Risk Factors Comparison 2024-02-27 to 2023-02-23 Form: 10-K

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

Risks Related to Our Business We may not be able to continue our growth and profitability trajectory. ~~In~~ **For the year ended December 29,** ~~2022~~ **2023** ~~our~~ **, we grew worldwide** revenue ~~grew~~ by ~~23~~ **13** % and we achieved $ 0. ~~78~~ **43** diluted earnings per share. While we plan to continue sales growth and remain profitable, there can be no guarantee that we will achieve our growth and profitability plans in ~~2023~~ **2024 and thereafter** . While we achieved profitability in the past ~~five~~ **six** consecutive years, we reported losses in three of the past ~~eight~~ **nine** years. Our profitability is challenged by the competitive nature of our industry and the other risks to our business detailed herein. **Our reliance** Compliance issues may adversely impact our operations..... and operations. We rely and depend on independent distributors in international markets **exposes us to commercial and other risks** . **Outside the U. S.,** ~~Except~~ **except** for **our direct commercial operations in** Japan, Germany, Spain ~~, the U. S.~~, Canada, the U. K. and Singapore, we sell our products through independent distributors who generally control the importation and marketing of our product within their territories. We generally grant exclusive rights to these distributors and rely on them to understand local market conditions, to diligently sell our products and to comply with local laws and regulations. Our agreements with distributors and local laws can make it difficult for us to quickly change from a distributor who we feel is underperforming. If we do terminate an independent distributor, we may lose customers who have been dealing with that distributor and may be required to compensate the distributor for termination. Because these distributors are independent, it may be difficult for us to detect failures in our distributors' performance or compliance. Actions by independent distributors could result in declining sales in that territory, harm to the reputation of our company or our products, or legal liability. For example, if Shanghai Lansheng, which accounted for approximately ~~52~~ **58** % of our fiscal ~~2022~~ **2023** consolidated net sales, ceased to serve as our distributor, or significantly underperformed our expectations, we may experience a substantial reduction in sales. **A slowdown** ~~We rely on sales in China for~~ **or** ~~over 50 % of~~ **disruption to the Chinese economy could materially impact** our ~~2022 net sales~~ **business and results of operations** . China accounted for approximately ~~52~~ **58** % of our fiscal ~~2022~~ **2023** consolidated net sales. **After a robust start** ~~If trade relations with the U. S. were~~ to **fiscal 2023, China experienced slowing growth in 2023, which some analysts believe may continue into 2024. A significant or prolonged slowdown in the Chinese economy could materially impact our business and** ~~result~~ **results** ~~in trade restrictions~~ **of operations. In addition** , if COVID- mitigation regulations implemented by the Chinese government, if social or political unrest were to disrupt business in China, or if other events in China significantly reduced or disrupted business activities in China, that may materially and adversely harm our business. **Further, if relations between China and the U. S. were to deteriorate or otherwise result in trade restrictions, or if other geopolitical events resulted in sanctions, intervention or conflict, it would adversely impact our sales and operations in the region.** Unfavorable economic conditions or negative publicity concerning complications of laser eye surgery, or medical devices in general, could hurt sales of our refractive products. **For the year ended December 29, 2023,** ~~Approximately~~ **approximately** ~~95~~ **99** % of our revenue was ~~derived~~ **generated** from **sales of** ICL lenses used in refractive procedures. Refractive surgery is an elective procedure generally not covered by health insurance. Patients must pay for the procedure, frequently through installment financing arrangements with third parties. They can defer the choice to have refractive surgery if they lack the disposable income to pay for it or do not feel their income is secure. Economic stagnation, lack of consumer confidence or a recession in any of our larger markets could slow ICL sales growth or, if severe, cause declines in sales ~~. Because the ICL is our best selling and highest gross margin product~~ , **which** ~~restricted growth or a decline in its sales~~ could materially harm our business. We believe that negative publicity in the past regarding the potential complications of refractive surgery and potential patient dissatisfaction, in particular because of LASIK and other corneal laser- based procedures, decreased patient interest in LASIK as well as all other refractive procedures. Depending on the nature and severity of any future negative publicity about refractive surgery, the growth of ICL sales could be limited or sales could decline due to decreased patient interest in all refractive surgery, including our ICL. Disruptions in our supply chain or failure to adequately forecast product demand could result in significant delays or lost sales. The loss of a material supplier could significantly disrupt our business. In some cases, we obtain components used in certain of our products from single sources. If we experience difficulties acquiring sufficient quantities of required materials or products from our existing suppliers, or if our suppliers are found to be non- compliant with the FDA' s QSR, other applicable laws, or STAAR' s requirements, then qualifying and obtaining the required regulatory approvals to use alternative suppliers may be a lengthy and uncertain process during which production could be delayed and we could lose sales. Our sources of supply for raw materials may be threatened by shortages and other market forces, by natural disasters, climate impacts, or public health crises or other disruptive events, or by the supplier' s failure to maintain adequate quality or a recall initiated by the supplier. Even when substitute suppliers are available, the need to verify the substitute supplier' s regulatory compliance and the quality standards of the replacement material could significantly delay production and materially reduce our sales. In particular, we manufacture the proprietary collagen- containing raw material used in our ICLs. If the supply of these collagen- containing raw materials is disrupted, it could result in our inability to manufacture ~~those~~ **our ICL** products and would have a material adverse effect on STAAR. ~~The loss of our external supply source for silicone material, polymer for injectors, or acrylic lenses, or other components and material could also cause us material harm.~~ Further, any failure by us to forecast demand for or to maintain an adequate supply of, raw material and finished product could result in an interruption in the supply of certain products and a decline in the sales of that product. For example, in ~~2022~~ **2023** our ICL sales grew ~~27~~ **18** %. If our suppliers or we are unable or our suppliers are unwilling to meet our increased manufacturing requirements, we may not be able to produce enough materials or products in a timely manner, which

could cause a decline in our sales. Because our business is global our sales and profits may fluctuate or decline in response to changes in foreign currency exchange rates and / or other international risks (including tariffs). Activities outside the U. S. accounted for approximately 95 % of our total sales during ~~2022~~ **2023** . Foreign currency fluctuations could result in volatility of our revenue. The results of operations and the financial position of our Japanese subsidiary are reported in Japanese yen and then translated into U. S. dollars at the applicable exchange rates for inclusion in our ~~consolidated~~ **Consolidated** ~~financial~~ **Financial** ~~statements~~ **Statements** , exposing us to translation risk. In addition, we are exposed to transaction risk because we incur some of our sales and expenses in currencies other than the U. S. dollar. Our most significant currency exposures are to the Japanese yen, the euro, and the Swiss franc, and the exchange rates between these currencies and the U. S. dollar may fluctuate substantially. We do not actively hedge our exposure to currency rate fluctuations. **Any** ~~The continuing~~ strengthening of the U. S. dollar would likely ~~continue to~~ negatively impact our results. We price some of our products in U. S. dollars, and thus changes in exchange rates can make our products more expensive in some offshore markets and reduce our sales. Inflation could also make our products more expensive and increase the credit risks to which we are exposed. Future foreign currency fluctuations could favorably or unfavorably impact and increase the volatility of our revenue, profitability, and stock price. Economic, social, and political conditions, laws, practices, and local customs vary widely among the countries in which we sell our products. Our operations outside of the U. S. face a number of risks and potential costs, including, enjoying less stringent protection of intellectual property, and facing economic, political, and social uncertainty in some countries, especially in emerging markets. For example, sales in certain Asian and developing markets may result in lower margins and higher exposure to intellectual property infringement or counterfeits. Also, if China, which accounted for approximately ~~52~~ **58** % of our fiscal ~~2022~~ **2023** consolidated net sales, experienced a significant economic downturn or disruption, continued restrictive COVID mitigation efforts, social or political unrest, we may experience a significant reduction in sales. Further, trade disputes between the United States and its significant trading partners may adversely affect our sales, including as a result of the imposition of tariffs or other barriers or restrictions on trade, or increase our costs. The institution of trade tariffs both globally and between the U. S. and China specifically could negatively impact the overall economic condition in our markets, including China, which could have a negative effect on our sales. In addition, new laws or regulations in China or elsewhere applicable to foreign medical device companies could negatively impact our business. Also, we are exposed to credit and collectability risk on our trade receivables with customers in certain international markets. There can be no assurance we can effectively limit our credit risk and avoid losses and our ability to transfer foreign earnings to the U. S. may be subject to taxes or restricted or result in incurring substantial costs. Our continued success as a global company depends, in part, on our ability to develop and implement policies and strategies that are effective in anticipating and managing these and other risks in the countries where we do business. These and other risks may have a material adverse effect on our operations in any particular country and on our business, financial condition and results of operations as a whole. Changes in our effective tax rate or additional tax liabilities could adversely impact our net income. We are subject to income taxes as well as non- income- based taxes in Switzerland, the U. S. and various other jurisdictions in which we operate. The laws and regulations in these jurisdictions are inherently complex and we will be obliged to make judgments and interpretations about the application of these laws and regulations to us, including our subsidiaries and our operations and businesses. Those laws and regulations include those related to any restructuring of intercompany operations, holdings or financings, the valuation of intercompany services; cross- border payments between affiliated companies; and the related effects on income tax, VAT and transfer tax. Further, our tax liabilities could be adversely affected by numerous other factors, including income before taxes being lower than anticipated in countries with lower statutory tax rates and higher than anticipated in countries with higher statutory tax rates, changes in the valuation of deferred income tax assets and liabilities, and changes in tax laws and regulations. Although we believe our tax estimates are reasonable, any changes in our judgments and interpretation of tax laws or any material differences as a result of any audits could result in unfavorable tax adjustments that may have an adverse effect on our overall tax liability. Changes in tax laws could result in additional tax liabilities. Changes in tax laws can and do occur. For example, in 2017, the U. S. government enacted the Tax Cuts and Jobs Act, which is complex and continues to be further clarified with supplemental guidance. Changes to tax laws may require us to make significant judgment in determining the appropriate provision and related accruals for these taxes. Thus, as a result, such changes could result in substantially higher taxes and a significant adverse effect on our results of operations, financial conditions and liquidity. In addition, the Organization for Economic Co- operation and Development (OECD), ~~which represents a coalition of member countries,~~ has ~~recommended fundamental~~ **published proposals covering a number of issues, including country- by- country reporting, permanent establishment rules, transfer pricing rules,** tax **treaties and** ~~reforms affecting the~~ taxation of ~~multinational corporations, including~~ the **digital economy. On October 8, 2021, the OECD / G20 inclusive framework on** Base Erosion and Profit Shifting ~~project, which in part aims~~ **(the Inclusive Framework) published a statement updating and finalizing the key components of a** ~~to~~ **two** ~~address international~~ **- pillar plan on global tax reform originally agreed on July 1, 2021, and a timetable for implementation by 2023. The timetable for implementation has since been extended to 2024 and, with respect to certain components of the plan, to 2025. Under pillar one, a portion of the residual profits of multinational businesses with global turnover above € 20 billion and a profit margin above 10 % will be allocated to market jurisdictions where such allocated profits would be taxed. Under pillar two, the Inclusive Framework has agreed on a global minimum** corporate tax **rate of 15 % for companies with revenue above € 750 million, calculated** ~~strategies. Countries have already enacted significant measures in this regard. Further work is currently being undertaken by the OECD~~ on ~~its proposal to reform international allocation of taxing rights by allocating~~ a **jurisdictional basis. On February 1** ~~greater share of taxing rights to countries where consumers are located~~ , ~~regardless of~~ **2023, the U. S. Financial Accounting Standards Board indicated that** ~~the~~ **they believe the** ~~physical presence of a business (Pillar One), and to implement a global~~ minimum tax ~~(~~**imposed under** ~~Pillar~~ **pillar** ~~Two)~~ **two is an alternative minimum tax, and, accordingly, deferred tax assets and liabilities associated with the minimum tax would not be recognized or**

adjusted for the estimated future effects of the minimum tax but would be recognized in the period incurred . The detail of the proposals is subject to change and the impact to us will need to be determined by reference to the final rules. We are vulnerable to any loss of use of our principal manufacturing facility. We **currently** manufacture all of our ICL products at a single facility in Monrovia, California. All or a portion of the Monrovia facility could suffer catastrophic loss due to fire, flood, earthquake, terrorism or other natural or man- made disasters, including manufacturing challenges such as equipment failure. Developing additional manufacturing sites may require significant expense for personnel and equipment and a long period to obtain regulatory approvals. Our California and Japanese facilities are in areas where earthquakes could cause catastrophic loss. In our major markets, regulatory approval to manufacture materials and sell our products is generally limited to the current manufacturing site, and changing the site requires applications to and approval from regulatory bodies prior to commercialization. To satisfy our own quality standards as well as regulations, we must follow strict protocols to confirm that products and materials made at a new site are equivalent to those made at the currently approved site. For example, we have commenced activities to **allow us to** resume manufacturing ICLs at our Swiss facility, and to commence manufacturing EVO Viva at our Lake Forest facility, but there can be no guaranty whether or when these facilities will be prepared and approved by regulators for manufacturing. Even minor changes in equipment, supplies or processes require validation. Unanticipated delays with a transferred process or difficulties in manufacturing a transferred material could interrupt our supply of products. Any sustained interruption in supply could cause us to lose market share and harm our business, financial condition and results of operations. If any or a portion of our facilities were to experience a catastrophic loss, or if one of our facilities is found not to be in compliance with regulatory requirements, it could disrupt our operations, delay production and shipments, delay or reduce sales and revenue and result in large expenses to repair or replace the facility, as well as lost customers or sales. Our insurance for property damage and business interruption may not cover any particular loss, or, if covered, be sufficient. We do not carry insurance or reserve funds for interruptions or potential losses arising from earthquakes or terrorism. Public health crises, political crises, and other catastrophic events or other events outside of our control may impact our business. In ~~2022~~ **2023** , we generated approximately 95 % of our total sales outside the U. S. A natural disaster (such as a climate- related event or otherwise), public health crisis (such as a pandemic or epidemic), political crisis (such as terrorism, war, political instability or other conflict), or other events outside of our control that may occur anywhere around the world, may adversely impact our business and operating results. Moreover, these types of events could negatively impact surgeon or patient spending in the impacted region (s) or depending upon the severity, globally, which could adversely impact our operating results. For example, on March 11, 2020, the World Health Organization (WHO) characterized the Novel Coronavirus Disease 2019 (COVID- 19) as a pandemic, resulting in governmental authorities and other third parties implementing or recommending a number of measures to contain the spread of COVID- 19, including travel restrictions, shelter- in- place orders and business limitations and shutdowns. The impact of COVID- 19 and these measures implemented or recommended by governmental authorities and other third parties have had a significant impact on many businesses, including ours. For example, we suspended most of our production on March 17, 2020 with the exception of continuation of critical late- staged processes. Moreover, our revenues have been adversely impacted, since the first quarter of 2020 in global geographies characterized as " hot spots " for the COVID- 19 virus and its variants as customers in those locations were not able to carry out procedures or were limited in their activities by government regulations intended to contain the spread of COVID- 19 and variant strains. In certain of these markets, sales paused as elective surgeries were discouraged to support COVID- 19 related needs. **While** ~~We expect this decrease in sales in certain geographies, such as parts of Europe and Asia, to continue through the first half of 2023 and possibly beyond as different geographies may~~ **many** ~~or may not resume~~ **world economies are returning to** pre- pandemic levels of business ~~activities~~ **, disruptions from COVID- 19 remain a risk, particularly** as novel COVID- 19 variant strains emerge. **The extent** ~~We cannot predict when different governments and circumstances will permit businesses in their jurisdictions~~ to **which** ~~return to pre- pandemic levels of business or when consumers will resume scheduling procedures. We also cannot predict~~ COVID- 19 ~~'~~ s ~~s~~ **and its variants may** impact ~~on the overall economy of various markets, including the existence or extent of a possible recession. Thus, at this point, the extent to which the coronavirus may impact delayed~~ medical procedures and ~~delayed~~ lens orders **in the future** , and the related impact on our results is uncertain; however, it could have a material adverse impact on our results of operations, cash flows and financial condition. We monitor such events and take actions that we deem reasonable given the circumstances. In the future other types of crises, may create an environment of business uncertainty around the world, which may hinder sales and / or supplies of our products nationally and internationally. The extent to which the **COVID- 19** pandemic **or other public health or political crises in the future** impacts our business, operations, and financial results, including the duration and magnitude of such effects, will depend on numerous evolving factors that are uncertain and cannot be predicted, including the following: the duration and scope of the pandemic **or crisis** ; the impact it has on global and regional economies and economic activity, including the duration and magnitude of its impact on consumer spending ; how quickly and to what extent more customary economic and operating conditions can resume; its impact on our customers' facilities; levels of consumer confidence ; whether our ~~COVID- 19~~ preventative measures such as remote working arrangements, changes to manufacturing work areas, such as adherence to social distancing guidelines, and other workforce changes will impact operational efficiency or inventory levels; our ability to obtain supplies from vendors or transport products to customers; or adverse impacts to any other element of our supply chain; the impact on regulatory agencies, including the review and approval process; the impact on clinical studies; the ability of our customers to successfully navigate the impacts of the pandemic such as resuming activities and growing patient interest in our lenses ; and actions governments, businesses and individuals take in response to the pandemic **or crisis** . In addition, ~~the pandemic~~ **a prolonged public health or political crisis** could adversely impact our ability to recruit and / or retain employees and the continued service and availability of skilled personnel necessary to run our complex production operations, as well as members of our management team, third- party suppliers, distributors and vendors. To the extent our management or other personnel are impacted in significant numbers ~~by the pandemic~~ and are not

available to perform their job duties (for example, for health and safety reasons), we could experience delays in, or the suspension of, our manufacturing operations, research and product development activities, regulatory work streams, and other important commercial and operational functions. **The loss** ~~Finally, if COVID- 19, or a variant strain, continues to spread and escalate domestically or internationally, or if governments impose additional measures intended to mitigate the spread and related effects~~ of ~~the pandemic, the risks described above could be elevated significantly. Should that occur, and the COVID- 19 pandemic persist for a prolonged time, the above factors and others that are currently unknown could have a material adverse impact on our business, results of operations, financial conditions and prospects and could elevate known risks described in this Item 1A. Risk Factors. We depend on~~ key employees **, or our inability to recruit, hire and retain skilled and experienced personnel, could negatively impact our ability to effectively manage and expand our business** . ~~We~~ **Our success** ~~depend~~ **depends** on the ~~continued service~~ **skills, experience and performance** of our senior management and other key employees. The loss ~~of a key employee could hurt our~~ - **or** ~~business~~ **incapacity of existing members of our executive management team could negatively impact our operations, particularly if we experience difficulties in hiring qualified successors** . ~~It~~ **Further, it** could be particularly detrimental if any key employee or employees went to work for a competitor. Also, our future success depends on our ability to identify, attract, train, motivate and retain other highly skilled personnel. Failure to do so may adversely affect our results. We do not maintain insurance policies to cover the cost of replacing the services of any of our key employees who may unexpectedly die or become disabled. We compete with much larger companies and low- cost Asian manufacturers. Our primary competitors, including Alcon (formally Novartis), Johnson & Johnson (formerly Abbott Medical Optics ~~,~~ or AMO), Bausch Health Companies (formerly Valeant ~~or ,~~ Bausch & Lomb **or B L**), and Carl Zeiss Meditec have much greater financial, technical, marketing and distribution resources and brand name recognition than we do and some of them have large international markets for a full suite of ophthalmic products. Their greater resources for research, development and marketing, and their greater capacity to offer comprehensive products and equipment to providers, makes for intense competition. In addition, competitors from Asia are beginning to appear in some markets with their low- cost version of an implantable contact lens, which competes with our ICL. With our increased commercial success with the ICL, additional companies may seek to enter the refractive phakic intraocular lens market . Non- compliance with anti-..... practices in doing business with such individuals . We could experience losses due to product liability claims. We have been subject to product liability claims in the past and may experience such claims in the future. Product liability claims against us may not be covered, may exceed the coverage limits of our insurance policies or cause us to record a loss in excess of our deductible. A product liability claim that exceeds our insurance coverage could materially harm our business, financial condition, and results of operations. Even if an insurance policy covers a product liability loss, we must generally pay for losses until they reach the level of the policy' s stated deductible or retention amount after which the insurer begins paying. The payment of retentions or deductibles for a significant number of claims could have a material adverse effect on our business, financial condition, and results of operations. Any product liability claim would divert managerial and financial resources and could harm our reputation with customers. We cannot assure investors that we will not have product liability claims in the future or that such claims would not have a material adverse effect on our business. Our defined benefit pension plans are currently underfunded and we may be subject to significant increases in pension benefit obligations under those pension plans. We sponsor two defined benefit pension plans through our wholly owned Swiss and Japanese subsidiaries, which we refer to as the " Swiss Plan " and the " Japan Plan ", respectively. Both plans are underfunded and may require significant cash payments. We determine our pension benefit obligations and funding status using many assumptions. If the investment performance does not meet our expectations, or if other actuarial assumptions are modified, or not realized, we may be required to contribute more than we currently expect and increase our future pension benefit obligations to be funded from our operations. Our pension plans taken together are underfunded by approximately $ **5.** 1 ~~. 9~~ million ($ ~~1~~ **0** . ~~2~~ **5** million for the Japan Plan and $ ~~0~~ **4** . ~~7~~ **6** million for the Swiss Plan) as of December ~~30~~ **29** , ~~2022~~ **2023** . If our cash flow from operations is insufficient to fund our worldwide pension obligations, as well as other cash requirements, we may ~~be materially and adversely harmed and~~ have to seek additional capital. Our activities involve hazardous materials, emissions, and use of an irradiator and may subject us to environmental liability. Our manufacturing, research and development activities involve the use of hazardous materials and equipment and use of an irradiator. Federal, state and local laws and regulations govern the use, manufacturing, storage, handling and disposal of these materials and certain waste products in the places where we have operations. We cannot eliminate the risk of accidental contamination or injury from these materials and equipment. Remedial environmental actions could require us to incur substantial unexpected costs, which could materially and adversely affect our financial condition and results of operations. If we were involved in an environmental accident or found to be in substantial non- compliance with applicable environmental laws, it could harm our reputation, and we could be held liable for damages or penalized with fines. Data corruption, cyber- based attacks or network security breaches and / or noncompliance with data protection and privacy regulations could negatively impact our operations. We depend on information technology networks and our information technology infrastructure for electronic communications among our locations around the world and between our personnel and our subsidiaries, customers, and suppliers. The integrity and protection of our customer, vendor, supplier, employee, and other Company data that we collect, use and store, including personal information, is an important part of our business. Addressing applicable and evolving security and privacy regulations may increase our operating costs or adversely affect our business operations. Certain of our employees, contractors and vendors have access to and use personal information in the ordinary course of our business. The secure processing, maintenance and transmission of this information is critical to our operations. Despite our security measures and business controls, our information technology and infrastructure may be vulnerable to attacks by hackers, breaches due to employee, contractor or vendor error, or malfeasance, systems error (whether as a result of an intentional breach, a natural disaster or human error) or other disruptions or subject to the inadvertent or intentional unauthorized release of information. Any such occurrence could compromise our networks and the information stored thereon could be accessed, publicly disclosed, lost

or stolen. Any such access, disclosure or other loss of information could result in legal claims or proceedings, and liability under laws that protect the privacy of personal information and regulatory penalties, disrupt our operations and the supply of products we provide to our clients, compromise our intellectual property or other confidential business information, or damage our reputation, any of which could adversely affect our profitability, revenue and competitive position. Due to **and following** the COVID- 19 pandemic, we have enabled many of our employees to work remotely, which may make us more vulnerable to cyberattacks. While we have not experienced a material system failure, accident or security breach to date, we cannot assure you that our data protection efforts and our investment in information technology will prevent significant breakdowns, data leakages, breaches in our systems or other cyber incidents that could have a material adverse effect upon our reputation, business, operations or financial condition. We continue to invest in our cybersecurity program to enhance current capabilities and also implement new capabilities in our effort to keep pace with the changing threat landscape. Also, certain of our information technology systems are not redundant, and our disaster recovery planning is not sufficient for every eventuality. Despite any precautions we may take, such events could materially harm our reputation and financial results. Moreover, while we maintain cyber insurance, it may be insufficient to address any potential loss incurred. We also rely on third parties to host or otherwise process some of this data (such as cloud- based computing). Elements of our information technology systems that we outsource to third parties may also be vulnerable to various types of attacks or disruptions. Any failure by a third party to prevent security breaches could have adverse consequences for us. We are subject to various data protection and privacy regulations in different jurisdictions, including the General Data Protection Regulation (Regulation (EU) 2016 / 679) (GDPR) and the California Consumer Privacy Act. We have made and continue to engage in compliance efforts to satisfy these and other regulations, however, we may be unsuccessful in complying with applicable requirements, and may be at risk of enforcement actions and / or subject to fines, including those imposed by a data protection authority. As a result, we may incur substantial expense in complying with data protection and privacy regulations, exposure resulting from a data breach, ransomware or non- compliance and may be distracted from other aspects of our business. The increased use of social media platforms and mobile technologies presents additional risks and challenges. New technologies are increasingly used to communicate about our products and the health conditions they are intended to treat. The use of these media poses risks to our business and requires specific attention and monitoring. For example, patients, competitors, or others may use these channels to comment on the safety or effectiveness of a product and to report an alleged adverse event. Negative posts or comments about us or our business on any social networking web site could harm our reputation. In addition, our employees may use social media tools and mobile technologies inappropriately, which may give rise to liability, or which could lead to the exposure of sensitive information. In either case, such uses of social media and mobile technologies could have a material adverse effect on our business, financial condition, and results of operations. Acquisitions of technologies, products, and businesses could disrupt our operations, involve increased expenses and present risks not contemplated at the time of the transactions. We may consider and, as appropriate, make acquisitions of technologies, products, and businesses that we believe are complementary to our business. Acquisitions typically entail many risks and could result in difficulties in integrating the operations, personnel, technologies, and products acquired, and mitigating the risk of unknown liabilities some of which may result in significant payments or charges to earnings. If we are unable to successfully integrate our acquisitions with our existing business, we may not obtain the advantages that the acquisitions were intended to create, which may materially adversely affect our business, and our ability to develop and introduce new products. Actual costs and sales synergies, if achieved at all, may be lower than we expect and may take longer to achieve than we anticipate. Acquisitions may also divert management' s attention from our core business. Furthermore, the products of companies we acquire may overlap with our products or those of our customers, creating conflicts with existing relationships or with other commitments that are detrimental to the integrated businesses. If we are not able to manage growth successfully, ~~this~~ **it** could adversely affect our business, financial condition, and results of operations. ~~If~~ **As** we continue to ~~experience rapid growth~~ -- **grow and expand** , ~~this~~ **it** places a significant strain on **our** financial, operational, and managerial resources. We must continue to implement and enhance our managerial, operational and financial systems, expand our operations, and continue to recruit and train qualified personnel. There can be no assurance that our strategic and operational planning will allow us to adequately manage anticipated growth. Factors such as a failure to follow specific internal practices and procedures, equipment malfunction, environmental factors or damage to one or more of our facilities could adversely affect our ability to manufacture our products. For example, in the second half of 2021, as we increased production to meet increased demand, we experienced a decline in product yield. In the event of a slower- than- planned manufacturing output, we may be unable to quickly meet customer demand. In the event of a significant manufacturing challenge, we may experience delays in meeting product demand which could adversely affect our results of operations and financial condition. In addition, the expense associated with increased manufacturing ~~and~~ **,** sales ~~/~~ **and** marketing to meet increased demand may exceed our expectations. ~~We~~ **Further, we** manufacture **our ICLs** in the U. S. **,** and ~~inflation~~ **inflationary pressures could** ~~has increased in the U. S. during recent months, and we can expect as a~~ result **in** ~~to experience~~ increased costs in our ~~own~~ supply chain **,** which may be difficult to pass along to our customers. Any inability to successfully manage growth could materially and adversely affect our business, financial condition, and results of operation. Corporate responsibility, specifically related to environmental, social and governance (ESG) matters, may impose additional costs, expose us to reputational and emerging areas of risks, and could negatively affect our business. Investors, stockholders, customers, suppliers and other third parties are increasingly focusing on ESG and corporate responsibility practices and reporting. Companies that do not adapt to or comply with the evolving investor or stakeholder expectations and standards, as well as the evolving international regulations relating to ESG matters, or which are perceived to have not responded appropriately, may suffer from reputational damage and result in the business, financial condition and / or stock price of a company being materially and adversely affected. Further, this increased focus on ESG issues may result in significant increase in additional expenses (e. g., direct or indirect cost of energy, materials, manufacturing, distribution, packaging and other operating costs) to comply with evolving regulations and / or third- party requirements that

could adversely impact our business or profitability. In response to stakeholder expectations, we have commenced reporting of our sustainability endeavors and future plans. These disclosures reflect our current aspirations and are not guarantees that we will be able to achieve them. Our efforts to accomplish and accurately report on these plans present numerous risks, any of which could have a material negative impact on us. Our ability to achieve any goal, including with respect to ESG- related initiatives, is subject to numerous risks, many of which are outside of our control. Certain shareholders may reduce or eliminate their holdings of our stock based on ESG issues. For example, an allegation or perception that we have not taken sufficient action in these areas could negatively harm our reputation and / or result in certain investors reducing or eliminating their holdings of our stock. Our method of tracking our ESG efforts may change as expectations and standards evolve, which may result in revisions to our goals or reported progress. If our ESG practices do not meet evolving investor or other stakeholder expectations and standards, then our reputation, and our attractiveness as an investment or business partner could be negatively impacted. Similarly, our failure or perceived failure to pursue or fulfill certain targets or goals, or to satisfy various reporting standards could also have negative impacts and expose us to government enforcement actions and private litigation. Finally, we expect to incur additional costs and require additional resources to monitor, report, and comply with our various ESG practices **, as well as new and anticipated global regulations focused on ESG** . If we fail to adopt ESG standards or practices as quickly as stakeholders desire, report on our ESG efforts or practices accurately, or satisfy the expectations of **our various** stakeholders **and global regulators** , our reputation, business, financial performance and growth may be adversely impacted. Climate changes could negatively affect our business. Climate changes, such as extreme weather conditions, could create financial risk to our business. Global physical climate changes, including unseasonable weather conditions and earthquakes, could disrupt our operations by impacting the availability and cost of water, energy, or materials within our supply chain, and could also increase insurance and other operating costs. This could in turn put pressure on our manufacturing costs and result in reduced profit margins associated with certain of our products. Climate- related transitional risks, such as changing regulations, could also increase our costs and adversely impact our operations or financial performance. Risks Related to the Ophthalmic Products Industry Unless we keep pace with advances in our industry and persuade physicians to adopt our new products, our sales will not grow and may decline. Our future growth depends, in part, on our ability to timely develop products to treat diseases and disorders of the eye that are more effective, safer, or incorporate emerging technologies better than our competitors' products, and are accepted by physicians and patients. Sales of our existing products may decline rapidly if one of our competitors introduces a superior product, or if we announce a new product of our own. If we focus on research and development or technologies that do not lead to better products, more effective or advanced products could surpass our current and planned products. In addition, such product development efforts could require a significant investment of resources. If we are able to develop new products, we must manufacture these products economically and market them successfully by demonstrating to enough eye- care professionals the overall benefits of using them. If we do not timely develop new products that meet market demand or if there is insufficient demand for our new products, our sales and results of operations could be harmed. For example, it is uncertain whether physicians in countries that recognize the CE Mark will adopt the EVO Viva lens for use in presbyopic eyes, which our Notified Body approved for marketing and sale in July 2020. Resources devoted to research and development may not yield new **ophthalmic** products that achieve regulatory approval or commercial success. Development of new implantable technology, from discovery through testing and registration to initial product launch, is expensive and time-consuming. Because of the complexities and uncertainties of ophthalmic research and development, products we are developing, including those currently in development, may not complete the development process or obtain the regulatory approvals required for us to successfully market the products. Our new products, including those currently under development, may fail to become commercially successful. We may be required to conduct extensive clinical trials to demonstrate safety and ~~efficacy~~ **effectiveness** of new or enhanced **ophthalmic** products, such clinical trials are expensive, complex, can take years to complete, and have highly uncertain outcomes. In order to further advance the development of, and ultimately receive regulatory approval to manufacture and sell, our new **ophthalmic** products or product enhancements, we may be required to conduct extensive clinical trials to demonstrate their safety and ~~efficacy~~ **effectiveness** to the satisfaction of the FDA or regulatory authorities in other countries. Clinical trials are expensive, complex, can take many years to complete, and have highly uncertain outcomes. Delays, setbacks, or failures can occur at any time, or in any phase of the clinical trials, and can result from concerns about safety, a lack of demonstrated ~~efficacy~~ **effectiveness** , or poor study or trial design. The commencement and completion of clinical trials may be delayed or prevented by many factors, including, but not limited to: • an inability to reach agreement with regulatory authorities regarding the scope or extent of a proposed clinical trial; • an inability to timely identify and reach agreement on acceptable terms with prospective clinical trial sites and entities involved in the conduct of our clinical trials; • failure by third- party clinical trial managers to comply with applicable regulations or protocols; • flaws in the design of the clinical trials; • slower than expected rates of patient recruitment and enrollment; • periodic amendments to clinical trial protocols to address certain variables which arise during the course of a trial; • lack of effectiveness of our products; or • unforeseen safety issues. We are subject to extensive government regulation..... our products in these international countries. Complying with government regulation substantially increases the cost of developing, manufacturing and selling our **ophthalmic** products. Competing in the ophthalmic products industry requires us to introduce new or improved products and processes continuously, and to submit these to the FDA and other regulatory bodies for clearance or approval. Obtaining clearance or approval can be a long and expensive process, and clearance or approval is never certain. For example, the FDA or another country' s regulatory agency, could require us to conduct an additional clinical trial prior to granting clearance or approval of a product and such clinical trial could take a long time and have substantial expense. Furthermore, there is no assurance that clearance or approval will be granted. If a regulatory authority delays or does not grant approval of a potentially significant product, the potential sales of the product and its value to us can be substantially reduced. Even if the FDA or another regulatory agency clears or approves a product, the clearance or approval may limit the indicated patient populations or

uses of the product, or may otherwise limit our ability to promote, sell and distribute the product, or may require expensive post-marketing studies or surveillance. If we cannot obtain timely regulatory clearance or approval of our new products, or if the clearance or approval is too narrow, we will not be able to successfully market these products, which would eliminate or reduce our potential sales and earnings. In addition, the FDA and other regulatory authorities may change their clearance and approval policies, adopt additional regulations, or revise existing regulations, or take other actions which may prevent or delay approval or clearance of our products under development, cause the loss of previously received approvals or clearances or impact our ability to modify our currently cleared products on a timely basis. Also, we expect to incur additional costs complying with the European Union' s new Medical Device Regulation ~~(MDR)~~ . We depend on proprietary technology but our intellectual property protections may be limited. While we rely on various intellectual property laws, contractual provisions and confidentiality procedures and copyright laws to protect the proprietary aspects of our technology, we rely more on trade secrets and know-how, which may not prevent third parties from using publicly available information to access our technology. **The ophthalmic industry is competitive, and new products and technologies are regularly being brought to market.** With respect to our patents, any of them may be challenged, invalidated, circumvented or rendered unenforceable. Any of our pending patent applications may fail to result in an issued patent or fail to provide meaningful protection against competitors or competitive technology. Litigation may be necessary to enforce our intellectual property rights, and to protect or determine the validity and scope of our proprietary rights. We also challenge others' patents or patent applications from time to time. Any litigation could result in substantial expense, may reduce our profits, and may not adequately protect our intellectual property rights. In addition, we may be exposed to future litigation by third parties based on claims that our products infringe their intellectual property rights. This risk is exacerbated by the fact that the validity and breadth of claims covered by patents in our industry may involve complex legal issues that are open to dispute. Any litigation or claims against or instituted by us, whether or not successful, could result in substantial costs, divert resources and the efforts of our personnel away from daily operations, harm our reputation, result in the impairment of our intellectual property rights, limit our ability to pursue future products and / or otherwise materially adversely impact our business. We may not successfully replace our existing products, including those that lose or have lost patent protection. As our existing patents expire, many of which already expired over the past several years, our competitors may introduce products using the same technology. Because of this possible increase in competition, we may lose sales and / or may need to reduce our prices to maintain sales of our products, which would make them less profitable. If we fail to develop and successfully launch new products and / or obtain new patents, our sales and profits with respect to our products could decline significantly. We may not be able to develop and successfully launch more advanced replacement products. While we will continue developing intellectual property protections for our future products, third parties may pursue blocking patents that limit our ability to manufacture such products. We plan to continue relying on our intellectual property rights to protect products and technology that we may develop or employ in the future, but third parties may develop and obtain patents covering such products or technology. In such event, we may need to obtain licenses for such patents. However, we may not be able to obtain licenses on reasonable terms, if at all, which could limit our ability to manufacture our future products and operate our business. ~~Risks Related to Regulatory and Compliance~~ We are subject to extensive government regulation worldwide,which increases our costs and could prevent us from selling our products.We are regulated by regional,national,state and local agencies in the U.S.as well as governmental authorities in those **international** countries in which we manufacture or distribute products **,such as in Europe and Asia** .These regulations may govern the research,development,manufacturing,and commercial activities relating to medical devices,including their design,pre- clinical and clinical testing,clearance or approval,production,labeling,sale,distribution,import,export,post- market surveillance,advertising,dissemination of information and promotion.Failure to receive necessary approvals in ~~international~~ **foreign** jurisdictions on a timely basis,or at all,could harm our business and operating results.In addition,regulations and requirements for approvals **can** vary ~~by~~ **in each international** country,which can significantly increase the costs to sell our products in these international ~~jurisdictions~~ **countries** . ~~Any failure to comply with~~ Laws pertaining to healthcare fraud and abuse could materially adversely affect our business, financial condition, and results of operations. Our relationships with physicians, and other healthcare providers are subject to scrutiny under various U. S. and international bribery, fraud and abuse, anti- kickback, false claims, privacy, and similar laws, collectively referred to as " healthcare compliance laws. " Healthcare compliance laws are broad, sometimes ambiguous, complex, and subject to change and changing interpretations, which could restrict our sales or marketing practices. Possible sanctions for violation of these healthcare compliance laws include fines, civil and criminal penalties, exclusion from government healthcare programs, and despite our compliance efforts, we face the risk of an enforcement activity or a finding of a violation of these laws. For example, in 2022 a Japanese trade association (Japan Fair Trade Council of the Medical Devices Industry) ruled that our subsidiary in Japan improperly implemented a program with surgeons and hospitals to obtain videos of cataract surgeries where our cataract intraocular lenses were used. We have entered into a variety of agreements with healthcare professionals. We have also adopted a Code of Business Conduct and Ethics as well as a Compliance Program for Interactions with Healthcare Professionals which govern our relationships with healthcare professionals to bolster our compliance with healthcare compliance laws. While our relationships with healthcare professionals are structured to comply with applicable laws and we provide training on these laws and our Code and Program, it is possible that enforcement authorities may view our relationships as prohibited arrangements that must be restructured or for which we would be subject to other significant civil or criminal penalties or debarment. In any event, any enforcement review of or action against us as a result of such review, regardless of outcome, could be costly and time consuming. Additionally, we cannot predict the impact of any changes in or interpretations of these laws. If our operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to us now or in the future, we may be subject to penalties, including civil and criminal penalties, damages, fines, and disgorgement, any of which could adversely affect our ability to operate our business and our financial results. If we recall a product, the cost and damage to our reputation could harm our business. We have voluntarily recalled our products in

the past and recalls could take place again. We may also be subject to recalls initiated by manufacturers of products we distribute. We cannot eliminate the risk of a material recall in the future. Recalls can result in lost sales of the recalled products themselves and can result in further lost sales while replacement products are manufactured, especially if the replacements must be redesigned or approved by regulatory authorities prior to distribution. If recalled products have already been implanted, we may bear some or all of the cost of corrective surgery. Recalls may also damage our professional reputation and the reputation of our products. The inconvenience caused by recalls and related interruptions in supply, the underlying causal issues, and the damage to our reputation, could cause professionals to discontinue using our products. Companies are required to maintain certain records of actions, even if they determine such actions are not reportable to the FDA or other regulatory bodies. If we determine that certain actions do not require notification of the FDA or others, the FDA or other regulatory bodies may disagree with our determinations and require us to report those actions as recalls. In addition, the FDA or other regulatory bodies could take enforcement action for failing to report the recalls when they were conducted or failing to timely report or initiate a reportable product action. Moreover, depending on the corrective action we take to redress a product' s deficiencies or defects, the FDA or other regulatory bodies may require, or we may decide, that we will need to obtain new approvals or clearances for the device before we may market or distribute the corrected device. Seeking such approvals or clearances may delay our ability to replace the recalled devices in a timely manner. Changes in FDA or international regulations related to product approval, including those that apply retroactively, could make us less competitive and harm our business. FDA and foreign regulations depend heavily on administrative interpretation, and we cannot assure investors that future interpretations made by the FDA or other regulatory bodies, with possible retroactive effect, will not adversely affect us. Additionally, any changes, whether in interpretation or substance, in existing regulations or policies, or any future adoption of new regulations or policies by relevant regulatory bodies, could rescind, prevent or delay approval of our products, which could materially impact our competitive position, business, and financial results. Further, we or our distributors have obtained regulatory approvals outside the United States for many of our products. We or our distributors may be unable to maintain regulatory qualifications, clearances or approvals in these countries or obtain qualifications, clearances, or approvals in other countries. If we are not successful in doing so, our business and financial condition will be harmed. If our products ~~, or malfunction of our products,~~ cause or contribute to a death or a serious injury, we **may face** ~~will be subject to medical device reporting regulations, which can result in~~ voluntary corrective actions, agency enforcement actions and harm to our results. Under the FDA regulations, we are required to **provide** ~~report to~~ the FDA **with a Medical Device Report (MDR) for** any incident in which our product may have caused or contributed to a death or serious injury or in which our product malfunctioned and, if the malfunction were to recur, would likely cause or contribute to death or serious injury. In addition, all manufacturers placing medical devices in international markets, such as European Union and Asian markets, are legally bound to report any serious or potentially serious incidents involving devices they produce or sell to the relevant authority in ~~whose~~ **the** jurisdiction **where** the incident occurred ~~. In the future, we may experience events that would require reporting to the FDA pursuant to the Medical Device Reporting (MDR) regulations or to other regulatory bodies pursuant to international regulations~~ . Any adverse event involving our products **, including those requiring an MDR,** could result in future voluntary corrective actions, such as product actions or customer notifications, or agency actions, such as inspection, mandatory recall, or other enforcement action. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, will require the dedication of our time and capital, distract management from operating our business, and may harm our reputation and financial results. The decision to file an MDR involves a judgment by us as the manufacturer. We have made decisions that certain types of events are not reportable ~~under~~ **to the FDA or** ~~the~~ **other** ~~MDR and similar regulations~~ **regulatory bodies** ; however, there can be no assurance that the FDA or other regulatory bodies will agree with our decisions. If we fail to report ~~MDRs~~ **adverse events** to the FDA or other regulatory bodies within the required timeframes, or at all, or if the FDA or ~~others~~ **other regulatory bodies** disagree with any of our determinations regarding the reportability of certain events, the FDA or other regulatory bodies could take enforcement actions against us, which could have an adverse impact on our reputation and financial results. If we modify our products, we may have to obtain new marketing clearances or approvals or may have to cease marketing or recall the modified products until clearances or approvals are obtained. **Our ICL products are Class III devices subject to the PMA approval process.** Any **significant** modification to a **PMA approved device, including modifications to the manufacturing process, labeling or design, requires a PMA Supplement. FDA guidelines establish different types of PMA Supplements depending on the type of modification, with different data and information requirements and different timelines for FDA review and approval. If we modify our ICL products in a way that requires a PMA Supplement, it could require a lengthy and expensive review process with the FDA. Further, the FDA may not agree with our decisions regarding whether a new approval is necessary, or what type of PMA Supplement may be required. In the past, we have modified some of our** 510 (k) cleared ~~device that could significantly affect its safety or effectiveness, including any significant change in design or manufacture, or that would constitute a major change in its intended use, requires a new 510 (k) clearance or, possibly, approval of a PMA. The FDA requires every manufacturer to make this determination in the first instance, but the FDA may review any manufacturer' s decision. The FDA may not agree with our decisions regarding whether new clearances or approvals are necessary. We have modified some of our 510 (k) cleared~~ and PMA approved products and have determined based on our review of the applicable FDA guidance that in certain instances new ~~510 (k)~~ clearances or ~~premarket~~ approvals ~~are~~ **were** not required. If the FDA **were to** ~~disagrees~~ **disagree** with our determination and ~~requires~~ **require** us to submit new ~~510 (k) notifications or PMAs for modifications to our previously cleared products for which we have concluded that new~~ clearances or approvals ~~are unnecessary~~ , we ~~may~~ **could** be required to cease marketing and / or to recall the modified product until we obtain clearance or approval, and we may be subject to significant regulatory fines or penalties. Regulatory agencies in other countries similarly require approval or clearance prior to our marketing or selling products in those countries. We rely on our distributors to obtain regulatory clearances or approvals of our products in certain countries outside of the United States. If we or our distributors are unable to

obtain additional clearances or approvals needed to market existing ~~or~~ **products,** new **products or modified** products in the United States or elsewhere or obtain these clearances or approvals in a timely fashion or at all, or if our existing clearances or approvals are revoked or restricted, our revenues and profitability may decline .Non- compliance with anti- corruption laws could lead to penalties or harm our reputation.We are subject to anti- corruption laws in the jurisdictions in which we operate,including the U.S.Foreign Corrupt Practices Act (FCPA).Any failure to comply with these laws,even if inadvertent,could result in significant penalties or otherwise harm our reputation,business,financial condition and results of operations.Our reliance on foreign subsidiaries and independent distributors requires vigilance in maintaining our policy against participation in corrupt or non- compliant activity,including,for example,with respect to our 2022 internal review of compliance with certain regulations in the Japanese market related to sales of pre- loaded aphakic intraocular lenses for use in cataract surgery (IOLs,not ICLs).In many of our markets outside the U.S.,doctors and hospital administrators may be deemed government officials.Despite precautions we may take,non- compliance may occur that could harm our reputation and financial results.Other U.S.companies in the medical device and pharmaceutical field have faced criminal penalties under the FCPA for allowing their employees or agents to deviate from appropriate practices in doing business with such individuals . Investigations and allegations, whether or not they lead to enforcement action or litigation, can materially harm our business and our reputation. Our failure to comply with the requirements of the FDA or other regulators can result in civil and criminal fines, the recall of products, the total or partial suspension of manufacturing or distribution, seizure of products, injunctions, lawsuits, failure to obtain approval of pending product applications, withdrawal of existing product approvals, exclusion from participation in government healthcare programs and other sanctions. Any threatened or actual government enforcement action can also generate adverse publicity and require us to divert substantial resources from more productive uses in our business. Enforcement actions could affect our ability to distribute our products commercially and could materially harm our business. In addition, negative publicity about investigations or allegations of misconduct, even without a finding of misconduct, could harm our reputation with healthcare professionals and also with the market for our common stock. Responding to investigations or conducting internal investigations can be costly, time- consuming, and disruptive to our business. Risks Related to Ownership of Our Common Stock The market price of our common stock is likely to be volatile. The market price for our common stock has fluctuated widely. The closing price of our common stock ranged from $ ~~46~~ **30** . ~~82~~ **60** to $ ~~111~~ **79** . ~~58~~ **34** per share during the year ended December ~~30~~ **29** , ~~2022~~ **2023** . Our stock price could continue to experience significant fluctuations in response to factors such as market perceptions, quarterly variations in operating results, operating results that vary from the expectations of securities analysts and investors, changes in financial estimates, changes in the business and market valuations of competitors, announcements by us or our competitors of a material nature, additions or departures of key personnel, future sales of our common stock and stock volume fluctuations. Also, general political and economic conditions such as a recession or interest rate fluctuations, and public health crises, may adversely affect the market price of our common stock. Because we do not intend to pay dividends, stockholders will benefit from an investment in our common stock only if it appreciates in value. We have not paid any cash dividends on our common stock since our inception. We currently expect to retain any earnings for use to further develop our business, and do not expect to declare cash dividends on our common stock in the foreseeable future. The declaration and payment of any such dividends in the future depends upon our earnings, financial condition, capital needs, and other factors deemed relevant by our Board of Directors **(Board)** , and may be restricted by future agreements with lenders. As a result, the success of an investment in our common stock will depend entirely upon any future appreciation. There is no guarantee that our common stock will appreciate in value or even maintain the price at which stockholders purchase their shares. Our Certificate of Incorporation and Bylaws, anti- takeover provisions of Delaware law, and contractual provisions could delay or prevent an acquisition or sale of our ~~company~~ **Company** . Our Certificate of Incorporation empowers our Board ~~of Directors~~ to issue one or more series of preferred stock, and to determine the rights of each such series as provided in our Certificate of Incorporation. These provisions give our Board ~~of Directors~~ the ability to deter, discourage or make more difficult a change in control of our ~~company~~ **Company** , even if such a change in control could be deemed in the interest of our stockholders or if such a change in control would provide our stockholders with a substantial premium for their shares over the then- prevailing market price for our common stock. Our Certificate of Incorporation and Bylaws contain other provisions that could have an anti- takeover effect, including the following: • stockholders cannot act by consent; • stockholders cannot fill vacancies on our Board ~~of Directors~~ ; • certain provisions, including those related to changing the number of directors, limiting our stockholders' ability to fill vacancies on our Board ~~of Directors~~ , prohibiting stockholder action by written consent, and amending such provisions, cannot be altered, amended or repealed, and provisions inconsistent therewith cannot be adopted, without the affirmative vote of holders of at least two- thirds in voting power of our outstanding shares of common stock entitled to vote thereon; and • stockholders must give advance notice to nominate directors or propose other business. In addition, we are generally subject to the anti- takeover provisions of Section 203 of the Delaware General Corporation Law, which regulates corporate acquisitions. These provisions could discourage potential acquisition proposals and could delay or prevent a change in control transaction. They could also have the effect of discouraging tender offers for our common stock or prevent changes in our management. Ownership of our common stock is concentrated among a few investors, which may affect the ability of a third party to acquire control of us. Substantial sales by such investors could cause our common stock price to decline. Our largest investor beneficially owns approximately ~~18~~ **22** % of our outstanding common stock, and our largest four investors beneficially own approximately ~~50~~ **59** % of our outstanding common stock. ~~One~~ **Two** of our current six directors ~~was~~ **were** recommended by ~~our~~ investors. The sale of a substantial number of shares of our common stock by any or all of our largest investors or our other stockholders within a short period of time could cause our common stock price to decline, make it more difficult for us to raise funds through future offerings of our common stock or acquire other businesses using our common stock as consideration. In addition, having such a concentration of ownership may have the effect of making it more difficult for a third party to acquire, or of discouraging a third party from seeking to acquire, a majority of our outstanding common stock or

control of our Board ~~of Directors~~, including through a proxy solicitation. Future sales of our common stock could reduce our stock price. We could issue additional shares of common or preferred stock to raise additional capital or for other corporate purposes without stockholder approval. In addition, we could designate and sell a class of preferred stock with preferential rights over our common stock with respect to dividends or other distributions. Also, we have filed **in the past, and may file in the future,** a universal shelf registration statement with the Securities and Exchange Commission ~~. The shelf registration statement is available~~ to cover the ~~future~~ public offering and sale of **our** ~~up to approximately $ 200, 000, 000 in~~ equity or debt ~~securities or any combination of such~~ securities. Sales of our common or preferred stock under the shelf registration or in other transactions could dilute the interest of existing stockholders and reduce the market price of our common stock. Even in the absence of such sales, the perception among investors that additional sales of equity securities may take place could reduce the market price of our common stock.