Risk Factors Comparison 2023-02-22 to 2022-02-24 Form: 10-K

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The following discussion sets forth what management currently believes could be the most significant risks and uncertainties that could impact our businesses, results of operations, and financial condition. Other risks and uncertainties, including those not currently known to us or our management, could also negatively impact our businesses, results of operations, and financial conditions. Accordingly, the following should not be considered a complete discussion of all of the risks and uncertainties we may face. We may amend or supplement these risk factors from time to time in other reports we file with the SEC. Risks Related to our Water Segment Our Water segment revenues **largely** depend on the construction of new ~~desalination plants,~~ and ~~the retrofit~~ **retrofitting** of existing **water treatment** plants, and as a result, our operating results have **historically** experienced, and may continue to experience, significant variability due to volatility in capital spending, availability of project financing, **project timing, execution** and other factors affecting the **broader** water ~~desalination~~ **treatment** industry. We currently derive the majority of our Water segment revenues from sales of **energy recovery** products and services used in **newly constructed, large- scale** desalination plants **and the retrofit of existing** ~~for municipalities, hotels, mobile containerized~~ desalination ~~solutions~~ **plants** , **particularly** ~~resorts, and agricultural operations~~ in dry or drought- ridden regions of the world. The demand for our products used in the Water segment may decrease if the construction of **these** desalination plants or the retrofit of existing plants, declines for **any reason, including, any global or regional economic downturns, worsening** political **or regional conditions** , **changing government priorities, or the impact of any global or regional conflicts. Other factors that could affect the number and capacity of desalination plants built or the timing of their completion, include the availability of required engineering and design resources; a weak global** ~~economic~~ **economy** ~~, or~~ **; shortage in the supply of credit and** other **forms of financing; changes in government regulation, permitting requirements, or priorities; and reduced capital spending for water treatment solutions. Each of these** factors ~~, especially~~ **could result** in ~~dry~~ **reduced or uneven demand** ~~or~~ **for** ~~drought- ridden regions~~ **our products. Pronounced variability or delays in the construction of treatment plants or reductions in spending for desalination and industrial wastewater treatment, could negatively impact our Water segment sales and revenue, which in turn could have an adverse effect on our entire business, financial condition, or results of operations and make it difficult for us to accurately forecast our future sales and revenue** . In addition, the desalination industry has been experiencing a technology shift from thermal desalination ~~plants~~ to SWRO production. If this technology shift does not continue or we are unable to capture ~~a portion of~~ the **remaining** market **opportunities** created by this shift, our Water segment sales and revenue can be negatively impacted. ~~Other factors that could affect the number and capacity of desalination plants built or the timing of their completion, include the availability of required engineering and design resources; a weak global economy; shortage in the supply of credit and other forms of financing; changes in government regulation, permitting requirements, or priorities; and reduced capital spending for desalination. Each of these factors could result in reduced or uneven demand for our products. Pronounced variability or delays in the construction of desalination plants or reductions in spending for desalination, could negatively impact our Water segment sales and revenue, which in turn could have an adverse effect on our entire business, financial condition, or results of operations and make it difficult for us to accurately forecast our future sales and revenue.~~ Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | 14Our Water segment faces competition from a number of companies that offer competing energy recovery and pump solutions. If any one of these companies produces superior technology or offers more cost- effective products, our competitive position in the market could be harmed and our profits may decline. The market for ~~ERD~~ **energy recovery devices** and pumps for ~~desalination~~ **water treatment** plants is competitive and evolving. We expect competition to persist and intensify as the desalination **and industrial wastewater** ~~market~~ **markets** ~~continues -~~ **continue** to grow. ~~We~~ **Competitors have introduced new products in 2022, including new products from Flowserve and Danfoss that directly compete with our flagship energy recovery products. In addition, we** expect new competitors to enter the market and existing competitors to introduce improvements to their existing products and **additional** new products that are directly competitive to our ~~energy recovery and pump~~ solutions. These **new and** improved ~~and new~~ products may be superior to our products and / or could be offered at prices that are considerably less than the cost of our products. The performance and pricing pressure of such new products could cause us to adjust the prices of certain products to stay competitive, or we may not be able to continue to win large contracts, which could adversely affect our market share, competitive position and margins. Some of our current and potential competitors may have significantly greater financial, technical, marketing, and other resources; longer operating histories; or greater name recognition. They may also have more extensive products and product lines that would enable them to offer multi- product or packaged solutions as well as competing products at lower prices or with other more favorable terms and conditions. As a result, our ability to sustain our market share may be adversely impacted, which would affect our business, product margins, operating results, and financial condition. In addition, if one of our competitors were to merge or partner with another company, the change in the competitive landscape could adversely affect our continuing ability to compete effectively. A sustained downturn in the economy ~~or prolonged lower oil prices,~~ could impact **the** future **of new, and the retrofit of, existing** desalination plants **,** and the ~~retrofit~~ **treatment** of ~~existing plants~~ **various industrial wastewater verticals** , which could result in decreased demand for our water products and services. The demand for our water products and services depends primarily on the continued construction of new large scale desalination plants ~~and~~ **,** the retrofit of existing plants **, and the construction of industrial wastewater treatment facilities** , particularly in the countries that make up the Gulf Cooperation Council (" GCC ") **, China, and India** . The recent **global** economic decline **and armed conflicts** ~~caused by the spread of COVID- 19 or a prolonged~~

~~decrease~~ in **Ukraine** ~~oil prices,~~ may have a negative economic impact on these and other countries, which may impact the **levels of spending on, timing of, and** availability of project financing for new desalination and retrofit projects **. The** ~~, such as the ability~~ **inability** to secure credit **or financing** for these projects, **may** ~~which would~~ result in the postponement or cancellation **of these projects** , and / or change government priorities or otherwise reduce spending for ~~desalination~~ **water treatment** projects, each of which could result in decreased demand for our products and services, which could have an adverse effect on our entire business, financial condition or results of operations. We are subject to risks related to product defects, which could lead to warranty claims in excess of our warranty provision or result in a significant or a large number of warranty or other claims in any given year. We provide a warranty for certain products for a period of 18 to 30 months and provide up to a five- year warranty for the ceramic components of our PX- branded products. We test our products in our manufacturing facilities through a variety of means; however, there can be no assurance that our testing will reveal latent defects in our products, which may not become apparent until after the products have been sold into the market. The testing may not replicate the harsh, corrosive, and varied conditions of the desalination and other plants in which they are installed. It is also possible that components purchased from our suppliers could break down under those conditions. Certain components of our **hydraulic** ~~Turbochargers~~ **turbochargers** and **circulation booster** pumps are custom- made and may not scale or perform as required in production environments. Accordingly, there is a risk that we may have significant warranty claims or breach supply agreements due to product defects. We may incur additional cost of revenue if our warranty provisions are not sufficient to cover the actual cost of resolving issues related to defects in our products. If these additional expenses are significant, they could adversely affect our business, financial condition, and results of operations. Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | 15 **We** ~~Risks Related to our Emerging Technologies Our diversification into new fluid flow markets, such as commercial refrigeration and IWW,~~ may not be **able to** ~~successful~~ **successfully compete in the industrial wastewater market** . ~~We have made~~ **The industrial wastewater market is evolving and covers** a **wide range of industries** ~~substantial investment in R & D~~ and **geographies** ~~sales to execute on our diversification strategy into fluid flow markets such as commercial refrigeration~~ and ~~IWW~~ **utilizes a variety of RO technologies** . While ~~we see diversification as core to~~ our ~~growth strategy~~ **products can be a potential solution to these different applications** , there is no guarantee that we will be successful in **developing market adoption of our industrial wastewater products. While countries like China and India are beginning to mandate zero** ~~our~~ - **or** ~~efforts. Our model~~ **minimum liquid discharge requirements** for ~~growth~~ **specific industries, in many parts of the world there are no regulations or minimal regulations for treating wastewater. Accordingly, end users in such areas may not be willing to implement industrial wastewater treatment at all or, if they do, may select a competitive or alternative wastewater treatment technology. Similar to the desalination market, there are many competitors and competitive products that can service industrial wastewater industries that do not include reverse osmosis or utilize our products. These competitors may have existing relationships with end users, greater name recognition or significantly greater financial, technical, marketing and other resources that may make it challenging for us to compete in this industry. As a result of the foregoing, we may not be able to successfully develop our industrial wastewater business, develop any market share, or win any large contracts, which would affect our business, operating results and financial condition. Risks Related to our Emerging Technologies Segment We may not be able to successfully compete in the CO2 refrigeration market. For the past decade, the global commercial and refrigeration industry has been shifting away from hydrofluorocarbon- based refrigerants to natural refrigerants such as CO2 in response to the global hydrofluorocarbon refrigerant phase- down and subsequent environmental regulations. We introduced the PX G1300 energy recovery device for use in CO2- based refrigeration systems in 2021 and continue to work on developing market adoption of this new technology. While interest in the PX G1300 has been positive, there** is ~~based~~ **no guarantee that we will be successful** in **generating sustained interest** ~~part on our ability to initiate~~ and ~~embrace disruptive technology trends, to enter new markets, both in terms of geographies and product areas, and to drive~~ broad adoption of **our technology on** ~~the products and services that we develop and market. Our competitive position and future growth depend upon~~ a **timeline necessary** ~~number of factors, including our ability~~ to ~~successfully: (i) innovate, develop and maintain competitive products, and services to address emerging trends and~~ meet ~~customers' needs, (ii) defend our market share against an ever- expanding number of competitors, (iii) enhance our product and service offerings by adding innovative features or~~ **our goals,** ~~disruptive technologies that differentiate them from those of our~~ - **or** ~~competitors~~ **at all. The commercial** and **industrial refrigeration industry can be slow** ~~prevent commoditization, (iv) develop, manufacture and bring compelling new products and services~~ to **adopt** ~~market quickly and cost- effectively, (v) attract, develop and retain individuals with the requisite innovation and technical expertise and understanding of customers' needs to develop~~ new technologies ~~, products~~ and **alternative technologies** ~~services, (vi) continue to invest in manufacturing, research and development, engineering, sales and marketing, and customer support. Any inability to execute this model for~~ - **or refrigerants may emerge** ~~growth could damage our reputation~~ , **slowing the adoption of the PX G1300** ~~limit our growth, and negatively affect our operation results~~ . In addition, **we may encounter** ~~profitability, if any, in~~ new ~~industrial verticals may be lower than in our Water segment, and we may not be sufficiently successful in our diversification efforts to recoup investments. The failure of our technologies, products or services to maintain and gain market acceptance due to more attractive offerings, or customers' slower- than- expected adoption of and investment in our new and innovative technologies could significantly reduce our revenues or market share and adversely affect our competitive position. We may not be able to successfully complete development, launch or commercialize our CO2 refrigeration technology. We introduced the PX G1300 in 2021 and continue to work on the development and commercialization of our CO2 refrigeration technology. While testing of the technology has continued to be promising, there remain a wide range of~~ technological challenges ~~for us~~ that we will need to solve in order to **achieve adoption** ~~launch the technology for commercial use. We may not be successful in solving these challenges and, as a result, may not be able to successfully complete the launch~~ of ~~the technology. Even if we are able to complete the launch, we may not be able to generate sufficient interest in our technology or commercialize~~ the technology. The commercial refrigeration industry is also saturated with very large, established companies who have greater experience and resources than us and there are competing products and technologies that compete against the PX G1300. If we are unable to solve ~~the~~ **any** technological challenges, ~~launch and~~ generate **and sustain** sufficient interest for our CO2 refrigeration technology, we may not be able to successfully ~~commercialize~~ **compete in** the ~~technology~~ **CO2 refrigeration market** , which could have an adverse effect on our entire business, financial condition, or results of operation. We may not be able to **develop future new technologies** successfully ~~compete in the IWW market~~ . **We have made** ~~The IWW market covers~~ a ~~wide range of industries~~ **substantial investment in R & D** and ~~geographies and utilizes a variety of RO technologies~~ **sales to execute on our diversification strategy into fluid flow markets, including our recent commercial refrigeration products** . While ~~our products can be applied~~ **we see diversification as core** to **our growth strategy** ~~each of these stages~~ , there is no guarantee that we will be successful in **our efforts. Our model for growth is based in part on our ability to initiate and embrace disruptive technology trends, to enter new** ~~marketing~~ **markets , both in terms of geographies** and ~~selling our~~ **product areas, and to drive broad adoption of the** products **and services that we develop and** ~~to the end users. Similar to the SWRO~~ market **. Our competitive position** ~~, there are many competitors~~ and **future growth depend upon a number of factors, including our ability to successfully: (i) innovate, develop and maintain** competitive products **, and services to address emerging trends and meet customers' needs, (ii) defend our market share against an ever- expanding number of competitors, (iii) enhance our product and service offerings by adding innovative features or disruptive technologies** that **differentiate** ~~can service the~~ **them** ~~IWW industry. These~~ **from those of our** competitors ~~may have existing relationships~~ **and prevent commoditization, (iv) develop, manufacture and bring compelling new products and services to market quickly and cost-effectively, (v) attract, develop and retain individuals** with **the requisite innovation and** ~~end users, greater name recognition or significantly greater financial,~~ technical **expertise and understanding of customers' needs to develop new technologies** , **products and services, (vi) continue to invest in manufacturing, research and development, engineering, sales and** marketing **,** and ~~other resources that may make it challenging~~ **customer support. Any inability to execute this model** for ~~us to compete in this industry~~ **growth could damage our reputation, limit our growth, and negatively affect our operation results** . In addition, ~~the IWW~~ **profitability, if any, in new industrial verticals may be lower than in our Water segment, and we may not be sufficiently successful in our diversification efforts to recoup investments. The failure of our technologies, products or services to maintain and gain** market **acceptance due** ~~is evolving. While countries like China and India are beginning~~ to **more attractive offerings,** ~~mandate ZLD or MLD requirements for~~ - **or** ~~specific industries, in many parts~~ **customers' slower- than- expected adoption** of **and** ~~the world there are no or minimal regulations for treating wastewater. Accordingly, end users in such areas may not be willing to make the financial~~ investment **in our new and innovative technologies could significantly reduce our revenues** ~~for~~ - **or** ~~our products. As a result of the foregoing, we may not be able to successfully develop our IWW business, develop any~~ market share **and adversely** ~~, or win any large contracts, which would~~ affect our **competitive position** ~~business, operating results and financial condition. We may not be able to successfully find a suitable collaboration partner to commercialize the VorTeq. The VorTeq technology remains a relatively new technology and the hydraulic fracturing process is extremely complex, which presents a wide range of technological challenges for us. The successful commercialization of the VorTeq depends heavily on the support of fracking operators and ultimate adoption of the technology by these companies. We have begun to focus our efforts on seeking a suitable collaboration partner to bring VorTeq to completion and subsequently commercialize the technology. Even if we do find a suitable collaboration partner, if the hydraulic fracturing operators fail to adopt the VorTeq technology, for any reason, we may not be able to successfully commercialize the VorTeq technology and we may not receive any return on our research and development investment. If we fail to commercialize the VorTeq technology or find a suitable collaboration partner, we may not be able to successfully commercialize the VorTeq technology and will instead shut down the VorTeq project, which may have an adverse effect on our entire business, financial condition, or results of operation~~ .

Risks Related to our General Business Our operating results may fluctuate significantly, making our future operating results difficult to predict and causing our operating results to fall below expectations. Our operating results may fluctuate due to a variety of factors, many of which are outside of our control. We have experienced significant fluctuations in revenue from quarter- to- quarter and year- to- year, and we expect such fluctuations to continue. In addition, in the past, customer buying patterns led to a significant portion of our sales occurring in the fourth quarter. This presents the risk that delays, cancellations, or other adverse events in the fourth quarter could have a substantial negative impact on annual results. As a result, comparing our operating results on a period- to- period basis may not be meaningful. Since it is difficult for us to anticipate our future results, in the event our revenue or operating results fall below the expectations of investors or securities analysts, our stock price may decline. Our sales cycles can be long and unpredictable, and our sales efforts require considerable time and expense. As a result, our sales are difficult to predict and may vary substantially from quarter to quarter, which may cause our operating results to fluctuate. Our sales efforts involve substantial education of our current and prospective customers about the use and benefits of our energy recovery products. This education process can be time- consuming and typically involves a significant product evaluation process which is particularly pronounced when dealing with product introduction into new fluid flow industrial verticals. In our Water segment, the average sales cycle for our OEM customers, which are involved with smaller desalination plants, ranges from one to ~~12~~ **16** months. The average Water segment sales cycle for our international **MPD** ~~EPC firm~~ customers, which are involved with larger desalination plants, **typically** ~~range~~ **ranges** from 16 to 36 months, ~~or more~~ **and may exceed 36 months from time- to- time** . These long sales cycles make quarter- by- quarter revenue predictions difficult and results in our expending significant resources well in advance of orders for our products. Our business entails significant costs that are fixed or difficult to reduce in the short term while demand for our products is variable and subject to fluctuation, which may adversely affect our operating results. Our business requires investments in facilities, equipment, research and development, and training that are either fixed or difficult to reduce or scale in the short term. At the same time, the market for our products is variable and has experienced downturns due to factors such as economic recessions, increased precipitation, uncertain global financial markets, and political changes, many of which are outside of our control. During periods of reduced product demand, we may experience higher relative costs and excess manufacturing capacity, resulting in high overhead and lower gross profit margins while causing cash flow and profitability to decline. Similarly, although we believe that our existing manufacturing facilities are capable of meeting current demand and demand for the foreseeable future, the continued success of our business depends on our ability to expand our manufacturing, research and development, and testing facilities to meet market needs. If we are unable to respond timely to an increase in demand, our revenue, gross profit margin, net income, and cash flow may be adversely affected. If we are unable to collect unbilled receivables, which are caused in part by holdback provisions, our operating results could be adversely affected. Our contracts with large EPC firms generally contain holdback provisions that typically delay final installment payments for our products by up to 24 months, after the product has been shipped and revenue has been recognized. Generally, 10 % or less of the revenue we recognize pursuant to our customer contracts is subject to such holdback provisions and is accounted for as contract assets. Such holdbacks may result in relatively high unbilled receivables. If we are unable to collect these performance holdbacks, our results of operations would be adversely affected. **We are exposed to credit risk on our trade accounts receivable, and this risk is heightened during periods when economic conditions worsen. Some of our outstanding trade receivables are not covered by collateral, third- party bank support or financing arrangements, or credit insurance. Our exposure to credit and collectability risk on our trade receivables may be higher and affected by economic and / or political instability in certain markets, and our ability to mitigate such risks may be limited. While we have procedures to monitor and limit exposure to credit risk on our trade receivables, as well as certain prepayment requirements, there can be no assurance such procedures will effectively limit our credit risk and avoid losses.** We depend on a limited number of suppliers for some of our components. If our suppliers are not able to meet our demand and / or requirements, our business could be harmed. We rely on a limited number of suppliers for vessel housings, stainless steel ports, **and** alumina powder ~~, and tungsten carbide~~ for our portfolio of ~~ERDs~~ **energy recovery devices** and stainless steel castings and components for our **hydraulic** ~~Turbochargers~~ **turbochargers** and pumps. Our reliance on a limited number of manufacturers for these supplies involves several risks, including reduced control over delivery schedules, quality assurance, manufacturing yields, production costs **caused by rising inflation** , and lack of guaranteed production capacity or product supply. We do not have long- term supply agreements with these suppliers but secure these supplies on a purchase order basis. Our suppliers have no obligation to supply products to us for any specific period, in any specific quantity, or at any specific price, except as set forth in a particular purchase order. Our requirements may represent a small portion of the total production capacities of these suppliers, and our suppliers may reallocate capacity to other customers, even during periods of high demand for our products. We have in the past experienced, and may in the future experience, product quality issues and delivery delays with our suppliers due to factors such as high industry demand or the inability of our vendors to consistently meet our quality or delivery requirements. If our suppliers were to cancel or materially change their commitments to us or fail to meet quality or delivery requirements needed to satisfy customer orders for our products, we could lose time- sensitive customer orders, be unable to develop or sell our products cost-effectively or on a timely basis, if at all, and have significantly decreased revenue, which could harm our business, operating results, and financial condition. We may qualify additional suppliers in the future, which would require time and resources. If we do not qualify additional suppliers, we may be exposed to increased risk of capacity shortages due to our dependence on current suppliers. Parts of our inventory may become excess or obsolete, which would increase our cost of revenues. Inventory of raw materials, parts, components, work in- process, or finished products may accumulate, and we may encounter losses due to a variety of factors, including technological change in the water desalination, ~~IWW~~ **industrial wastewater** and refrigeration markets that result in product changes; long delays in shipment of our products or order cancellations; our need to order raw materials that have long lead times and our inability to estimate exact amounts and types of items needed, especially with regard to the configuration of our high- efficiency pumps ~~and IsoBoost system~~ ; and cost reduction initiatives resulting in component changes within the products. In addition, we may, from time- to- time, purchase more inventory than is immediately required in order to shorten our delivery time in case of an anticipated increase in demand for our products. If we are unable to forecast demand for our products with a reasonable degree of certainty and our actual orders from our customers are lower than these forecasts, we may accumulate excess inventory that we may be required to write off, and our business, financial condition, and results of operations could be adversely affected. We may not generate positive returns on our research and development strategy. Developing our products is expensive and the investment in product development may involve a long payback cycle. While we believe one of our greatest strengths lies in our innovation and our product development efforts, successfully commercializing such efforts and generating a return can be difficult. We expect that our results of operations may be impacted by the timing and size of these investments. In addition, these investments may take several years to generate positive returns, if ever. Business interruptions may damage our facilities or those of our suppliers. Our operations and those of our suppliers may be vulnerable to interruption by fire, earthquake, flood, and other natural disasters, as well as power loss, telecommunications failure, and other events beyond our control. Our headquarters in California is located near major earthquake faults and has experienced earthquakes in the past. In addition, our facilities in California are located in areas that are subject to public safety power shutdowns (" PSPS "). If a natural disaster occurs or we are subject to PSPS, our ability to conduct our operations could be seriously impaired, which could harm our business, financial condition, results of operations, and cash flows. We cannot be sure that the insurance we maintain against general business interruptions will be adequate to cover all of our losses. We are, from time to time, involved in legal proceedings, and may be subject to additional future legal proceedings, that may result in material adverse outcomes. In addition to the IP litigation risks, we may become involved in the future, in various commercial and other disputes as well as related claims and legal proceedings that arise from time to time in the course of our business. See Note 7, " Commitments and Contingencies –

Litigation, " of the Notes for information about certain legal proceedings in which we are involved. Our current legal proceedings and any future lawsuits to which we may become a party are, and will likely be, expensive and time consuming to investigate, defend and resolve, and will divert our management' s attention. Any litigation to which we are a party may result in an onerous or unfavorable judgment that may not be reversed upon appeal or in payments of substantial monetary damages or fines, or we may decide to settle lawsuits on similarly unfavorable terms, which could have an adverse effect on our business, financial condition, or results of operations. Our actual operating results may differ significantly from our guidance. We release guidance in our quarterly earnings conference calls, quarterly earnings releases, or otherwise, regarding our future performance that represents our management' s estimates as of the date of release. This guidance, which includes forward- looking statements, will be based on projections prepared by our management. These projections will not be prepared with a view toward compliance with published guidelines of the American Institute of Certified Public Accountants, and neither our registered public accountant nor any other independent expert or outside party compiles or examines the projections. Accordingly, no such person will express any opinion or any other form of assurance with respect to the projections. Projections are based upon a number of assumptions and estimates that, while presented with numerical specificity, are inherently subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond our control and are based upon specific assumptions with respect to future business decisions, some of which will change. We will continue to state possible outcomes as high and low ranges which are intended to provide a sensitivity analysis as variables are changed but are not intended to imply that actual results could not fall outside of the suggested ranges. The principal reason that we release guidance is to provide a basis for our management to discuss our business outlook with analysts and investors. We do not accept any responsibility for any projections or reports published by any such third parties. Guidance is necessarily speculative in nature, and it can be expected that some or all of the assumptions underlying the guidance furnished by us will not materialize or will vary significantly from actual results. Accordingly, our guidance is only an estimate of what management believes is realizable as of the date of release. Actual results may vary from our guidance and the variations may be material. In light of the foregoing, investors are urged not to rely upon our guidance in making an investment decision regarding our common stock. Any failure to successfully implement our operating strategy or the occurrence of any of the events or circumstances set forth in this " Risk Factors " section in this Annual Report on Form 10- K could result in the actual operating results being different from our guidance and the differences may be adverse and material. In preparing our financial statements we make certain assumptions, judgments and estimates that affect amounts reported in our consolidated financial statements, which, if not accurate, may significantly impact our financial results. We make assumptions, judgments and estimates for a number of items, including the fair value of financial instruments, goodwill, long- lived assets and other intangible assets, the realizability of deferred tax assets, the recognition of revenue and the fair value of stock awards. We also make assumptions, judgments and estimates in determining the accruals for employee- related liabilities, including commissions and variable compensation, and in determining the accruals for uncertain tax positions, valuation allowances on deferred tax assets, allowances for doubtful accounts, and legal contingencies. These assumptions, judgments and estimates are drawn from historical experience and various other factors that we believe are reasonable under the circumstances as of the date of the consolidated financial statements. Actual results could differ materially from our estimates, and such differences could significantly impact our financial results. Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | 19 Our global operations expose us to risks and challenges associated with conducting business internationally, and our results of operations may be adversely affected by our efforts to comply with the laws of other countries, as well as U. S. laws which apply to international operations, such as the U. S. Foreign Corrupt Practices Act (" FCPA ") and U. S. export control laws. We operate on a global basis with offices or activities in Europe, Africa, Asia, South America and North America. We face risks inherent in conducting business internationally, including compliance with international and U. S. laws and regulations that apply to our international operations. These laws and regulations include tax laws, anti- competition regulations, import and trade restrictions, export control laws, and laws which prohibit corrupt payments to governmental officials or certain payments or remunerations to customers, including the U. S. FCPA or other anti- corruption laws that have recently been the subject of a substantial increase in global enforcement. Many of our products are subject to U. S. export law restrictions that limit the destinations and types of customers to which our products may be sold, or require an export license in connection with sales outside the U. S. Given the high level of complexity of these laws, there is a risk that some provisions may be inadvertently or intentionally breached, for example, through fraudulent or negligent behavior of individual employees, our failure to comply with certain formal documentation requirements, or otherwise. Also, we may be held liable for actions taken by our local dealers and partners. Violations of these laws and regulations could result in fines, criminal sanctions against us, our officers or our employees, and prohibitions or conditions on the conduct of our business. Any such violations could include prohibitions or conditions on our ability to offer our products in one or more countries and could materially damage our reputation, our brand, our business, and our operating results. In addition, we operate in many parts of the world that have experienced significant governmental corruption to some degree and, in certain circumstances, strict compliance with anti- bribery laws may conflict with local customs and practices. We may be subject to competitive disadvantages to the extent that our competitors are able to secure business, licenses, or other preferential treatment by making payments to government officials and others in positions of influence or through other methods that relevant law and regulations prohibit us from using. Our success depends, in part, on our ability to anticipate these risks and manage these difficulties. These factors or any combination of these factors may adversely affect our revenue or our overall financial performance. **Our failure to maintain appropriate** ESG ~~issues~~ **practices and disclosures could result in reputational harm** , ~~including~~ **a loss of customer and investor confidence, and adverse business and financial results. Governments, investors, customers, and employees are enhancing their focus on ESG practices and disclosures, and expectations in this area are rapidly evolving and increasing. While we monitor** ~~those~~ -- **the** ~~related~~ **various and evolving standards and associated reporting requirements, failure to adequately maintain appropriate ESG practices that meet diverse stakeholder expectations may result in the**

loss of business, reduced market valuation, an inability to attract customers, and an inability to attract and retain ~~to~~ **top talent. Climate change, or legal or regulatory measures to address** climate change ~~and sustainability~~ , may **negatively** ~~have an adverse effect~~ **affect us. Climate change** ~~on our business, financial condition and results~~ **resulting from increased concentrations** of **carbon dioxide and other greenhouse gases in the atmosphere could present risks to our** operations ~~and damage our reputation~~ . **Physical risk resulting** ~~There is an increasing focus~~ from ~~certain investors~~ **acute changes** , ~~customers~~ **such as hurricane** , ~~consumers~~ **tornado** , **wildfire** ~~employees and other stakeholders concerning ESG matters. Additionally, public interest and legislative pressure related to public companies' ESG practices continue to grow. If our~~ - **or flooding** ~~ESG practices fail to meet regulatory requirements or investor~~ , ~~customer, employee or other stakeholders' evolving expectations and standards for~~ - **or chronic changes** ~~responsible corporate citizenship (in areas including environmental stewardship~~ , **such as droughts** ~~support for local communities~~ , ~~Board of Director and employee diversity, human capital management, employee health~~ -- **heat** ~~and safety practices~~ **waves or sea level changes** , ~~product quality,~~ **in climate patterns can adversely impact our facilities and operations and disrupt our** supply ~~chain~~ **chains** ~~management, corporate governance and transparency) our reputation, brand~~ -- **and distribution systems** ~~and employee retention may be negatively impacted, and our customers and suppliers may be unwilling to continue to do business with us. Customers, investors and other stakeholders are increasingly focusing on environmental issues, including climate change, energy and water use, industrial waste and other sustainability concerns~~ . Concern over climate change ~~may~~ **can also** result in new or ~~increased~~ **additional** legal ~~and~~ **or** regulatory requirements **designed** to reduce **greenhouse gas emissions and /** or mitigate ~~impacts to~~ **the effects of climate change on** the environment ~~. Changing customer preferences~~ **, such as taxation of,** or ~~increased~~ **caps on the use of, carbon- based energy. Any such new or additional legal or** regulatory requirements may ~~result~~ **increase the costs associated with, or disrupt, sourcing, manufacturing and distribution of our products, which may adversely affect our business and financial statements. We must comply with a variety of existing and future laws and regulations, such as ESG initiatives, that could impose substantial costs on us and may adversely affect our business. Increasingly regulators, customers, investors, employees and other stakeholders are focusing on ESG matters. While we have certain ESG initiatives at the Company, there can be no assurance that regulators, customers, investors, and employees will determine that these programs are sufficiently robust. In addition, there can be no assurance that we will be able to attain any announced goals related to our ESG program, as statements regarding our ESG goals reflect our current plans and aspirations and are not guarantees that we will be able to achieve them within the timelines we announce or at all. Actual or perceived shortcomings with respect to our ESG initiatives and reporting can impact our ability to hire and retain employees, increase our customer base, or attract and retain certain types of investors. In addition, these parties are increasingly focused on specific disclosures and frameworks related to ESG matters. Collecting, measuring, and reporting ESG information and metrics can be costly, difficult and time consuming, is subject to evolving reporting standards, and can present numerous operational, reputational, financial, legal and other risks, any of which could have a material impact, including on our reputation and stock price. Inadequate processes to collect and review this information prior to disclosure could be subject to potential liability related to such information. Energy Recovery, Inc. | 2022 Form 10- K Annual Report | 20 Acts of War or Terrorism. Threats or acts of war or terrorism can adversely affect our business. Terrorist attacks** in ~~Form 10- K Annual Report | 21~~ **the U.S.,Europe and in other countries,and continuing hostilities in the Middle East and elsewhere have created significant instability and uncertainty in the world.These and future events may have a material adverse effect on world financial markets as well as the water industry,as many large existing and planned water desalination plants are located in the Middle East.In addition,threats or acts of war or terrorism can cause our customers to curtail their purchase of our products.These factors or any combination of these factors may adversely affect our revenue or our overall financial performance.** If we need additional capital to fund future growth,it may not be available on favorable terms,or at all.Our primary source of cash historically has been customer payments for our products and services and proceeds from the issuance of common stock.This has funded our operations and capital expenditures.We may require additional capital from equity or debt financing in the future to fund our operations or respond to competitive pressures or strategic opportunities,such as a potential acquisition or the expansion of operations.We may not be able to secure such additional financing on favorable terms,or at all.The terms of additional financing may place limits on our financial and operational flexibility.If we raise additional funds through further issuances of equity,convertible debt securities,or other securities convertible into equity,our existing stockholders could suffer significant dilution in their percentage ownership of our company,and any new securities that we issue could have rights,preferences,or privileges senior to those of existing or future holders of our common stock.If we are unable to obtain necessary financing on terms satisfactory to us,if and when we require it,our ability to grow or support our business and to respond to business challenges or opportunities could be significantly limited.We may seek to expand through acquisitions of and investments in other businesses,technologies,and assets.These acquisition activities may be unsuccessful or divert management' s attention.We may consider strategic and complementary acquisitions of and investments in other businesses,technologies,and assets,and such acquisitions or investments are subject to risks that could affect our business,including risks related to:• the necessity of coordinating geographically disparate organizations;• implementing common systems and controls;• integrating personnel with diverse business and cultural backgrounds;• integrating acquired research and manufacturing facilities,technology and products;• combining different corporate cultures and legal systems;• unanticipated expenses related to integration,including technical and operational integration;• ~~increased costs and unanticipated liabilities,including with respect to registration,environmental,health and safety matters,that may affect sales and operating results;• retaining key employees;• obtaining required government and third- party approvals;• legal limitations in new jurisdictions;• installing effective internal controls and audit procedures;• issuing common stock that could dilute the interests of our existing stockholders;• spending cash and incurring debt;• assuming contingent liabilities;and • creating additional expenses.We may not be able to identify opportunities or complete transactions~~ increased

costs ~~demands or requirements regarding certain components of our products~~ and ~~their~~ **unanticipated liabilities, including with respect to registration,** environmental ~~impact~~ **, health and safety matters, that may affect sales and operating results; • retaining key employees; • obtaining required government and third- party approvals; • legal limitations in new jurisdictions; • installing effective internal controls and audit procedures; • issuing common stock that could dilute the interests of our existing stockholders; • spending cash and incurring debt; • assuming contingent liabilities; and • creating additional expenses. We may not be able to identify opportunities or complete transactions** on ~~sustainability~~ **commercially reasonable terms** , ~~or increased customer concerns or perceptions (whether accurate or inaccurate) regarding the effects of substances present in certain of our~~ **or** ~~products~~ **at all, or actually realize any anticipated benefits from such acquisitions or investments** . ~~Complying with these demands~~ **Similarly, we may not be able to obtain financing** ~~or~~ **for acquisitions** ~~requirements could cause us to incur additional manufacturing, operating~~ or ~~product development costs~~ **investments on attractive terms** . If we do **complete acquisitions, we cannot ensure that they will ultimately strengthen our competitive or financial position or that they will** not ~~adapt to~~ **be viewed negatively by customers, financial markets, investors, or the media. In addition, the success of any acquisitions or investments also will depend, in part, on** ~~or~~ **our** ~~comply~~ **ability to integrate the acquisition or investment** with ~~new regulations, or~~ **our existing operations. Energy Recovery, Inc. | 2022 Form 10- K Annual Report | 21 The integration of businesses that we may acquire is likely to be a complex, time- consuming, and expensive process and we may not realize the anticipated revenues or other benefits associated with our acquisitions if we** fail to ~~meet evolving investor~~ **successfully manage and operate the acquired business. If we fail in any acquisition integration efforts and are unable to efficiently operate as a combined organization utilizing common information and communication systems** , ~~industry~~ **operating procedures, financial controls, and human resources practices,** ~~or~~ **our** ~~stakeholder expectations~~ **business, financial condition,** and ~~concerns regarding ESG~~ **results of operations may be adversely affected. In connection with certain acquisitions, we may agree to** ~~issues~~ **issue common stock or assume equity awards that dilute the ownership of our current stockholders** , ~~investors may reconsider~~ **use a substantial portion of our cash resources, assume liabilities, record goodwill and amortizable intangible assets that will be subject to impairment testing on a regular basis and potential periodic impairment charges, incur amortization expenses related to certain intangible assets, and incur large and immediate write- offs and restructuring and other related expenses, all of which could harm our financial condition and results of operations. Our success depends, in part, on key personnel whose continued service is not guaranteed. Our success depends, in part, on the continued availability and service of key personnel, including executive officers and other highly qualified employees, and competition for** their ~~capital investment in~~ **talents is intense. We cannot assure that we will retain our key personnel** ~~our~~ **or that we will be able** ~~company, and customers may choose~~ to ~~stop purchasing~~ **recruit and retain other highly qualified employees in the future. Losing any key personnel could, at least temporarily, have a material adverse effect on** our ~~products~~ **business, financial position and results of operations. Risks Related to Economic Conditions, including Inflation, the Ukraine Conflict, and Continuing COVID- 19 Outbreaks Rising inflation may result in increased costs of operations and negatively impact the credit and securities markets generally** , which could have a material adverse effect on our ~~reputation, business~~ **results of operations and the market price of** ~~or~~ **our common stock. Inflation has accelerated in the U. S. and globally due in part to global supply chain issues, the Ukraine- Russia war, a rise in energy prices, and strong consumer demand as economies continue to reopen from restrictions related to the COVID- 19 pandemic. An inflationary environment can increase our cost of labor, as well as our other operating costs, which may have a material adverse impact on our financial results. In addition, economic conditions could impact and reduce the number of customers who purchase our products or services as credit becomes more expensive or unavailable. In addition, the U. S. Federal Reserve has raised, and may again raise, interest rates in response to concerns about inflation, which may result in limitations on our ability to access credit or otherwise raise debt and equity capital, if needed. Our ability to pass on such increases in costs in a timely manner depends on market conditions, and the inability to pass along cost increases could result in lower gross margins. Increases in interest rates, especially if coupled with reduced government spending and volatility in financial markets, may have the effect of further increasing economic uncertainty and heightening these risks. In an inflationary environment, we may be unable to raise the sales prices of our products and services at or above the rate at which our costs increase, which could reduce our profit margins and have a material adverse effect on our financial results. We also may experience lower than expected sales and potential adverse impacts on our competitive position if there is a decrease in customer spending or a negative reaction to our pricing. A reduction in our revenue would be detrimental to our** financial condition **and could also have an adverse impact on our future growth** . **Further** ~~Energy Recovery~~ , ~~Inc~~ **increased interest rates could have a negative effect on the securities markets generally which may, in turn, have a material adverse effect on the market price of our common stock** . ~~| 2021 Form 10- K Annual Report | 20~~ Uncertainty in the global geopolitical landscape **and macro- economic environment** may impact our operations outside the U. S. There is uncertainty as to the position the U. S. will take with respect to world affairs. This uncertainty may include such issues as **the** U. S. support for existing treaty and trade relationships with other countries, including, notably, China. This uncertainty, together with other recent key global events, such as recently enacted currency control regulations and tariff regimes in or against China, ongoing terrorist activity, and potential hostilities in the Middle East, may adversely impact (i) the ability or willingness of non- U. S. companies to transact business in the U. S., including with us; (ii) our ability to transact business in other countries, including the Middle East, where many of the water megaprojects are planned; (iii) regulation and trade agreements affecting U. S. companies; (iv) global stock markets (including The ~~Nasdaq~~ **NASDAQ** Global **Select** Market **Composite** on which our common shares are traded); and (v) general global economic conditions. Furthermore, in connection with increasing tensions related to the ongoing conflict between Russia and Ukraine, the U. S. government has stated it is considering imposing enhanced export controls on certain products and sanctions on certain industry sectors and parties in Russia. Further escalation of geopolitical tensions could have a broader impact that expands into other markets where we do business, which could adversely affect our business and / or our supply chain, business partners or customers in the broader region. All of these factors are outside of our control, but may nonetheless cause us to adjust our strategy in order to compete effectively in global markets. ~~Acts of War or Terrorism. Threats or acts of war or terrorism can adversely affect our business. Terrorist attacks in the U. S., Europe and in other countries, and continuing hostilities in the Middle East and elsewhere have created significant instability and uncertainty in the world. These and future events may have a material adverse effect on world financial markets as well as the water industry, as many large existing and planned water desalination plants are located in the Middle East. In addition, threats or acts of war or terrorism can cause our customers to curtail their purchase of our products. These factors or any combination of these factors may adversely affect our revenue or our overall financial performance. Changes in the method of determining the London Interbank Offered Rate (" LIBOR "), or the replacement of LIBOR with an alternative reference rate, may adversely affect our financial condition and results of operations. Certain of our financial obligations and instruments, including our Credit Agreement with JPMorgan Chase Bank, N. A., dated December 22, 2021, are, or may be, made at variable interest rates that use LIBOR (or metrics derived from or related to LIBOR) as a benchmark for establishing the interest rate. On July 27, 2017, the United Kingdom' s Financial Conduct Authority, which regulates the entity that calculates LIBOR, announced that LIBOR should be phased out by the end of 2021. Subsequently, on March 5, 2021, LIBOR' s administrator announced that publication of overnight, one- month, three- month, six- month and 12- month U. S. dollar LIBOR would cease immediately following publication of such interest rates on June 30, 2023, and that publication of all other currency and tenor variants would cease immediately following publication on December 31, 2021. The U. S. Federal Reserve, in conjunction with the Alternative Reference Rates Committee, a steering committee comprised of large U. S. financial institutions and other market participants, is considering replacing U. S. dollar LIBOR with a new index calculated by short- term repurchase agreements, backed by Treasury securities (" SOFR "). Whether or not SOFR attains market traction as a LIBOR replacement tool remains in question. SOFR is observed and backward looking, which stands in contrast with LIBOR under the current methodology, which can be an estimated forward- looking rate and relies, to some degree, on the expert judgment of submitting panel members. Given that SOFR is a secured rate backed by government securities, it will be a rate that does not take into account bank credit risk (as is the case with LIBOR). If LIBOR ceases to exist prior to the maturity of our contracts, we will be required to substitute an index such as the Prime Rate that utilize LIBOR as the reference rate, and substitute an index to replace LIBOR with the new standard that is established. If we borrow under the Prime Rate, we may see increased borrowing costs until the agreements are amended or renegotiated to incorporate the new SOFR borrowing rate or another substitute index. This could materially and adversely affect our results of operations, cash flows, and liquidity.~~ Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report |...... Energy Recovery, Inc. | 2021 Form 10- K Annual Report | 22 ~~In connection with certain acquisitions, we may agree to issue common stock or assume equity awards that dilute the ownership of our current stockholders, use a substantial portion of our cash resources, assume liabilities, record goodwill and amortizable intangible assets that will be subject to impairment testing on a regular basis and potential periodic impairment charges, incur amortization expenses related to certain intangible assets, and incur large and immediate write- offs and restructuring and other related expenses, all of which could harm our financial condition and results of operations.~~ Our **supply chain may be materially adversely impacted due to global events** ~~success depends, in part, on key personnel whose continued service is not guaranteed. Our success depends, in part, on the continued availability and service of key personnel~~, including **continuing** ~~executive officers and other highly qualified employees, and competition for their talents is intense. There is substantial competition for qualified personnel. We cannot assure that we will retain our key personnel or that we will be able to recruit and retain other highly qualified employees in the future. Losing any key personnel could, at least temporarily, have a material adverse effect on our business, financial position and results of operations. Risks Related to~~ COVID- 19 **outbreaks, transportation delays and the armed conflict in Ukraine.** We ~~have~~ **rely upon the facilities of our** global **suppliers** ~~operations and face risks related~~ to ~~health epidemics~~ **support our business. Our supply chain can be adversely affected by a variety of global events** , including ~~the novel coronavirus ("~~ COVID- 19 ~~")~~ **restrictions, transportation delays, and the armed conflict in Ukraine. As a result of these types of** global ~~pandemic~~ **events and resulting governmental and business reactions** , **our suppliers may not have the materials, capacity, or capability to supply our components according to our schedule and specifications. Further, there may be logistics issues, including our ability and our supply chain' s ability to quickly ramp up production, labor issues and transportation demands** that **may cause further delays** ~~could materially impact our results of operations~~ . **Supply chain constraints have intensified due to** ~~Our business could be materially adversely affected by the effects of a widespread outbreak of contagious disease, including the~~ COVID- 19 ~~pandemic. Any new outbreak of contagious diseases~~ and **may further intensify due to** other ~~adverse public health developments~~ **global events, contributing to existing global shortages. The unavailability of any component or supplier** could ~~have a~~ **result in production delays, underutilized facilities, and loss of access to critical raw** ~~material~~ **materials** and ~~adverse effect on~~ **parts for producing and supporting** our ~~business~~ **tools, and could impact our ongoing capacity expansion and our ability to fulfill our product delivery obligations. If our suppliers'** operations **are curtailed, we may need to seek alternate sources of supply, which may be more expensive. Alternate sources may not be available or may result in delays in shipments to us from our supply chain and subsequently to our customers, each of which would affect our results of operations** . These **types of disruptions and governmental restrictions may also result in the inability of our customers to obtain materials necessary for their full production, which** could ~~include~~ **also result in reduced demand for our products. While** disruptions ~~or~~ **and governmental** restrictions ~~on our ability to travel or to distribute our products~~ , as well as **related general limitations on movement around the world, are expected to be** temporary **,** ~~closures of our facilities or~~ the ~~facilities~~ **duration** of **the production and supply chain** ~~our suppliers or customers. Any~~ disruption ~~of our suppliers or customers~~ , ~~would likely~~ **and related financial** impact ~~our sales and operating results. In addition~~ , **cannot** ~~a significant outbreak of contagious diseases in the human population could result in a widespread~~

~~health crisis that could adversely affect the economies and financial markets of many countries, resulting in an economic downturn that could impact our operating results. Our business may~~ be **estimated** ~~further impacted by the COVID- 19 global pandemic. During 2020 and 2021, COVID- 19 and its multiple variants spread throughout the world, resulting in widespread travel restrictions and extended shutdowns, occupancy limits or other restrictions of non- essential businesses, including manufacturing. The ultimate impact of the COVID- 19 pandemic on our business is uncertain~~ at this time **. Should the production and distribution closures continue for** ~~and -~~ **an** ~~will depend~~ **extended period of time, the impact** on ~~future developments, including the availability, efficacy and distribution of various vaccines, but further prolonged closures or restrictions throughout the world or the further rollback of reopening measures due to the resurgence of COVID- 19 cases and continued decreases in the general level of economic activity may further disrupt our operations and the operations of our suppliers and customers. If significant portions of our workforce are unable to work effectively due to illness, quarantines, government actions or orders, facility closures or other reasons in connection with the COVID- 19 pandemic, our operations will likely be impacted. We may be unable to manufacture sufficient products to perform fully on our contracts and some of our costs may not be fully recoverable or adequately covered by insurance. The severity and longevity of the COVID- 19 pandemic may also cause customers to suspend their decisions on using our products and / or services, and give rise to significant changes in regional and global economic conditions that could interfere with the planning and construction of large desalination plants, which we rely on. Similarly, the COVID- 19 pandemic has adversely affected and may further affect~~ our supply **chain** ~~base and increase the potential for one or more of our suppliers to experience financial distress or bankruptcy, which could impact our ability to fulfill orders on time or at anticipated cost. Additionally, it is unclear what longer term effects the virus will have on the global economy. Any of these factors~~ could have a material adverse effect on our ~~business,~~ results of operations ~~,~~ **and** cash flows **. Business disruptions could also negatively affect the sources** and ~~contain~~ **availability of components and raw materials that are essential to the operation of our business.Moreover,our customers source a range of equipment,supplies and services from** ~~the~~ **other** ~~disruption~~ **suppliers with operations around the world,and any reduction in supply capacity at those customers' factories may reduce or even halt those customers' projects and result in a decrease in the demand for our products.Risks Related** to **Information Technology We may have risks associated with security of** our information technology ~~infrastructure~~ **systems** .We ~~implemented measures~~ **make significant efforts** to ~~prevent additional~~ **maintain the security and integrity of our information technology** systems ~~from being affected,including taking~~ **and data.Despite significant efforts to create security barriers to such** systems **,** ~~off- line as a precaution.We engaged third party information technology experts to restore and recover those affected systems to full functionality as quickly as possible.As~~ it **is virtually impossible** ~~relates to the October 2,2020 cyberattack,there had been no material impact to our operating activities or~~ **for us** ~~controls over financial reporting nor have we found any evidence~~ to **entirely mitigate** ~~indicate that any data was compromised or stolen from the affected systems.We also do not believe that~~ this **risk** ~~incident has a long- term material adverse impact on our business,results of operations or financial condition~~ .Although we have sufficient controls in place,we have implemented additional enhanced security features and monitoring procedures.There is a risk of industrial espionage,cyberattacks,such as LOG4J,misuse or theft of information or assets,or damage to assets by people who may gain unauthorized access to our facilities,systems,or information.Such cybersecurity breaches,misuse,or other disruptions could lead to the disclosure of confidential information,improper usage and distribution of our IP,theft,manipulation and destruction of private and proprietary data,and production downtimes.Although we actively employ measures to prevent unauthorized access to our information systems,preventing unauthorized use or infringement of our rights is inherently difficult.These events could adversely affect our financial results and any legal action in connection with any such cybersecurity breach could be costly and time- consuming and may divert management' s attention and adversely affect the market' s perception of us and our products.In addition,we must frequently expand our internal information system to meet increasing demand in storage,computing and communication,which may result in increased costs.Our internal information system is expensive to expand and must be highly secure due to the sensitive nature of our customers' information that we transmit.Building and managing the support necessary for our growth places significant demands on our management and resources.These demands may divert these resources from the continued growth of our business and implementation of our business strategy.Our actual or perceived failure to adequately protect personal data could adversely affect our business, ~~financial condition and results~~ financial condition ~~condition~~ and results of operations.A wide variety of provincial,state,national,foreign,and international laws and regulations apply to the collection,use,retention,protection,disclosure,transfer,and other processing of personal data.These privacy and data protection-related laws and regulations are evolving,with new or modified laws and regulations proposed and implemented frequently and existing laws and regulations subject to new or different interpretations.Further,our legal and regulatory obligations in foreign jurisdictions are subject to unexpected changes,including the potential for regulatory or other governmental entities to enact new or additional laws or regulations,to issue rulings that invalidate prior laws or regulations,or to increase penalties significantly.Compliance with these laws and regulations can be costly and can delay or impede the development and offering of new products and **services** . Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | 23 We depend on third party suppliers to...... 10- K Annual Report | 24 For example, the General Data Protection Regulation, which became effective in May 2018, imposes more stringent data protection requirements, and provides for significantly greater penalties for noncompliance, than the European Union laws that previously applied. Additionally, California recently enacted legislation, the California **Privacy Rights Act (" CPRA "), which amends the California** Consumer Privacy Act ~~, which became~~ **. The CPRA took** ~~effective~~ --- **effect on** January 1, ~~2020~~ **2023 , and will be enforced from July 1, 2023** . We may ~~also~~ be subject to additional obligations relating to personal data by contract that industry standards apply to our practices. Our actual or perceived failure to comply with applicable laws and regulations or other obligations to which we may be subject relating to personal data, or to protect personal data from unauthorized access, use, or other processing, could result in enforcement actions and regulatory investigations against us, claims for damages by customers and other affected individuals, fines, damage to our reputation, and loss of goodwill, any of which could have a material adverse effect on our operations, financial performance, and business. Further, evolving and changing definitions of personal data and personal information, including the classification of internet protocol addresses, machine identification information, location data, and other information, may limit or inhibit our ability to operate or expand our business, including limiting business relationships and partnerships that may involve the sharing or uses of data, and may require significant costs, resources, and efforts in order to comply. Risks Related to Intellectual Property If we are unable to protect our technology or enforce our intellectual property rights, our competitive position could be harmed, and we could be required to incur significant expenses to enforce our rights. Our competitive position depends on our ability to establish and maintain proprietary rights in our technology and to protect our technology from copying by others. We rely on trade secret, patent, copyright, and trademark laws, as well as confidentiality agreements with employees and third parties, all of which may offer only limited protection. We hold a number of U. S. and counterpart international patents, and when their terms expire, we could become more vulnerable to increased competition. The protection of our IP in some countries may be limited. While we have expanded our portfolio of patent applications, we do not know whether any of our pending patent applications will result in the issuance of patents or whether the examination process will require us to narrow our claims, and even if patents are issued, they may be contested, circumvented, or invalidated. Moreover, while we believe our issued patents and patent pending applications are essential to the protection of our technology, the rights granted under any of our issued patents or patents that may be issued in the future may not provide us with proprietary protection or competitive advantages, and as with any technology, competitors may be able to develop similar or superior technologies now or in the future. In addition, our granted patents may not prevent misappropriation of our technology, particularly in foreign countries where IP laws may not protect our proprietary rights as fully as those in the U. S. This may render our patents impaired or useless and ultimately expose us to currently unanticipated competition. Protecting against the unauthorized use of our products, trademarks, and other proprietary rights is expensive, difficult, and in some cases, impossible. Litigation may be necessary in the future to enforce or defend our IP rights or to determine the validity and scope of the proprietary rights of others. IP litigation could result in substantial costs and diversion of management resources, either of which could harm our business. Claims by others that we infringe their proprietary rights could harm our business. Third parties could claim that our technology infringes their IP rights. In addition, we or our customers may be contacted by third parties suggesting that we obtain a license to certain of their IP rights that they may believe we are infringing. We expect that infringement claims against us may increase as the number of products and competitors in our market increases and overlaps occur. In addition, to the extent that we gain greater visibility, we believe that we will face a higher risk of being the subject of IP infringement claims. Any claim of infringement by a third party, even those without merit, could cause us to incur substantial costs defending against the claim and could distract management from our business. Furthermore, a party making such a claim, if successful, could secure a judgment that requires us to pay substantial damages. A judgment against us could also include an injunction or other court order that could prevent us from offering our products. In addition, we might be required to seek a license for the use of such IP, which may not be available on commercially reasonable terms, or at all. Alternatively, we may be required to develop non- infringing technology, which could require significant effort and expense and may ultimately not be successful. Any of these events could seriously harm our business. Third parties may also assert infringement claims against our customers. Because we generally indemnify our customers if our products infringe the proprietary rights of third parties, any such claims would require us to initiate or defend protracted and costly litigation on their behalf in one or more jurisdictions, regardless of the merits of these claims. If any of these claims succeed, we may be forced to pay damages on behalf of our customers. Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | ~~25~~ **24** Risks Related to Tax and Governmental Regulations The enactment of legislation implementing changes in taxation of international business activities, the adoption of other corporate tax reform policies, or changes in tax legislation or policies could materially impact our financial position and results of operations. Our future effective tax rates could be subject to volatility or adversely affected by changes in tax laws, regulations, accounting principles, or interpretations thereof. In addition, the U. S. Tax Cuts and Jobs Act (" Tax Act ") enacted in 2017, made significant changes to the taxation of U. S. business entities that may have a meaningful impact to our provision for income taxes. These changes included a reduction to the federal corporate income tax rate, the current taxation of certain foreign earnings, the imposition of base- erosion prevention measures which may limit the deduction of certain transfer pricing payments **, foreign derived intangible income deductions, capitalization of R & D expenses beginning in the 2022 tax year** , and possible limitations on the deductibility of net interest expense or corporate debt obligations. The U. S. Department of the Treasury continues to issue regulations that affect various components of the Tax Act. Our future effective tax rate may be impacted by changes in interpretation of the regulations, as well as additional legislation and guidance regarding the Tax Act. In addition, many countries are beginning to implement legislation and other guidance to align their international tax rules with the Organisation for Economic Co- operation' s Base Erosion and Profit Shifting recommendations and action plan that aim to standardize and modernize global corporate tax policy, including changes to cross- border tax, transfer- pricing documentation rules, and nexus- based tax incentive practices. As a result of the heightened scrutiny of corporate taxation policies, prior decisions by tax authorities regarding treatments and positions of corporate income taxes could be subject to enforcement activities, and legislative investigation and inquiry, which could also result in changes in tax policies or prior tax rulings. Any such changes in policies or rulings may also result in the taxes we previously paid being subject to change. Due to the scale of our international business activities any substantial changes in international corporate tax policies, enforcement activities or legislative initiatives may materially and adversely affect our business, the amount of taxes we are required to pay and our financial condition and results of operations generally. **Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations.** New **income, sales, use** or ~~revised~~ **other** tax **laws, statutes, rules,** regulations **or ordinances could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be**

interpreted, changed, modified or applied adversely to us. For example, the Tax Act, the Coronavirus Aid, Relief, and Economic Security Act, and the Inflation Reduction Act enacted many significant changes to the U. S. tax laws. Future guidance from the Internal Revenue Service and other tax authorities with respect to such legislation may affect us, and certain aspects thereof could be repealed or modified in future legislation. The Biden administration and Congress periodically make and propose tax law changes, some of which could have an adverse effect on our operations, cash flows and results of operations and contribute to overall market volatility. In addition, it is uncertain if and to what extent various states will conform to federal tax legislation. Changes in corporate tax rates, the realization of net deferred tax assets relating to our operations, the taxation of foreign earnings, and the deductibility of expenses under the Tax Act or future reform legislation could have a material ~~effect~~ **impact** on **the value of** our **deferred** ~~financial statements New~~ tax **assets,** ~~laws or regulations~~ could ~~be enacted at any~~ **result in significant one-** time **charges** , and ~~existing~~ **could increase our future U. S.** tax **expense** ~~laws or regulations could be interpreted, amended, or applied in a manner that has a material effect on us, which could materially impact our business and financial condition. As the enacted legislation includes provisions that would expire after certain periods of time, the fact that our business has the potential to change its operating situation, and the existence of potential changes by state tax authorities related to conformity with federal tax regulations, the possibility exists that the future benefit of the legislation could change. For more information related to the CARES Act, see Note 8, " Income Taxes, " of the Notes~~ . The U. S. Congress may make substantial changes to fiscal, regulation and other federal policies that may adversely affect our business, financial condition, operating results and cash flows. Changes in general economic conditions in the U. S. or other regions could adversely affect our business. There have been and may be significant changes in, and uncertainty with respect to, legislation, regulation and government policy. While it is not possible to predict whether and when any such changes will occur, changes at the local, state or federal level could impact our business. Specific legislative and regulatory proposals that could have a material impact on us include, but are not limited to, modifications to international trade policy; public company reporting requirements; and environmental regulation. ~~Beginning in 2018, the U. S. imposed additional duties, ranging from 10 % to 25 %, on a variety of goods imported from China. Effective in September 2018, the Office of the U. S. Trade Representative (" USTR ") imposed tariffs of 10 % on approximately $ 200 billion worth of goods imported from China (" List 3 products "), including categories of products we import from China and increased these tariffs to 25 % effective in May 2019. In August 2019, the U. S. administration directed the USTR to increase tariffs on List 3 products from 25 % to 30 %, effective October 2019, which were subsequently delayed indefinitely. China responded to the multiple U. S. tariff lists by announcing several lists of products from the U. S. that are subject to additional tariffs upon import to China. The first round of Chinese retaliatory tariffs went into effect on July 6, 2018, and a second set was implemented on August 23, 2018. Our products are not impacted by these tariffs. A third group of items subject to 5 % to 10 % tariff went into effect on September 24, 2018, which includes our PX, Turbochargers and pump products.~~ We cannot predict what actions may ultimately be taken with respect to tariffs or trade relations between the U. S. and other countries, what products may be subject to such actions, or what actions may be taken by the other countries in retaliation. Accordingly, it is difficult to predict how such actions may impact our business, or the business of our customers. Our business operations, as well as the businesses of our customers on which we are substantially dependent, are located in various countries at risk for escalating trade disputes, including the U. S. and China. Any resulting trade wars could have a significant adverse effect on world trade and could adversely impact our revenues, gross margins and business operations. Regulations related to conflict minerals could adversely impact our business. The SEC adopted annual disclosure and reporting requirements for those companies who use conflict minerals mined from the Democratic Republic of Congo (also referred to as the " DRC ") and adjoining countries in their products. Based on our purchasing policy and supplier selection, it is considered unlikely that any conflict minerals are used in the manufacturing of our products. Nevertheless, we are continuing reasonable country of origin inquiry and have implemented a program of due diligence on the source and chain of custody for conflict minerals. There are costs associated with complying with these disclosure requirements, including loss of customers and potential changes to products, processes, or sources of supply. The implementation of these rules could adversely affect the sourcing, supply, and pricing of materials used in our products. As there may be only a limited number of suppliers offering " conflict free " minerals, we cannot be sure that we will be able to obtain necessary materials from such suppliers in sufficient quantities or at competitive prices. Also, we may face reputational challenges if we determine that certain of our products contain minerals not determined to be conflict- free or if we are unable to sufficiently verify the origins for all conflict minerals used in our products through the procedures we have implemented. Risks Related to our Internal Control Changes in **the** U. S. generally accepted accounting principles (" GAAP ") could adversely affect our financial results and may require significant changes to our internal accounting systems and processes. We prepare our consolidated financial statements in conformity with U. S. GAAP. These principles are subject to interpretation by the Financial Accounting Standards Board (" FASB "), the SEC and various bodies formed to interpret and create appropriate accounting principles and guidance. The FASB periodically issues new accounting standards on a variety of topics. For information regarding new accounting standards, please refer to Note 1, " Description of Business and Significant Accounting Policies – Recent Accounting Pronouncements, " of the Notes. These and other such standards generally result in different accounting principles, which may significantly impact our reported results or could result in variability of our financial results. We are required to evaluate the effectiveness of our internal control over financial reporting and publicly disclose material weaknesses in our controls. Any adverse results from such evaluation may adversely affect investor perception, and our stock price. Section 404 of the Sarbanes- Oxley Act of 2002 requires our management to assess the effectiveness of our internal control over financial reporting and to disclose in our filing if such controls were unable to provide assurance that a material error would be prevented or detected in a timely manner. We have an ongoing program to review the design of our internal controls framework in keeping with changes in business needs, implement necessary changes to our controls design and test the system and process controls necessary to comply with these requirements. If in the future, our internal controls over financial reporting are determined to be not effective resulting in a material weakness or significant deficiency, investor perceptions regarding the reliability of our financial statements may be adversely affected which could cause a decline in the market price of our stock and otherwise negatively affect our liquidity and financial condition. Risks Related to our Common Stock Insiders and principal stockholders will likely have significant influence over matters requiring stockholder approval. Our directors, executive officers, and other principal stockholders beneficially own, in the aggregate, a substantial amount of our outstanding common stock. These stockholders could likely have significant influence over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions such as a merger or other sale of our company or our company' s assets. Energy Recovery, Inc. | ~~2021~~ **2022** Form 10- K Annual Report | ~~27~~ **26** The market price of our common stock may continue to be volatile. The market price of our common stock has been, and is likely to continue to be, volatile and subject to fluctuations. Changes in the stock market generally, as it concerns our industry, as well as geopolitical, economic, and business factors unrelated to us, may also affect our stock price. Significant declines in the market price of our common stock or failure of the market price to increase could harm our ability to recruit and retain key employees, reduce our access to debt or equity capital, and otherwise harm our business or financial condition. In addition, we may not be able to use our common stock effectively as consideration in connection with any future acquisitions. Anti- takeover provisions in our charter documents and under Delaware law could discourage, delay, or prevent a change in control of our company and may affect the trading price of our common stock. Provisions in our amended and restated certificate of incorporation and bylaws may have the effect of delaying or preventing a change of control or changes in our management. Our amended and restated certificate of incorporation and amended and restated bylaws include provisions that: • authorize our Board of Directors to issue, without further action by the stockholders, up to 10, 000, 000 shares of undesignated preferred stock; • require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent; • specify that special meetings of our stockholders can be called only by our Board of Directors, the chairman of the board, the chief executive officer, or the president; • establish an advance notice procedure for stockholder approvals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to our Board of Directors; • provide that our directors may be removed only for cause; • provide that vacancies on our Board of Directors may be filled only by a majority vote of directors then in office, even though less than a quorum; • specify that no stockholder is permitted to cumulate votes at any election of directors; and • require a super- majority of votes to amend certain of the above-mentioned provisions. In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law regulating corporate takeovers. Section 203 generally prohibits us from engaging in a business combination with an interested stockholder subject to certain exceptions. Our business could be negatively affected as a result of actions of activist shareholders, and such activism could impact the trading value of our securities. In recent years, shareholder activists have become involved in numerous public companies. Shareholder activists frequently propose to involve themselves in the governance, strategic direction and operations of the company. Such proposals may disrupt our business and divert the attention of our Board of Directors, management and employees, and any perceived uncertainties as to our future direction resulting from such a situation could result in the loss of potential business opportunities, interfere with our ability to execute our strategic plan, be exploited by our competitors, cause concern to our current or potential customers, and make it more difficult to attract and retain qualified personnel and business partners, all of which could adversely affect our business. A proxy contest for the election of directors at our annual meeting could also require us to incur significant legal fees and proxy solicitation expenses. In addition, actions of activist shareholders may cause significant fluctuations in our stock price based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business. ~~Energy Recovery, Inc. | 2021 Form 10- K Annual Report | 28 Our share repurchase program may not be the most effective use of our capital and, if shares are repurchased under the program, could increase the volatility of the price of our common stock. Periodically, our Board of Directors approves programs to repurchase our common stock. Considered in this decision is the effect any such repurchases may have on our cash balances and needs, cash flow, and short and long- term borrowing. Share repurchases under the program may be made, from time- to- time, at the Board of Director' s discretion through open market purchases or privately negotiated transactions in accordance with applicable federal securities laws. The share repurchase program is subject to a periodic review by the Board of Directors and may be suspended periodically or discontinued at any time. We plan to fund repurchases from our existing cash balance. There can be no assurance that we will buy shares of our common stock under the share repurchase program or that any repurchases will have a positive impact on our stock price or earnings per share. We could discontinue or decrease our share repurchases due to unfavorable market conditions, the market price of our common stock, the nature of other investment opportunities presented to us from time to time that would require significant cash outlays, and the availability of funds necessary to continue purchasing shares.~~ Our shareholders may experience future dilution as a result of future equity offerings. In the future, we may offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock in order to raise additional capital. We cannot assure our shareholders that we will be able to sell shares or other securities in any other offering at a price per share that is equal to or greater than the price per share our shareholders paid for our shares. Investors purchasing shares or other securities in the future could have rights, preferences or privileges senior to those of our shareholders and our shareholders may experience dilution. Our shareholders may incur additional dilution upon the exercise of any outstanding stock options or warrants, the issuance of shares of restricted stock, the vesting of restricted stock units, or the issuance, vesting or exercise of other equity awards. **Energy Recovery, Inc. | 2022 Form 10- K Annual Report | 27** We do not intend to pay cash dividends in the foreseeable future and, consequently, our shareholders' ability to achieve a return on their investment will depend on the appreciation in the price of our common stock. We have never declared or paid cash dividends on our common stock and we do not intend at this time to pay any cash dividends on our common stock in the foreseeable future. We currently expect to utilize any future earnings for use in the operation and expansion of our business. In addition, the terms of our revolving credit facility restrict our ability to pay dividends and any future credit facilities, loan agreements, debt instruments or other agreements may further restrict our ability to pay dividends. Payments of future dividends, if any, will be at the discretion of our Board of Directors after taking into account various factors, including our business, results of operations and financial condition, current and anticipated cash needs, plans for expansion and any legal or contractual limitations on our ability to pay dividends. As a result, capital appreciation, if any, of our common stock will be our shareholders’ sole source of potential gain for the foreseeable future.