~ **RiskOn 360' s market share** and **revenue may** ~~our hotels could~~ be adversely affected ~~. Rising operating expenses or low occupancy rates could reduce cash flow. Our~~

~~hotels~~ , **potentially impacting** ~~and any hotels we may buy in the future, are and will be subject to operating risks common to the lodging industry in general. If any hotel is not occupied at a level sufficient to cover our operating expenses, then~~ - **the subsidiary** ~~we could be required to spend additional funds for that hotel~~ ' s **long** ~~operating expenses. For example, during 2020 and into 2022, operations at many hotels were either temporarily suspended or reduced due to the COVID~~ - **term growth** ~~19 pandemic,~~ and ~~hotel owners were required~~ **profitability. Logistic and operational challenges in organizing large- scale conferences may lead** to **attendee dissatisfaction** ~~fund hotel payroll expenses~~ , ~~maintenance expenses~~ **reputational damage** , ~~fixed hotel costs~~ **and financial losses. Organizing large- scale conferences involves significant logistical and operational challenges,** such as ~~ground rent~~ **venue selection** , ~~insurance expenses~~ **event management** , ~~property taxes~~ and **technology integration** ~~scheduled debt payments~~ . ~~Hotels may be subject to increases~~ **Any disruptions, delays, or failures** in ~~real estate and other~~ - - **the planning** ~~tax rates, utility costs, operating expenses including labor~~ and **execution of the annual conference** ~~employee- related benefits, insurance costs, repairs and maintenance and administrative expenses, which~~ could **lead** ~~reduce cash flow. 80 Laws and governmental regulations may restrict the ways in which we use our hotel properties and increase the cost of compliance with such regulations. Noncompliance with such regulations could subject us~~ to ~~penalties~~ **attendee dissatisfaction** , **reputational** ~~loss of value of our properties or civil damages~~ - **damage** ~~. Our hotel properties are subject to various federal~~ , ~~state~~ and **financial losses for RiskOn 360** ~~local laws relating to the environment, fire~~ and **,** ~~safety and access and use~~ by **extension** ~~disabled persons. Under these laws~~ , **RiskOn itself** ~~courts and government agencies have the authority to require us, if we are the owner of a contaminated property, to clean up the property, even if we did not know of or were not responsible for the contamination~~ . ~~These~~ - - **The actions and content presented** ~~laws also apply to persons who owned a property~~ at **our conferences** ~~the time it became contaminated. In addition to the costs of cleanup, environmental contamination can affect the value of a property and, therefore, an~~ **and** ~~owner~~ **speaking engagements may impact the reputation of RiskOn 360** ' s **parent** ~~ability to borrow funds using the property as collateral or to sell the property. Under such environmental laws, courts and government agencies also have the authority to require that a person who sent waste to a waste disposal facility, such as a landfill or an incinerator, pay for the clean- up of that facility if it becomes contaminated and threatens human health or the environment. Furthermore, various court decisions have established that third parties may recover damages for injury caused by property contamination. For instance, a person exposed to asbestos while staying in or working at a hotel may seek to recover damages for injuries suffered. Additionally, some of these environmental laws restrict the use of a property or place conditions on various activities. For example, some laws require a business using chemicals (such as swimming pool chemicals at our hotels) to manage them carefully and to notify local officials that the chemicals are being used. We could be responsible for the types of costs discussed above. The costs to clean up a contaminated property, to defend against a claim, or to comply~~ **company** ~~with environmental laws could be material and could reduce the funds available for distribution to our stockholders. Future laws or regulations may impose material environmental liabilities on us~~ , **RiskOn** ~~or the current environmental condition of our hotel properties may be affected by the condition of the properties in the vicinity of our hotels (such as the presence of leaking underground storage tanks) or by third parties unrelated to us~~ . **As a subsidiary of RiskOn** ~~Our hotel properties are also subject to the Americans with Disabilities Act (" ADA "). Under the ADA~~ , **RiskOn 360** ~~all public accommodations must meet various federal requirements related to access and use by disabled persons. Compliance with the ADA~~ ' s ~~requirements~~ **actions and the content presented at its conferences and speaking engagements have the potential to impact the reputation of the parent company. If speakers or attendees engage in misconduct, express controversial opinions, or if the conference content fails to meet attendees' expectations, it** could **lead** ~~require removal of access barriers and non- compliance could result in the U. S. government imposing fines or in private litigants' winning damages. If we are required~~ to **negative publicity** ~~make substantial modifications to our hotels, whether to comply with the ADA or other changes in governmental rules and regulations, our financial condition and results of operations could be harmed. In addition, we are required to operate our hotel properties in compliance with fire and safety regulations, building codes and other land~~ - **and reputational harm for both RiskOn 360** ~~use regulations, as they may be adopted by governmental agencies~~ and ~~become applicable~~ **RiskOn, potentially affecting their ability** to ~~our properties~~ **attract future speakers, attendees, and clients** . **Risks Related to GIGA** Risks Related to Our Business and Industry- Overview If we fail to anticipate and adequately respond to rapid technological changes in our industry, including evolving industry- wide standards, in a timely and cost- effective manner, our business, financial condition and results of operations would be materially and adversely affected. The markets in which we operate are characterized by technological changes. Such changes, including evolving industry standards, changes in customer requirements and new product introductions and enhancements, could render our products obsolete. Accordingly, we are required to constantly monitor and anticipate technological changes in our industry and develop new product offerings and technologies or adapt or modify our existing offerings and technologies to keep pace with technological advances in our industry and remain competitive. Our ability to implement our business strategy and continue to grow our revenues will depend on a number of factors, including our continuing ability to: ~~•~~ **·** identify emerging technological trends in our current and target markets; ~~•~~ **·** identify additional uses for our existing technology to address customer needs in our current and future markets; ~~•~~ **·** enhance our offerings by adding innovative features that differentiate our offerings from those of our competitors; and ~~•~~ **·** design, develop, manufacture, assemble, test, market and support new products and enhancements in a timely and cost- effective manner. ~~81~~ We believe that, to remain competitive in the future, we will need to continue to invest significant financial resources in developing new offerings and technologies or to adapt or modify our existing offerings and technologies, including through internal research and development, strategic acquisitions and joint ventures or other arrangements. However, these efforts may be more costly than we anticipate and there can be no assurance that they will be successful. **95** If we are unable to identify, attract, train and retain qualified personnel, especially our design and technical personnel, our business and results of operations would be materially and adversely affected and we may not be able to effectively execute our business strategy. Our performance and future success largely depends on our continuing ability to identify, attract, train, retain and motivate qualified personnel, including our management, sales and marketing, finance and in particular our engineering, design and technical personnel. For example, we currently have limited number of qualified personnel for the assembling and testing processes. We do not know whether we will be able to retain all these personnel as we continue to pursue our business strategy. Our engineering, design and technical personnel represent a significant asset. The competition for qualified personnel in our industries is intense and constrains our ability to attract qualified personnel. The loss of the services of one or more of our key employees, especially of our key engineering, design and technical personnel, or our inability to attract, retain and motivate qualified personnel could have a material adverse effect on our business, financial condition and operating results. Our future results will depend on our ability to maintain and expand our existing sales channels and to build out marketing, business development and sales functions for the operating subsidiaries. To grow our legacy businesses, we must add new customers for our products in addition to retaining and increasing sales to our current customers. Currently, only Relec, the operating subsidiary that we acquired in November 2020, has an effective sales force focused on establishing relationships with customers that we expect to endure over time. In other subsidiaries, we have historically relied on key executives to drive growth through return business with existing customers. Building out marketing, business development and sales functions in all operating subsidiaries is critical to drive significant growth in line with our strategic plans. While we perform certain of these activities ourselves, we may contract for marketing services to improve our websites, manage public relations and optimize our social media presence. Failure to recruit and retain the business development and sale personnel to execute on outreach and capture of new business, or the failure of those new hires or marketing services to perform as expected, will limit our ability to achieve our growth targets. We are dependent upon our ability, and our contract manufacturers' ability, to timely procure electronic components. Because of the global economy, many raw material vendors have reduced capacities, closed production lines and, in some cases, even discontinued their operations. As a result, there is a global shortage of certain electronic or mineral components, which may extend our production lead- time and our production costs. Some materials are no longer available to support some of our products, thereby requiring us to search for cross materials or, even worse, redesign some of our products to support currently available materials. Such redesign efforts may require certain regulatory and safety agency re- submittals, which may cause further production delays. While we have initiated actions that we believe will limit our exposure to such problems, the dynamic business conditions in many of our markets may challenge the solutions that have been put in place, and issues may recur in the future. In addition, some of our products are manufactured, assembled and tested by third party subcontractors and contract manufacturers located in Asia. While we have had relationships with many of these third parties in the past, we cannot predict how or whether these relationships will continue in the future. In addition, changes in management, financial viability, manufacturing demand or capacity, or other factors, at these third parties could hurt our ability to manufacture our products. We depend upon a few major customers for a majority of our revenues, and the loss of any of these customers, or the substantial reduction in the quantity of products that they purchase from us, would significantly reduce our revenues and net income. We currently depend upon a few major OEMs and other customers for a significant portion of our revenues. If our major OEM customers will reduce or cancel their orders scaling back some of their activities, our revenues and net income would be significantly reduced. Furthermore, diversions in the capital spending of certain of these customers to new network elements have and could continue to lead to their reduced demand for our products, which could, in turn, have a material adverse effect on our business and results of operations. If the financial condition of one or more of our major customers should deteriorate, or if they have difficulty acquiring investment capital due to any of these or other factors, a substantial decrease in our revenues would likely result. We are dependent on the electronic equipment industry, and accordingly will be affected by the impact on that industry of current economic conditions. ~~82~~ Substantially all of our existing customers are in the electronic equipment industry, and they manufacture products that are subject to rapid technological change, obsolescence, and large fluctuations in demand. This industry is further characterized by intense competition and volatility. The OEMs serving this industry are pressured for increased product performance and lower product prices. OEMs, in turn, make similar demands on their suppliers, such as us, for increased product performance and lower prices. Such demands may adversely affect our ability to successfully compete in certain markets or our ability to sustain our gross margins. **96** Our reliance on subcontract manufacturers to manufacture certain aspects of our products involves risks, including delays in product shipments and reduced control over product quality. Since we do not own significant manufacturing facilities, we must rely on, and will continue to rely on, a limited number of subcontract manufacturers to manufacture our power supply products. Our reliance upon such subcontract manufacturers involves several risks, including reduced control over manufacturing costs, delivery times, reliability and quality of components, unfavorable currency exchange fluctuations, and continued inflationary pressures on many of the raw materials used in the manufacturing of our power supply products. If we were to encounter a shortage of key manufacturing components from limited sources of supply, or experience manufacturing delays caused by reduced manufacturing capacity, inability of our subcontract manufacturers to procure raw materials, the loss of key assembly subcontractors, difficulties associated with the transition to our new subcontract manufacturers or other factors, we could experience lost revenues, increased costs, and delays in, or cancellations or rescheduling of, orders or shipments, any of which would materially harm our business. We outsource, and are dependent upon developer partners for, the development of some of our custom design products. We made an operational decision to outsource some of our custom design products to numerous developer partners. This business structure will remain in place until the custom design volume justifies expanding our in house capabilities. Incomplete product designs that do not fully comply with the customer specifications and requirements might affect our ability to transition to a volume production stage of the custom designed product where the revenue goals are dependent on the high volume of custom product production. Furthermore, we rely on the design partners' ability to provide high quality prototypes of the designed product for our customer approval as a critical stage to approve production. We face intense industry competition, price erosion and product obsolescence, which, in turn, could reduce our profitability. We operate in an industry that is generally characterized by intense competition. We believe that the principal bases of competition in our markets are breadth of product line, quality of products, stability, reliability and reputation of the provider, along with cost. Quantity discounts, price erosion, and rapid product obsolescence due to technological improvements are therefore common in our industry as competitors strive to retain or expand market share. Product obsolescence can lead to increases in unsaleable inventory that may need to be written off and, therefore, could reduce our profitability. Similarly, price erosion can reduce our profitability by decreasing our revenues and our gross margins. In fact, we have seen price erosion over the last several years on most of the products we sell, and we expect additional price erosion in the future. Our future results are dependent on our ability to establish, maintain and expand our manufacturers' representative OEM relationships and our other relationships. We market and sell our products through domestic and international OEM relationships and other distribution channels, such as manufacturers' representatives and distributors. Our future results are dependent on our ability to establish, maintain and expand our relationships with OEMs as well as with manufacturers' representatives and distributors to sell our products. If, however, the third parties with whom we have entered into such OEM and other arrangements should fail to meet their contractual obligations, cease doing, or reduce the amount of their, business with us or otherwise fail to meet their own performance objectives, customer demand for our products could be adversely affected, which would have an adverse effect on our revenues. ~~83~~ We may not be able to procure necessary key components for our products, or we may purchase too much inventory or the wrong inventory. The power supply industry, and the electronics industry as a whole, can be subject to business cycles. During periods of growth and high demand for our products, we may not have adequate supplies of inventory on hand to satisfy our customers ~~'~~' needs. Furthermore, during these periods of growth, our suppliers may also experience high demand and, therefore, may not have adequate levels of the components and other materials that we require to build products so that we can meet our customers ~~'~~' needs. Our inability to secure sufficient components to build products for our customers could negatively impact our sales and operating results. We may choose to mitigate this risk by increasing the levels of inventory for certain key components. Increased inventory levels can increase the potential risk for excess and obsolescence should our forecasts fail to materialize or if there are negative factors impacting our customers' end markets. If we purchase too much inventory or the wrong inventory, we may have to record additional inventory reserves or write- off the inventory, which could have a material adverse effect on our gross margins and on our results of operations. **97** Although we depend on sales of our legacy products for a meaningful portion of our revenues, these products are mature and their sales will decline. A relatively large portion of our sales have historically been attributable to our legacy products. However, these sales are declining. Although we are unable to predict future prices for our legacy products, we expect that prices for these products will continue to be subject to significant downward pressure in certain markets for the reasons described above. Accordingly, our ability to maintain or increase revenues will be dependent on our ability to expand our customer base, to increase unit sales volumes of these products and to successfully, develop, introduce and sell new products such as custom design and value- added products. We cannot assure you that we will be able to expand our customer base, increase unit sales volumes of existing products or develop, introduce and / or sell new products. Failure of our information technology infrastructure to operate effectively could adversely affect our business. We depend heavily on information technology infrastructure to achieve our business objectives. If a problem occurs that impairs this infrastructure, the resulting disruption could impede our ability to record or process orders, manufacture and ship in a timely manner, or otherwise carry on business in the normal course. Any such events could cause us to lose customers or revenue and could require us to incur significant expense to remediate. We are subject to certain governmental regulatory restrictions relating to our international sales. Some of our products are subject to International Traffic In Arms Regulation (" ITAR "), which are interpreted, enforced and administered by the U. S. Department of State. ITAR regulation controls not only the export, import and trade of certain products specifically designed, modified, configured or adapted for military systems, but also the export of related technical data and defense services as well as foreign production. Any delays in obtaining the required export, import or trade licenses for products subject to ITAR regulation and rules could have a material adverse effect on our business, financial condition, and / or operating results. In addition, changes in U. S. export and import laws that require us to obtain additional export and import licenses or delays in obtaining export or import licenses currently being sought could cause significant shipment delays and, if such delays are too great, could result in the cancellation of orders. Any future restrictions or charges imposed by the U. S. or any other country on our international sales or foreign subsidiary could have a materially adverse effect on our business, financial condition, and / or operating results. In addition, from time to time, we have entered into contracts with the Israeli Ministry of Defense which were governed by the U. S. Foreign Military Financing program (" FMF "). Any such future sales would be subject to these regulations. Failure to comply with ITAR or FMF rules could have a material adverse effect on our financial condition, and / or operating results. We depend on international operations for a substantial majority of our components and products. We purchase a substantial majority of our components from foreign manufacturers and have a substantial majority of our commercial products assembled, packaged, and tested by subcontractors located outside the U. S. These activities are subject to the uncertainties associated with international business operations, including trade barriers and other restrictions, changes in trade policies, governmental regulations, currency exchange fluctuations, reduced protection for intellectual property, war and other military activities, terrorism, changes in social, political, or economic conditions, and other disruptions or delays in production or shipments, any of which could have a materially adverse effect on our business, financial condition, and / or operating results. ~~84~~ We depend on international sales for a portion of our revenues. Sales to customers outside of North America accounted for 19 % and 37 % of net revenues for the years ended December 31, **2023 and** 2022 ~~and 2021~~, respectively, and we expect that international sales will continue to represent a material portion of our total revenues. International sales are subject to the risks of international business operations as described above, as well as generally longer payment cycles, greater difficulty collecting accounts receivable, and currency restrictions. In addition, GIGA supports our European and other international customers, distributors, and sales representatives, and therefore is also subject to local regulation. International sales are also subject to the export laws and regulations of the U. S. and other countries. **98** Because a significant portion of our revenues and expenses is denominated in foreign currencies, fluctuations in exchange rates could have a material adverse effect on our operating results. We face foreign exchange risks because a significant portion of our revenue and expenses is denominated in foreign currencies. Further, some suppliers to Enertec and Relec require payment in U. S. dollars, which exposes us to risk. Generally, U. S. dollar strength adversely impacts the translation of the portion of our revenue that is generated in foreign currencies into the U. S. dollar. For the years ended December 31, **2023 and** 2022 ~~and 2021~~, approximately 16. 9 % and 35. 9 % of our revenue, respectively, was denominated in currencies other than U. S. dollars. Our results of operations could also be negatively impacted by a strengthening of the U. S. dollar as a large portion of our costs are U. S. dollar denominated. We also have foreign exchange risk exposure with respect to certain of our assets, that are denominated in currencies other than the functional currency of our subsidiaries, and our financial results are affected by the re-measurement and translation of these non- U. S. currencies into U. S. dollars, which is reflected in the effect of exchange rate changes on cash, cash equivalents, and restricted cash on the consolidated statements of cash flows. For the years ended December 31, **2023 and** 2022 ~~and 2021~~, the effects of exchange rates on our cash, cash equivalents, and restricted cash totaled **(** $ 0. ~~9~~ **8)** million and $ 0. ~~3~~ **9** million, respectively, due to fluctuations in exchange rates and the strengthening of the U. S. dollar. While we may choose to enter into transactions to hedge portions of our foreign currency translation and balance sheet exposure in the future, it is impossible to predict or eliminate the effects of foreign exchange rate exposure. Strengthening of the U. S. dollar could materially adversely affect our results of operations and financial condition. Our insurance coverage and indemnity may be insufficient to cover potential liabilities we may face due to the risks inherent in the products and services we provide. We are exposed to liabilities that are unique to the products and services we provide. A significant portion of our business relates to designing, developing and manufacturing ~~,~~ components, integrated assemblies and subsystems for advanced defense, medical, transportation, industrial, technology and communications systems and products. New technologies associated with these systems and products may be untested or unproven. Components of certain of the defense systems and products we develop are inherently dangerous. Failures of satellites, missile systems, air traffic control systems, homeland security applications and aircraft have the potential to cause loss of life and extensive property damage. In most circumstances, we may receive indemnification from the government end users of our defense offerings in the U. S., the U. K. and Israel. In addition, failures of products and systems that we manufacture or distribute for medical devices, transportation controls or industrial systems also have the potential to result in loss of life, personal injury and / or extensive property damage. While we maintain insurance for certain risks, the amount of our insurance coverage may not be adequate to cover all claims or liabilities, and we may be forced to bear substantial costs from an accident or incident. It also is not possible for us to obtain insurance to protect against all operational risks and liabilities. Substantial claims resulting from an incident in excess of government indemnity and our insurance coverage would harm our financial condition, results of operations and cash flows. Moreover, any accident or incident for which we are liable, even if fully insured, could negatively affect our standing with our customers and the public, thereby making it more difficult for us to compete effectively, and could significantly impact the cost and availability of adequate insurance in the future. If we are unable to satisfy our customers’ specific product quality, certification or network requirements, our business could be disrupted and our financial condition could be harmed. Our customers demand that our products meet stringent quality, performance and reliability standards. We have, from time to time, experienced problems in satisfying such standards. Defects or failures have occurred in the past, and may in the future occur, relating to our product quality, performance and reliability. From time to time, our customers also require us to implement specific changes to our products to allow these products to operate within their specific network configurations. If we are unable to remedy these failures or defects or if we cannot effect such required product modifications, we could experience lost revenues, increased costs, including inventory write- offs, warranty expense and costs associated with customer support, delays in, or cancellations or rescheduling of, orders or shipments and product returns or discounts, any of which would harm our business. ~~85~~ Some of our business is subject to U. S. Government procurement laws and regulations. We must comply with certain laws and regulations relating to the formation, administration and performance of federal government contracts. These laws and regulations affect how we conduct business with our federal government contracts, including the business that we do as a subcontractor. In complying with these laws and regulations, we may incur additional costs, and non- compliance may lead to the assessment of fines and penalties, including contractual damages, or the loss of business. **99** Failure to comply with anti- bribery, anti-corruption, anti- money laundering laws, and similar laws, or allegations of such failure, could have a material adverse effect on our business, financial condition and operating results. We are subject to various anti- bribery, anti- corruption, anti- money laundering laws, including the U. S. Foreign Corrupt Practices Act of 1977, as amended (the “ FCPA ”), the U. S. Travel Act, the USA PATRIOT Act, the United Kingdom Bribery Act 2010, the Proceeds of Crime Act 2002, Chapter 9 (sub- chapter 5) of the Israeli Penal Law, 1977, the Israeli Prohibition on Money Laundering Law – 2000, and possibly other similar laws in countries outside of the U. S. in which we conduct our business. Anti- corruption and anti- bribery laws have been enforced aggressively in recent years and are interpreted broadly to generally prohibit companies, their employees, agents, representatives, business partners, and third- party intermediaries from authorizing, offering, or providing, directly or indirectly, improper payments or benefits to recipients in the public or private sector. We, our employees, agents, representatives, business partners and third- party intermediaries may have direct or indirect interactions with officials and employees of government agencies or state- owned or affiliated entities and may be held liable for the corrupt or other illegal activities of these employees, agents, representatives, business partners or third- party intermediaries even if we do not explicitly authorize such activities. These laws also require that we keep accurate records and maintain internal controls and compliance procedures designed to prevent any such actions. While we have policies and procedures to address compliance with such laws, we cannot assure you that none of our employees, agents, representatives, business partners or third- party intermediaries will take actions in violation of our policies and applicable law, for which we may be ultimately held responsible. In addition, we may be held liable for violations committed of the FCPA or similar foreign laws by companies that we acquire. Any alleged or actual violation of the FCPA or other applicable anti- bribery, anti- corruption laws, and anti- money laundering laws could result in whistleblower complaints, investigations, enforcement actions, fines and other criminal or civil sanctions, adverse media coverage, loss of export privileges, or suspension or termination of government contracts. Responding to any investigation or enforcement action would require significant attention of our management and resources, including significant defense costs and other professional fees. Failure to comply with anti- bribery, anti- corruption, anti- money laundering laws, and similar laws, or allegations of such failure, could therefore have a material adverse effect on our business, results of operations, financial condition and future prospects. Compliance with the regulations, standards, and contractual obligations promulgated by the European Union related to privacy, data protection, and data security, may cause Gresham Power and Relec to incur additional expenses and failure to comply with such obligations could harm our business and future results of operations. The European Union General Data Protection Regulation (“ GDPR ”) contains robust obligations on data “ controllers ” and data “ processors ” with heavy documentation requirements for data protection compliance programs that apply to both Gresham Power and Relec. Among other requirements, the GDPR regulates the transfer of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the U. S. In the U. K., the GDPR requires informed consent for disclosure of names, transfer of email addresses, the use of cookies and direct electronic marketing. The GDPR also imposes conditions on obtaining valid consent to transfer of any personal data that Gresham Power or Relec collect or process. Failure to comply with the GDPR could result in penalties for noncompliance (including possible fines of up to the greater of £ 8. 7 million and 2 % of our global annual revenue for the preceding financial year for the violations, as well as the right to compensation for financial or non- financial damages claimed by individuals under Article 82 of the GDPR). The U. K. has enacted a Data Protection Act substantially implementing the GDPR, effective in May 2018, which was further amended to align more substantially with the GDPR following Brexit. The latest revisions of the GDPR in the U. K. post- Brexit have resulted in even more stringent restrictions on the transfer of data about a person. Data considered in the public domain in the U. S. now falls within the protections of GDPR, which complicates documenting business, marketing, sales outreach, securing infrastructure, audit and business management. ~~86~~ Compliance with the regulations, standards, and contractual obligations promulgated by the U. K. related to privacy, data protection, and data security, may cause Gresham Power and Relec to incur additional expenses and failure to comply with such obligations could harm our business and future results of operations. **100** Risks Related to Our Business and Industry- Microphase Microphase has a history of losses and our future profitability on a quarterly or annual basis is uncertain, which could have a harmful effect on our business and the value of our company. Microphase has incurred losses from operations during 2019. These losses are attributable to lower volumes of its products sold to major defense contractors partially as a result of the overall reduction in defense spending and sequestration by the U. S. Congress. While Microphase has been profitable, to a certain extent, during 2021 and 2022, there is always the possibility that its results of operations could worsen in the future, whether as a result of new outbreaks of COVID- 19, supply chain issues or any of a number of other factors. Since the financial crisis of 2008, Microphase has been significantly short of capital needed to acquire parts for production of its products to complete orders for such products. At times, Microphase has not had the cash available to make advance payments for the purchase of parts, and then, as a consequence, Microphase would not receive the parts from its vendors required to finish a customer order. This would then delay the delivery of products to customers, and would also delay recognition of the resulting revenues and the receipt of cash from the customer. Sometimes after experiencing a delay in delivery of an order from Microphase, the customer would not place its next order with Microphase, resulting in a loss of business. Microphase’ s future profitability depends upon many factors, including several that are beyond its control. These factors include, without limitation: ~~•~~ · economic dislocation, supply chain disruption or mandated shutdowns attributable to the COVID- 19 pandemic; ~~•~~ · changes in the demand for its products and services; ~~•~~ · loss of key customers or contracts; ~~•~~ · the introduction of competitive products; ~~•~~ · the failure to gain market acceptance of its new and existing products; and ~~•~~ · the failure to successfully and cost effectively develop, introduce and market new products, services and product enhancements in a timely manner. A large percentage of Microphase’ s current revenue is derived from prime defense contractors to the U. S. Government and its allies, and the loss of these relationships, a reduction in U. S. Government funding or a change in U. S. Government spending priorities or bidding processes could have an adverse impact on its business, financial condition, results of operations and cash flows. Microphase ~~is highly dependent on sales to major defense contractors of the U. S. military and its allies, including Lockheed Martin, Raytheon, BAE Systems and SAAB. The percentages of its revenue that were derived from sales to these named major defense contractors and directly to the U. S. Government were 69. 4 % in fiscal 2022 and 78. 1 % in fiscal 2021. Therefore, any significant disruption or deterioration of Microphase~~ ’ s ~~relationship with any such major~~ defense **programs** ~~contractors or the U. S. Government could materially reduce its revenue. During the year ended December 31, 2022, there was one customers that accounted for more than 10 % of Microphase’ s sales: BAE Systems. During the year ended December 31, 2021, there were two customers that accounted for more than 10 % of Microphase’ s sales: BAE Systems and Lockheed Martin. Microphase’ s competitors continuously engage in efforts to expand their business relationships with the same major defense contractors and the U. S. Government and will continue these efforts in the future, and the U. S. Government may choose to use other contractors. Microphase expects that a majority of the business that it seeks will be awarded through competitive bidding. Microphase operates in highly competitive markets and its competitors have more extensive or more specialized engineering, manufacturing and marketing capabilities than Microphase does in many~~ **may** ~~areas, and Microphase may not be able to continue to win competitively awarded contracts or to obtain task orders under multi- award contracts. Further, the competitive bidding process involves significant cost and managerial time to prepare bids and proposals for contracts that may not be awarded to Microphase, as well as the risk that Microphase may fail to accurately estimate the resources and costs required to fulfill any contract awarded to us. Following any contract award, Microphase may experience significant expense or delay, contract modification or contract rescission as a result of its competitors protesting or challenging contracts awarded to it in competitive bidding. Major defense contractors to whom Microphase supplies components for systems must~~ compete ~~with other major defense contractors (to which Microphase may not supply components) for military orders from~~

~~the U. S. Government. 87 In addition, Microphase competes~~ with other policy needs, which may be viewed as more necessary **.** **For example** , ~~for limited resources and an ever- changing amount of available funding in the~~ budget ~~and appropriations process. Budget~~ and appropriations decisions made by the **governments of the** U. S ~~. Government~~ **, the UK and Israel** are outside of Microphase **’ s** control and have long- term consequences for its business. ~~U. S.~~ Government spending priorities and levels remain uncertain and difficult to predict and are affected by numerous factors, ~~including until recently sequestration (automatic, across- the- board U. S. Government budgetary spending cuts),~~ and the purchase of ~~our~~ **Microphase’ s** products could be superseded by alternate arrangements. **The current prolonged delay in providing new aid to Ukraine and Israel are evidence of the political uncertainties.** While ~~the US~~ defense ~~budget~~ **budgets** ~~was recently~~ **in countries around the world have generally** increased, there can be no assurance that ~~this~~ **such** ~~increase~~ **increases** will **continue** ~~be maintained~~ for the foreseeable future ~~, particularly in light of the recent federal expenditures the federal government has made with a view to ameliorating the economic damage suffered as a result of COVID- 19~~ . A change in ~~U. S. Government~~ **government** spending priorities or an increase in non- procurement spending at the expense of ~~our~~ **Microphase’ s** programs, or a reduction in total **defense** ~~U. S. Government~~ spending, could have material adverse consequences on **its** ~~Microphase’ s~~ future business. ~~Microphase’ s U. S. Government contracts may be terminated by the federal government at any time prior to their completion, which could lead to unexpected loss of sales and reduction in Microphase’ s backlog. Under the terms of Microphase’ s U. S. Government contracts, the U. S. Government may unilaterally: ● terminate or modify existing contracts; ● reduce the value of existing contracts through partial termination; and ● delay the payment of Microphase’ s invoices by government payment offices. The federal government can terminate or modify any of its contracts with Microphase or its prime contractors either for the federal government’ s convenience, or if Microphase or its prime contractors default, by failing to perform under the terms of the applicable contract. A termination arising out of Microphase’ s default could expose it to liability and have a material adverse effect on its ability to compete for future federal government contracts and subcontracts. If the federal government or its prime contractors terminate and / or materially modify any of Microphase’ s contracts or if any applicable options are not exercised, Microphase’ s failure to replace sales generated from such contracts would result in lower sales and would adversely affect its earnings, which could have a material adverse effect on Microphase’ s business, results of operations and financial condition. Microphase’ s backlog as of December 31, 2022 was approximately $ 10~~ **101** ~~. 1 million. Microphase’ s backlog could be adversely affected if contracts are modified or terminated.~~ Microphase’ s products with military applications are subject to export regulations, and compliance with these regulations may be costly. Microphase is required to obtain export licenses before filling foreign orders for many of its products that have military or other governmental applications. U. S. Export Administration regulations control technology exports like its products for reasons of national security and compliance with foreign policy, to guarantee domestic reserves of products in short supply and, under certain circumstances, for the security of a destination country. Thus, any foreign sales of its products requiring export licenses must comply with these general policies. Compliance with these regulations is costly, and these regulations are subject to change, and any such change may require Microphase to improve its technologies, incur expenses or both in order to comply with such regulations. Microphase depends on U. S. Government contracts issued to major defense contractors, which often are only partially funded, subject to immediate termination, and heavily regulated and audited. The termination or failure to fund, or negative audit findings for, one or more of these contracts could have an adverse impact on Microphase’ s business. Over its lifetime, a U. S. Government program awarded to a major defense contractor may be implemented by the award of many different individual contracts and subcontracts. The funding of U. S. Government programs is subject to Congressional appropriations. Although multi- year contracts may be authorized and appropriated in connection with major procurements, Congress generally appropriates funds on a fiscal year basis. Procurement funds are typically made available for obligations over the course of one to three years. Consequently, programs often receive only partial funding initially, and additional funds are designated only as Congress authorizes further appropriations. The termination of funding for a U. S. Government program with respect to major defense contractors for which Microphase is a subcontractor would result in a loss of anticipated future revenue attributable to that program, which could have an adverse impact on its operations. In addition, the termination of, or failure to commit additional funds to, a program for which Microphase is a subcontractor could result in lost revenue and increase its overall costs of doing business. ~~88~~ Generally, U. S. Government contracts are subject to oversight audits by U. S. Government representatives. Such audits could result in adjustments to Microphase’ s contract costs. Any costs found to be improperly allocated to a specific contract will not be reimbursed, and such costs already reimbursed must be refunded. Microphase has recorded contract revenues based on costs Microphase expect to realize upon final audit. However, Microphase does not know the outcome of any future audits and adjustments, and Microphase may be required to materially reduce its revenues or profits upon completion and final negotiation of audits. Negative audit findings could also result in termination of a contract, forfeiture of profits, suspension of payments, fines and suspension or debarment from U. S. Government contracting or subcontracting for a period of time. In addition, U. S. Government contracts generally contain provisions permitting termination, in whole or in part, without prior notice at the U. S. Government’ s convenience upon the payment only for work done and commitments made at the time of termination. Microphase can give no assurance that one or more of the U. S. Government contracts with a major defense contractor under which Microphase provides component products will not be terminated under these circumstances. Also, Microphase can give no assurance that it will be able to procure new contracts to offset the revenue or backlog lost as a result of any termination of its U. S. Government contracts. Because a significant portion of Microphase’ s revenue is dependent on its performance and payment under its U. S. Government contracts, the loss of one or more large contracts could have a material adverse impact on its business, financial condition, results of operations and cash flows. Microphase’ s government business **is** also ~~is~~ subject to specific procurement regulations and other requirements. These requirements, though customary in U. S. Government contracts, increase its performance and compliance costs. In addition, these costs might increase in the future, thereby reducing Microphase’ s margins, which could have an adverse effect on its business, financial condition, results of operations and cash flows. Failure to comply with these regulations and requirements could lead to fines, penalties, repayments, or compensatory or treble damages, or suspension or debarment from U. S. Government contracting or subcontracting for a period of time. Among the causes for debarment are violations of various laws, including those related to procurement integrity, export control, U. S. Government security regulations, employment practices, protection of the environment, accuracy of records, proper recording of costs and foreign corruption. The termination of a U. S. Government contract or relationship as a result of any of these acts would have an adverse impact on Microphase' s operations and could have an adverse effect on its standing and eligibility for future U. S. Government contracts. Microphase' s business could be negatively impacted by cybersecurity threats and other security threats and disruptions. As a U. S. Government defense contractor, Microphase faces certain security threats, including threats to its information technology infrastructure, attempts to gain access to its proprietary or classified information, threats to physical security, and domestic terrorism events. Microphase' s information technology networks and related systems are critical to the operation of its business and essential to its ability to successfully perform day-to- day operations. Microphase is also involved with information technology systems for certain customers and other third parties, which generally face similar security threats. Cybersecurity threats, in particular, are persistent, evolve quickly and include, but are not limited to, computer viruses, attempts to access information, denial of service and other electronic security breaches. Microphase believes that it has implemented appropriate measures and controls and has invested in skilled information technology resources to appropriately identify threats and mitigate potential risks, but there can be no assurance that such actions will be sufficient to prevent disruptions to mission critical systems, the unauthorized release of confidential information or corruption of data. A security breach or other significant disruption involving these types of information and information technology networks and related systems could: • · disrupt the proper functioning of these networks and systems and therefore its operations and / or those of certain of its customers; • **102** · result in the unauthorized access to, and destruction, loss, theft, misappropriation or release of, proprietary, confidential, sensitive or otherwise valuable information of Microphase or its customers, including trade secrets, which others could use to compete against Microphase or for disruptive, destructive or otherwise harmful purposes and outcomes; • · compromise national security and other sensitive government functions; • · require significant management attention and resources to remedy the damages that result; • · subject Microphase to claims for breach of contract, damages, credits, penalties or termination; and • · damage Microphase' s reputation with its customers (particularly agencies of the U. S. Government) and the public generally. Any or all of the foregoing could have a negative impact on its business, financial condition, results of operations and cash flows. Compliance with Defense Department requirements for information security require Microphase to invest significant resources to implement and maintain cyber defenses against compromise of information technology architecture, malicious attacks and data breaches. ~~89~~ Microphase enters into fixed- price contracts that could subject it to losses in the event of cost overruns or a significant increase in inflation. Microphase has a number of fixed- price contracts which allow it to benefit from cost savings but subject it to the risk of potential cost overruns, particularly for firm fixed- price contracts, because Microphase assumes the entire cost burden. If its initial estimates are incorrect, Microphase can lose money on these contracts. U. S. Government contracts can expose Microphase to potentially large losses because the U. S. Government can hold Microphase responsible for completing a project or, in certain circumstances, paying the entire cost of its replacement by another provider regardless of the size or foreseeability of any cost overruns that occur over the life of the contract. Because many of these contracts involve new technologies and applications, unforeseen events such as technological difficulties, fluctuations in the price of raw materials, problems with its suppliers and cost overruns, can result in the contractual price becoming less favorable or even unprofitable to Microphase. The U. S. and other countries also may experience a significant increase in inflation. A significant increase in inflation rates could have a significant adverse impact on the profitability of these contracts. Furthermore, if Microphase does not meet contract deadlines or specifications, Microphase may need to renegotiate contracts on less favorable terms, be forced to pay penalties or liquidated damages or suffer major losses if the customer exercises its right to terminate. In addition, some of its contracts have provisions relating to cost controls and audit rights, and if Microphase fails to meet the terms specified in those contracts Microphase may not realize their full benefits. Microphase' s results of operations are dependent on its ability to maximize its earnings from its contracts. Cost overruns could have an adverse impact on its financial results. Compliance with the regulations, standards, and contractual obligations related to privacy, data protection, and data security, may cause us to incur additional expenses and failure to comply with such obligations could harm our business and future results of operations. We expect that the regulatory framework for privacy, data protection and data security will continue to evolve, which may result in additional operating costs for internal compliance and risks to our business. Nearly all of Microphase' s current contracts include provisions that require compliance with detailed cyber security standards laid out in NIST 800- 171, which mandates implementation of security controls to protect Microphase' s information systems from compromise, malicious attacks and / or data breaches. Microphase must maintain a System Security Plan with a Plan of Action & Milestones for any controls not yet implemented. To continue doing business with the DoD or major prime contractors working with DoD, Microphase must ultimately achieve Cybersecurity Model Maturity Certification not later than 2026. In addition, Microphase maintains a certified restricted area and must obtain and maintain authority to operate equipment to perform work on classified projects. Compliance with all of these mandates will require Microphase to invest substantial resources to implement, maintain and monitor information systems security controls, facility clearances, personnel clearance and authorities to operate classified systems, which adds to the costs of operating the business. **103** Risks Related to Our Business and Industry- Enertec Potential political, economic and military instability in Israel could adversely affect our operations. A significant portion of our business is conducted through Enertec, our Israeli subsidiary. Accordingly, political, economic and military conditions in Israel and the surrounding region may directly affect our Israeli operations. In recent years, Israel has been involved in sporadic armed conflicts with Hamas, an Islamist terrorist group that controls the Gaza Strip, with Hezbollah, an Islamist terrorist group that controls large portions of Southern Lebanon, and with Iranian- backed military forces in Syria. Some of these hostilities were accompanied by missile strikes from the Gaza Strip against civilian targets in various parts of Israel, including areas in which our facilities are located, and negatively affected business conditions in Israel. The change in the U. S. Presidency may continue to change the dynamics in the Middle East as forces hostile to the existence of Israel seek to reverse the recent stability and commercial opportunities created by the Abraham Accords. For example, there have been increasing concerns related to a potential attack by Iran. The tension between Israel and Iran and / or these groups may escalate in the future and turn even more violent, which could affect the Israeli economy in general and us in particular. A deterioration in the political and security situation in Israel (for example, the significant instability with regards to changes promoted by the Israeli government in the judiciary branch) may have a negative effect on Israel' s economic situation and on Enertec' s ability to execute new projects, to raise funding for its operations and plans. Our commercial insurance does not cover losses that may occur as a result of events associated with war and terrorism. Although the Israeli government currently covers the reinstatement value of direct damages that are caused by terrorist attacks or acts of war, we cannot assure you that this government coverage will be maintained or that it will sufficiently cover our potential damages. Any losses or ~~damages~~ **damage** incurred by us could have a material adverse effect on our business. ~~90~~ In addition, Israel- based companies and companies doing business with Israel have been the subject of an economic boycott by members of the Arab League and certain other predominantly Muslim countries since Israel' s establishment. Although Israel has entered into various agreements with certain Arab countries and the Palestinian Authority, and various declarations have been signed in connection with efforts to resolve some of the economic and political problems in the Middle East, we cannot predict whether or in what manner these problems will be resolved. Wars and acts of terrorism have resulted in significant damage to the Israeli economy, including reducing the level of foreign and local investment. Many of our Enertec employees are obligated to perform military reserve duty in Israel, which could have a disruptive impact on our business. Generally, Israeli adult male and certain female citizens and permanent residents are obligated to perform annual military reserve duty in the Israel Defense Forces up to a specified age. They also may be called to active military duty at any time under emergency circumstances. These military service obligations could have a disruptive impact on our business, if hostilities develop in the future. Enertec may become subject to claims for remuneration or royalties for assigned service invention rights by its employees, which could result in litigation and harm our business. A significant portion of the intellectual property covered by Enertec' s products has been developed by Enertec' s employees in the course of their employment for Enertec. Under the Israeli Patent Law, 5727- 1967, or the Patent Law, and recent decisions by the Israeli Supreme Court and the Israeli Compensation and Royalties Committee, a body constituted under the Patent Law, Israeli employees may be entitled to remuneration for intellectual property that they develop for us unless they explicitly waive any such rights. To the extent that Enertec is unable to enter into agreements with its future employees pursuant to which they agree that any inventions created in the scope of their employment or engagement are owned exclusively by Enertec (as it has done in the past), Enertec may face claims demanding remuneration. As a consequence of such claims, Enertec could be required to pay additional remuneration or royalties to its current and former employees, or be forced to litigate such claims, which could negatively affect its business. Risks Related to Our Business and Industry – Relec The third parties on which we rely to supply certain products are located outside the United States. Relec distributes products from foreign manufacturers located in Europe, Asia and North America. Our future operating results will depend, among other things, on our ability to continue to rely on these arrangements. If we are no longer able to rely on these or other similar arrangements for the supply of certain products, or if our cost of relying on such arrangements materially increases, as the result of the imposition of or changes in customs, tariffs, quotas, trade barriers, or other trade protection measures, or otherwise, it could have a materially adverse effect on our business, financial condition, and operating results. **104** Our strategic focus on our custom power supply and display solution competencies and concurrent cost reduction plans may be ineffective or may limit our ability to compete. As a result of our strategic focus on custom power supply solutions, we will continue to devote significant resources to developing and manufacturing custom power supply solutions for a large number of customers, where each product represents a uniquely tailored solution for a specific customer' s requirements. Failure to meet these customer product requirements or a failure to meet production schedules and / or product quality standards may put us at risk with one or more of these customers. Moreover, changes in market conditions and strategic changes at the direction of our customers may affect their decision to continue to purchase from us. The loss of one or more of our significant custom power supply solution customers could have a material adverse impact on our revenues, business or financial condition. We have also implemented a series of initiatives designed to increase efficiency and reduce costs. While we believe that these actions will reduce costs, they may not be sufficient to achieve the required operational efficiencies that will enable us to respond more quickly to changes in the market or result in the improvements in our business that we anticipate. In such event, we may be forced to take additional cost- reducing initiatives, including those involving our personnel, which may negatively impact quarterly earnings and profitability as we account for severance and other related costs. In addition, there is the risk that such measures could have long- term adverse effects on our business by reducing our pool of talent, decreasing or slowing improvements in our products or services, making it more difficult for us to respond to customers, limiting our ability to increase production quickly if and when the demand for our solutions increases and limiting our ability to hire and retain key personnel. These circumstances could cause our earnings to be lower than they otherwise might be. ~~91~~ Risks Related to Ownership of Our Common Stock and Future Offerings If we do not continue to satisfy the NYSE American continued listing requirements, our common stock could be delisted from NYSE American. The listing of our common stock on the NYSE American is contingent on our compliance with the NYSE American' s conditions for continued listing. While we are presently in compliance with all such conditions, it is possible that we will fail to meet one or more of these conditions in the future. If we were to fail to meet a NYSE American listing requirement, we may be subject to delisting by the NYSE American. In the event our common stock is no longer listed for trading on the NYSE American, our trading volume and share price may decrease and we may experience further difficulties in raising capital which could materially affect our operations and financial results. Further, delisting from the NYSE American could also have other negative effects, including potential loss of confidence by partners, lenders, suppliers and employees and could also trigger various defaults under our lending agreements and other outstanding agreements. Finally, delisting could make it harder for us to raise capital and sell securities. You may experience future dilution as a result of future equity offerings. In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that may not be the same as the price per share in this offering. We may sell shares or other securities in any other offering at a price per share that is less than the price per share paid by investors in this offering, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock, or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by investors in this offering. You may experience future dilution as a result of future equity offerings. In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that may not be the same as the price per share in this offering. We may sell shares or other securities in any other offering at a price per share that is less than the price per share paid by investors in this offering, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock, or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by investors in this offering. **105** Our common stock price is volatile. Our common stock is listed on the NYSE American. In the past, our trading price has fluctuated widely, depending on many factors that may have little to do with our operations or business prospects. During the past 52- week period (through ~~March __~~ **April 15** , ~~2023~~ **2024**), our stock closed at prices between $ ~~1~~ **775** . ~~34~~ **83** per share and $ 0. ~~09~~ **2779** per share, as reported on Nasdaq. com. On April ~~14~~ **15** , ~~2023~~ **2024** , the price of our common stock closed at $ 0. ~~105~~ **2779** per share. Stock markets, in general, have experienced, and continue to experience, significant price and volume volatility, and the market price of our common stock may continue to be subject to similar market fluctuations unrelated to our operating performance or prospects. This increased volatility, coupled with depressed economic conditions, could continue to have a depressive effect on the market price of our common stock. The following factors, many of which are beyond our control, may influence our stock price: · the status of our growth strategy including the development of new products with any proceeds we may be able to raise in the future; · announcements of technological or competitive developments; · announcements or expectations of additional financing efforts; · our ability to market new and enhanced products on a timely basis; · changes in laws and regulations affecting our business; · commencement of, or involvement in, litigation involving us; · regulatory developments affecting us, our customers or our competitors; · announcements regarding patent or other intellectual property litigation or the issuance of patents to us or our competitors or updates with respect to the enforceability of patents or other intellectual property rights generally in the US or internationally; · actual or anticipated fluctuations in our quarterly financial results or the quarterly financial results of companies perceived to be similar to us; ~~92~~ · changes in the market' s expectations about our operating results; · our operating results failing to meet the expectations of securities analysts or investors in a particular period; · changes in the economic performance or market valuations of our competitors; · additions or departures of our executive officers; · sales or perceived sales of our common stock by us, our insiders or our other stockholders; · share price and volume fluctuations attributable to inconsistent trading volume levels of our shares; and · general economic, industry, political and market conditions and overall fluctuations in the financial markets in the United States and abroad ~~, including as a result of ongoing COVID- 19 pandemic~~ . In addition, the securities markets have, from time to time, experienced significant price and volume fluctuations that are not related to the operating performance of particular companies. Any of these factors could result in large and sudden changes in the volume and trading price of our common stock and could cause our stockholders to incur substantial losses. In the past, following periods of volatility in the market price of a company' s securities, stockholders have often instituted securities class action litigation against that company. If we were involved in a class action suit or other securities litigation, it would divert the attention of our senior management, require us to incur significant expense and, whether or not adversely determined, have a material adverse effect on our business, financial condition, results of operations and prospects. **106** Volatility in our common stock price may subject us to securities litigation. Stock markets, in general, have experienced, and continue to experience, significant price and volume volatility, and the market price of our common stock may continue to be subject to similar market fluctuations unrelated to our operating performance or prospects. This increased volatility, coupled with depressed economic conditions, could have a depressing effect on the market price of our common stock. We have a substantial number of convertible notes, warrants, options and preferred stock outstanding that could affect our price. Due to a number of financings, we have a substantial number of shares that are subject to issuance pursuant to outstanding convertible debt, warrants and options. As of the date of this annual report, the number of shares of common stock subject to convertible notes, warrants, options ~~and~~ **,** Series ~~B~~ **A** Convertible Preferred Stock **, Series C Convertible Preferred Stock and Series D Preferred Stock** were ~~165~~ **6** , ~~000~~ **108** , ~~15~~ **816** , ~~525~~ **14** , ~~581~~ **769** , ~~5~~ **824** , ~~810~~ **779** , **7** ~~844 and 2~~ , ~~232~~ **040, 43, 500 and 323, 835** respectively. We had outstanding options to purchase an aggregate of **779** ~~5, 810, 844~~ shares of Common Stock, with a weighted average exercise price of $ ~~2. 40~~ **17, 423** per share, exercisable at prices ranging from $ ~~1. 79~~ **13, 425** to $ ~~1~~ **19** , ~~352~~ **628** per share and warrants to purchase up to ~~15~~ **14** , ~~525~~ **769** , ~~581~~ **824** shares of common stock, with a weighted average exercise price of **$** 1. ~~99~~ **83** per share, at exercise prices ranging from $ 0. ~~40~~ **35** to $ ~~1~~ **90** , ~~040~~ **000** per share. The issuance of common stock pursuant to convertible notes, warrants, options and preferred stock at conversion or exercise prices less than market prices may have the effect of limiting an increase in market price of our common stock until all of these underling shares have been issued. A possible " short squeeze " due to a sudden increase in demand of our common stock that largely exceeds supply may lead to price volatility in our common stock. Investors may purchase our common stock to hedge existing exposure in our common stock or to speculate on the price of our common stock. Speculation on the price of our common stock may involve long and short exposures. To the extent aggregate short exposure exceeds the number of shares of our common stock available for purchase in the open market, investors with short exposure may have to pay a premium to repurchase our common stock for delivery to lenders of our common stock. Those repurchases may in turn, dramatically increase the price of our common stock until investors with short exposure are able to purchase additional common shares to cover their short position. This is often referred to as a " short squeeze. " A short squeeze could lead to volatile price movements in our common stock that are not directly correlated to the performance or prospects of our company and once investors purchase the shares of common stock necessary to cover their short position the price of our common stock may decline. ~~93~~ The issuance of shares of our Class B common stock to our management or others could provide such persons with voting control leaving our other stockholders unable to elect our directors and the holders of our shares of common stock will have little influence over our management. Although there are currently no shares of our Class B common stock issued and outstanding, our certificate of incorporation authorizes the issuance of 25 million shares of Class B common stock. Each share of Class B common stock provides the holder thereof with ten votes on all matters submitted to a stockholder vote. Our certificate of incorporation does not provide for cumulative voting for the election of directors. Any person or group who controls or can obtain more than 50 % of the votes cast for the election of each director will control the election of directors and the other stockholders will not be able to elect any directors or exert any influence over management decisions. As a result of the super- voting rights of our shares of Class B common stock, the issuance of such shares to our management or others could provide such persons with voting control and our other stockholders will not be able to elect our directors and will have little influence over our management. While we are listed on the NYSE American or any other national securities exchange it is highly unlikely that we would issue any shares of Class B common stock as doing so would jeopardize our continued listing on any such exchange. However, if were to be delisted for some other reason and our shares of Class A common stock trade on an over- the- counter market, then we would face no restriction on issuing shares of Class B common stock. **107** General Risk Factors Our limited operating history makes it difficult to evaluate our future business prospects and to make decisions based on our historical performance. Although our executive officers have been engaged in the industries in which we operate for varying degrees of time, we did not begin operations of our current business until recently. We have a very limited operating history in our current form, which makes it difficult to evaluate our business on the basis of historical operations. As a consequence, it is difficult, if not impossible, to forecast our future results based upon our historical data. Reliance on our historical results may not be representative of the results we will achieve, and for certain areas in which we operate, principally those unrelated to defense contracting, will not be indicative at all. Because of the uncertainties related to our lack of historical operations, we may be hindered in our ability to anticipate and timely adapt to increases or decreases in sales, product costs or expenses. If we make poor budgetary decisions as a result of unreliable historical data, we could be less profitable or incur losses, which may result in a decline in our stock price. Deterioration of global economic conditions could adversely affect our business. The global economy and capital and credit markets have experienced exceptional turmoil and upheaval over the past several years. Ongoing concerns about the systemic impact of potential long- term and widespread recession and potentially prolonged economic recovery, volatile energy costs, fluctuating commodity prices and interest rates, volatile exchange rates, geopolitical issues, including the ~~recent outbreak of armed conflict~~ **conflicts** ~~in~~ **between Russia and** Ukraine **and between Israel and Hamas** , natural disasters and pandemic illness, instability in credit markets, cost and terms of credit, consumer and business confidence and demand, a changing financial, regulatory and political environment, and substantially increased unemployment rates have all contributed to increased market volatility and diminished expectations for many established and emerging economies, including those in which we operate. Furthermore, austerity measures that certain countries may agree to as part of any debt crisis or disruptions to major financial trading markets may adversely affect world economic conditions and have an adverse impact on our business. These general economic conditions could have a material adverse effect on our cash flow from operations, results of operations and overall financial condition. The availability, cost and terms of credit also have been and may continue to be adversely affected by illiquid markets and wider credit spreads. Concern about the stability of the markets generally, and the strength of counterparties specifically, has led many lenders and institutional investors to reduce credit to businesses and consumers. These factors have led to a decrease in spending by businesses and consumers over the past several years, and a corresponding slowdown in global infrastructure spending. ~~94~~ Continued uncertainty in the U. S. and international markets and economies and prolonged stagnation in business and consumer spending may adversely affect our liquidity and financial condition, and the liquidity and financial condition of our customers, including our ability to access capital markets and obtain capital lease financing to meet liquidity needs. No assurance of successful expansion of operations. Our significant increase in the scope and the scale of our operations, including the hiring of additional personnel, has resulted in significantly higher operating expenses. We anticipate that our operating expenses will continue to increase. Expansion of our operations may also make significant demands on our management, finances and other resources. Our ability to manage the anticipated future growth, should it occur, will depend upon a significant expansion of our accounting and other internal management systems and the implementation and subsequent improvement of a variety of systems, procedures and controls. We cannot assure **you** that significant problems in these areas will not occur. Failure to expand these areas and implement and improve such systems, procedures and controls in an efficient manner at a pace consistent with our business could have a material adverse effect on our business, financial condition and results of operations. We cannot assure that attempts to expand our marketing, sales, manufacturing and customer support efforts will succeed or generate additional sales or profits in any future period. As a result of the expansion of our operations and the anticipated increase in our operating expenses, along with the difficulty in forecasting revenue levels, we expect to continue to experience significant fluctuations in its results of operations. **108** If we fail to establish and maintain an effective system of internal control over financial reporting, we may not be able to report our financial results accurately or prevent fraud. Any inability to report and file our financial results accurately and timely could harm our reputation and adversely impact the trading price of our common stock. Effective internal control over financial reporting is necessary for us to provide reliable financial reports and prevent fraud. If we cannot provide reliable financial reports or prevent fraud, we may not be able to manage our business as effectively as we would if an effective control environment existed, and our business and reputation with investors may be harmed. As a result, our small size and any current internal control deficiencies may adversely affect our financial condition, results of operations and access to capital. We have carried out an evaluation under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the most recent period covered by this report. Based on the foregoing, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were not effective at the reasonable assurance level due to the material weakness described below. A material weakness is a deficiency, or a combination of deficiencies, within the meaning of Public Company Accounting Oversight Board (" PCAOB ") Audit Standard No. 5, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Management has identified the following material weakness which has caused management to conclude that as of December 31, ~~2022~~ **2023** , our internal control over financial reporting (" ICFR ") was not effective at the reasonable assurance level. We do not have sufficient resources in our accounting function, which restricts our ability to gather, analyze and properly review information related to financial reporting, including fair value estimates, in a timely manner. In addition, due to our size and nature, segregation of all conflicting duties may not always be possible and may not be economically feasible. However, to the extent possible, the initiation of transactions, the custody of assets and the recording of transactions should be performed by separate individuals. Management evaluated the impact of our failure to have segregation of duties during our assessment of our disclosure controls and procedures and concluded that the resulting control deficiency represented a material weakness. We are currently working to improve and simplify our internal processes and implement enhanced controls to address the material weakness in our internal control over financial reporting and to remedy the ineffectiveness of our disclosure controls and procedures. This material weakness will not be considered to be remediated until the applicable remediated controls are operating for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. If our accounting controls and procedures are circumvented or otherwise fail to achieve their intended purposes, our business could be seriously harmed. We evaluate our disclosure controls and procedures as of the end of each fiscal quarter, and annually review and evaluate our internal control over financial reporting in order to comply with the ~~Commission~~ **SEC** ' s rules relating to internal control over financial reporting adopted pursuant to the Sarbanes- Oxley Act of 2002. 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. If we fail to maintain effective internal control over financial reporting or our management does not timely assess the adequacy of such internal control, we may be subject to regulatory sanctions, and our reputation may decline. ~~95~~ Our internal computer systems may fail or suffer security breaches, which could result in a material disruption of our operations. Like any other business, we rely on e- mail and other digital communications methods as part of our normal operations. As such, our internal computer systems and servers could fail or suffer security breaches, possibly resulting in a material disruption to our operations. The secure operation of our IT networks and systems as well as the secure processing and maintenance of information is critical to our operations and business strategy. Notwithstanding these priorities, we have experienced attempts at cybercrime such as phishing and other electronic fraud, including efforts to misdirect payments to imposter vendors and service providers. After experiencing a financial loss due to e- mail fraud in November 2021, we have instituted greater internal controls and procedures, both electronic and non- electronic, to combat such fraudulent conduct. We also maintain an insurance policy to cover any losses or injuries suffered from cybercrime of this nature; however, it may not be sufficient to cover all damages. Despite our efforts, attempts at fraud such as spoofed e- mails, requests for payment and similar deceptions have become commonplace in the world of e- commerce and are expected to continue. If we are unable to prevent such security breaches in the future, these events or circumstances could materially and adversely affect our operations, financial condition and operating results and impair our ability to execute our business strategy. **109** We face significant competition, including changes in pricing. The markets for our products are both competitive and price sensitive. Many competitors have significant financial, operations, sales and marketing resources, plus experience in research and development, and compete with us by offering lower prices. Competitors could develop new technologies that compete with our products to achieve a lower unit price. If a competitor develops lower cost and / or superior technology or cost- effective alternatives to our products and services, our business could be seriously harmed. The markets for some of our products are also subject to specific competitive risks because these markets are highly price sensitive. Our competitors have competed in the past by lowering prices on certain products. If they do so again, we may be forced to respond by lowering our prices. This would reduce sales revenues and increase losses. Failure to anticipate and respond to price competition may also impact sales and aggravate losses. Many of our competitors are larger and have greater financial and other resources than we do. Our products compete and will compete with similar if not identical products produced by our competitors. These competitive products could be marketed by well- established, successful companies that possess greater financial, marketing, distribution personnel, and other resources than we do. Using said resources, these companies can implement extensive advertising and promotional campaigns, both generally and in response to specific marketing efforts by competitors. They can introduce new products to new markets more rapidly. In certain instances, competitors with greater financial resources may be able to enter a market in direct competition with us, offering attractive marketing tools to encourage the sale of products that compete with our products or present cost features that consumers may find attractive. Our growth strategy is subject to a significant degree of risk. Our growth strategy through acquisitions involves a significant degree of risk. Some of the companies that we have identified as acquisition targets or made a significant investment in may not have a developed business or are experiencing inefficiencies and incur losses. Therefore, we may lose our investment in the event that these companies' businesses do not develop as planned or that they are unable to achieve the anticipated cost efficiencies or reduction of losses. Further, in order to implement our growth plan, we have hired additional staff and consultants to review potential investments and implement our plan. As a result, we have substantially increased our infrastructure and costs. If we fail to quickly find new companies that provide revenue to offset our costs, we will continue to experience losses. No assurance can be given that our product development and investments will produce sufficient revenues to offset these increases in expenditures. ~~96 Our business and operations are growing rapidly. If we fail to effectively manage our growth, our business and operating results could be harmed. We have experienced, and may continue to experience, rapid growth in our operations. This has placed, and may continue to place, significant demands on our management, operational and financial infrastructure. If we do not manage our growth effectively, the quality of our products and services could suffer, which could negatively affect our operating results. To effectively manage our growth, we must continue to improve our operational, financial and management controls and reporting systems and procedures. These systems improvements may require significant capital expenditures and management resources. Failure to implement these improvements could hurt our ability to manage our growth and our financial position.~~ Our operating results may vary from quarter to quarter. Our operating results have in the past been subject to quarter- to- quarter fluctuations, and we expect that these fluctuations will continue, and may increase in magnitude, in future periods. Demand for our products is driven by many factors, including the availability of funding for our products in our customers' capital budgets. There is a trend for some of our customers to place large orders near the end of a quarter or fiscal year, in part to spend remaining available capital budget funds. Seasonal fluctuations in customer demand for our products driven by budgetary and other concerns can create corresponding fluctuations in period- to- period revenues, and we therefore cannot assure you that our results in one period are necessarily indicative of our revenues in any future period. In addition, the number and timing of large individual sales and the ability to obtain acceptances of those sales, where applicable, have been difficult for us to predict, and large individual sales have, in some cases, occurred in quarters subsequent to those we anticipated, or have not occurred at all. The loss or deferral of one or more significant sales in a quarter could harm our operating results for such quarter. It is possible that, in some quarters, our operating results will be below the expectations of public market analysts or investors. In such events, or in the event adverse conditions prevail, the market price of our common stock may decline significantly. Changes in the U. S. tax and other laws and regulations may adversely affect our business. The U. S. Government may revise tax laws, regulations or official interpretations in ways that could have a significant adverse effect on our business, including modifications that could reduce the profits that we can effectively realize from our international operations, or that could require costly changes to those operations, or the way in which they are structured. For example, the effective tax rates for most U. S. companies reflect the fact that income earned and reinvested outside the U. S. is generally taxed at local rates, which may be much lower than U. S. tax rates. If we expand abroad and there are changes in tax laws, regulations or interpretations that significantly increase the tax rates on non- U. S. income, our effective tax rate could increase and our profits could be reduced. If such increases resulted from our status as a U. S. company, those changes could place us at a disadvantage to our non- U. S. competitors if those competitors remain subject to lower local tax rates. **110** Our sales and profitability may be affected by changes in economic, business and industry conditions. If the economic climate in the U. S. or abroad deteriorates, customers or potential customers could reduce or delay their technology investments. Reduced or delayed technology and entertainment investments could decrease our sales and profitability. In this environment, our customers may experience financial difficulty, cease operations and fail to budget or reduce budgets for the purchase of our products and professional services. This may lead to longer sales cycles, delays in purchase decisions, payment and collection, and can also result in downward price pressures, causing our sales and profitability to decline. In addition, general economic uncertainty and general declines in capital spending in the information technology sector make it difficult to predict changes in the purchasing requirements of our customers and the markets we serve. There are many other factors which could affect our business, including: · The introduction and market acceptance of new technologies, products and services; · New competitors and new forms of competition; · The size and timing of customer orders (for retail distributed physical product); · The size and timing of capital expenditures by our customers; · Adverse changes in the credit quality of our customers and suppliers; · Changes in the pricing policies of, or the introduction of, new products and services by us or our competitors; · Changes in the terms of our contracts with our customers or suppliers; · The availability of products from our suppliers; and · Variations in product costs and the mix of products sold. ~~97~~ These trends and factors could adversely affect our business, profitability and financial condition and diminish our ability to achieve our strategic objectives. The sale of our products is dependent upon our ability to satisfy the proprietary requirements of our customers. We depend upon a relatively narrow range of products for the majority of our revenue. Our success in marketing our products is dependent upon their continued acceptance by our customers. In some cases, our customers require that our products meet their own proprietary requirements. If we are unable to satisfy such requirements, or forecast and adapt to changes in such requirements, our business could be materially harmed. The sale of our products is dependent on our ability to respond to rapid technological change, including evolving industry- wide standards, and may be adversely affected by the development, and acceptance by our customers, of new technologies which may compete with, or reduce the demand for, our products. Rapid technological change, including evolving industry standards, could render our products obsolete. To the extent our customers adopt such new technology in place of our products, the sales of our products may be adversely affected. Such competition may also increase pricing pressure for our products and adversely affect the revenues from such products. **111** Our limited ability to protect our proprietary information and technology may adversely affect our ability to compete, and our products could infringe upon the intellectual property rights of others, resulting in claims against us, the results of which could be costly. Many of our products consist entirely or partly of proprietary technology owned by us. Although we seek to protect our technology through a combination of copyrights, trade secret laws and contractual obligations, these protections may not be sufficient to prevent the wrongful appropriation of our intellectual property, nor will they prevent our competitors from independently developing technologies that are substantially equivalent or superior to our proprietary technology. In addition, the laws of some foreign countries do not protect our proprietary rights to the same extent as the laws of the U. S. In order to defend our proprietary rights in the technology utilized in our products from third party infringement, we may be required to institute legal proceedings, which would be costly and would divert our resources from the development of our business. If we are unable to successfully assert and defend our proprietary rights in the technology utilized in our products, our future results could be adversely affected. Although we attempt to avoid infringing known proprietary rights of third parties in our product development efforts, we may become subject to legal proceedings and claims for alleged infringement from time to time in the ordinary course of business. Any claims relating to the infringement of third- party proprietary rights, even if not meritorious, could result in costly litigation, divert management' s attention and resources, require us to reengineer or cease sales of our products or require us to enter into royalty or license agreements which are not advantageous to us. In addition, parties making claims may be able to obtain an injunction, which could prevent us from selling our products in the U. S. or abroad. If we ship products that contain defects, the market acceptance of our products and our reputation will be harmed and our customers could seek to recover their damages from us. Our products are complex, and despite extensive testing, may contain defects or undetected errors or failures that may become apparent only after our products have been shipped to our customers and installed in their network or after product features or new versions are released. Any such defect, error or failure could result in failure of market acceptance of our products or damage to our reputation or relations with our customers, resulting in substantial costs for us and our customers as well as the cancellation of orders, warranty costs and product returns. In addition, any defects, errors, misuse of our products or other potential problems within or out of our control that may arise from the use of our products could result in financial or other damages to our customers. Our customers could seek to have us pay for these losses. Although we maintain product liability insurance, it may not be adequate. The rights of the holders of common stock may be impaired by the potential issuance of preferred stock. Our certificate of incorporation gives our Board the right to create new series of preferred stock. As a result, the Board may, without stockholder approval, issue preferred stock with voting, dividend, conversion, liquidation or other rights which could adversely affect the voting power and equity interest of the holders of common stock. Preferred stock, which could be issued with the right to more than one vote per share, could be utilized as a method of discouraging, delaying or preventing a change of control. The possible impact on takeover attempts could adversely affect the price of our common stock. We may issue shares of preferred stock in the future. ~~98~~ The requirements of being a public company may strain our resources, divert management' s attention and affect our ability to attract and retain qualified board members. We are a public company and subject to the reporting requirements of the Exchange Act, and the Sarbanes- Oxley Act of 2002. The Exchange Act requires, among other things, 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 maintain effective disclosure controls and procedures and internal controls for financial reporting. For example, Section 404 of the Sarbanes- Oxley Act requires that our management report on the effectiveness of our internal controls structure and procedures for financial reporting. Section 404 compliance may divert internal resources and will take a significant amount of time and effort to complete. If we fail to maintain compliance under Section 404, or if our internal control over financial reporting continues to not be effective as defined under Section 404, we could be subject to sanctions or investigations by the NYSE American, the ~~Commission~~ **SEC** , or other regulatory authorities. Furthermore, investor perceptions of our company may suffer, and this could cause a decline in the market price of our common stock. Any failure of our internal controls could have a material adverse effect on our stated results of operations and harm our reputation. If we are unable to implement these changes effectively or efficiently, it could harm our operations, financial reporting or financial results and could result in an adverse opinion on internal controls from our independent auditors. We may need to hire a number of additional employees with public accounting and disclosure experience in order to meet our ongoing obligations as a public company, particularly if we become fully subject to Section 404 and its auditor attestation requirements, which will increase costs. Our management team and other personnel will need to devote a substantial amount of time to new compliance initiatives and to meeting the obligations that are associated with being a public company, which may divert attention from other business concerns, which could have a material adverse effect on our business, financial condition and results of operations. **112** We have identified material weaknesses in our internal control over financial reporting and may identify additional material weaknesses in the future or otherwise fail to maintain an effective system of internal controls, which may result in material misstatements of our financial statements or cause us to fail to meet our periodic reporting obligations. We are required to comply with certain provisions of Section 404 of the Sarbanes- Oxley Act of 2002 (" Sarbanes- Oxley Act "). Section 404 requires that we document and test our internal control over financial reporting and issue management' s assessment of our internal control over financial reporting. Management assessed the effectiveness of our internal control over financial reporting as of December 31, ~~2021~~ **2023** . In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control — Integrated Framework. 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 our annual or interim financial statements will not be prevented or detected on a timely basis. Based on our assessment, as of December 31, ~~2021~~ **2023** , we concluded that our internal control over financial reporting contained material weaknesses. The weakness will not be considered remediated, however, until the applicable controls operate for a sufficient period of time and our management has concluded, through testing, that these controls are operating effectively. If we fail to comply with the requirements of Section 404 of the Sarbanes- Oxley Act, the accuracy and timeliness of the filing of our annual and quarterly reports may be materially adversely affected and could cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common stock. In addition, a material weakness in the effectiveness of our internal control over financial reporting could result in an increased chance of fraud and the loss of customers, reduce our ability to obtain financing and require additional expenditures to comply with these requirements, each of which could have a material adverse effect on our business, results of operations and financial condition. If we fail to comply with the rules under the Sarbanes- Oxley Act of 2002 related to accounting controls and procedures, or if we discover material weaknesses and deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult. If we fail to comply with the rules under the Sarbanes- Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult. Section 404 of the Sarbanes- Oxley Act requires annual management assessments of the effectiveness of our internal control over financial reporting. If material weaknesses or significant deficiencies are discovered or if we otherwise fail to achieve and maintain the adequacy of our internal control, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal controls over financial reporting in accordance with Section 404 of the Sarbanes- Oxley Act. Moreover, effective internal controls are necessary for us to produce reliable financial reports and are important to helping prevent financial fraud. If we cannot provide reliable financial reports or prevent fraud, our business and operating results could be harmed, investors could lose confidence in our reported financial information, and the trading price of our common stock could drop significantly. ~~99~~ If securities or industry analysts do not publish research or reports about our business, or if they change their recommendations regarding our stock adversely, our stock price and trading volume could decline. The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. Our research coverage by industry and financial analysts is currently limited. Even if our analyst coverage increases, if one or more of the analysts who cover us downgrade our stock, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. The elimination of monetary liability against our directors, officers and employees under law and the existence of indemnification rights for or obligations to our directors, officers and employees may result in substantial expenditures by us and may discourage lawsuits against our directors, officers and employees. Our certificate of incorporation contains a provision permitting us to eliminate the personal liability of our directors to us and our stockholders for damages for the breach of a fiduciary duty as a director or officer to the extent provided by Delaware law. We may also have contractual indemnification obligations under any future employment agreements with our officers. The foregoing indemnification obligations could result in us incurring substantial expenditures to cover the cost of settlement or damage awards against directors and officers, which we may be unable to recoup. These provisions and the resulting costs may also discourage us from bringing a lawsuit against directors and officers for breaches of their fiduciary duties, and may similarly discourage the filing of derivative litigation by our stockholders against our directors and officers even though such actions, if successful, might otherwise benefit us and our stockholders. We do not anticipate paying **cash** dividends on our common stock and, accordingly, stockholders must rely on stock appreciation for any return on their investment. We have never declared or paid cash dividends on our common stock and do not expect to do so in the foreseeable future. The declaration of dividends is subject to the discretion of our Board and will depend on various factors, including our operating results, financial condition, future prospects and any other factors deemed relevant by our Board. You should not rely on an investment in our company if you require dividend income from your investment in our company. The success of your investment will likely depend entirely upon any future appreciation of the market price of our common stock, which is uncertain and unpredictable. There is no guarantee that our common stock will appreciate in value. **113** ITEM 1B. UNRESOLVED STAFF COMMENTS