Risk Factors Comparison 2025-04-04 to 2024-04-01 Form: 10-K

Legend: **New Text** ~~Removed Text~~ Unchanged Text Moved Text Section

The following is a summary of the principal risks and uncertainties that could materially adversely affect our business, results of operations, financial condition, cash flows, prospects and / or the price of our outstanding securities ~~,~~ and make an investment in our securities speculative or risky. You should read this summary together with the more detailed description of each risk factor contained below. Risks Related to ~~Our~~ **our** Business and Industry ● If we are unable to either substantially improve our operating results or obtain additional financing, we may be unable to continue as a going concern. ● **If the warrants issued in our February 2025 offering** ~~Our current business strategy includes identifying strategic merger and acquisition alternatives. Merger and acquisition transactions~~ are ~~risky and may harm our business~~ **exercised by way of a " zero exercise price " alternative** , ~~reputation, operating results and financial condition~~ **especially after the reset date stockholders may suffer substantial dilution** . ● We have recently undertaken a cost reduction plan and reorganization, and may do so again in the future. The assumptions underlying these activities may prove to be inaccurate, or we may fail to achieve the expected benefits therefrom. ● We may be unable to attract and retain management and other personnel we need to succeed ~~. ● The shares of series C convertible preferred stock issued in connection with our acquisition of ReShape Medical have certain rights and preferences senior to our common stock, including a liquidation preference that is senior to our common stock~~ . ● We cannot assure you that we will ever generate substantial revenue or be profitable. ● Previously, we recorded a non- cash indefinite- lived **intangible** and definite ~~a~~ cost reduction plan and reorganization,and may do so again in the future.The assumptions underlying these activities may prove to be inaccurate,or we may fail to achieve the expected benefits therefrom.In light of recent macroeconomic conditions and the impact of GLP- 1 prescriptions for weight loss treatment,we announced a 2024 cost reduction plan and reorganization to promote the long- term sustainability and scalability of ~~ReShape~~ **the Company** .As part of this plan,we have significantly reduced our workforce.This reduction in force,and any other future reductions,and the attrition that may occur following them,result in the loss of institutional knowledge and expertise and the reallocation and combination of certain roles and responsibilities across the organization,all of which could adversely affect our operations.These actions and other additional measures we might take to reduce costs could strain our workforce,divert management attention,yield attrition beyond our intended reduction in force,reduce employee morale,cause us to delay,limit,reduce or eliminate certain development plans or otherwise interfere with our ability to operate and grow our business effectively,each of which could have an - lived intangible assets impairment **analysis during the fourth quarter of each year or when circumstances suggest that an indicator for impairment may be present. Previously, we performed a qualitative impairment analysis of the in- process research and development (" IPR & D "). Due to delays in the clinical trials experienced, we revised its expectations of when revenues would commence for the ReShape Vest, thus reducing the projected near- term future net cash flows related to the ReShape Vest. During the quarter ended September 30, 2022, we stopped the clinical trials for the ReShape Vest and closed out the previous trials that occurred, as significant additional clinical work and cost would be required to achieve regulatory approval for the ReShape Vest. In addition, due to continued market decline and projected cash flows the company recorded an impairment of the developed technology related to the Lap- Band and Obalon Balloon System and our tradenames. As such, we determined the carrying value of the long- lived assets were fully impaired and recognized a non- cash impairment charge of approximately $ 0. 8 million on the statement of operations for the year ended December 31, 2023. In the future, we may have additional impairments requiring us to record an impairment** loss **related to our remaining finite- lived intangible assets** , which ~~significantly impacted~~ **could also have a material adverse effect on** our results of operations. **29We** ~~● We~~ incur significant costs as a result of operating as a public company, and our management is required to devote substantial time to compliance initiatives. ~~●~~ our internal controls over financial reporting,as required by Section 404 of the Sarbanes- Oxley Act.Our testing may reveal deficiencies in our internal controls over financial reporting that are deemed to be material weaknesses.We have incurred and continue to expect to incur significant expense and devote substantial management effort toward ensuring compliance with Section 404.Moreover,if we do not comply with the requirements of Section 404,or if we identify deficiencies in our internal controls that are deemed to be material weaknesses,the market price of our stock could decline and we could be subject to sanctions or investigations by the SEC or other regulatory authorities,which would entail expenditure of additional financial and management resources.For example,our management assessed the effectiveness of our We have identified material weaknesses in our internal control over financial reporting and any failure to maintain effective internal control over financial reporting, may have a material and adverse effect on our business, operating results, financial condition and prospects. ~~●~~ **Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2024, and determined that our internal control over financial reporting was not effective at a reasonable assurance level due to material weaknesses in our internal control over financial reporting. We had insufficient internal resources with appropriate accounting and finance knowledge and expertise to design, implement, document and operate effective internal controls around our financial reporting process. We are currently developing our remediation plan to address the material weaknesses identified above. Such measures include: designing and implementing controls to formalize roles and review responsibilities to align with our team' s skills and experience and designing and implementing formalized controls; and designing and implementing formal processes, policies and procedures supporting our financial close process.** General economic and political conditions could have a material adverse effect on our business. ~~●~~ **External factors can affect our financial condition. Such external factors include general domestic and global economic conditions, such as interest rates, tax law including tax rate changes, and factors affecting**

global economic stability, and the political environment regarding healthcare in general. We **cannot predict to what extent** ~~hold our deposit within the U. S. banking system and may incur a loss of our uninsured deposits if there~~ -- **the** ~~a closure~~ **global economic conditions may negatively impact** ~~or~~ **our business. For example, negative conditions in** ~~other~~ -- **the** ~~event with~~ **credit and capital markets could impair** our ~~bank~~ **ability to access the financial markets for working capital and could negatively impact our ability to borrow** . ~~●~~ We face significant uncertainty in the industry due to government healthcare reform. ~~● Public~~ **In the United States, there have been and continue to be a number of legislative initiatives to contain healthcare costs. The Patient Protection and Affordable Care Act as well as any future healthcare reform legislation, may have a significant impact on our business. The impact of the Affordable Care Act on the** health ~~crises~~ **care industry is extensive and includes** , **among other things** ~~such as COVID- 19 pandemic~~ , **the federal government assuming a larger role in the health care system, expanding healthcare coverage of United States citizens and mandating basic healthcare benefits. 30Congress regularly considers legislation to replace or repeal elements or all of the Affordable Care Act. At this time, it is not clear whether the Affordable Care Act will be repealed in whole or in part, and, if it is repealed, whether it will be replaced in whole or in part by another plan and what impact those changes will** have ~~had,~~ **on coverage** and **reimbursement for healthcare items and services covered by plans that were authorized by the Affordable Care Act. We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which** could **limit the amounts that federal and state governments will pay for healthcare products and services, and also indirectly affect the amounts that private payers are willing to pay. In addition, any healthcare reforms enacted** in the future ~~have~~ **may, like the Affordable Care Act, be phased in over** a ~~negative effect on~~ **number of years but, if enacted, could reduce our revenue, increase our costs,** ~~our~~ - **or require us to revise the ways in which we conduct** business **or put us at risk for loss of business** . ~~●~~ **In addition, our results of operations, financial position and cash flows could be materially adversely affected by changes under the Affordable Care Act and changes under any federal or state legislation adopted in the future.** We are subject, directly or indirectly, to United States federal and state healthcare fraud and abuse and false claims laws and regulations. Prosecutions under such laws have increased in recent years and we may become subject to such litigation. If we are unable to, or have not fully complied with such laws, we could face substantial penalties. ~~●~~ **Our operations are directly, or indirectly through customers, subject to various state and federal fraud and abuse laws, including, without limitation, the federal Anti- Kickback Statute and federal False Claims Act. These laws may impact, among other things, our sales, marketing and education programs. The federal Anti- Kickback Statute prohibits persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing or arranging for a good or service, for which payment may be made under a federal healthcare program such as the Medicare and Medicaid programs. Several courts have interpreted the statute' s intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal healthcare covered business, the statute has been violated. The Anti- Kickback Statute is broad and, despite a series of narrow safe harbors, prohibits many arrangements and practices that are lawful in businesses outside of the healthcare industry. Penalties for violations of the federal Anti- Kickback Statute include criminal penalties and civil sanctions such as fines, imprisonment and possible exclusion from Medicare, Medicaid and other federal healthcare programs. Many states have also adopted laws similar to the federal Anti- Kickback Statute, some of which apply to the referral of patients for healthcare items or services reimbursed by any source, not only the Medicare and Medicaid programs. The federal False Claims Act prohibits persons from knowingly filing, or causing to be filed, a false claim to, or the knowing use of false statements to obtain payment from the federal government. Suits filed under the False Claims Act, known as " qui tam " actions, can be brought by any individual on behalf of the government and such individuals, commonly known as " whistleblowers, " may share in any amounts paid by the entity to the government in fines or settlement. The frequency of filing qui tam actions has increased significantly in recent years, causing greater numbers of medical device, pharmaceutical and healthcare companies to have to defend a False Claims Act action. When an entity is determined to have violated the federal False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties for each separate false claim. Various states have also enacted laws modeled after the federal False Claims Act. We are unable to predict whether we could be subject to actions under any of these laws, or the impact of such actions. If we are found to be in violation of any of the laws described above or other applicable state and federal fraud and abuse laws, we may be subject to penalties, including civil and criminal penalties, damages, fines, exclusion from government healthcare reimbursement programs and the curtailment or restructuring of our operations.** ~~Failure~~ **31Failure** to protect our ~~information technology~~ information technology infrastructure against cyber- based attacks, network security breaches, service interruptions or data corruption could materially disrupt our operations and adversely affect our business. ~~●~~ **The operation of our business depend on our information technology systems. We rely on our information technology systems to, among other things, effectively manage sales and marketing data, accounting and financial functions, inventory management, product development tasks, clinical data, customer service and technical support functions. Our information technology systems are vulnerable to damage or interruption from earthquakes, fires, floods and other natural disasters, terrorist attacks, power losses, computer system or data network failures, security breaches, data corruption, and cyber- based attacks. Cyber- based attacks can include computer viruses, computer denial- of- service attacks, phishing attacks, worms, and other malicious software programs or other attacks, covert introduction of malware to computers and networks, impersonation of authorized users, and efforts to discover and exploit any design flaws, bugs, security vulnerabilities, or security weaknesses, as well as intentional or unintentional acts by employees or other insiders with access privileges, intentional acts of vandalism by third parties and sabotage. In addition, federal, state, and international laws and regulations, such as the General Data Protection Regulation adopted by the European Union and European Economic**

Area countries can expose us to enforcement actions and investigations by regulatory authorities, and potentially result in regulatory penalties and significant legal liability, if our information technology security efforts fail. In addition, a variety of our software systems are cloud- based data management applications, hosted by third- party service providers whose security and information technology systems are subject to similar risks. We operate in a highly competitive industry that is subject to rapid change. If our competitors are able to develop and market products that are safer or more effective than our products, our commercial opportunities will be reduced or eliminated. ~~●~~ **The health care industry is highly competitive,subject to rapid change and significantly affected by** new product introductions and other market activities of industry participants.The obesity treatment market in which we operate has grown significantly in recent years and is expected to continue to expand as technology continues to evolve and awareness of the need to treat the obesity epidemic grows.Although we are not aware of any competitors in the neuroblocking market,we face potential competition from pharmaceutical and surgical obesity treatments.Many of our competitors in the obesity treatment field have significantly greater financial resources and expertise in research and development,manufacturing,preclinical testing,clinical trials,obtaining regulatory approvals and marketing approved products than we do.Smaller or early- stage companies may also prove to be significant competitors,particularly if they pursue competing solutions through collaborative arrangements with large and established companies,such as Allergan,Boston Scientific,LivaNova PLC,Johnson & Johnson,Medtronic or St.Jude Medical.Our competitors may develop and patent processes or products earlier than us,obtain regulatory approvals for competing products more rapidly than we are able to and develop more effective,safer and less expensive products or technologies that would render our products non- competitive or obsolete. ~~We face external competition from other technologies such as GLP- 1' s,and~~ We face external competition from other technologies such as GLP- 1' s **,** and alternative medical procedures and we may not be able to compete effectively. ~~●~~ **Companies that may not be deemed competitors in the bariatric surgery space may develop technologies, products or services that may impact the use of our products. For example, certain therapeutic treatments, such as drugs used to treat weight loss such as GLP- 1' s, may enhance patient health. If we do not introduce new products and enhancements in a timely manner, there may be a decrease in the use of certain of our products, in which case our operating results could suffer.** Our ability to use net operating losses (" NOL ") carryforwards may be limited. ~~●~~ **Our ability to use our federal and state NOL carryforwards to offset potential future taxable income is dependent upon our generation of future taxable income before the expiration dates of the NOL carryforwards, and we cannot predict with certainty when, or whether we will generate sufficient taxable income to use all of our NOL carryforwards. As of December 31, 2024, Reshape had U. S. federal net operating loss carryforwards of $ 227. 2 million. All losses have been generated beginning in 2018 and will carryover indefinitely. Reshape had state net operating loss carryforwards of $ 380. 1 million at December 31, 2024 and had foreign net operating loss carryforwards of $ 0. 4 million at December 31, 2024. Net operating loss carryforwards are subject to review and possible adjustment by the taxing authorities. With certain exceptions (e. g. the net operating loss carryforwards), Reshape is no longer subject to U. S. federal, state or local examinations by tax authorities for years prior to 2016. There are no tax examinations currently in progress. 32ReShape' s ability to utilize its net operating loss carryforwards, tax credits, and built- in items of deduction, including capitalized start- up costs and research and development costs, has been, and may continue to be substantially limited due to ownership changes. These ownership changes limit the amount of net operating loss carryforwards, credits and built- in items of deduction that can be utilized annually to offset future taxable income. In general, an ownership change, as defined in IRC Section 382, results from a transaction or series of transactions over a three- year period resulting in an ownership change of more than 50 % of the outstanding stock of a company by certain stockholders or public groups. Due to the valuation allowance against deferred tax assets at December 31, 2024, the net effect of any further limitation will have no impact on results of operations.** Adverse developments affecting the financial services industry could adversely affect our current and projected business operations and our financial condition and results of operations. ~~Risks Associated~~ **Substantially all of our cash and cash equivalents were held in accounts** with ~~Development~~ **Silicon Valley Bank (" SVB ") at the time it was closed by state regulators,** and ~~Commercialization~~ **the Federal Deposit Insurance Corporation (" FDIC ") was appointed receiver for SVB, on March 10, 2023. The FDIC created a successor bridge bank for SVB and all deposits** of **SVB were transferred to the bridge bank under a systemic risk exception approved by the United States Department of the Treasury, the Federal Reserve and the FDIC. If financial institutions in which we hold funds for working capital and operating expenses were to fail, we cannot provide any assurances that such governmental agencies would take action to protect our uninsured deposits in a similar manner. We subsequently moved and hold a portion of our cash and cash equivalents in accounts with Bank of America. The balance held in** ~~the~~ **these** ~~Lap~~ **accounts exceeds the FDIC standard deposit insurance limit of $ 250, 000. If a financial institution in which we hold such funds fails or is subject to significant adverse conditions in the financial or credit markets, we could be subject to a risk of loss of all or a portion of such uninsured funds or be subject to a delay in accessing all or a portion of such uninsured funds. Any such loss or lack of access to these funds could adversely impact our short - term liquidity** ~~Band~~ **and ability to meet our operating expense obligations. In addition, widespread investor concerns regarding the U. S. or international financial** ~~System~~ **systems could result in less favorable commercial financing terms** , ~~Lap~~ .In addition,a vendor on which we are reliant could be adversely affected by any of the liquidity or other risks that are described above as factors that could result in material adverse impacts on us,including but not limited to delayed access or loss of access to uninsured deposits or loss of the ability to draw on existing credit facilities involving a troubled or failed financial institution.Any critical vendor bankruptcy or insolvency,or any breach or default by a critical vendor,or the loss of any significant vendor relationships,may have a material adverse impact on our - **call option agreement with certain stockholders of Vyome** ~~Band -~~ **and** ~~2. 0 System, Obalon Balloon System, DBSN Device ● Our efforts~~ **Vyome Therapeutics Limited (" Vyome India ") who are located in India) will be converted into the right** to ~~increase revenue~~ **receive a number of shares of**

our common stock (“ ReShape Shares ”), according to a ratio (the “ Exchange Ratio ”) determined at least 10 days prior (the “ Determination Date ”) to a special meeting of our stockholders (the “ ReShape Special Meeting ”) that will result in the holders of such Vyome Shares owning 91. 62 % of the outstanding shares of the combined company (“ Combined Company Shares ”) immediately after the effective time of the Merger, subject to adjustment based on ReShape’ s net cash is greater than or less than $ 5 million; provided that the shares to be received by certain stockholders of Vyome and Vyome India located in India shall be subject to the put- call option agreements with the combined company (“ Combined Company ”). The Exchange Ratio remains subject adjustment based on the actual shares outstanding, and ReShape’ s actual net cash, as of the Determination Date. Because the exact number of ReShape Shares that will be issued in exchange for each Vyome Share (the “ Merger Consideration ”) will not be determined until a later date, the market value of the Merger Consideration that Vyome stockholders will receive will depend both on the number of ReShape Shares to be issued and the price per ReShape Share at the Effective Time. The exact number of ReShape Shares to be Vyome and the market price per ReShape Share will not be known at the time of the ReShape Special Meeting and may be less or more than the current market price or the market price at the time of the ReShape Special Meeting. The exact dollar value of the ReShape Shares that the Vyome stockholders and the ReShape stockholders will hold upon consummation of the Merger will not be known at the time of the ReShape Special Meeting and may be greater than, the same as or less than the current market price of ReShape Shares at the time of the ReShape Special Meeting. The market price of the ReShape Shares is subject to general price fluctuations in the market for publicly traded equity securities and has experienced volatility in the past and may vary significantly from **the date** ~~our Lap- Band System, Lap- Band 2. 0 System, Obalon Balloon System, and commercialize our DBSN device and expanded line~~ of ~~bariatric surgical accessories~~ **the ReShape Special Meeting. As a result of these fluctuations, the value of the Merger Consideration will also vary. Stock price changes may result from a variety of factors** , including **general market, industry and economic conditions, changes in the respective businesses, operations and prospects of** ReShape ~~Calibration Tubes~~ , ~~may not succeed~~ **regulatory considerations, results of the ReShape Special Meeting, announcements with respect to the Merger or any of the foregoing, and other factors beyond the control of ReShape. You should obtain current market price quotations** ~~or~~ **for ReShape Shares, but as indicated above, the price at the time the Merger is consummated** may ~~encounter delays~~ **be greater than, the same as or less than such price quotations. The Exchange Ratio in the Merger Agreement is subject to adjustment based on ReShape’ s net cash as of a determination date prior to completion of the Merger,** which could ~~significantly harm~~ **dilute further the ownership of either the ReShape** ~~our~~ **or** ~~ability to generate revenue~~ **Vyome stockholders in the Combined Company** . **The Exchange Ratio in the Merger Agreement is subject to potential adjustment depending upon the amount of “ net cash ” of ReShape, as defined in the Merger Agreement and generally consisting of ReShape’ s cash and cash equivalents less certain expenses and liabilities, as of a determination date prior to the closing date of the Merger. If ReShape has more or less than $ 5. 0 million of net cash as of the determination date, then the percentage ownership of the current ReShape stockholders will be increased or decreased on a pro rata basis. ReShape currently expects its net cash to be less than $ 5. 0 million as of the determination date. In addition, one of the conditions to Vyome’ s obligations to complete the merger is ReShape’ s net cash must be at least $ 1, 325, 000 and if the closing occurs after July 31, 2024, with the minimum amount of ReShape’ s net cash being reduced by $ 175, 000 on the first day of each month beginning on August 1, 2024. The items that will constitute ReShape’ s net cash at the determination date set forth in the Merger Agreement are subject to a number of factors, some of which are outside the control of ReShape. 34The ownership percentages of the ReShape and Vyome stockholders, respectively, that will result from the Exchange Ratio in the Merger Agreement are calculated prior to the completion of the Concurrent Financing, which could dilute further the ownership of the ReShape stockholders in the Combined Company. The pro forma ownership percentages of the ReShape and Vyome stockholders of the Combined Company of 8. 38 % and 91. 62 %, respectively, subject to adjustment, is prior to taking into account the purchase by certain accredited investors of up to $ 7. 3 million in securities of ReShape, Vyome and Vyome India (the “ Concurrent Financing ”). Therefore, the actual ownership percentages will be different following the completion of the Concurrent Financing and, because certain of the investors in the Concurrent Financing are existing Vyome stockholders, the actual ownership percentage of the ReShape stockholders will be decreased compared to that of the Vyome stockholders after the closing of the Concurrent Financing. Solely for purposes of illustration, assuming the market price of the common stock of the Combined Company immediately following completion of the Merger is $ 10. 00 per share, the shares of common stock to be issued in the Concurrent Financing would be sold at a price of $ 7. 00 per share (reflecting a 30 % discount to the market price). Therefore, if $ 6. 0 million in shares of common stock of the Combined Company and up to $ 1. 0 million of shares in Vyome India are sold immediately following completion of the Merger as part of the Concurrent Financing, and ReShape’ s net cash is $ 975, 000, the Combined Company would issue approximately 538, 875 shares of common stock immediately after completion of the Merger. Based on those assumptions, and assuming the actual ownership percentage of the ReShape stockholders of the Combined Company prior to the Concurrent Financing is 11. 1 %, the shares issued in the Concurrent Financing would reduce the ownership percentage of the ReShape stockholders of the Combined Company to approximately 7. 8 %. The Merger may not be consummated unless important conditions are satisfied or waived and there can be no assurance that the Merger will be consummated. The Merger Agreement contains a number of conditions that must be satisfied or waived (to the extent permitted by applicable law) to consummate the Merger. Those conditions include, among others: ● ~~We~~ approval of the issuance of the ReShape Shares and the sale of ReShape’ s assets (the “ Asset Sale ”) by the ReShape stockholders; ● the absence of any adverse law or order promulgated, entered, enforced, enacted, or issued by any government entity that prohibits, restrains, or makes illegal the consummation of the Merger or the other transactions contemplated by the Merger Agreement; ● the**

effectiveness of a registration statement on Form S- 4 under the Securities Act of 1933, as amended (the " Securities Act "), which was initially filed by ReShape on October 1, 2024, and the absence of any stop order issued by the Securities and Exchange Commission (the " SEC ") suspending the use of such registration statement; ● the ReShape Shares to be issued in the Merger being approved for listing on The Nasdaq Capital Market and approval of the Combined Company' s continued listing on The Nasdaq Capital Market (certain risks related to obtaining such approvals are described below); ● subject to certain materiality exceptions, the accuracy of certain representations and warranties of each of Vyome and ReShape contained in the Merger Agreement and the compliance by each party with the covenants contained in the Merger Agreement; and ● the absence of a material adverse effect with respect to each of Vyome and ReShape. These conditions to the consummation of the Merger may not be **satisfied** ~~able to obtain required regulatory approvals for~~ **or** ~~our DBSN device in~~ **waived (to the extent permitted by applicable law) and, as** a ~~cost- effective manner~~ **result, the Merger may not be consummated at the time expected,** or at all **. In addition** , **ReShape or Vyome may elect to terminate the Merger Agreement in certain other circumstances. 35Although an application has been filed to list the ReShape Shares on The Nasdaq Capital Market, there can be no assurance that the common stock will be so listed or, if listed, that the Combined Company will be able to comply with the continued listing standards. Nasdaq has determined that the proposed transaction constitutes a business combination that results in a change of control pursuant to its listing rules. Accordingly, the Combined Company will be required to satisfy all of Nasdaq' s initial listing criteria and to complete Nasdaq' s initial listing process in order for the ReShape Shares to be listed on Nasdaq. An application to list the ReShape Shares on The Nasdaq Capital Market upon consummation of the Merger has been filed as required by The Nasdaq Capital Market. Nasdaq' s approval of the listing application is a condition to the closing of the Merger and while ReShape and Vyome can each terminate the Merger Agreement if the condition is not satisfied under certain circumstances (in** which **case, a $ 1. 0 million termination fee may be payable to the terminating party), the parties can also each choose to waive the condition and consummate the Merger without Nasdaq' s approval of the listing application. In the event ReShape and Vyome waive that condition and consummate the Merger without Nasdaq' s approval of the listing application, the Combined Company would not be listed on The Nasdaq Capital Market. In addition, if after listing, The Nasdaq Capital Market delists the ReShape Shares from trading on its exchange for failure to meet the continued listing standards, the Combined Company and its stockholders could face significant material adverse consequences including: ● a limited availability of market quotations for its securities; ● a determination that its common stock is a " penny stock " which will require brokers trading in its common stock to adhere to more stringent rules, possibly resulting in a reduced level of trading activity in the secondary trading market for its common stock; ● a limited amount of analyst coverage; and ● a decreased ability to issue additional securities or obtain additional financing in the future. The Merger Agreement contains provisions that could discourage a potential competing acquirer of either ReShape or Vyome. The Merger Agreement contains " no shop " provisions that restrict each of Vyome' s and ReShape' s ability to solicit, initiate or knowingly encourage and induce, or take any other action designed to facilitate competing third- party proposals relating to a merger, reorganization or consolidation of the company or an acquisition of the company' s stock or assets. In addition, the other party generally has an opportunity to offer to modify the terms of the Merger in response to any competing acquisition proposals before the board of directors of the company that has received a third- party proposal may withdraw or qualify its recommendation with respect to the Merger. The Merger Agreement does not permit either Vyome or ReShape to terminate the Merger Agreement in order to pursue a superior proposal. These provisions could discourage a potential third- party acquirer that might have an interest in acquiring all or a significant portion of Vyome or ReShape from considering or proposing an acquisition, even if it were prepared to pay consideration with a higher per share cash or market value than the market value proposed to be received or realized in the Merger. 36The pendency of the Merger could materially adversely affect the business, financial condition, results of operations or cash flows of ReShape or Vyome. The announcement and pendency of the Merger could disrupt ReShape' s or Vyome' s businesses, in any of the following ways, among others: ● ReShape' s employees are not expected to continue to be employed by the Combined Company, which might adversely affect ReShape' s ability to retain its employees; ● the attention of ReShape management or Vyome management may be directed toward completion of the Merger and, in the case of ReShape, the Asset Sale, integration planning and transaction- related considerations and may be diverted from the company' s day- to- day business operations and, following the completion of the Merger, the attention of the Combined Company' s management may also be diverted to such matters; ● vendors, suppliers, business partners or others may seek to modify or terminate their business relationship with ReShape or Vyome or the Combined Company following completion of the Merger; ● ReShape or Vyome, or the Combined Company following completion of the Merger, and their respective directors could become subject to lawsuits relating to the Merger; and ● ReShape or Vyome may experience negative reactions from their stockholders and the medical community, among others. These disruptions could be exacerbated by a delay in the completion of the Merger or termination of the Merger Agreement. Additionally, if the Merger is not consummated, each company will have incurred significant costs and diverted the time and attention of management. A failure to consummate the Merger may also result in negative publicity, reputational harm, litigation against ReShape or Vyome or their respective directors and officers, and a negative impression of the companies in the financial markets. The occurrence of any of these events individually or in combination could have a material adverse effect on either or both companies' financial statements and ReShape' s stock price. In addition, the Merger Agreement restricts Vyome and ReShape from taking certain actions until the Effective Time without the consent of the other party, including, among others: the payment of dividends; the issuance of equity (including certain equity incentive awards); certain increases to employee compensation and benefits; capital expenditures; the incurrence of indebtedness; acquisitions and divestitures; and the entry into or amending certain material contracts. Vyome and**

ReShape are required to conduct business in the ordinary course consistent with past practice. The restrictive covenants, which are subject to various specific exceptions, may prevent Vyome or ReShape from pursuing attractive business opportunities that may arise prior to the consummation of the Merger. Although Vyome and ReShape may be able to pursue such activities with the other company' s consent, the other company may not be willing to provide its consent. ReShape directors and executive officers and Vyome directors and executive officers have interests in the Merger and Asset Sale that may be different from, or in addition to, the interests of ReShape stockholders and Vyome stockholders. Certain of the directors and executive officers of ReShape and certain of the directors and executive officers of Vyome negotiated the terms of the Merger Agreement and these individuals have interests in the Merger that may be different from, or in addition to, those of ReShape stockholders and Vyome stockholders, respectively. These interests include, but are not limited to, the continued service of certain of these Vyome individuals as directors and executive officers of the Combined Company, and one ReShape individual continuing to serve as a director of the Combined Company, after the date of the consummation of the Merger, certain other compensation arrangements with the ReShape and Vyome directors and executive officers, and provisions in the Merger Agreement regarding continued indemnification of and advancement of expenses of the directors and executive officers of ReShape. ReShape stockholders should be aware of these interests when they consider their respective Boards of Directors' recommendations that they vote in favor of the Merger- related proposals. With respect to the Asset Sale, certain of the executive officers of ReShape may become employees or consultants to Biorad after the closing of the Asset Sale, though no offers for such positions have been made and no terms of such positions have been discussed or negotiated. 37The members of the ReShape Board of Directors (the " Board ") were aware of and considered these interests relating to ReShape, among other matters, in evaluating the Merger Agreement and the Merger, and in recommending that ReShape stockholders approve proposals to be voted upon at the ReShape Special Meeting in connection with the Merger. The members of the Vyome Board were aware of and considered these interests relating to Vyome, among other matters, in evaluating the Merger Agreement and the Merger, and in recommending that Vyome stockholders approve the Merger Agreement and the Merger. Following the consummation of the Merger, the composition of the board of directors and management of the Combined Company will be comprised of six directors to be nominated by Vyome and its current stockholders and one current ReShape director and ReShape' s current stockholders will not have a majority ownership and voting interest in the Combined Company. The Combined Company will focus on Vyome' s business of advancing the development of its immuno- inflammatory assets and on identifying additional opportunities between the world- class Indian innovation corridor and the U. S. market. Pursuant to the Merger Agreement, following the consummation of the Merger, the board of directors of the Combined Company will consist of six directors designated by Vyome and one director designated by ReShape and the executive management of the Combined Company will consist of Vyome' s executive officers. No current ReShape officers or employees are expected to continue with the Combined Company. The Combined Company will focus on Vyome' s business of advancing the development of its immuno- inflammatory assets and on identifying additional opportunities between the world- class Indian innovation corridor and the U. S. market. In addition, immediately following completion of the Merger and the issuance of the ReShape Shares to the Vyome stockholders at the Effective Time, ReShape' s current stockholders in the aggregate will not have a majority ownership and voting interest in the Combined Company, which will result in ReShape stockholders having less influence on the Combined Company' s management and policies. As a result, current ReShape stockholders will have less influence on the Combined Company' s management and policies than they currently have. The opinion of ReShape' s financial advisor does not reflect changes in circumstances that may have occurred or that may occur between the signing of the Merger Agreement and the consummation of the Merger. The opinion rendered to the Board by Maxim Group LLC was provided in connection with, and at the time of, the Board' s evaluation of the Merger. Maxim also acted as the placement agent in Reshape' s February 2025 offering. The opinion was based on the financial analysis performed, which considered market and other conditions then in effect, and financial forecasts and other information made available to Maxim, as of the date of its opinion, which may have changed, or may change, after the date of the opinion. The Board has not obtained an updated opinion from its financial advisor as of the date of this prospectus or as of any other date, nor does it expect to receive an updated, revised or reaffirmed opinion prior to the consummation of the Merger. Changes in the operations and prospects of ReShape or Vyome, general market and economic conditions and other factors that may be beyond the control of ReShape or Vyome, and which changes were not taken into account by ReShape' s financial advisor in rendering its opinion, may significantly alter the value of ReShape or Vyome or the price of ReShape Shares by the time the Merger is consummated. The opinion does not speak as of the time the Merger will be consummated or as of any date other than the date of such opinion. Because there are no plans for ReShape' s financial advisor to update their opinion, the opinion does not address the fairness of the Exchange Ratio or the Merger Consideration, as applicable, from a financial point of view, at any time other than the time such opinion was issued. 38Failure to consummate the Merger could negatively impact respective future operations and financial results of ReShape and Vyome and the future stock price of ReShape. If the Merger is not consummated for any reason, ReShape and Vyome may be subjected to a number of material risks, including the following: ● a decline in the market price of the shares of our common stock to the extent that the current market price reflect a market assumption that the Merger will be consummated and will be beneficial to the value of ReShape after the closing date of the Merger; ● having to pay certain costs related to the proposed Merger, such as legal, accounting, financial advisory, printing and mailing fees, which must be paid regardless of whether the Merger is consummated; ● addressing the consequences of operational decisions made since the signing of the Merger Agreement, including because of restrictions on ReShape' s or Vyome' s operations imposed by the terms of the Merger Agreement and decisions to delay or defer capital expenditures; ● returning the focus of management and personnel to

operating ReShape or Vyome, as applicable, on a standalone basis, without any of the benefits expected to have been provided by the consummation of the Merger or, in the case of ReShape, the Asset Sale; ● negative reactions from their respective stockholders, suppliers, employees, and the medical community; ● Vyome' s product development plans may get slowed down or discontinued; and ● Vyome and its subsidiary (Vyome India) may lose employees and consultants. In addition to the above risks, ReShape and Vyome may be required, under certain circumstances, to pay to the other party a termination fee of $ 1. 0 million, which may materially adversely affect such party' s financial condition. The business of ReShape or Vyome may be adversely impacted by the failure to pursue other beneficial opportunities due to the focus of ReShape and Vyome management on the Merger. A failure to consummate the Merger may also result in negative publicity, reputational harm, litigation against ReShape or Vyome or their respective directors and officers, and a negative impression of the companies in the financial markets. If the Merger is not consummated, we cannot assure the Vyome stockholders or the ReShape stockholders that these risks will not materialize and will not materially adversely affect the business, financial results and stock price of the respective companies. Because each of the Merger and the Asset Sale are conditioned upon the other transaction being consummated, neither transaction may be completed if the proposals required for the consummation of both transactions are not approved. The Merger may disrupt attention of ReShape management and Vyome management from ongoing business operations. Each of ReShape and Vyome has expended, and expects to continue to expend, significant management resources to consummate the Merger. The attention of each company' s management may be diverted away from the day- to- day operations of the businesses of ReShape and Vyome, respectively, including implementing initiatives to improve performance, execution of existing business plans and pursuing other beneficial opportunities, in an effort to consummate the Merger. This diversion of management resources could disrupt ReShape' s or Vyome' s operations and may have an adverse effect on the respective businesses, financial conditions, results of operations and cash flows of the two companies or the Combined Company after the closing date of the Merger. The market price for ReShape Shares following completion of the Merger will continue to fluctuate and may be affected by factors different from those that historically have affected ReShape Shares. Following the completion of the Merger, Vyome stockholders and ReShape stockholders will be stockholders in the Combined Company. ReShape' s business differs in important respects from that of Vyome and the Combined Company' s business will differ from that of ReShape prior to the completion of the Merger. Accordingly, the results of operations of the Combined Company and the market price of ReShape Shares after the completion of the Merger may be affected by factors different from those currently affecting the independent results of operations of each of Vyome and ReShape. 39Risks Related to the Business of the Combined Company After the MergerCombining the two companies may be more difficult, costly or time consuming than expected, and the Combined Company may not realize all of the anticipated benefits of the Merger. ReShape and Vyome have operated and, until the consummation of the Merger, will continue to operate, independently. The Combined Company may not be able to successfully achieve the anticipated benefits of the Merger at all or they may take longer to realize than expected. The difficulties of operating the Combined Company may include, among others: ● the diversion of management attention to integration matters; ● difficulties in integrating functions, personnel and systems; ● declines in results of operations, financial condition or cash flows; ● a decline in the market price of ReShape Shares; ● contingent liabilities that are larger than expected; ● potential unknown liabilities, adverse consequences and unforeseen increased expenses associated with the Merger; ● disruption of existing relationships with patients, doctors, business partners, and other constituencies; and ● the disruption of, or the loss of momentum in, ongoing research and development, including ongoing clinical trials. Many of these factors are outside the control of ReShape and Vyome, and any one of them could result in increased costs, decreased expected revenues and diversion of management time and energy, which could materially impact the business, financial condition, results of operations and cash flows of the Combined Company. These factors could cause dilution to the earnings per share of the Combined Company, decrease or delay the expected benefits of the Merger and negatively impact the price of ReShape Shares. As a result, it cannot be assured that the Combined Company will realize the full benefits anticipated from the Merger within the anticipated time frames, or at all. In addition, following the Merger, ReShape will become responsible for Vyome' s liabilities and obligations, including with respect to legal, financial, regulatory, and compliance matters. These obligations will result in additional cost and investment by ReShape and, if ReShape has underestimated the amount of these costs and investments or if ReShape fails to satisfy any such obligations, ReShape and Vyome may not realize the anticipated benefits of the Merger. Further, it is possible that there may be unknown, contingent or other liabilities or problems that may arise in the future, the existence and / or magnitude of which ReShape and Vyome was previously unaware. Any such liabilities or problems could have an adverse effect on the Combined Company' s business, financial condition, results of operations or cash flows. Further, following completion of the Merger, the Combined Company will be susceptible to many of the risks described herein and risks related to Vyome' s business. To the extent any of the events in the risks occur, those events could cause the potential benefits of the Merger not to be realized and the market price of the Combined Company' s common stock to decline. ReShape and Vyome will incur substantial direct and indirect costs as a result of the Merger and the Combined Company will incur substantial direct and indirect costs following the Merger. ReShape and Vyome will incur substantial expenses in connection with and as a result of consummating the Merger, and over a period of time following the consummation of the Merger, ReShape also expects to incur substantial expenses as a Combined Company. A portion of the transaction costs related to the Merger will be incurred regardless of whether the Merger is consummated. While ReShape and Vyome have assumed that a certain level of transaction expenses will be incurred, factors beyond ReShape' s and Vyome control could affect the total amount or the timing of these expenses. These expenses could adversely affect the financial condition, results of operations and cash flows of the Combined Company following the

consummation of the Merger. 40Both ReShape and Vyome have operated with a loss and negative cash flows for the entirety of their existence and it is expected the Combined Company will have to raise significant capital in the future that could be dilutive to stockholders of the Combined Company. Both ReShape and Vyome have operated with a loss and negative cash flows for the entirety of their existence. The Combined Company may not be able to raise capital to continue operations in the future which could result in bankruptcy ~~our~~ or liquidation of the Combined Company. Adequate funding may not be available to the Combined Company on acceptable terms, or at all. If the perceived benefits of the Merger do not meet the expectations of investors or securities analysts, the market price of ReShape' s securities or, following the Merger, the Combined Company' s securities, may decline. If the perceived benefits of the Merger do not meet the expectations of investors or securities analysists, the market price of ReShape' s securities prior to the closing of the Merger may decline. The market value of ReShape' s securities at the time of the Merger may vary significantly from their prices on the date of the Merger Agreement was executed, the date of this prospectus, or the date of the ReShape Special Meeting. In addition, following the Merger, fluctuations in the price of the Combined Company' s securities could contribute to the loss of all or part of a shareholder' s investment. Prior to the Merger, there has not been a public market for Vyome common stock. Accordingly, the valuation ascribed to the Combined Company in the Merger may not be indicative of the price that will prevail in the trading market following the Merger. The market prices for securities of biotechnology and pharmaceutical companies have historically been highly volatile, and the market has from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies. If an active market for the Combined Company' s securities develops and continues, the market price of its common stock may fluctuate significantly in response to numerous factors, some of which are beyond the Combined Company' s control, such as: ● The Combined Company' s ability to commercialize Vyome' s assets or their corresponding product candidates, if approved; ● the status and cost of the Combined Company' s marketing commitments for Vyome' s assets and their product candidates; ● announcements regarding results of any clinical trials relating to the Combined Company' s product candidates; ● unanticipated serious safety concerns related to the use of Vyome' s assets or any of the Combined Company' s product candidates; ● adverse regulatory decisions; ● changes in laws or regulations applicable to Vyome' s assets or the Combined Company' s product candidates, including but not limited to clinical trial requirements for approvals; ● violation of or non- compliance with applicable laws and regulations (including any laws relating to taxation) in the countries of operation of the Combined Company and its subsidiaries (including India and the U. S.); ● legal disputes (such as infringements, non- allowances, etc.) or other developments relating to proprietary rights, including patents, litigation matters and the Combined Company' s ability to obtain patent protection for Vyome' s assets or the product candidates, government investigations and the results of any proceedings or lawsuits, including, but not limited to, patent or shareholder litigation; ● The Combined Company' s decision to initiate a clinical trial, not initiate a clinical trial or to terminate an existing clinical trial; ● The Combined Company' s dependence on third parties; ● reduction in revenues received by Vyome India going forward on account of reduced business **from its existing partnerships with third- parties; ● announcements of the introduction of new products by the Combined Company' s competitors; ● market conditions** and **trends in the pharmaceutical and biotechnology sectors; 41 ● announcements concerning product development results or intellectual property rights of others; ● future issuances of common stock or other securities; ● the recruitment or departure of key personnel; ● failure to meet or exceed any financial guidance or expectations regarding product development milestones that the Combined Company may provide to the public; ● actual or anticipated variations in quarterly** operating results **~~.~~; ● The Combined Company' s failure ~~We depend on clinical investigators and clinical sites~~** to **meet ~~enroll patients in our~~ or ~~clinical trials,~~ exceed the estimates** and **~~on~~ projections of the investment community; ● overall performance of the equity markets and** other **factors that may be ~~third parties to manage the trials and to perform related~~ unrelated ~~data collection and~~ to the Combined Company' s operating performance or the operating performance of its competitors, including changes in market valuations of similar companies; ● announcements of significant acquisitions, strategic partnerships, joint ventures or capital commitments by the Combined Company' s or its competitors; ● changes in financial estimates by the Combined Company or by any securities ~~analysis~~ analysts ~~,~~ who might cover its shares; ● fluctuation of the market values of any of the Combined Company' s potential strategic investments; ● issuances of debt or equity securities; ● compliance with the Combined Company' s contractual obligations; ● sales of shares of common stock of the Combined Company by the Combined Company or its shareholders in the future; ● trading volume of shares of common stock of the Combined Company; ● ineffectiveness of the Combined Company' s internal controls; ● publication of research reports about the Combined Company or its industry or positive or negative recommendations or withdrawal of research coverage by securities analysts; ● general political** and **economic conditions; ● effects of natural or man- made catastrophic events; ● effects of public health crises** , **pandemics and epidemics, such** as **~~a~~ the COVID- 19 pandemic or other similar outbreaks; and ● other events or factors, many of which are beyond the Combined Company' s control. Further, the equity markets in general have recently experienced extreme price and volume fluctuations. Continued market fluctuations could** result **in extreme volatility in the price of shares of common stock of the Combined Company** , ~~we may face~~ **which could cause a decline in the value of its common stock. Price volatility of shares of common stock of the Combined Company might worsen if the trading volume of its common stock is low. In the past, shareholders have initiated class action lawsuits against pharmaceutical and biotechnology companies following periods of volatility in the market prices of these companies' shares. Such litigation, if instituted against the Combined Company, could cause it to incur substantial** costs and ~~delays that are outside of our control. ● Modifications to the Lap- Band System and Lap- Band 2. 0 may require additional approval from regulatory authorities, which may not be obtained or may delay our commercialization efforts. ● If we or our suppliers fail to comply with ongoing regulatory requirements, or if we experience unanticipated product problems, our Lap-~~

~~Band system could be subject to restrictions or withdrawal from the market. ● We face the risk of product liability claims that could be expensive,~~ divert management' s attention and **resources from its** ~~harm our reputation and~~ business. **The realization** ~~We may not be able to obtain adequate product liability insurance. Risks Related to Intellectual Property ● If we are unable to obtain or maintain intellectual property rights relating to our technology and neuroblocking therapy, the commercial value~~ of ~~our technology and~~ any **of the above risks** ~~future products will be adversely affected, and our~~ - **or** ~~competitive position will be harmed. ● We may lose important patent rights if we do not timely pay required patent fees or annuities. ● Many~~ - **any** of ~~our competitors~~ **a broad range of other risks, including those described in these " Risk Factors ", could** have ~~significant resources and incentives to apply for and obtain intellectual property rights that could limit or prevent our ability to commercialize our current or future products in the United States or abroad. ● If we are unable to protect the confidentiality of our proprietary information and know- how, the value of our technology and products could be adversely affected. ● Intellectual property litigation is~~ a **dramatic** ~~common tactic in the medical device industry to gain competitive advantage. If we become subject to a lawsuit, we may be required to expend significant financial~~ and other resources and our management' s..... dilution to our stockholders, have a material adverse impact on the market price of **shares of common stock of the Combined Company. You may not have the same benefits as an investor in an underwritten public offering. The Combined Company will become a publicly listed company upon the completion of the Merger. The Merger and the transactions related thereto are not an underwritten initial public offering of shares of common stock of the Combined Company** ~~our~~ - **or Vyome' s securities and differ from an underwritten initial public offering in several significant ways, which include, but are not limited to, the following factors. 42Like other Mergers and spin- offs which are an underwritten initial public offering, in connection with the Merger, you will not receive the benefits of the diligence performed by underwriters in an underwritten public offering. Investors in an underwritten public offering may benefit from the role of the underwriters in such an offering. In an underwritten public offering, an issuer initially sells its securities to the public market via one or more underwriters, who distribute or resell such securities to the public. Underwriters have liability under the U. S. securities laws for material misstatements or omissions in a registration statement pursuant to which an issuer sells securities. Because the underwriters have a " due diligence " defense to any such liability by, among other things, conducting a reasonable investigation, the underwriters and their counsel conduct a due diligence investigation of the issuer. Due diligence entails engaging legal, financial and / or other experts to perform an investigation as to the accuracy and completeness of an issuer' s disclosure regarding, among other things, its business and financial results. Auditors of the issuer will also deliver a " comfort " letter with respect to the financial information contained in the registration statement. In making their investment decision, investors have the benefit of such diligence in underwritten public offerings. In contrast, Vyome and ReShape have engaged financial advisors (rather than an underwriter) in connection with the Merger. The role of a financial advisor differs from that of an underwriter. For example, financial advisors do not act as intermediaries in the sale of securities. In addition, because there are no underwriters engaged in connection with the Merger, prior to the opening of trading on Nasdaq on the trading day immediately following the closing of the Merger, there will be no book building process and no price at which underwriters initially sold shares to the public to help inform efficient and sufficient price discovery with respect to the initial post- closing trades on Nasdaq. Therefore, buy and sell orders submitted prior to and at the opening of initial post- closing trading of shares of common stock of the Combined Company on Nasdaq will not have the benefit of being informed by a published price range or a price at which the underwriters initially sold shares to the public, as would be the case in an underwritten initial public offering. There will be no underwriters assuming risk in connection with an initial resale of shares of common stock of the Combined Company or helping to stabilize, maintain or affect the public price of such shares following the closing of the Merger. Moreover, we will not engage in, and have not and will not, directly or indirectly, request the financial advisors to engage in, any special selling efforts or stabilization or price support activities in connection with such shares that will be outstanding immediately following the closing of the Merger. All of these differences from an underwritten public offering of shares of common stock of the Combined Company could result in a more volatile price for shares of common stock of the Combined Company. Further, we will not conduct a traditional " roadshow " with underwriters prior to the opening of initial post- closing trading of shares of common stock of the Combined Company on Nasdaq. There can be no guarantee that any information disclosed or filed with the SEC will have the same impact on investor education as a traditional " roadshow " conducted in connection with an underwritten initial public offering. As a result, there may not be efficient or sufficient price discovery with respect to shares of common stock of the Combined Company or sufficient demand among potential investors immediately after the closing of the merger, which could result in a more volatile price for shares of common stock of the Combined Company. Such differences from an underwritten public offering may present material risks to unaffiliated investors that would not exist if Vyome became a publicly listed company through an underwritten initial public offering instead of upon completion of the Merger. The Combined Company does not expect to pay cash dividends in the foreseeable future. Any return on investment may be limited to the capital appreciation, if any, of shares of common stock of the Combined Company. Vyome has not paid cash dividends on its common stock and the Combined Company does not anticipate paying cash dividends on its common stock in the foreseeable future. The payment of dividends on capital shares of the Combined Company will depend on its earnings, financial condition and other business and economic factors affecting the Combined Company at such time as its board of directors may consider relevant. Since the Combined Company does not intend to pay dividends, a shareholder' s ability to receive a return on such shareholder' s investment will depend on any future appreciation in the market value of its common stock. There is no guarantee that shares of common stock of the Combined Company will appreciate or even maintain the price at which its shareholders have purchased it. 43An active trading market for the Combined Company' s common stock may not develop and its stockholders may not be able to resell their shares of**

common stock for a profit, if at all. Prior to the Merger, there had been no public market for Vyome' s common stock. An active trading market for the Combined Company' s shares of common stock may never develop or be sustained. If an active market for its common stock does not develop or is not sustained, it may be difficult for its stockholders to sell their shares at an attractive price or at all. Future sales of a substantial number of shares of common stock of the Combined Company may cause the price of its common stock to decline. If the Combined Company' s existing shareholders sell, or indicate an intention to sell, substantial amounts of the shares of common stock of the Combined Company after the closing of the Merger, the trading price of the shares of common stock of the Combined Company could decline and it could impair the Combined Company' s ability to raise capital through the sale of additional equity securities. Certain Vyome shareholders are subject to lock- up provisions that restrict their ability to transfer shares of common stock of the Combined Company or enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security convertible into or exercisable or exchanged for the Combined Company until 360 days from the date of closing of the Merger, provided that 20 % of the shares subject to the lock- up will be released from the restrictions in the lock- up agreement on the 91st day after the closing and the remainder will be released from the restrictions in equal increments every 30 days thereafter. You may experience future dilution as a result of future equity offerings by the Combined Company. In order to raise additional capital for general corporate purposes, in the future the Combined Company may offer additional shares of its common stock or other securities convertible into or exchangeable for our common stock at prices that may be lower than the current price per share of our common stock. In addition, investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which the Combined Company sells additional shares of its common stock, or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by investors in prior offerings. Post consummation of the Merger, the Combined Company may have outstanding warrants, which may cause dilution to its stockholders, have a material adverse impact on the market price of its common stock and make it more difficult for ~~us~~ **it** to raise funds through future equity offerings. ~~● If we fail~~ **Under the terms of the Merger Agreement, as a condition** to ~~meet~~ **consummation of the Merger Agreement,** all ~~applicable Nasdaq Capital Market requirements~~ **outstanding Warrants to purchase ReShape Shares (" ReShape Warrants ")** , ~~Nasdaq could delist~~ **except for a number of ReShape Warrants exercisable for ReShape Shares representing not more than 2. 75 % of the fully diluted ReShape Shares as of the date of the Merger Agreement, shall have been exercised in accordance with their terms in exchange for ReShape Shares** ~~our~~ **or shall have been otherwise settled on terms agreed upon between ReShape and the holder thereof such that the ReShape Warrants would be canceled and terminated prior to the Effective Time. Accordingly, even if the aforementioned condition is satisfied by ReShape to the satisfaction of Vyome, ReShape Warrants up to 2. 75 % of the fully diluted ReShape Shares may not be exercised prior to the consummation of the Merger. These outstanding ReShape Warrants would give the holders a right to exercise in exchange for receiving shares of** common stock **of the Combined Company. The issuance of such shares of common stock upon the exercise of warrants by the Combined Company would dilute the percentage ownership interest of stockholders, might dilute the book value per share of the Combined Company' s common stock and would increase the number of its publicly traded shares** , which **We have a significant number of outstanding warrants,which may cause significant dilution to our stockholders,have a material adverse impact on the market price of our common stock and make it more difficult for us to raise funds through future equity offerings.As of December 31,2023,we had outstanding 23,457,047 shares of common stock.In addition,we had outstanding warrants to acquire 15,385,892 shares of common stock.The issuance of shares of common stock upon the exercise of warrants would dilute the percentage ownership interest of all stockholders,might dilute the book value per share of our common stock and would increase the number of our publicly traded shares,which** could depress the market price of ~~its~~ **our** common stock.In addition to the dilutive effects described above,the perceived risk of dilution as a result of the significant number of outstanding warrants may cause **our** common stockholders ~~of the Combined Company~~ to be more inclined to sell their shares,which would contribute to a downward movement in the price of ~~its~~ **our** common stock.Moreover,the perceived risk of dilution and the resulting downward pressure on **our** ~~the Combined Company' s~~ common stock price could encourage investors to engage in short sales of ~~its~~ **our** common stock,which could further contribute to price declines **in our common stock** .The fact that **our** ~~the Combined Company' s~~ stockholders and warrant holders can sell substantial amounts of **our** common stock in the public market,whether or not sales have occurred or are occurring,could make it more difficult for ~~it~~ **us** to raise additional funds through the sale of equity or equity- related securities in the future at a time and price that **we** ~~the Combined Company deems~~ **deem** reasonable or appropriate,or at all. **36If** ~~44The Combined Company' s operating results may fluctuate significantly.The Combined Company expects its operating results to be subject to quarterly,and possibly annual,fluctuations.The Combined Company net loss and other operating results will be affected by numerous factors,including:● variations in the level of expenses related to the Combined Company development programs;● the addition or termination of clinical trials;● any intellectual property infringement lawsuit in which the Combined Company may become involved;● regulatory developments affecting Vyome' s assets or the Combined Company' s product candidates,regulatory approvals of its product candidates,and the level of underlying demand for such products and purchasing patterns~~ could adversely affect the **Combined Company' s current and projected business operations and its financial condition and results of operations. If financial institutions in which the Combined Company holds funds for working capital and operating expenses were to fail, there can be no assurance that such governmental agencies would take action to protect the Combined Company' s uninsured deposits in a similar manner. If a financial institution in which the Combined Company holds such funds fails or is subject to significant adverse conditions in the financial or credit** ~~market~~ **markets , it could be subject to a risk of loss of all or a portion of such uninsured funds or be subject to a delay in accessing all or a portion of such uninsured funds. Any such loss or lack of**

access to these funds could adversely impact the Combined Company' s short- term liquidity ~~of~~ **and ability to meet its operating expense obligations. In addition, widespread investor concerns regarding the U. S.** ~~our~~ **or international financial systems** ~~common stock and the market price of our common stock~~ could ~~decrease. ● There are risks associated with effecting the Reverse Stock Split, if approved by the Board. ● You may experience future dilution as a~~ result **in less favorable commercial financing terms, including higher interest rates** ~~of future equity offerings. ● Our organizational documents and Delaware law make a takeover of our~~ **or** ~~company~~ **costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it** more difficult ~~, which may prevent certain changes~~ **for the Combined Company to acquire financing on acceptable terms or at all. Any decline** in ~~control~~ **available funding or access to the Combined Company' s cash** and ~~limit~~ **liquidity resources could, among** ~~the~~ **other** ~~market price~~ **risks, adversely impact its ability to meet its operating expenses, financial obligations or fulfill our other obligations, result in breaches** of **its financial and / or contractual obligations or result in violations of federal or state wage and** ~~our~~ **hour laws** ~~common stock~~ . ~~● We~~ **Any of these impacts, or any other impacts resulting from the factors described above or other related or similar factors not described above, could** have **material adverse impacts** ~~not paid dividends in the past and do not expect to pay dividends in the future, and any return~~ on ~~investment may be limited to~~ the **Combined Company' s** value of our common stock. 22risk..... to fruition. Our principal source of liquidity ~~as of December 31, 2023 consisted of approximately $ 4. 6 million of cash and cash equivalents and restricted cash and $ 1. 7 million of accounts receivable. Based on our available cash resources, we may not have sufficient cash on hand~~ - **and** ~~to fund~~ our current **and / or projected business** operations ~~for more than 12 months from the date of filing this Form 10- K. This condition raises substantial doubt about our ability to continue as a going concern. Our current business strategy includes identifying strategic merger and acquisition alternatives. Merger and acquisition transactions are risky and may harm our business, reputation, operating results~~ and financial condition ~~. We have completed acquisitions~~ and **results of operations** ~~business combinations in the past and may complete merger and acquisition transactions in the future~~ . In **addition** ~~December 2023~~ , ~~we announced~~ **a vendor on which the Combined Company is reliant could be adversely affected by any of the liquidity or other risks** that **are described above** ~~we engaged Maxim Group LLC to act~~ as **factors that could result in material adverse impacts, including but** ~~our exclusive financial advisor to identify potential strategic merger and acquisition partnership alternatives. We do~~ not ~~have a defined timeline~~ **limited to delayed access** ~~for~~ - **or loss of access to uninsured deposits** ~~such a transaction and cannot provide any assurance whether~~ or **loss of the** ~~when any transaction will be announced or consummated. Our~~ ability to **draw** ~~complete merger and acquisition transactions will depend, in part, on the availability of suitable candidates at acceptable prices, terms, and conditions; our ability to compete effectively for merger and acquisition candidates; and the availability of capital and personnel to complete such transactions. Merger and acquisition transactions may involve a number of risks, the occurrence of which could adversely affect our business, reputation, operating results and financial condition, including: ● diversion of management' s attention; ● disruption to our existing operations and plans; ● inability to effectively manage our expanded operations; ● difficulties or delays in integrating and assimilating information and financial systems, operations, manufacturing processes and products of an acquired business or other business venture or in realizing projected efficiencies, growth prospects, cost savings, and synergies; ● inability to successfully integrate or develop a distribution channel for acquired product lines; ● potential loss of key employees, customers, agents, distributors, or sales representatives of the acquired businesses or adverse effects~~ on existing ~~business~~ **credit facilities involving a troubled or failed financial institution. Any critical vendor bankruptcy or insolvency, or any breach or default by a critical vendor, or the loss of any significant vendor** relationships ~~with suppliers~~ , **may** ~~customers, agents, distributors, and sales representatives; ● reallocation of amounts of capital from other operating initiatives; ● violation of confidentiality, intellectual property and non- compete obligations or agreements by employees of an acquired business or lack of or inadequate formal intellectual property protection mechanisms in place at an acquired business; ● inaccurate assessment of additional post- acquisition investments, undisclosed, contingent or other liabilities or problems, unanticipated costs associated with an acquisition, and an inability to recover or manage such liabilities and costs; ● incorrect estimates made in the accounting for acquisitions and incurrence of non- recurring charges; and ● write- off of significant amounts of goodwill or other assets as a result of deterioration in the performance of an acquired business or product line, adverse market conditions, changes in the competitive landscape, changes in laws or regulations that restrict activities of an acquired business or product line, or as a result of a variety of other circumstances. 23We~~ have ~~recently undertaken~~ a **material** cost reduction plan and reorganization, and....., each of which could have an adverse impact on ~~our~~ **the Combined Company' s** business **. If the Combined Company is unable to develop and maintain an effective system of internal control over financial reporting , it may not be able to accurately report its financial results in a timely manner, which may adversely affect investor confidence in the Combined Company and materially and adversely affect its business and** operating results ~~and~~ **. A material weakness is a deficiency, or a combination of deficiencies, in internal control over** financial ~~condition. We may~~ **reporting such that there is a reasonable possibility that a material misstatement of the Combined Company' s annual or interim financial statements will** not ~~complete~~ **be prevented or detected and corrected on a timely basis. Effective internal controls are necessary to provide reliable financial reports and prevent fraud. While the Combined Company intends to have systems and processes in place to identify and if necessary, continues to evaluate steps to remediate the material weakness. These remediation measures may be time consuming and costly and** ~~the~~ **there** ~~current or~~ **is no assurance that these initiatives will ultimately have the intended effects. 47If the Combined Company identifies** any **new material weaknesses in** ~~cost reduction plan and reorganization on the anticipated timetable, and even if successfully completed, we may not achieve the anticipated cost savings, operating efficiencies or other~~ -- **the** ~~benefits of~~ **future, any** such **newly identified material weakness** ~~activities. We may be unable to attract and retain management and other personnel we need to succeed. Our success depends on the services of our senior management and other key employees. The loss of the services of one or more of our officers or key employees~~ could **limit its ability to** ~~hinder our sales and marketing efforts, or delay or~~ prevent ~~the commercialization of our~~ - **or**

detect ~~Lap- Band System, Lap- Band 2. 0, the Obalon Balloon System, and the development of our DBSN device. Our continued growth will require hiring~~ a ~~number~~ **misstatement** of ~~qualified clinical, scientific, commercial and administrative personnel. Accordingly, recruiting and retaining such personnel in the future will be critical to our success. There is intense competition from other companies and research and academic institutions for qualified personnel in the areas of our activities. If we fail to identify, attract, retain and motivate these highly skilled personnel, we may be unable to continue our development and commercialization activities. The shares of series C convertible preferred stock issued in connection with our acquisition of ReShape Medical have certain rights and preferences senior to our common stock, including a liquidation preference that is senior to our common stock. There are currently 95, 388 shares of our series C convertible preferred stock outstanding, which are convertible into a total of 10 shares of our common stock. We originally issued the shares of our series C convertible preferred stock in connection with our acquisition of ReShape Medical. The series C convertible preferred stock has a liquidation preference of $ 274. 88 per share, or approximately $ 26. 2 million in the aggregate. In general, the series C convertible preferred stock is entitled to receive dividends (on an as- if- converted- to- common stock basis) actually paid on shares of common stock when, as and if such dividends are paid on shares of common stock. No other dividends will be paid on shares of series C convertible preferred stock. Except in connection with the election of directors and limited protective provisions, the series C convertible preferred stock generally does not have voting rights. However, as long as any shares of series C convertible preferred stock remain outstanding, we cannot, without the affirmative vote of holders of a majority of the then- outstanding shares of series C convertible preferred stock, (a) alter or change adversely the powers, preferences or rights given to the series C convertible preferred stock (including by the designation, authorization, or issuance of any shares of preferred stock that purports to have equal rights with, or be senior in rights or preferences to, the series C convertible preferred stock), (b) alter or amend the series C convertible preferred stock certificate of designation, (c) amend our certificate of incorporation or other charter documents in any manner that adversely affects any rights of the holders of series C convertible preferred stock, (d) increase the number of authorized shares of series C convertible preferred stock, (e) except for stock dividends or distributions for which adjustments are to be made pursuant to the Series C Certificate of Designation, pay dividends on any shares of capital stock of the Company, or (f) enter into any agreement with respect to any of the foregoing. We cannot assure you that we will ever generate substantial revenue or be profitable. The success of our business will depend on our ability to generate increased sales and control costs, as well as our ability to obtain additional regulatory approvals needed to market new versions of our Lap- Band System, Obalon Balloon System, or regulatory approvals needed to market our DBSN device and any other products we may develop in the future, all of which we may be unable to do. If we are unable to successfully market our Lap- Band System for~~ its **accounts** ~~24indicated use, successfully re- introduce the Obalon Balloon System, or develop and commercialize the DBSN device, we may never become profitable and may have to cease operations as a result. Previously, we recorded a non- cash indefinite- lived intangible and definite- lived assets impairment loss, which significantly impacted our~~ - **or disclosures** ~~results of operations, and we may be exposed to additional impairment losses~~ that could ~~be~~ **result in a** material **misstatement of its** . ~~We conduct our~~ annual ~~indefinite- lived intangible assets impairment analysis during the fourth quarter of each year or when circumstances suggest that an indicator for~~ - **or interim financial statements** ~~impairment may be present~~ . ~~Previously~~ **In such case** , ~~we performed a qualitative impairment analysis of~~ the **Combined Company may be unable** ~~in- process research and development (" IPR & D "). Due~~ to ~~delays~~ **maintain compliance with securities law requirements regarding timely filing of periodic reports** in ~~the clinical trials experienced~~ **addition to applicable stock exchange listing requirements** , ~~we revised~~ **investors may lose confidence in the Combined Company' s financial reporting and** its **share price may decline** ~~expectations of when revenues would commence for the ReShape Vest, thus reducing the projected near- term future net cash flows related to the ReShape Vest. During the quarter ended September 30, 2022, we stopped the clinical trials for the ReShape Vest and closed out the previous trials that occurred,~~ as ~~significant additional clinical work and cost would be required to achieve regulatory approval for the ReShape Vest. In addition, due to continued market decline and projected cash flows the company recorded an impairment of the developed technology related to the Lap- Band and Obalon Balloon System and our tradenames. As such, we determined the carrying value of the long- lived assets were impaired and recognized~~ a ~~non- cash impairment charge of approximately $ 0. 8 million on the condensed consolidated balance sheet as of December 31, 2023. In the future, we may have additional impairments requiring us to record an impairment loss related to our remaining finite- lived intangible assets, which could also have a material adverse effect on our results~~ - **result** ~~of operations~~ . ~~We~~ **The Combined Company will** incur ~~significant~~ **increased** costs as a result of operating as a public company, and ~~our~~ **its** management **will** ~~is required to~~ devote substantial time to **related** compliance initiatives. As a public company, ~~we~~ **the Combined Company will** incur significant legal, accounting and other expenses **that Vyome did not incur as a private company** . ~~In addition~~ **The Combined Company will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the " Exchange Act ")** , the Sarbanes- Oxley Act ~~of 2002~~ **, the Dodd- Frank Wall Street Reform and Consumer Protection Act** (the " ~~Sarbanes~~ **Dodd** - ~~Oxley~~ **Frank** Act "), as well as rules ~~subsequently implemented~~ **and regulations adopted, and to be adopted,** by the SEC ~~have imposed various requirements on public companies, including establishment~~ and **Nasdaq** ~~maintenance of effective disclosure and financial controls and changes in corporate governance practices~~ . ~~Our~~ **The Combined Company' s** management and other personnel **will need to** devote a substantial amount of time to these compliance initiatives. Moreover, **the Combined Company expects** these rules and regulations ~~result in~~ **to substantially** ~~increased~~ - **increase its** legal and financial compliance costs and ~~will~~ **to** make some activities more time- consuming and costly **, which will increase its operating expenses. For example, the Combined Company expects these rules and regulations to make it more difficult and more expensive for the Combined Company to obtain directors' and officers' liability insurance and the Combined Company may be required to incur substantial costs to maintain sufficient coverage** . The **Combined Company cannot predict or estimate the amount or timing of additional costs it may incur to respond to these requirements. The impact of these requirements could also**

make it more difficult for the Combined Company to attract and retain qualified persons to serve on its board, its board committees or as executive officers. Advocacy efforts by shareholders and third parties may also prompt additional changes in governance and reporting requirements, which could further increase costs. As a public company, the Combined Company will be required to incur additional costs and obligations in order to comply with SEC rules that implement Section 404 of the Sarbanes- Oxley Act ~~requires~~ **. Under these rules** , ~~among other~~ -- **the Combined Company will be** ~~things, that we maintain effective internal controls for financial reporting and disclosure. In particular, we are~~ required to **make a formal assessment** ~~perform system and process evaluation and testing~~ of ~~our internal controls over financial reporting to allow management to report on~~ the effectiveness of **its** our internal controls over financial reporting,..... our management assessed the effectiveness of our internal control over financial reporting ~~as of December 31~~ , ~~2023,~~ **and once it ceases to be** ~~and~~ - **an** ~~determined that our~~ **emerging growth company, the Combined Company will be required to include an attestation report on** internal control over financial reporting ~~was not effective at a reasonable assurance level due to material weaknesses~~ **issued by its independent registered public accounting firm. To achieve compliance with Section 404 of the Sarbanes-Oxley Act within the prescribed period, the Combined Company will be engaging** in ~~our~~ **a process to document and evaluate its** internal control over financial reporting **, which is both costly and challenging** . ~~We had insufficient~~ **In this regard, the Combined Company will need to continue to dedicate** internal resources ~~with appropriate accounting and finance knowledge and expertise to design~~ , ~~implement,~~ **potentially engage outside consultants and adopt a detailed work plan to assess and** document ~~and operate effective internal controls around our financial reporting process. We are currently implementing our remediation plan to address~~ the **adequacy of its** ~~material weaknesses identified above. Such measures include: designing and implementing controls to formalize roles and review responsibilities to align with our team' s skills and experience and designing and implementing formalized controls; and designing and implementing formal processes, policies and procedures supporting our financial close process. 25We have identified material weaknesses in our~~ internal control over financial reporting ~~and any failure~~ **, continue steps** to ~~maintain~~ **improve control processes as appropriate, validate through testing that controls are designed and operating** ~~effective~~ **effectively , and implement a continuous reporting and improvement process for** internal control over financial reporting ~~, may have a material and adverse effect on our business, operating results, financial condition and prospects~~ . ~~Our~~ **The rules governing the standards that must be met for** management **to** ~~assessed~~ -- **assess** the ~~effectiveness of our~~ **Combined Company' s** internal control over financial reporting **are complex** ~~as of December 31, 2023,~~ and **require significant documentation, testing and possible remediation** ~~determined that our internal control over financial reporting was not effective at a reasonable assurance level due~~ to **meet the detailed standards under the rules. During the course of its testing, the Combined Company' s management may identify** material weaknesses ~~in our~~ - **or** ~~internal control~~ **deficiencies which may not be remedied in time to meet the deadline imposed by the Sarbanes- Oxley Act. These reporting and other obligations place significant demands on the Combined company' s management and administrative and operational resources, including accounting resources. 48In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time- consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve** over **time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. The Combined Company intends to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of its management' s time and attention from revenue- generating activities to compliance activities. If the Combined Company' s efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against the Combined Company and there could be a material adverse effect on the Combined Company' s business,** financial ~~reporting~~ **condition and results of operations** . ~~We had insufficient internal resources~~ **Certain of the Combined Company' s proposed directors and executive officers also work** with ~~appropriate accounting~~ **other companies** and **organizations** ~~finance knowledge~~ and **such other positions may create conflicts of interest in the future** ~~expertise to design, implement, document and operate effective internal controls around our financial reporting process~~ . ~~We~~ **Some of the Combined Company' s officers and directors will serve only part-time and** are **subject** ~~currently implementing our remediation plan~~ to ~~address~~ **conflicts of interest. Each of such officers and directors will be devoting part of** ~~the~~ **their** ~~material weaknesses identified above~~ **working time to other endeavors, including consulting relationships with other entities, and may have responsibilities to these other entities** . Such ~~measures~~ **conflicts may also** include ~~: designing~~ **deciding how much time to devote to the Combined Company' s affairs. Because of these relationships, our officers and directors may be subject to conflicts of interest. For example, Venkat Nelabhotla, Vyome' s Chief Executive Officer and who will be the Chief Executive Officer of the Combined Company, will be devoting approximately 40 hours per week to the Combined Company' s business. Mr. Nelabhotla also works part- time in a consulting / advisory capacity for Pulse Pharmaceuticals Private Limited and Newvojax Health and Wellness Private Limited for approximately 15 hours per week. Mr. Shiladitya Sengupta, one of the co- founders and directors of Vyome, will also be a director on the board of the Combined Company. He works full- time as** ~~and~~ - **an** ~~implementing controls~~ **Associate Professor of Medicine at the Brigham and Women' s Hospital and Harvard Medical School and will be dedicating his time** to ~~formalize~~ **the Combined Company on a limited, as- needed basis. Mr. Sengupta also works in a consulting capacity for Alyssum Therapeutics Inc, CBCC, Invictus Oncology Pvt Ltd, India Innovation Research Center for approximately 4 hours per week. Further, Robert Dickey, Vyome' s Chief Financial Officer and who will be the Chief Financial Officer of the Combined Company, will be working with the Combined Company for 50 % of his available**

time or a minimum of 80 hours per month. While Vyome has not, and Vyome believes that the Combined Company will not, encounter any issue as a result of such additional roles **/** ~~and review~~ responsibilities **, the duties** to ~~align with our team'~~ **such businesses / organizations may compete for such persons' full attention to the Combined Company'** s **business** ~~skills and experience and designing and implementing formalized controls~~ ; **accordingly** ~~and designing and implementing formal processes~~ , ~~policies and procedures supporting our financial close process~~ **they may have conflicts of interest in allocating time between the separate business activities** . General economic and political conditions could have a material adverse effect on ~~our business~~ **the Combined Company** . External factors can affect our financial condition. Such external factors include general domestic and global economic conditions, such as interest rates, tax law including tax rate changes, and factors affecting global economic stability, and the political environment regarding healthcare in general. We cannot predict to what extent the global economic conditions may negatively impact ~~our~~ **the Combined Company' s** business. For example, negative conditions in the credit and capital markets could impair our ability to access the financial markets for working capital and could negatively impact our ability to borrow. ~~We~~ **49If the Combined Company' s competitors are able to develop and market products that are safer or more effective than the Combined Company' s products,its commercial opportunities will be reduced or eliminated.The health care industry is highly competitive,subject to rapid change and significantly affected by** new product introductions and other market activities of industry participants.The ~~obesity treatment~~ **immune- inflammatory disease** market in which ~~we~~ **the Combined Company intends to** operate has grown significantly in recent years and is expected to continue to expand as technology continues to evolve and awareness of the need to treat ~~the obesity epidemic~~ **immune- inflammatory diseases** grows. **The Combined Company will** ~~Although we are not aware of any competitors in the neuroblocking market,we~~ face potential competition from ~~pharmaceutical~~ **several big pharma** and ~~surgical obesity treatments~~ **mid / small size biotech and pharma companies** .Many of ~~our competitors in~~ the ~~obesity treatment field~~ **Combined Company' s competitors will likely** have significantly greater financial resources and expertise in research and development,manufacturing,preclinical testing,clinical trials,obtaining regulatory approvals and marketing approved products than we do.Smaller or early- stage companies may also prove to be significant competitors,particularly if they pursue competing solutions through collaborative arrangements with large and established companies ~~,such as Allergan,Boston Scientific,LivaNova PLC,Johnson & Johnson,Medtronic or St~~ . ~~Jude Medical.Our~~ **The Combined Company' s** competitors may develop and patent processes or products earlier than ~~us~~ **it** ,obtain regulatory approvals for competing products more rapidly than ~~we are~~ **the Combined Company is** able to and develop more effective,safer and less expensive products or technologies that would render ~~our~~ **its** products non- competitive or obsolete. **The Combined Company** ~~We face external competition from other technologies such as GLP- 1' s,and alternative medical procedures and we~~ may ~~not be able to compete effectively.Companies that may not be deemed competitors in the bariatric surgery space may develop technologies,products or~~ face significant uncertainty in the industry due to government healthcare reform. In the United States, there have been and continue to be a number of legislative initiatives to contain healthcare costs. The Patient Protection and Affordable Care Act, as amended, (the " Affordable Care Act ") as well as any future healthcare reform legislation, may have a significant impact on our business. The impact of the Affordable Care Act on the health care industry is extensive and includes, among other things, the federal government assuming a larger role in the health care system, expanding healthcare coverage of United States citizens and mandating basic healthcare benefits. Congress regularly considers legislation to replace or repeal elements or all of the Affordable Care Act. At this time, it is not clear whether the Affordable Care Act will be repealed in whole or in part, and, if it is repealed, whether it will be replaced in whole or in part by another plan and what impact those changes will have on coverage and reimbursement for healthcare items and services covered by plans that were authorized by the Affordable Care Act. ~~We expect that additional~~ **Additional** state and federal healthcare reform measures ~~will~~ **may** be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, and also indirectly affect the amounts that private payers are willing to pay. In addition, any healthcare reforms enacted in the future may, like the Affordable Care Act, be phased in over a number of years but, if enacted, could reduce ~~our~~ **the Combined Company' s** revenue, increase our costs, or require us to revise the ways in which we conduct business or put ~~us~~ **it** at risk for loss of business. In addition, our results of operations, financial position and cash flows could be materially adversely affected by changes under the Affordable Care Act and changes under any federal or state legislation adopted in the future. ~~Public health crises, such as the COVID- 19 pandemic, have had, and could in the future have, a negative effect on our business. Pandemics or disease outbreaks, such as the COVID- 19 pandemic, have created and may continue to create significant volatility, uncertainty and economic disruption in the markets we sell our products into and operate in and may negatively impact business and healthcare activity globally. In response to the COVID- 19 pandemic, governments around the world have imposed measures designed to reduce the transmission of COVID- 19. In particular, elective procedures, such as the Lap- Band procedure, were delayed or cancelled, there was a significant reduction in physician office visits, and hospitals postponed or canceled purchases as well as limited or eliminated services. While elective procedures have increased from the reduced levels during the height of the COVID- 19 pandemic, the reduction in elective procedures has had, and we believe may continue to have, a negative impact on the sales of our products.~~ The **Combined Company may** ~~extent to which fear of exposure to or actual effects of COVID- 19, new variants, disease outbreak, epidemic or a similar 26widespread health concern impacts our business will depend on future developments, which are highly uncertain and cannot~~ be ~~predicted with confidence. We are~~ subject, directly or indirectly, to United States federal and state healthcare fraud and abuse and false claims laws and regulations. Prosecutions under such laws have increased in recent years and ~~we~~ **the Combined Company** may become subject to such litigation. If ~~we are~~ **the Combined Company is** unable to, or have not fully complied with such laws, ~~we~~ **it** could face substantial penalties. ~~Our~~ **The Combined Company' s** operations ~~are~~ **,** directly ~~,~~ or indirectly through customers, **may be** subject to various state and federal fraud and abuse laws, including, without limitation, the federal Anti- Kickback Statute and federal False Claims Act. These laws may impact, among other things, our sales, marketing and education programs. The federal Anti- Kickback Statute prohibits persons from knowingly

and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing or arranging for a good or service, for which payment may be made under a federal healthcare program such as the Medicare and Medicaid programs. Several courts have interpreted the statute' s intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal healthcare covered business, the statute has been violated. The Anti- Kickback Statute is broad and, despite a series of narrow safe harbors, prohibits many arrangements and practices that are lawful in businesses outside of the healthcare industry. Penalties for violations of the federal Anti- Kickback Statute include criminal penalties and civil sanctions such as fines, imprisonment and possible exclusion from Medicare, Medicaid and other federal healthcare programs. Many states have also adopted laws similar to the federal Anti- Kickback Statute, some of which apply to the referral of patients for healthcare items or services reimbursed by any source, not only the Medicare and Medicaid programs. ~~The~~ **50The** federal False Claims Act prohibits persons from knowingly filing, or causing to be filed, a false claim to, or the knowing use of false statements to obtain payment from the federal government. Suits filed under the False Claims Act, known as " qui tam " actions, can be brought by any individual on behalf of the government and such individuals, commonly known as " whistleblowers, " may share in any amounts paid by the entity to the government in fines or settlement. The frequency of filing qui tam actions has increased significantly in recent years, causing greater numbers of medical device, pharmaceutical and healthcare companies to have to defend a False ~~Claim~~ **Claims** Act action. When an entity is determined to have violated the federal False Claims Act, it may be required to pay up to three times the actual damages sustained by the government, plus civil penalties for each separate false claim. Various states have also enacted laws modeled after the federal False Claims Act. ~~We are~~ **The Combined Company may be** unable to predict whether ~~we~~ **it** could be subject to actions under any of these laws, or the impact of such actions. If ~~we are~~ **the Combined Company is** found to be in violation of any of the laws described above or other applicable state and federal fraud and abuse laws, ~~we~~ **it** may be subject to penalties, including civil and criminal penalties, damages, fines, exclusion from government healthcare reimbursement programs and the curtailment or restructuring of ~~our~~ **its** operations. Failure to protect ~~our~~ **the Combined Company' s** information technology infrastructure against cyber- based attacks, network security breaches, service interruptions or data corruption could materially disrupt ~~our~~ **its** operations and adversely affect ~~our~~ **its** business. The operation of ~~our~~ **the Combined Company' s** business **will** ~~depends~~ **depend** on our information technology systems. ~~We~~ **It will** rely on ~~our~~ **its** information technology systems to, among other things, effectively manage sales and marketing data, accounting and financial functions, inventory management, product development tasks, clinical data, customer service and technical support functions. ~~Our~~ **Its** information technology systems ~~are~~ **may be** vulnerable to damage or interruption from earthquakes, fires, floods and other natural disasters, terrorist attacks, power losses, computer system or data network failures, security breaches, data corruption, and cyber- based attacks. Cyber- based attacks can include computer viruses, computer denial- of- service attacks, phishing attacks, worms, and other malicious software programs or other attacks, covert introduction of malware to computers and networks, impersonation of authorized users, and efforts to discover and exploit any design flaws, bugs, security vulnerabilities, or security weaknesses, as well as intentional or unintentional acts by employees or other insiders with access privileges, intentional acts of vandalism by third parties and sabotage. In addition, federal, state, and international laws and regulations, such as the General Data Protection Regulation adopted by the European Union and ~~EEA~~ **European Economic Area** countries can expose ~~us~~ **the Combined Company** to enforcement actions and investigations by regulatory authorities, and potentially result in regulatory penalties and significant legal liability, if ~~our~~ **the Combined Company' s** information technology security efforts fail. **The Combined Company may in the future become involved in lawsuits, to protect or enforce its intellectual property, which can be expensive and time consuming and could result in the diversion of significant resources. Adverse proceedings such as litigation or challenges to the validity of our patents can be expensive, time consuming and may divert the efforts of our technical and managerial personnel, which could in turn harm its business, whether or not it receives a favorable determination.** In addition, ~~a 27variety of~~ **in an infringement** ~~our~~ **or** ~~software systems~~ **other adverse proceeding, a court may decide that the patent the Combined Company seeks to enforce is invalid or unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that the patent in question does not cover the technology in question. An adverse result in any litigation or proceeding could place one or more of the Combined Company' s patents at risk of being invalidated, interpreted narrowly or found unenforceable. Some of its competitors may be able to devote significantly more resources to intellectual property litigation, and may have significantly broader patent portfolios to assert against the Combined Company, if it asserts rights against them. 51The Combined Company may lose important patents or patent rights if it does not timely pay required patent fees or annuities. Non- payment or delay in payment of patent fees or annuities, whether intentional or unintentional, may result in loss of patents or patent rights important to the Combined Company' s business. Many countries, including certain countries in Europe, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, many countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of the patent. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as do the laws of the United States, particularly in the field of medical products. Many of the Combined Company' s competitors may have significant resources and incentives to apply for and obtain intellectual property rights that could limit or prevent its ability to commercialize our current or future products in the United States or abroad. Many of the Combined Company' s competitors who have significant resources and have made substantial investments in competing technologies may seek to apply for and obtain patents that will prevent, limit or interfere with our ability to make, use or sell our products either in the U. S. or in international markets. The Combined Company' s U. S. or foreign patents may be challenged, circumvented by competitors or others or may be found to be invalid, unenforceable or insufficient. In most cases in the United States patent applications** are

~~cloud~~ **published 18 months after filing the application, or corresponding applications are published in other countries, and since publication of discoveries in the scientific or patent literature often lag behind actual discoveries, there can be no certainty that the Combined Company was the first to make the inventions covered by each of its pending patent applications, or that it was the first to file patent applications for such inventions. If the Combined Company is unable to protect the confidentiality of our proprietary information and know** - **how, the value of its technology and products could be adversely affected. In addition to patented technology, the Combined Company may rely on its unpatented proprietary technology, trade secrets, processes and know- how. It would generally seek to protect this information by confidentiality agreements with employees, consultants, scientific advisors and third parties. These agreements may be breached, and the Combined Company may not have adequate remedies for any such breach. In addition, its trade secrets may otherwise become known or be independently developed by competitors. To the extent that the Combined Company' s employees, consultants or contractors use intellectual property owned by others in their work for the Combined Company, disputes may arise as to the rights in related or resulting know- how and inventions. Intellectual property litigation is a common tactic in the biotech industry to gain competitive advantage. If the Combined Company becomes subject to a lawsuit, it may be required to expend significant financial and other resources and our management' s attention may be diverted from its business. There has been a history of frequent and extensive litigation regarding patent and other intellectual property rights in the biotech industry, and companies in the biotech industry have employed intellectual property litigation to gain a competitive advantage. Accordingly, the Combined Company may become subject to patent infringement claims or litigation in a court of law, or interference proceedings declared by the U. S. Patent and Trademark Office (" USPTO ") to determine the priority of inventions or an opposition to a patent grant in a foreign jurisdiction. It may also become subject to claims or litigation seeking payment of royalties** based ~~data~~ **on sales of its product in connection with licensing or similar joint development arrangements with third parties or in connection with claims of patent infringement. 52The defense and prosecution of intellectual property suits, USPTO interference proceedings, reexamination proceedings, or under more recently promulgated Inter Partes Review proceedings, depending on when the patent application was filed, or opposition proceedings and related legal and administrative proceedings, are both costly and time consuming and could result in substantial uncertainty to us. Litigation or regulatory proceedings may also be necessary to enforce patent or other intellectual property rights of ours or to determine the scope and validity of other parties' proprietary rights. Any litigation, opposition or interference proceedings, with or without merit, may result in substantial expense to us, cause significant strain on the Combined Company' s financial resources, divert the attention of its technical and** management ~~applications~~ **personnel and harm its reputation. The Combined Company may not have the financial resources to defend its patents from infringement or claims of invalidity. An adverse determination in any litigation could subject us to significant liabilities to third parties** , ~~hosted by~~ **require it to seek licenses from or pay royalties to third parties or prevent it from manufacturing, selling or using our proposed products, any of which could have a material adverse effect on its business and prospects. As a result of patent infringement claims, or to avoid potential claims, the Combined Company may choose or be required to seek a license from a** third- party ~~service providers whose security~~ and **be required** ~~information technology systems are subject~~ to ~~similar~~ **pay license fees or royalties, or both. A license may not be available at all or on commercially reasonable terms, and the Combined Company may not be able to redesign its products to avoid infringement. Modification of our products or development of new products could require it to conduct additional clinical trials and to revise our filings with the FDA and other regulatory bodies, which would be time- consuming and expensive. Even if the Combined Company were able to obtain a license, the rights may be nonexclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be forced to cease some aspect of its business operations if, as a result of actual or threatened patent infringement claims, it is unable to enter into licenses on acceptable terms. This could harm our business significantly.** ~~risks~~ **Risks Related to the Asset SaleWhile the Asset Sale is pending, it creates unknown impacts on our future which could materially and adversely affect its business, financial condition and results of operations** . ~~We operate~~ **While the Asset Sale is pending, it creates unknown impacts on our future. Therefore, our current or potential business partners may decide to delay, defer or cancel entering into new business arrangements with ReShape pending consummation of the Asset Sale. The occurrence of these events individually or** in ~~a highly competitive industry that~~ **combination could materially and adversely affect our business, financial condition and results of operations. The failure to consummate the Asset Sale may materially and adversely affect our business, financial condition and results of operations. The Asset Sale** is subject to ~~rapid change. If our competitors are~~ **various closing conditions including, among others, the approval of the Asset** ~~able~~ - **Sale** ~~to develop and market products that are safer or more effective than our products, our commercial opportunities will be reduced or eliminated. The health care industry is highly competitive, subject to rapid change and significantly affected~~ by new product introductions and other market activities..... no tax examinations currently in progress. ReShape' s **stockholders. ReShape cannot control these conditions and cannot assure you that they will be satisfied. If the Asset Sale is not consummated, ReShape may be subject to a number of risks, including the following: ● we may not be able to identify an alternate transaction, or if an alternate transaction is identified, such alternate transaction may not result in equivalent terms as compared to what is proposed in the Asset Sale; ● the trading price of our common stock may decline to the extent that the current market price reflects a market assumption that the Asset Sale will be consummated; ● doubt as to our** ability to ~~utilize~~ **effectively implement** its **current** ~~net operating loss carryforwards, tax credits,~~ and **future business strategies; ● our** ~~built- in items of deduction, including capitalized start- up~~ costs **related** ~~and research and development costs, has been, and may continue~~ to ~~be substantially limited due to ownership changes. These ownership changes limit~~ the **Asset Sale** ~~amount of net operating loss carryforwards~~ , **such** ~~credits and built- in items of deduction that can be utilized annually to offset future taxable income. In general, an ownership~~

~~change,~~ as **legal** ~~defined in IRC Section 382~~ , **accounting** ~~results from a transaction or series of transactions over a three- year period resulting in an~~ **and** ~~ownership change of more than 50 % of~~ **financial advisory fees, must be paid even if** the ~~outstanding stock of a company by certain stockholders~~ **Asset Sale is not completed; and ● ~~or~~ our relationships with its customers** ~~public groups. Due to the valuation allowance against deferred tax assets at December 31~~ , ~~2023, the net effect~~ **suppliers and employees may be damaged and its business may be harmed. The occurrence** of any ~~further limitation will have no impact on results~~ of ~~operations. Adverse developments affecting the~~ **these** ~~financial services industry~~ **events individually or in combination** could **materially and** adversely affect our ~~current and projected~~ business **,** ~~operations and our~~ financial condition and results of operations ~~. Substantially all~~ **, which could cause the market value** of our ~~cash and cash equivalents were held~~ **common stock to decline. 53The Merger may be consummated despite the Asset Sale not closing under certain circumstances. While the closing of the Merger is conditioned on the closing of the Asset Sale, if we fail to consummate the Asset Sale, the Merger may still proceed, provided that the closing condition related to the closing of the Asset Sale contained** in ~~accounts~~ **the Merger Agreement is waived by Vyome. The occurrence of these events would result in the Combined Company continuing to own the assets currently contemplated to be sold to Ninjour as part of the Asset Sale following the closing of the Merger, which could cause the Combined Company to incur unanticipated costs and expenses in connection** with **continued ownership of such assets** ~~Silicon Valley Bank (SVB) at the time it was closed by state regulators~~ , ~~and the Federal Deposit Insurance Corporation (FDIC) was appointed receiver for~~ - **or pursuit of** ~~28SVB, on March 10, 2023. The FDIC created a successor bridge bank for SVB and~~ - **an** ~~all deposits~~ **alternative disposition** of **such assets. Further** ~~SVB were transferred to the bridge bank under a systemic risk exception approved by the United States Department of the Treasury~~ , **in such** ~~the Federal Reserve and~~ - **an event** ~~the FDIC. If financial institutions in which we hold funds for working capital and operating expenses were to fail~~ , ~~we cannot provide~~ **the Combined Company may also be subject to** any **disputes / litigation filed** ~~assurances that such governmental agencies would take action to protect our uninsured deposits~~ in **respect** ~~a similar manner. We subsequently moved and hold a portion~~ of ~~our cash and cash equivalents in accounts with Bank of America. The balance held in these~~ -- **the assets to be** ~~accounts exceeds the FDIC standard deposit insurance limit of $ 250, 000. If a financial institution in which we hold~~ **sold as part** ~~such funds fails or is subject to significant adverse conditions in the financial or credit markets, we could be subject to a risk~~ of **the Asset Sale** ~~loss of all or a portion of such uninsured funds or be subject to a delay in accessing all or a portion of such uninsured funds~~ . Any such **liabilities** ~~loss or lack of access to these funds could adversely impact our~~ - **or problems** short- term liquidity and ability to..... or similar factors not described above, could have ~~material~~ **an** adverse ~~impacts~~ **effect** on **the Combined Company' s** ~~our liquidity and our current and / or projected~~ business **,** ~~operations and~~ financial condition ~~and~~ **,** results of operations . In addition, a vendor on..... have a material adverse impact on our - **or** ~~business~~ **cash flows** . Risks Associated with Development and Commercialization of ~~the~~ **ReShape' s** Lap- Band System, Lap- Band 2. 0 System, Obalon Balloon System, and the DBSN DeviceOur efforts to increase revenue from our Lap- Band System, Lap- Band 2. 0 System, and commercialize our DBSN device and expanded line of bariatric surgical accessories, including ReShape Calibration Tubes, may not succeed or may encounter delays which could significantly harm our ability to generate revenue. Our ability to generate revenue will depend upon the sales of our Lap- Band System, expanded line of bariatric surgical accessories and successful commercialization of our DBSN device (if approved for sale). Our efforts to commercialize these products may not succeed for a number of reasons, including: ● we may not be able to obtain the regulatory approvals required for our DBSN device; ● we may not be able to produce the Obalon Balloon System cost-effectively; ● if we are able to produce the Obalon Balloon System, we may not be able to re- introduce the system into the marketplace; ● our products may not be accepted in the marketplace by physicians, patients and third- party payers; ● the price of our products, associated costs of the surgical procedure and treatment and the availability of sufficient third- party reimbursement for the system implantation and follow- up procedures; ● appropriate reimbursement and / or coding options may not exist to enable billing for the system implantation and follow- up procedures for our DBSN device; ● coverage policies for bariatric surgeries and procedures, including Lap- Band and balloons may be restricted in the future; ● we may not be able to sell our products at a price that allows us to meet the revenue targets necessary to generate enough revenue for profitability; ● the frequency and severity of any side effects of our products; ● physicians and potential patients may not be aware of the perceived effectiveness and sustainability of the results of our products; ~~29~~ ● we, or the investigators of our products, may not be able to have information on the outcome of the trials published in medical journals; ● the availability and perceived advantages and disadvantages of alternative treatments, including pharmaceutical treatments; ● any rapid technological change may make our products obsolete; ● we may not be able to have our products manufactured in commercial quantities or at an acceptable cost; ● we may not have adequate financial or other resources to complete the development and commercialization of our products or to develop sales and marketing capabilities for our products; and ● we may be sued for infringement of intellectual property rights and could be enjoined from manufacturing or selling our products. ~~Besides~~ **54Besides** requiring physician adoption, market acceptance of our products will depend on successfully communicating the benefits of our products to three additional constituencies involved in deciding whether to treat a particular patient using our products: (1) the potential patients themselves; (2) institutions such as hospitals, where the procedure would be performed and opinion leaders in these institutions; and (3) third- party payers, such as private healthcare insurers and governmental payers, such as Medicare and Medicaid in the United States, which would ultimately bear most of the costs of the various providers and equipment involved in our Lap- Band System, Obalon Balloon System, and DBSN device (if approved for sale). Marketing to each of these constituencies requires a different marketing approach, and we must convince each of these groups of the efficacy and utility of our products to be successful. During the ~~year~~ **years** ended December 31, **2024 and** 2023 ~~and 2022~~ , there was minimal revenue for ReShapeCare and ReShape Marketplace. There was no revenue or gross profit recorded for the DBSN device for the year ended December 31, **2024 and** 2023 ~~and 2022~~ as this product is still in the research stage of development. There was also no revenue recorded for the Obalon line. If our products, or any other therapy or products that we may develop for other

gastrointestinal diseases and disorders that we may develop, do not achieve an adequate level of acceptance by the relevant constituencies, we may not generate significant product revenue and may not become profitable. This estimated timeline could be compressed or extended depending on many factors, including revenue growth from new product introductions, strategic investments not yet foreseen, and other risks and uncertainties due to the general business, economic, regulatory, market and financial conditions. Therefore, the plans cannot be deemed probable of being implemented. As a result, the Company' s plans do not alleviate substantial doubt about our ability to continue as a going concern. We may not be able to obtain required regulatory approvals for our DBSN device in a cost- effective manner or at all, which could adversely affect our business and operating results. The production and marketing of our DBSN device, and our ongoing research and development, preclinical testing and future potential clinical trial activities are subject to extensive regulation and review by numerous governmental authorities both in the United States and abroad. U. S. and foreign regulations applicable to medical devices are wide- ranging and govern, among other things, the development, testing, marketing and premarket review of new medical devices, in addition to regulating manufacturing practices, reporting, advertising, exporting, labeling and record keeping procedures. We are required to obtain regulatory approval before we can market our DBSN device in the United States and certain foreign countries. The regulatory process will require significant time, effort and expenditures to bring products to market, and it is possible that our DBSN device will not be approved for sale. Even if regulatory approval of our DBSN device is granted, it may not be granted within the timeframe that we expect, which could have an adverse effect on our operating results and financial condition. Even after our DBSN device is approved by the FDA, we may have ongoing responsibilities under FDA regulations, non- compliance of which could result in the subsequent withdrawal of such approvals, or such approvals could be withdrawn due to the occurrence of unforeseen problems following initial approval. We also are subject to medical device reporting regulations that require us to report to the FDA if any of our products causes or contributes to a death or serious injury or if a malfunction were it to occur might cause or contribute to a death or serious injury. Any failure to obtain regulatory approvals on a timely basis or the subsequent withdrawal of such approvals could prevent us from successfully marketing our products, which could adversely affect our business and operating results. ~~30We~~ **55We** depend on clinical investigators and clinical sites to enroll patients in our clinical trials, and on other third parties to manage the trials and to perform related data collection and analysis, and, as a result, we may face costs and delays that are outside of our control. While we currently do not have any active clinical trials enrolling patients, we may in the future need to rely on clinical investigators and clinical sites to enroll patients in our clinical trials and other third parties to manage the trials and to perform related data collection and analysis. However, we may not be able to control the amount and timing of resources that clinical sites may devote to our clinical trials. If these clinical investigators and clinical sites fail to enroll a sufficient number of patients in our clinical trials, ensure compliance by patients with clinical protocols or comply with regulatory requirements, we will be unable to complete these trials, which could prevent us from obtaining or maintaining regulatory approvals for our product. Our agreements with clinical investigators and clinical trial sites for clinical testing place substantial responsibilities on these parties and, if these parties fail to perform as expected, our trials could be delayed or terminated. If these clinical investigators, clinical sites or other third parties do not carry out their contractual duties or obligations or fail to meet expected deadlines, or if the quality or accuracy of the clinical data they obtain is compromised due to their failure to adhere to our clinical protocols, regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated, or the clinical data may be rejected by the FDA, adversely affecting our ability to successfully commercialize our product. Modifications to the Lap- Band and Lap- Band 2. 0 system may require additional approval from regulatory authorities, which may not be obtained or may delay our commercialization efforts. The FDA and our European Notified Body require medical device companies to initially make and document a determination of whether or not a modification requires a new approval, supplement or clearance; however, some of these regulatory authorities can review a company' s decision. Any modifications to an approved device that could significantly affect its safety or efficacy, or that would constitute a major change in its intended use could require additional clinical studies and separate regulatory applications. Product changes or revisions will require all the regulatory steps and associated risks discussed above possibly including testing, regulatory filings and clinical studies. We may not be able to obtain approval of supplemental regulatory approvals for product modifications, new indications for our product or new products. Delays in obtaining future clearances would adversely affect our ability to introduce new or enhanced products in a timely manner, which in turn would harm our commercialization efforts and future growth. If we or our suppliers fail to comply with ongoing regulatory requirements, or if we experience unanticipated product problems, our Lap- Band system could be subject to restrictions or withdrawal from the market. Any product for which we obtain marketing approval, along with the manufacturing processes, post- approval clinical data and promotional activities for such product, will be subject to continual review and periodic inspections by our European Notified Body and the FDA and other regulatory bodies. In particular we and our manufacturers and suppliers are required to comply with ISO requirements, Good Manufacturing Practices, which for medical devices is called the Quality System Regulation (" QSR "), and other regulations which cover the methods and documentation of the design, testing, production, control, quality assurance, labeling, packaging, storage and shipping of any product for which we obtain marketing approval. The FDA enforces the QSR through inspections, which may be unannounced, and the CE system enforces its certification through inspections and audits as well. Our quality system has received certification of compliance to the requirements of ISO 13485: 2016 and will have to continue to successfully complete such inspections to maintain regulatory approvals for sales outside of the United States. Failure by us or one of our manufacturers or suppliers to comply with statutes and regulations administered by the FDA, CE authorities and other regulatory bodies, or failure to adequately respond to any observations, could result in enforcement actions against us or our manufacturers or suppliers, including, restrictions on our product or manufacturing processes, withdrawal of the product from the market, voluntary or mandatory recall, fines, suspension of regulatory approvals, product seizures, injunctions or the imposition of civil or criminal penalties. If any of these actions were to occur it would harm our reputation and cause our product sales to suffer. Furthermore, our key component suppliers may not currently be or may not continue to be in compliance

with applicable regulatory requirements. If the FDA or any other regulatory body finds their compliance status to be unsatisfactory, our commercialization efforts could be delayed, which would harm our business and our results of operations. ~~31Additionally~~ **56Additionally** , if the FDA determines that our promotional materials, training or other activities constitute promotion of an unapproved use, we could be subject to significant liability, the FDA could request that we cease, correct or modify our training or promotional materials or subject us to regulatory enforcement actions. It is also possible that other federal, state or foreign enforcement authorities might take action if they consider our training or other promotional materials to constitute promotion of an unapproved use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement. We are subject to medical device reporting regulations that require us to report to the FDA, **national bodies known as** Competent Authorities or other governmental authorities in other countries if our products cause or contribute to a death or serious injury or malfunction in a way that would be reasonably likely to contribute to death or serious injury if the malfunction were to recur. The FDA and similar governmental authorities in other countries have the authority to require the recall of our products in the event of material deficiencies or defects in design or manufacturing. A government mandated, or voluntary, recall by us could occur as a result of component failures, manufacturing errors or design defects, including defects in labeling. Any recall would divert managerial and financial resources and could harm our reputation with customers. There can be no assurance that there will not be product recalls in the future or that such recalls would not have a material adverse effect on our business. Once the product is approved and implanted in a large number of patients, infrequently occurring adverse events may appear that were not observed in the clinical trials. This could cause health authorities in countries where the product is available to take regulatory action, including marketing suspension and recall. For example, on January 18, 2023, we received a letter from the FDA requesting additional information regarding Medical Device Reports submitted in 2021 related adverse events associated with a Lap- Band device and pregnancy. The FDA' s letter indicates a concern for an increased risk for Lap- Band complications in pregnant patients and requests that we provide, among other information, any actions planned or implemented which might reduce the likelihood of such events, which we are in the process of responding to. We believe there is robust peer- reviewed published data that supports our belief that concerns raised by the FDA are anomalies and rare occurrences. For example, a June 2022 consensus statement on laparoscopic adjustable gastric band (LAGB) management, which includes the Lap- Band, by the ASMBS found that (i) a tailored approach to LAGB management during pregnancy allows patients and providers to monitor weight gain, nutritional adequacy, and fetal growth for a healthy pregnancy outcome and (ii) evidence supports LAGB placement as safe and well tolerated during pregnancy with close LAGB monitoring. While improbable, if there are additional, or more serious, adverse events for pregnant Lap- Band patients, or if the FDA issues a warning regarding, or restricts the use of, the Lap- Band with pregnant patients, or patients who may become pregnant, our business could be harmed. One of the goals of our direct- to- consumer marketing campaign is to help people understand that the Lap- Band offers unique benefits for a variety of obese patients, including patients who may become pregnant. If there is a perception that the Lap- Band is not safe for pregnant patients, it could harm our reputation and cause our Lap- Band sales to suffer. We face the risk of product liability claims that could be expensive, divert management' s attention and harm our reputation and business. We may not be able to obtain adequate product liability insurance. Our business exposes us to a risk of product liability claims that is inherent in the testing, manufacturing and marketing of medical devices. The medical device industry has historically been subject to extensive litigation over product liability claims. We have previously reported adverse events associated with the Lap- Band system, including as related to pregnant patients, and may be subject to product liability claims if our products cause, or appear to have caused, an injury. Claims may be made by consumers, healthcare providers, third- party strategic collaborators or others selling our products. We have product liability insurance, which covers the use of our products in our clinical trials and any commercial sales, in an amount we believe is appropriate. Our current product liability insurance may not continue to be available to us on acceptable terms, if at all, and, if available, the coverage may not be adequate to protect us against any future product liability claims. If we are unable to obtain insurance at an acceptable cost and on acceptable terms for an adequate coverage amount, or otherwise to protect against potential product liability claims, we could be exposed to significant liabilities, which may harm our business. A product liability claim, recall or other claim with respect to uninsured liabilities or for amounts in excess of insured liabilities could have a material adverse effect on our business, financial condition and results of operations. These liabilities could prevent or interfere with our product commercialization efforts. Defending a suit, regardless of merit, could be costly, could divert management attention and ~~32might~~ -- **might** result in adverse publicity, which could result in the withdrawal of, or inability to recruit, clinical trial volunteers or result in reduced acceptance of our products in the market. ~~We~~ **57We** may be subject to product liability claims even if it appears that the claimed injury is due to the actions of others. For example, we rely on the expertise of surgeons and other associated medical personnel to perform the medical procedure to implant and remove our products and to perform the related therapy. If these medical personnel are not properly trained or are negligent, the therapeutic effect of our products may be diminished or the patient may suffer critical injury, which may subject us to liability. In addition, an injury that is caused by the negligence of one of our suppliers in supplying us with a defective component that injures a patient could be the basis for a claim against us. A product liability claim, regardless of its merit or eventual outcome, could result in decreased demand for our products; injury to our reputation; diversion of management' s attention; withdrawal of clinical trial participants; significant costs of related litigation; substantial monetary awards to patients; product recalls or market withdrawals; loss of revenue; and the inability to commercialize our products under development. Risks Related to **our** Intellectual ~~Property~~ **PropertyIf** ~~If~~ we are unable to obtain or maintain intellectual property rights relating to our technology and neuroblocking therapy, the commercial value of our technology and any future products will be adversely affected and our competitive position will be harmed. Our commercial success depends in part on our ability to obtain protection in the United States and other countries for our Lap- Band System, Obalon Balloon System, and DBSN device by establishing and maintaining intellectual property rights relating to or incorporated into our technology and products. We own numerous U. S.

and foreign patents and have numerous patent applications pending, most of which pertain to treating gastrointestinal disorders and the treatment of obesity. We have also received or applied for additional patents outside the United States. Our pending and future patent applications may not issue as patents or, if issued, may not issue in a form that will provide us any competitive advantage. We expect to incur substantial costs in obtaining patents and, if necessary, defending our proprietary rights. The patent positions of medical device companies, including ours, can be highly uncertain and involve complex and evolving legal and factual questions. We do not know whether we will obtain the patent protection we seek, or that the protection we do obtain will be found valid and enforceable if challenged. If we fail to obtain adequate protection of our intellectual property, or if any protection we obtain is reduced or eliminated, others could use our intellectual property without compensating us, resulting in harm to our business. We may also determine that it is in our best interests to voluntarily challenge a third- party' s products or patents in litigation or administrative proceedings, including patent interferences, re- examinations or under more recently promulgated Inter Partes Review proceedings, depending on when the patent application was filed. In the event that we seek to enforce any of our owned or exclusively licensed patents against an infringing party, it is likely that the party defending the claim will seek to invalidate the patents we assert, which, if successful could result in the loss of the entire patent or the relevant portion of our patent, which would not be limited to any particular party. Any litigation to enforce or defend our patent rights, even if we were to prevail, could be costly and time- consuming and could divert the attention of our management and key personnel from our business operations. Even if we were to prevail in any litigation, we cannot assure you that we can obtain an injunction that prevents our competitors from practicing our patented technology. Our competitors may independently develop similar or alternative technologies or products without infringing any of our patent or other intellectual property rights, or may design around our proprietary technologies. We cannot assure you that we will obtain any patent protection that we seek, that any protection we do obtain will be found valid and enforceable if challenged or that it will confer any significant commercial advantage. U. S. patents and patent applications may also be subject to interference proceedings and U. S. patents may be subject to re- examination proceedings in the ~~U. S. Patent and Trademark Office (" USPTO ")~~, or under more recently promulgated Inter Partes Review proceedings, depending on when the patent application was filed, and foreign patents may be subject to opposition or comparable proceedings in the corresponding foreign patent offices, which proceedings could result in either loss of the patent or denial of the patent application, or loss or reduction in the scope of one or more of the claims of, the patent or patent application. In addition, such interference, re- examination and opposition proceedings may be costly. Moreover, the U. S. patent laws have recently changed with the adoption of the America Invents Act (" AIA "), possibly making it easier to challenge patents. Some of our technology was, and continues to be, developed in conjunction with third parties, and thus there is a risk that such third parties may claim rights in our intellectual property. Thus, any patents that we own or license from others may provide limited or no protection against competitors. Our pending patent applications, those we may file in the future, or those we may license from third parties, may not result in ~~33patents~~ **patents** being issued. If issued, they may not provide us with proprietary protection or competitive advantages against competitors with similar technology. ~~We~~ **58We** may lose important patents or patent rights if we do not timely pay required patent fees or annuities. We have, from time to time, experienced delays in the payment of required patent fees or annuities. Non- payment or delay in payment of patent fees or annuities, whether intentional or unintentional, may result in loss of patents or patent rights important to our business. Many countries, including certain countries in Europe, have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, many countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of the patent. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as do the laws of the United States, particularly in the field of medical products and procedures. Many of our competitors have significant resources and incentives to apply for and obtain intellectual property rights that could limit or prevent our ability to commercialize our current or future products in the United States or abroad. Many of our competitors who have significant resources and have made substantial investments in competing technologies may seek to apply for and obtain patents that will prevent, limit or interfere with our ability to make, use or sell our products either in the U. S. or in international markets. Our current or future U. S. or foreign patents may be challenged, circumvented by competitors or others or may be found to be invalid, unenforceable or insufficient. In most cases in the United States patent applications are published 18 months after filing the application, or corresponding applications are published in other countries, and since publication of discoveries in the scientific or patent literature often lags behind actual discoveries, we cannot be certain that we were the first to make the inventions covered by each of our pending patent applications, or that we were the first to file patent applications for such inventions. If we are unable to protect the confidentiality of our proprietary information and know- how, the value of our technology and products could be adversely affected. In addition to patented technology, we rely on our unpatented proprietary technology, trade secrets, processes and know- how. We generally seek to protect this information by confidentiality agreements with our employees, consultants, scientific advisors and third parties. These agreements may be breached, and we may not have adequate remedies for any such breach. In addition, our trade secrets may otherwise become known or be independently developed by competitors. To the extent that our employees, consultants or contractors use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know- how and inventions. Intellectual property litigation is a common tactic in the medical device industry to gain competitive advantage. If we become subject to a lawsuit, we may be required to expend significant financial and other resources and our management' s attention may be diverted from our business. There has been a history of frequent and extensive litigation regarding patent and other intellectual property rights in the medical device industry, and companies in the medical device industry have employed intellectual property litigation to gain a competitive advantage. Accordingly, we may become subject to patent infringement claims or litigation in a court of law, or interference proceedings declared by the USPTO to determine the priority of inventions or an opposition to a patent grant in a foreign jurisdiction. We may also become subject to claims or litigation seeking payment of royalties based on sales of our

product in connection with licensing or similar joint development arrangements with third parties or in connection with claims of patent infringement. The defense and prosecution of intellectual property suits, USPTO interference proceedings, reexamination proceedings, or under more recently promulgated Inter Partes Review proceedings, depending on when the patent application was filed, or opposition proceedings and related legal and administrative proceedings, are both costly and time consuming and could result in substantial uncertainty to us. Litigation or regulatory proceedings may also be necessary to enforce patent or other intellectual property rights of ours or to determine the scope and validity of other parties' proprietary rights. Any litigation, opposition or interference proceedings, with or without merit, may result in substantial expense to us, cause significant strain on our financial resources, divert the attention of our technical and management personnel and harm our reputation. We may not have the financial resources to defend our patents from infringement or claims of invalidity. An adverse determination in any litigation could subject us to significant liabilities ~~34to~~ **to** third parties, require us to seek licenses from or pay royalties to third parties or prevent us from manufacturing, selling or using our proposed products, any of which could have a material adverse effect on our business and prospects. ~~Our~~ **59Our** Lap- Band System, Obalon Balloon System or DBSN device may infringe or be claimed to infringe patents that we do not own or license, including patents that may issue in the future based on patent applications of which we are currently aware, as well as applications of which we are unaware. For example, we are aware of other companies that are investigating neurostimulation, including neuroblocking, and of patents and published patent applications held by companies in those fields. While we believe that none of such patents and patent applications are applicable to our products and technologies under development, third parties who own or control these patents and patent applications in the United States and abroad could bring claims against us that would cause us to incur substantial expenses and, if such claims are successfully asserted against us, they could cause us to pay substantial damages, could result in an injunction preventing us from selling, manufacturing or using our proposed products and would divert management' s attention. Because patent applications in many countries such as the United States are maintained under conditions of confidentiality and can take many years to issue, there may be applications now pending of which we are unaware, and which may later result in issued patents that our products infringe. If a patent infringement suit were brought against us, we could be forced to stop our ongoing or planned clinical trials, or delay or abandon commercialization of the product that is subject of the suit. As a result of patent infringement claims, or to avoid potential claims, we may choose or be required to seek a license from a third- party and be required to pay license fees or royalties, or both. A license may not be available at all or on commercially reasonable terms, and we may not be able to redesign our products to avoid infringement. Modification of our products or development of new products could require us to conduct additional clinical trials and to revise our filings with the FDA and other regulatory bodies, which would be time- consuming and expensive. Even if we were able to obtain a license, the rights may be nonexclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be forced to cease some aspect of our business operations if, as a result of actual or threatened patent infringement claims, we are unable to enter into licenses on acceptable terms. This could harm our business significantly. We may in the future become involved in lawsuits, to protect or enforce our intellectual property, which can be expensive and time consuming and could result in the diversion of significant resources. Adverse proceedings such as litigation or challenges to the validity of our patents can be expensive, time consuming and may divert the efforts of our technical and managerial personnel, which could in turn harm our business, whether or not we receive a determination favorable to us. In addition, in an infringement or other adverse proceeding, a court may decide that the patent we seek to enforce is invalid or unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that the patent in question does not cover the technology in question. An adverse result in any litigation or proceeding could place one or more of our patents at risk of being invalidated, interpreted narrowly or found unenforceable. Some of our competitors may be able to devote significantly more resources to intellectual property litigation, and may have significantly broader patent portfolios to assert against us, if we assert our rights against them. Risks **Related to Equity Line of CreditThe sale or issuance of our common stock to Ascent may cause dilution and the sale of the shares of common stock acquired by Ascent, or the perception that such sales may occur, could cause the price of our common stock to fall. The purchase price for the shares that we may sell to Ascent under the Equity Purchase Agreement will fluctuate based on the price of our common stock. Depending on market liquidity at the time, sales of such shares may cause the trading price of our common stock to fall. Subject to the terms of the Equity Purchase Agreement, we generally have the right to control the timing and amount of any future sales of our shares to Ascent. The extent to which we rely on Ascent as a source of funding will depend on a number of factors, including the prevailing market price of our common stock and the extent to which we are able to secure working capital from other sources and other factors to be determined by us. We may ultimately decide to sell to Ascent all, some, or none of the shares of our common stock that may be available for us to sell pursuant to the Equity Purchase Agreement. When we sell shares to Ascent, after Ascent has acquired the shares, Ascent may resell all or some of those shares at any time or from time to time in its discretion. Therefore, sales to Ascent by us could result in substantial dilution to the interests of other holders of our common stock. Additionally, the sale of a substantial number of shares of our common stock to Ascent, or the anticipation of such sales, could make it more difficult for us to sell equity or equity- related securities in the future at a time and at a price that we might otherwise wish to effect sales. 60Ascent will pay less than the then- prevailing market price for our common stock, which could cause the price of our common stock to decline. The purchase price of our common stock to be sold to Ascent under the Equity Purchase Agreements is derived from the market price of our common stock on Nasdaq. Shares to be sold to Ascent pursuant to the Equity Purchase Agreement will be purchased at a discounted price. We may effect sales to Ascent at a purchase price per share equal to 93 % of the volume- weighted average price (" VWAP ") of the common stock on the trading day prior to each closing; provided, that if 93 % the lowest VWAP in the four trading days following such closing is lower than such price per share, then, as a " true- up ", we shall issue additional shares of common stock to Ascent so as to ensure that the total number of shares received by**

Ascent is equal to the number it would have received for the aggregate purchase price paid at such closing if the shares of common stock had been valued at such lower number. See section entitled " Description of Equity Financing Transaction " for more information. As a result of this pricing structure, Ascent may sell the shares they receive immediately after receipt of such shares, which could cause the price of our common stock to decrease. Our management will have broad discretion over the use of the net proceeds from our sale of shares of common stock to Ascent, and you may not agree with how we use the proceeds, and the proceeds may not be invested successfully. Our management will have broad discretion as to the use of the net proceeds from our sale of shares of common stock to Ascent, and we could use them for purposes other than those contemplated at the time of commencement of such offering. Accordingly, you will be relying on the judgment of our management with regard to the use of those net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. It is possible that, pending their use, we may invest those net proceeds in a way that does not yield a favorable, or any, return for us. The failure of our management to use such funds effectively could have a material adverse effect on our business, financial condition, operating results and cash flows. It is not possible to predict the actual number of shares we will sell under the Equity Purchase Agreement to Ascent, or the actual gross proceeds resulting from those sales. Because the purchase price per share to be paid by Ascent for the shares of common stock that we may elect to sell to Ascent under the Equity Purchase Agreement, if any, will fluctuate based on the market prices of our common stock during the applicable period for each purchase made pursuant to the Equity Purchase Agreement, if any, it is not possible for us to predict, as of the date of this prospectus and prior to any such sales, the number of shares of common stock that we will sell to Ascent under the Equity Purchase Agreement, the purchase price per share that Ascent will pay for shares purchased from us under the Equity Purchase Agreement, or the aggregate gross proceeds that we will receive from those purchases by Ascent under the Equity Purchase Agreement, if any. Investors who buy shares at different times will likely pay different prices. Pursuant to the Equity Purchase Agreement, we will have discretion, subject to market demand, to vary the timing, prices, and numbers of shares sold to Ascent. If and when we do elect to sell shares of our common stock to Ascent pursuant to the Equity Purchase Agreement, after it has acquired such shares, Ascent may resell all, some or none of such shares at any time or from time to time in its discretion and at different prices. As a result, the other investors who purchase shares from Ascent in such offering at different times will likely pay different prices for those shares, and so may experience different levels of dilution and in some cases substantial dilution and different outcomes in their investment results. Our commitment to issue shares of common stock pursuant to the terms of the Equity Purchase Agreement could encourage short sales by third parties, which could contribute to the future decline of our stock price. Our commitment to issue shares of common stock pursuant to the terms of the Equity Purchase Agreement has the potential to cause significant downward pressure on the price of our common stock. In such an environment, short sellers may contribute to or exacerbate any decline of our stock price. If there are significant short sales of our common stock, the share price of our common stock may decline more than it would in an environment without such activity. This may cause other holders of our common stock to sell their shares. If there are many more shares of our common stock on the market for sale than the market will absorb, the price of our common stock will likely decline. 61Although pursuant to the Equity Purchase Agreement and during the term thereof, Ascent shall not participate in short sales of our common stock or engage in hedging transactions, other third party investors may enter into hedging transactions with broker- dealers, which may in turn engage in short sales of the shares of common stock in the course of hedging in positions they assume. Such third- party investors may also loan or pledge shares of our common stock to broker- dealers that in turn may sell such shares. Such activity could cause a decline in the market price of the shares of our common stock. Risks Relating to Ownership of ~~Our~~ **our** Common ~~Stock~~ **StockThe** ~~The~~ trading price of our common stock has been volatile and is likely to be volatile in the future. The trading price of our common stock has been highly volatile. The market price for our common stock will be affected by a number of factors, including: ● the denial or delay of regulatory clearances or approvals of our product or receipt of regulatory approval of competing products; ● our ability to accomplish clinical, regulatory and other product development milestones and to do so in accordance with the timing estimates we have publicly announced; ● changes in policies affecting third- party coverage and reimbursement in the United States and other countries; ● changes in government regulations and standards affecting the medical device industry and our product; ● ability of our products to achieve market success; ● the performance of third- party contract manufacturers and component suppliers; ● our ability to develop sales and marketing capabilities; ● ~~35 ●~~ actual or anticipated variations in our results of operations or those of our competitors; ● announcements of new products, technological innovations or product advancements by us or our competitors; ● developments with respect to patents and other intellectual property rights; ● sales of common stock or other securities by us or our stockholders in the future; ● additions or departures of key scientific or management personnel; ● disputes or other developments relating to proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our technologies; ● the trading volume of our common stock; ● changes in earnings estimates or recommendations by securities analysts, failure to obtain or maintain analyst coverage of our common stock or our failure to achieve analyst earnings estimates; ● public statements by analysts or clinicians regarding their perceptions of our clinical results or the effectiveness of our products; ● decreases in market valuations of medical device companies; ● **our pending Merger** and ● **Asset Sale; and** ● general market conditions and other factors unrelated to our operating performance or the operating performance of our competitors. The stock prices of many companies in the medical device industry have experienced wide fluctuations that have often been unrelated to the operating performance of these companies. Following periods of volatility in the market price of a company' s securities, securities class action litigation often has been initiated against a company. If class action litigation is initiated against us, we may incur substantial costs and our management' s attention may be diverted from our operations, which could significantly harm our business. ~~Sales~~ **62Sales** of a

substantial number of shares of our common stock in the public market by **us or by our** existing stockholders, or the perception that they may occur, could cause our stock price to decline. Sales of substantial amounts of our common stock by us **,** or by our stockholders, announcements of the proposed sales of substantial amounts of our common stock or the perception that substantial sales may be made, could cause the market price of our common stock to decline. We may issue additional shares of our common stock in follow- on offerings to raise additional capital, upon the exercise of options or warrants, or in connection with acquisitions or corporate alliances **, including the Merger** . We also plan to issue additional shares to our employees, directors or consultants in connection with their services to us. All of the currently outstanding shares of our common stock are freely tradable under federal and state securities laws, except for shares held by our directors, officers and certain greater than five percent stockholders, which may be subject to holding period, volume and other limitations under Rule 144 **of the Securities Act** . Due to these factors, sales of a substantial number of shares of our common stock in the public market could occur at any time and could reduce the market price of our common stock. **If** We have a significant number of outstanding..... appropriate, or at all. 36If we fail to meet all applicable Nasdaq Capital Market requirements, Nasdaq could delist our common stock, which could adversely affect the market liquidity of our common stock and the market price of our common stock could decrease. Nasdaq monitors our ongoing compliance with its minimum listing requirements and if we fail to meet those requirements and cannot cure such failure in the prescribed period of time, our common stock could be subject to delisting from the Nasdaq market. In the event that our common stock is delisted from the Nasdaq Capital Market and is not eligible for quotation or listing on another market or exchange, trading of our common stock could be conducted only in the over- the- counter market or on an electronic bulletin board established for unlisted securities such as the Pink Sheets or the OTC Bulletin Board. In such event, it could become more difficult to dispose of, or obtain accurate price quotations for, our common stock, and there would likely also be a reduction in our coverage by securities analysts and the news media, which could cause the price of our common stock to decline further. Also, it may be difficult for us to raise additional capital if we are not listed on a major exchange. For example, on October 10, 2023, we received a written notice from The Nasdaq Stock Market indicating that we were not in compliance with the $ 1. 00 minimum bid price requirement set forth in Nasdaq Listing Rule 5550 (a) (2) for continued listing on The Nasdaq Capital Market. The notice provided that we ~~have~~ **had** until April 7, 2024 to regain compliance. In order to regain compliance with the bid price requirement ~~. On~~ **, on** February 23, 2024, the stockholders of **ReShape** ~~the Company~~ authorized for the Board ~~of Directors~~ , in its discretion but no later than February 23, 2025, to declare a reverse stock split at a ratio in the range of 1- for- 10 to 1- for- 60, such ratio to be determined by the Board ~~(" Reverse Stock Split ")~~ . ~~There are risks associated~~ **On April 9, 2024, the Company received a written notice from the Nasdaq Staff that the Company has not regained compliance** with ~~effecting~~ the **minimum $ 1** ~~Reverse Stock Split, if approved by the Board~~ . ~~Although we expect~~ **00 bid price requirement. However, the Nasdaq Staff has determined** that the **Company is eligible for** ~~Reverse Stock Split will result in~~ an ~~increase in~~ **additional 180 calendar period, or until October 7, 2024, to regain compliance. If at any time during this period** the ~~market~~ **closing bid** price of ~~our common stock, we cannot assure you that~~ the **Company' s** ~~Reverse Stock Split, if effected, will increase the market price of our common stock in proportion to the reduction in the number of shares of our common stock outstanding or result in a permanent increase in the market price. The effect that the Reverse Stock Split may have upon the market price of our common stock cannot be predicted with any certainty, and the history of similar reverse stock splits for companies in similar circumstances to ours is varied. The market price of our~~ common stock is ~~dependent on many factors, including our~~ **at least $ 1. 00 per share for a minimum of 10 consecutive** business **days** ~~and financial performance , general market conditions, prospects for future growth and other~~ -- **the Nasdaq Staff will provide** ~~factors detailed from time to time in~~ the **Company** ~~reports we file~~ with **a written confirmation** ~~the SEC. Accordingly, the total market capitalization~~ of ~~our~~ **compliance and the matter will be closed. If compliance cannot be demonstrated by October 6, 2024, the Nasdaq Staff will provide written notification that the Company' s** common stock ~~after~~ **will be delisted. At that time,** the ~~proposed~~ **Company may appeal the Nasdaq Staff' s determination to a Hearings Panel. On September 23, 2024, ReShape effected a** ~~Reverse~~ **reverse** ~~Stock~~ **stock** ~~Split~~ **split of the ReShape Shares at a ratio of 1- for- 58 and on October 7, 2024 the Nasdaq Staff notified ReShape that it has regained compliance with the bid price requirement and the matter is now closed. On November 25, 2024, we received a written notice from Nasdaq indicating that we are not in compliance with Nasdaq Listing Rule 5550 (b) (1), which requires companies listed on the Nasdaq Capital Market to maintain a minimum of $ 2. 5 million in stockholders' equity for continued listing. As of September 30, 2024, our stockholders' equity was $ 1, 487, 000. Under the Nasdaq Listing Rules we had 45 calendar days to submit a plan to regain compliance, which we timely submitted on January 9, 2025 and Nasdaq has granted us an extension through May 27, 2025 to regain compliance. 63You may experience future dilution as a result of future equity offerings. In order to raise additional capital for general corporate purposes, in the future we may offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that** may be lower than the ~~total market capitalization before the proposed Reverse~~ **current price per share of our common** ~~Stock~~ **stock** ~~Split and~~ **. In addition** , **investors purchasing shares or other securities** in the future **could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock** , **or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by investors in prior offerings. Our organizational documents and Delaware law make a takeover of our company more difficult, which may prevent certain changes in control and limit** the market price of our common stock ~~following the Reverse Stock Split may not exceed or remain higher than the market price prior to the proposed Reverse Stock Split~~ . The ~~Reverse Stock Split~~ **Restated Certificate of Incorporation of ReShape, as amended (our " charter "), and the Amended and Restated Bylaws of ReShape (our " bylaws ") and Section 203 of the Delaware General Corporation Law contain provisions that** may ~~result in some~~ **have the effect of deterring or delaying attempts by our** stockholders ~~owning " odd lots "~~ **to remove or replace management, engage in proxy contests and effect changes in control. These provisions include: ● the ability** of ~~less than~~

~~100 shares of common~~ **the Board to create and issue preferred** stock ~~on a post- split basis. These odd lots may be more difficult to sell, or require greater transaction costs per share to sell, than shares in " round lots " of even multiples of 100 shares. Although the Reverse Stock Split will not, by itself, have any immediate dilutive effect on stockholders, the proportion of shares owned by stockholders relative to the number of shares authorized for issuance will decrease because the number of authorized shares of common stock would remain unchanged. As a result, additional authorized shares of common stock would become available for issuance at such times and for such purposes as the Board may deem advisable~~ without ~~further action by stockholders~~ **stockholder approval** , **which** ~~except as required by applicable law or stock exchange rules. To the extent that additional authorized shares of common stock are issued in the future, such shares~~ could be ~~dilutive~~ **used** to **implement** ~~existing stockholders of the Company by decreasing such stockholders' percentage of equity ownership in the Company. See "- Potential Anti- Takeover Effect " below for more information on potential~~ anti- takeover ~~effects of~~ **devices; ●** the **authority for the** ~~Reverse Stock Split. Although our~~ Board ~~believes that the decrease in~~ **to issue without stockholder approval up to** the number of shares of common stock **authorized in the charter, that, if issued, would dilute the ownership of our stockholders; ● the advance notice requirement for director nominations or for proposals that can be acted upon at stockholder meetings; ● a classified and staggered board of directors, which may make it more difficult for a person who acquires control of a majority of our** outstanding **voting stock to replace all or a majority of our directors; ● the prohibition on actions by written consent of our stockholders; ● the limitation on who may call a special meeting of stockholders; ● the prohibition on stockholders accumulating their votes for the election of directors; and ● the ability of stockholders to amend the bylaws only upon receiving a majority of the votes entitled to be cast by holders of all outstanding shares then entitled to vote generally in the election of directors, voting together** as a ~~consequence~~ **single class. In addition, as a Delaware corporation, we are subject to Delaware law, including Section 203** of **the Delaware General Corporation Law. In general, Section 203 prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of** ~~the~~ **three** ~~Reverse Stock Split~~ **years following the date that the stockholder became** ~~and~~ **an interested stockholder unless certain specific requirements are met as set forth in Section 203. These provisions, alone or together, could have the effect of deterring or delaying changes in incumbent management, proxy contests or changes in control. These provisions also could discourage proxy contests and make it more difficult for you and** ~~the~~ **other** ~~anticipated increase~~ **stockholders to elect directors and take other corporate actions. The existence of these provisions could limit the price that investors might be willing to pay** in **the future for shares of our common stock. Some provisions in the charter and bylaws may deter third parties from acquiring us, which may limit** the market price of **our** common stock ~~could encourage interest~~ **. We have not paid dividends** in **the past and do not expect to pay dividends in the future, and any return on investment may be limited to the value of** our common stock **. We have never paid dividends on our common stock** and ~~possibly promote greater liquidity for stockholders~~ **do not anticipate paying dividends on our common stock in the foreseeable future. The payment of dividends on our common stock will depend on our earnings** , **financial condition and other business and economic factors affecting us at** such **time as** ~~liquidity could also be adversely affected by~~ the ~~reduced number of shares outstanding after the Reverse~~ **Board may consider relevant. If we do not pay dividends, our common** ~~Stock~~ **stock** ~~Split~~ **may be less valuable because a return on your investment will only occur if our stock price appreciates** . ~~37~~ **64**