Risk Factors Comparison 2024-03-29 to 2023-03-31 Form: 10-K

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~~Our business is subject to a number of known and unknown risks, uncertainties and assumptions that could cause actual results to differ materially from those projected or otherwise implied by the forward- looking statements provided herein. Below we summarize what we believe are the principal risk factors relating to our business but these risks are not the only ones that we face. You should carefully review and consider the full discussion of our risk factors in the section titled " Risk~~ **Risks Related to** ~~Factors ", together with the other information in this Annual Report on Form 10- K. If any of the following risks actually occurs (or~~ **our** ~~if any of those listed elsewhere in this Annual Report on Form 10- K occurs), our business~~ **Business** ~~, reputation, financial condition, results of operations, revenue,~~ and **Industry** ~~future prospects could be seriously harmed. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. •~~ Our limited operating history makes evaluating our business and future prospects difficult and may increase the risk of your investment. ~~• Our mix of offerings, such as Fleet- as- a- Service, Xos Energy Services ™, and Xosphere ™, is novel in the industry and has yet to be tested in the long term. Any failure to commercialize our strategic plans could have a material adverse effect on our operating results and business, harm our reputation and could result in substantial liabilities that exceed our resources. • We are an early- stage company with a history of losses and expect to incur significant expenses and continuing losses for the foreseeable future. • We have yet to achieve positive operating cash flow and, given our projected funding needs, our ability to generate positive cash flow is uncertain. • Our financial results may vary significantly from period to period due to fluctuations in our product development cycle and operating costs, product demand and other factors. • Our business plans require a significant amount of capital. In addition, our future capital needs may require us to sell additional equity or debt securities that may dilute our stockholders or introduce covenants that may restrict our operations or our ability to pay dividends. • We have incurred substantial debt, which could impair our flexibility and access to capital and adversely affect our financial position, and our business would be adversely affected if we are unable to service our debt obligations and are subject to default. • We have experienced and may in the future experience significant delays in the design, manufacturing and wide- spread deployment of our products, which could harm our business, prospects, financial condition and operating results. • Our ability to develop and manufacture our products of sufficient quality and appeal to customers on schedule and on a large scale will require significant capital expenditures and is unproven and still evolving. • We recently restated our financial statements for several prior periods, which resulted in unanticipated costs and may adversely affect investor confidence, our stock price, our ability to raise capital in the future and our reputation. • We identified a material weakness in our internal control over financial reporting, and we may identify additional material weaknesses in the future that may cause us to fail to meet our reporting obligations or result in material misstatements of our financial statements. If we fail to remediate any material weaknesses or if we otherwise fail to establish and maintain effective control over financial reporting, our ability to accurately and timely report our financial results could be adversely affected. • We have no experience to date in high volume manufacturing of our products, and we currently rely and expect to continue to rely on third- party contract manufacturing partners to manufacture our products, and to supply critical components and systems, which expose us to a number of risks and uncertainties outside our control, including supply shortages due to macroeconomic conditions. • If we fail to successfully tool our manufacturing facilities or if our manufacturing facilities become inoperable, we will be unable to produce our vehicles and our business will be harmed. • We are or may be subject to risks associated with strategic alliances or acquisitions and may not be able to identify adequate strategic relationship opportunities, or form strategic relationships, in the future. • We derive a significant portion of our revenues from a small number of customers; if revenues derived from these customers decrease or the timing of such revenues fluctuates, our business and results of operations could be negatively affected. • Our delay in providing sufficient charging solutions for our vehicles has resulted in the delay of the delivery of our vehicles to customers. • We are dependent on our suppliers, some of which are limited source or single- source suppliers, and the inability of these suppliers, due to increased demand or other factors, to deliver necessary components and materials used in our products at prices and volumes, performance and specifications acceptable to us, could have a material adverse effect on our business, prospects, financial condition and operating results. • Our business and prospects depend significantly on our ability to build the Xos brand. We may not succeed in continuing to establish, maintain and strengthen the Xos brand, and our brand and reputation could be harmed by negative publicity regarding Xos, our products. • If we fail to manage our growth effectively, we may not be able to further design, develop, manufacture and market our products successfully. • Our battery packs use lithium- ion battery cells, a class of batteries which have been observed to catch fire or vent smoke and flame. • Increases in costs, disruption of supply or shortage of materials, in particular for lithium- ion battery cells, semiconductors and other key components, have harmed and could continue to harm our business. • We and our contract manufacturing partners rely on complex machinery for the manufacture of our products, which involves a significant degree of risk and uncertainty in terms of operational performance and costs. • We may face regulatory limitations on our ability to sell vehicles directly to consumers, which could materially and adversely affect our ability to sell our vehicles. • The performance characteristics of our products may vary, due to factors outside of our control, which could harm our ability to develop, market and deploy our products. • Insufficient reserves to cover future warranty or part replacement needs or other vehicle, powertrain and battery pack repair requirements, including any potential software upgrades, could materially and adversely affect our business, prospects, financial condition and operating results. • We have experienced product recalls and may experience future product recalls that could materially and adversely affect our business, prospects, financial condition and operating results. • We are highly dependent on~~

~~the services of Dakota Semler and Giordano Sordoni, our co- founders, as well as our key personnel and senior management, and if we are unable to attract and retain key personnel and hire qualified management, technical and electric vehicle engineering personnel, our ability to compete could be materially and adversely affected. • The commercial vehicle market is highly competitive, and we may not be successful in competing in this industry. • Our growth is dependent upon the last- mile and return- to- base segment' s willingness to adopt electric vehicles. • We have been and may continue to be impacted by macroeconomic conditions, including the COVID- 19 pandemic, rising inflation rates, uncertain credit and global financial market, including the recent and potential bank failures, supply chain disruption and geopolitical events, such as the war between Russia and Ukraine. Risks Related to our Business and Industry~~ You must consider the risks and difficulties we face as an early- stage company with a limited operating history. If we do not successfully address these risks, our business, prospects, financial condition and operating results may be materially and adversely affected. Xos Fleet, Inc. (" Legacy Xos ") was originally incorporated as a California corporation in October 2015 and converted into a Delaware corporation in December 2020. As further described in Part II, Item 7. " Management' s Discussion and Analysis of Financial Condition and Results of Operations — Business Combination and Public Company Costs, " the Business Combination (as defined therein) was completed in August 2021. We have a very limited operating history on which investors can base an evaluation of our business, prospects, financial condition and operating results. We intend to derive our revenue from the sale of our products **and** ~~, Xos Energy Services~~ **services** ~~™ and Fleet- as- a- Services~~. There are no assurances that we will be able to retain existing or secure future business with customers. ~~We have certain~~ **Our mix of** offerings, such as ~~Fleet- as- a- Service,~~ Xos Energy Services ™ ~~,~~ and Xosphere ™, **is** ~~that are~~ novel in the industry and ~~subject us to substantial risk given the significant expenditures required before receipt of substantial revenue. To date, only a limited number of customers have utilized Fleet- as~~ **has** ~~- a- Service. Fleet- as- a- Service, Xos Energy Services ™ and Xosphere ™ have limited operating histories and have~~ yet to be tested **in** ~~on a large scale. Demand for these~~ -- **the long term. Any failure to** ~~offerings may not ultimately meet expectations and / or Fleet- as- a- Service products and services in development may never become commercially~~ **commercialize our strategic plans could** ~~available, either of which may~~ have a material adverse effect on our **operating results and business, harm our reputation and could result in substantial liabilities that exceed our resources. We have certain offerings, such as Xos Energy Services ™ and Xosphere ™, that are novel in the industry and subject us to substantial risk given the significant expenditures required before receipt of substantial revenue. These offerings have limited operating histories and have yet to be tested on a large scale. Demand for these offerings may not ultimately meet expectations and / or products and services in development may never become commercially available, either of which may have a material adverse effect on our** business, prospects, financial condition and operating results. You should be aware of the difficulties normally encountered by new services and products, many of which are beyond our control, including substantial risks and expenses in the course of establishing or entering new markets, organizing operations and undertaking marketing activities. ~~Our current financial projections assume pricing, subscription volume and retention of subscribers which may not reflect future actuals.~~ We may also encounter unforeseen expenses, difficulties or delays in connection with developing **such** ~~Fleet- as- a- Service~~ **services and products** , including, but not limited to, those related to providing energy services and related infrastructure ~~through~~ **, providing financing options, increasing service personnel and supplying insurance and other risk products. The likelihood of our success with offerings such as** Xos Energy Services ™ ~~, providing financing options, increasing service personnel and supplying insurance and other risk products. The likelihood of our success with Fleet- as- a- Service, Xos Energy Services ™,~~ and Xosphere ™ must be considered in light of these risks and expenses, potential complications or delays and the competitive environment in which we operate ~~. Certain of our Fleet- as- a- Service products and services in development that are not yet commercially available may never become commercially available which may have a material impact on our ability to achieve our financial projections~~ . Therefore, there can be no assurances that our business plan will prove successful. We may not be able to generate significant revenue or operate profitably, which may have a material adverse effect on our business, prospects, financial condition and operating results. Risks Relating to the Design, Supply and Manufacturing of our Products **We have experienced and may in the future experience significant delays in the design, manufacturing and wide- spread deployment of our products, which could harm our business, prospects, financial condition and operating results.** There are often delays in the design, development, manufacturing and release of new products, and to the extent we delay the launch or manufacture of our products, our growth prospects could be adversely affected. We have experienced delays in our battery production activities, which have resulted in a manufacturing backlog in our vehicle assembly line. **If we** ~~We will rely on our third- party contract manufacturing partners to build our vehicles and powertrains at scale, and if they~~ are not able to manufacture sufficient vehicles and powertrains that meet our specifications, we may need to partner with ~~other~~ contract manufacturers or expand our manufacturing capabilities, which may cause us to incur additional costs and delay deployment of our products. Furthermore, we rely on third- party suppliers for the provision and development of many of the key components and materials used in our products, and to the extent we experience any delays, we may need to seek alternative suppliers. If we experience delays by our third- party outsourcing partners or suppliers, we could experience delays in delivering on our timelines. Any delay in the design, development, manufacturing and release of our products could materially damage our brand, business, prospects, financial condition and operating results. We may not be able to accurately plan our production, which may result in carrying excess and obsolete raw material inventory. We generally make decisions on our production level and timing, procurement, facility requirements, personnel needs and other resources requirements based on estimates made in light of certain production and sales forecasts, our past dealings with such customers, market conditions and other relevant factors. Our customers' final purchase orders may not be consistent with our estimates. If the final purchase orders substantially differ from our estimates, we may have excess raw material inventory or material shortages. Excess inventory could result in unprofitable sales or write- offs as our products are susceptible to obsolescence and price declines. Expediting additional material to make up for any shortages within a short time frame could result in unprofitable sales or cause us to adjust delivery dates. In either case, our results of operation would fluctuate from period to period. Our **ability to develop and manufacture our products of sufficient quality and appeal to customers on schedule and on a large scale will require significant capital expenditures and is unproven and still evolving. Our** future business model depends in large part on our ability to execute our plans to design, develop, manufacture, market, deploy and service our products at scale, which will require significant capital expenditures ~~. Our flex manufacturing approach, in which we leverage existing local facilities and labor pools through strategic partnerships with third- party manufacturers, is intended to be capital- and time- efficient and is designed to allow for rapid scale and flexibility at a substantial cost reduction compared to the construction of traditional automotive manufacturing facilities. However, our flex manufacturing approach is relatively novel, has not been tested on a large scale and will still require significant expense and time~~ . We also retain third- party vendors and service providers to engineer, design, develop, test and manufacture some of the critical systems and components of our products. While this approach allows us to draw upon such third parties' industry knowledge and expertise, there can be no assurance such systems and components will be successfully developed to our specifications or delivered in a timely manner to meet our program timing requirements. Our continued development and manufacture of our products are and will be subject to a number of risks, including with respect to: • our ability to acquire and install the equipment necessary to manufacture the desired quantity of our products within the specified design tolerances; • long- and short- term durability of our products to withstand day- to- day wear and tear; • compliance with environmental, workplace safety and similar regulations; • engineering, designing, testing and securing delivery of critical systems and components on acceptable terms and in a timely manner; • delays in delivery of final systems and components by our suppliers; • shifts in demand for our current products and future derivatives built off the X- Platform ™; • the compatibility of the X- Platform ™ with future vehicle designs; • our ability to attract, recruit, hire and train skilled employees; • quality controls, particularly as we plan to expand our manufacturing capabilities; • delays or disruptions in our supply chain, like those we have recently experienced due to broader macroeconomic trends; • other delays and cost overruns; and • our ability to secure additional funding, if necessary. If we are unable to ~~realize the expected benefits of our flex manufacturing approach, or if we are otherwise unable to~~ develop and manufacture products of sufficient quality and appeal to customers on schedule and on a large scale, our business, prospects, financial condition and operating results may be materially and adversely affected. We have no experience to date in high volume manufacturing of our products ~~, and currently rely and expect to continue to rely on third- party contract manufacturing partners to manufacture our products and to supply critical components and systems, which exposes us to a number of risks and uncertainties outside our control~~ . We do not know whether we ~~or our current or future third- party contract manufacturing partners~~ will be able to develop efficient, automated, low- cost manufacturing capabilities and processes that will enable us to meet the quality, price, engineering, design and manufacturing standards, as well as the manufacturing volumes, required to successfully mass market our products. Even if we ~~and our third- party contract manufacturing partners~~ are successful in developing high volume manufacturing ~~capability~~ **capabilities** and processes, we do not know whether we will be able to do so in a manner that avoids significant delays and cost overruns, including as a result of factors beyond our control such as problems with suppliers and vendors or force majeure events, meets our product commercialization and manufacturing schedules and satisfies the requirements of customers and potential customers. If **we** ~~our third- party contract manufacturing partners~~ were to experience delays, disruptions, capacity constraints or quality control problems in manufacturing operations, product shipments could be delayed or rejected and our customers could consequently elect to change product demand. These disruptions could negatively impact our revenues, competitive position and reputation. ~~In addition, our third- party contract manufacturing partners may rely on certain local tax incentives that may be subject to change or elimination in the future, which could result in additional costs and delays in manufacturing if a new manufacturing site must be obtained. Further, if we are unable to successfully manage our relationship with our third- party contract manufacturing partners, the quality and availability of our products may decline.~~ Our ~~third- party contract manufacturing partners could, under some circumstances, decline to accept new purchase orders from or otherwise reduce their business with us. If our third- party contract manufacturing partners stopped manufacturing our products for any reason or reduced their manufacturing capacity, we may be unable to replace the lost manufacturing capacity on a timely and cost- effective basis, which would adversely impact our operations and ability to meet delivery timelines. Our reliance on third- party contract manufacturing partners exposes us to a number of additional risks that are outside our control, including: • unexpected increases in manufacturing costs; • interruptions in shipments if a third- party contract manufacturing partner is unable to complete production in a timely manner; • reduced control over delivery schedules; • reduced control over manufacturing levels and our ability to meet minimum volume commitments to our customers; • reduced control over manufacturing yield; and • reduced control over manufacturing capacity. The~~ manufacturing facilities ~~of our third- party contract manufacturing partners~~ and the equipment used to manufacture our products would be costly to replace and could require substantial lead time to replace and qualify for use. ~~The~~ **Our** manufacturing facilities ~~of our third- party contract manufacturing partners~~ may be harmed or rendered inoperable by natural or man- made disasters, including, war, military conflicts earthquakes, flooding, fire and power outages, or by health **crises** ~~epidemics, such as the COVID- 19 pandemic~~ , which may render it difficult or impossible for us to manufacture our products for some period of time. The inability to manufacture our products, or the backlog that could develop if ~~the~~ **our** manufacturing facilities ~~of our third- party contract manufacturing partners~~ are inoperable for even a short period of time, may result in the loss of customers or harm our reputation ~~. Although we promote ethical business practices and our operations personnel periodically visit and monitor the operations of our third- party contract manufacturing partners, we do not control our third- party manufacturing partners or their labor and other legal compliance practices, including their environmental, health and safety practices. If our current or future third- party contract manufacturing partners violate U. S. federal, state or local foreign laws or regulations, we may be subjected to extra duties, significant monetary penalties, adverse publicity, the seizure and forfeiture of products that we are attempting to import or the loss of our import privileges. These factors could render the conduct of our business in a particular jurisdiction undesirable or impractical~~ and have a negative impact on our operating results. **If we fail to successfully tool our manufacturing facilities or if our manufacturing facilities become inoperable, we will be unable to produce our vehicles and our business will be harmed.** Tooling our ~~flex~~ manufacturing facilities for production of our vehicles and our future expansion plans are complicated and present significant challenges. If any of our ~~flex~~ manufacturing facilities are not tooled in conformity with our requirements, repair or remediation may be required and could require us to take vehicle production offline, delay plans for increasing production capacity, or construct alternate facilities, which could materially limit our manufacturing capacity, delay planned increases in manufacturing volumes, delay the start of production of new product lines, or adversely affect our ability to timely sell and deliver our electric vehicles to customers. Any repair or remediation efforts could also require us to bear substantial additional costs, including both the direct costs of such activities and potentially costly litigation or other legal proceedings related to any identified defect, and there can be no assurance that our insurance policies or other recoveries would be sufficient to cover all or any of such costs. Any of the foregoing consequences could have a material adverse effect on our business, prospects, results of operations and financial condition and could cause our results of operations to differ materially from our current expectations. We are dependent on our suppliers, some of which are limited source or single- source suppliers, and the inability of these suppliers, due to increased demand or other factors, to deliver necessary components and materials used in our products, performance and specifications acceptable to us, could have a material adverse effect on our business, prospects, financial condition and operating results. We rely on third- party suppliers for the provision and development of many of the key components and materials used in our products. While we plan to obtain components and materials from multiple sources whenever possible, some of the components and materials used in our products will be purchased by us from a single or limited number of sources. Our third- party suppliers may not meet their product specifications and performance characteristics, which would impact our ability to achieve our product specifications and performance characteristics as well. Additionally, our third- party suppliers may not obtain the required certifications for their products or provide warranties that are necessary for our products. **We** ~~Until we complete the design and begin production of our next generation X- Pack, which may be delayed or not occur at all, we~~ may become dependent on a single source third- party supplier **of battery packs** . The inability of such single source third- party ~~supplied~~ **supplier** to deliver battery packs at prices, timelines, volumes and specifications acceptable to use would likely have a material adverse impact on our business, prospects, financial condition and operating results. Generally, if we are unable to obtain components and materials from our suppliers or if our suppliers decide to create or supply competing products, our business could be adversely affected. We have less negotiating leverage with suppliers than larger and more established automobile manufacturers and may not be able to obtain favorable pricing and other terms for the foreseeable future. While we believe that we can establish alternate supply relationships and can obtain or engineer replacement components for our limited source components, we may be unable to do so in the short term, or at all, at prices, quantities or quality levels that are favorable to us. In addition, if these suppliers experience financial difficulties, cease operations, or otherwise face business disruptions, we may be required to provide substantial financial support to ensure supply continuity or take other measures to ensure components and materials remain available. Any disruption could affect our ability to deliver products and could increase our costs, which could have a material adverse effect on our business, prospects, financial condition and operating results **. Our battery packs use lithium- ion battery cells, a class of batteries which have been observed to catch fire or vent smoke and flame** . Our battery packs use lithium- ion battery cells. On rare occasions, lithium- ion battery cells can rapidly release the energy they contain by venting smoke and flames in a manner that can ignite nearby materials as well as other lithium- ion battery cells. This has occurred in our testing as we refine our battery design. While we have taken measures to enhance the safety of our battery designs, a future field or testing failure of our battery packs could occur, which could subject us to litigation, inquiries, product recalls or redesign efforts, all of which would be time- consuming and expensive. Also, negative public perceptions regarding the suitability of lithium- ion battery cells for automotive applications or any future incident involving lithium- ion battery cells such as a vehicle or other fire, even if such incident does not involve our battery packs, could negatively affect our brand and harm our business, prospects, financial condition and operating results. In addition, a significant number of lithium- ion battery cells are stored at our facilities and the facilities of our manufacturing partners and suppliers. Any mishandling of battery cells may cause disruption to the operation of such facilities. A safety issue or fire related to the battery cells could disrupt operations or cause manufacturing delays, and could lead to adverse publicity, litigation or a safety recall. Moreover, any failure of a competitor' s electric vehicle or energy storage product may cause indirect adverse publicity for us and our products. Such adverse publicity could negatively affect our brand and harm our business, prospects, financial condition and operating results. **Increases in costs, disruption of supply or shortage of materials, in particular for lithium- ion battery cells, semiconductors and other key components, have harmed and could continue to harm our business.** We and our suppliers have experienced, and may continue to experience, increases in the cost of, or a sustained interruption in the supply or shortage of, components and materials. Any such cost increase, supply interruption or shortage could materially and negatively impact our business, prospects, financial condition and operating results. We and our suppliers use various materials in their businesses and products, including for example lithium- ion battery cells and steel, and the prices for such components and materials fluctuate. Additionally, the available supply of such components and materials are and may continue to be unstable, depending on market conditions and global demand, including as a result of increased production of electric vehicles and battery packs by us and our competitors, and could adversely affect our business and operating results. For instance, we are exposed to multiple risks relating to lithium- ion battery cells. These risks include: • an increase in the cost, or decrease in the available supply, of materials used in our battery packs; • disruption in the supply of battery cells due to quality issues or recalls by battery cell manufacturers; and • fluctuations in the value of any foreign currencies in which battery cell and related raw material purchases are or may be denominated against the U. S. dollar. Our business is dependent on the continued supply of lithium- ion battery cells for the battery packs used in our vehicles and powertrains. Any disruption in the supply of battery cells ~~from our suppliers~~ could disrupt production of our products. We heavily rely on international shipping to transport **battery packs and** the components and materials used in our **proprietary** battery packs from our suppliers. ~~The current delays~~ **Delays** due to congestion in west coast ports have caused, and may continue to cause, us to use more expensive air freight or other more costly methods to receive components and materials. Furthermore, fluctuations or shortages in petroleum and other economic conditions have caused, and may continue to cause, us to experience significant increases in freight charges and material costs. Additionally, we and other vehicle manufacturers that utilize integrated circuits have been negatively impacted by the **recent** shortage of semiconductors ~~, which could last into 2023 or beyond~~ . A combination of factors, including increased demand for consumer electronics, automotive manufacturing shutdowns due to the COVID- 19 pandemic, the rapid recovery of demand for vehicles and long lead times for wafer production, ~~are~~ **have** ~~contributing~~ **contributed** to the shortage of semiconductors. A shortage of semiconductors or other key components or materials could cause a significant disruption to our production schedule. If we are unable to obtain sufficient semiconductors or other key components or materials that have experienced or may experience shortages, or if we cannot find other methods to mitigate the impact of any such shortage, then our financial condition and results of operations may be materially and adversely affected. Substantial increases in the prices for components or materials utilized in the manufacture of our products, such as those charged by suppliers of battery cells, semiconductors or other key components or materials, would increase our operating costs, and could reduce our margins if the increased costs cannot be recouped through increased vehicle, powertrain or battery pack sales ~~or Fleet- as- a- Service revenue~~ . Any attempts to increase ~~vehicle, powertrain, battery pack or Fleet- as- a- Service~~ prices in response to increased component or material costs could result in cancellations of orders and reservations and materially and adversely affect our brand, image, business, prospects and operating results. We ~~and our third- party contract manufacturing partners~~ rely on complex machinery for the manufacture ~~and assembly~~ of our products, which involves a significant degree of **risk and** uncertainty ~~and risk~~ in terms of operational performance and costs. **We rely on complex machinery for the manufacture and assembly of our products, which involves a significant degree of uncertainty and risk in terms of operational performance and costs.** Our facilities and the facilities of our ~~third- party contract manufacturing partners and~~ suppliers contain large- scale machinery consisting of many components. These components may suffer unexpected malfunctions from time to time and may depend on repairs and spare parts to resume operations, which may not be available when needed. Unexpected malfunctions of these components may significantly affect the intended operational efficiency. Operational performance and costs can be difficult to predict and are often influenced by factors outside of our control, such as, but not limited to, scarcity of natural resources, environmental hazards and remediation, costs associated with decommissioning of machines, labor disputes and strikes, difficulty or delays in obtaining permits, damage to or defects in electronic systems, industrial accidents, fire, seismic activity and natural disasters. Should operational risks materialize, it may result in the personal injury to or death of workers, the loss of manufacturing equipment, damage to manufacturing facilities, monetary losses, delays and unanticipated fluctuations in production, environmental damage, administrative fines, increased insurance costs and potential legal liabilities, all which could have a material adverse effect on our business, prospects, financial condition or operating results. Furthermore, manufacturing technology may evolve rapidly, and we may decide to update our manufacturing processes more quickly than expected. Moreover, as we scale the commercial production of our vehicles, our experience **has caused, and** may **in the future** cause **,** us to discontinue the use of already installed equipment in favor of different or additional equipment. The useful life of any equipment that would be retired early as a result would be shortened, causing the depreciation on such equipment to be accelerated, and our results of operations could be negatively impacted. Our delay in providing sufficient charging solutions for our vehicles has resulted in the delay of the delivery of vehicles to customers. Our delay in providing sufficient charging solutions for our vehicles has resulted in the delay of the delivery of vehicles to customers. Demand for our vehicles and **the** customer' s willingness to take delivery ~~of and vehicle components~~ depends in large part on the availability of charging infrastructure. Most vehicles in our targeted segments operate on last- mile routes that generally return to base hubs on a daily basis, and fleet operators may choose to purchase fewer Xos vehicles, or none at all, if they are unable to install sufficient dedicated charging infrastructure. We have experienced customers delaying or declining delivery of vehicles due to a lack of charging infrastructure. Our charging solutions now being offered through Xos Energy Services ™ may not be sufficient to meet customer needs. Our efforts to install, configure and implement dedicated charging solutions have been affected by numerous factors, such as; • the cost, availability, standardization and quality of commercial electric vehicle charging systems; • the availability of government incentives and our ability to navigate legal requirements, such as permits, associated with installing electric vehicle charging systems; • our ability to hire skilled employees, or train new employees, that are qualified to install and / or service electric vehicle charging systems; and • electric grid capacity and reliability. In addition, while the prevalence of public charging stations and third- party charging networks generally has been increasing, charging station locations are significantly less widespread than gas stations. Moreover, the charging bays at such stations or networks may (i) have limited availability, (ii) be unable to accommodate commercial electrical vehicles such as our products, and (iii) feature charging times that are unacceptable to our customers. Any failure of public charging stations or third- party charging networks to meet customer expectations or needs, including quality of experience, could impact the demand for electric vehicles, including ours. We **derive a significant portion of our revenues from a small number of customers; if revenues derived from these customers decrease or the timing of such revenues fluctuates, our business and results of operations could be negatively affected. We** currently derive a significant portion of our revenues from a small number of customers, and this trend may continue for the foreseeable future. During the year ended December 31, ~~2022~~ **2023** , ~~one~~ **two** ~~customer~~ **customers** accounted for ~~42~~ **54** % **and 10 %, respectively,** of ~~our~~ **the Company' s** revenues. The loss of any one of our significant customers, a reduction in the purchases of our products by such customers or the cancellation of significant purchases by any of these customers would reduce our revenues and could harm our ability to achieve or sustain expected results of operations, and a delay of significant purchases, even if only temporary, would reduce our revenues in the period of the delay. Any such reduction in revenues may also impact our cash resources available for other purposes, such as research and development. Our business and prospects depend significantly on our ability to build the Xos brand. We may not succeed in continuing to establish, maintain and strengthen the Xos brand, and our brand and reputation could be harmed by negative publicity regarding Xos or our products. Our business and prospects are heavily dependent on our ability to develop, maintain and strengthen the Xos brand. If we do not continue to establish, maintain and strengthen our brand, we may lose the opportunity to build a critical mass of customers, and our business, prospects, financial condition and operating results may be materially and adversely affected. Promoting and positioning our brand will likely depend significantly on our ability to provide high- quality products and engage with our customers as intended, and we have limited experience in these areas. In addition, our ability to develop, maintain and strengthen the Xos brand will depend heavily on the success of our customer development and branding efforts. Our target customers may be reluctant to acquire products from a new and unproven company such as Xos. In addition, our novel technology and design may not align with target customer preferences. If we do not develop and maintain a strong brand, our business, prospects, financial condition and operating results will be materially and adversely impacted. In addition, if negative incidents relating to our products occur or are perceived to have occurred, whether or not such incidents are our fault, we could be subject to adverse publicity. In particular, given the popularity of social media, any negative publicity, whether true or not, could quickly proliferate and harm consumer perceptions and confidence in the Xos brand. Furthermore, there is the risk of potential adverse publicity related to our manufacturing or other partners whether or not such publicity is related to their collaboration with us. Our ability to successfully position our brand could also be adversely affected by perceptions about the quality of our competitors' products. In addition, from time to time, products may be evaluated and reviewed by third parties. Any negative reviews or reviews which compare us unfavorably to competitors could adversely affect customer perception ~~about~~ **of** our products **. If we fail to manage our growth effectively, we may not be able to further design, develop, manufacture and market our products successfully** . Any failure to manage our growth effectively could materially and adversely affect our business, prospects, operating results and financial condition. We intend to expand our operations significantly. We expect our future expansion to include: • expanding the management team; • hiring and training new personnel; • leveraging consultants to assist with company growth and development; • expanding our product offering across products, as well as ~~our~~ services **such** ~~like Fleet-~~ as ~~- a- Service,~~ Xos Energy Services ™ ~~,~~ and Xosphere ™; • controlling expenses and investments in anticipation of expanded operations; • establishing or expanding design, research and development, manufacturing, sales and service facilities; • implementing and enhancing administrative infrastructure, systems and processes; and • expanding into new markets. As of December 31, ~~2022~~ **2023** , we had **161** ~~272 employees (all of whom were~~ full- time ~~),~~ **employees and** 25 contractors ~~and 3 interns~~ . We intend to strategically hire personnel across a variety of functions as business needs arise. However, we may have difficulties hiring qualified personnel at times, such as during ~~the current~~ challenging labor ~~market~~ **markets** . Because our vehicles and powertrains are based on a different technology platform than traditional internal combustion engines, individuals with sufficient training and experience in alternative fuel technologies may not be available to hire, and as a result, we may need to expend significant time and expense training newly hired employees. Competition for individuals with experience designing, manufacturing and servicing vehicles and powertrains and their software is intense, and we may not be able to attract, integrate, train, motivate or retain sufficient highly qualified personnel. The failure to attract, integrate, train, motivate and retain these additional employees could seriously harm our business, prospects, financial condition and operating results. The performance characteristics of our products may vary due to factors outside of our control, which could harm our ability to develop, market and deploy our products. The performance characteristics of our products, including **the** expected range, may vary due to factors outside of our control. Our products are subject to continuous design and development updates, and there are no assurances that they will be able to meet their projected performance characteristics. External factors may also impact the performance characteristics of our products, including, but not limited to, driver behavior, speed, terrain, hardware efficiency, payload, vehicle or powertrain conditions and weather conditions. These external factors, as well as any operation of our products other than as intended, may affect **the** performance of our products, including range and longevity. In addition, our products may contain defects in design and manufacturing that may cause them not to perform as expected or may require repair. We currently have a limited frame of reference by which to evaluate the performance of our products upon which our business prospects depend. There can be no assurance that we will be able to detect and fix any defects in our products. We **have experienced product recalls and** may experience **future product** recalls ~~in the future~~ , which could adversely affect our brand and could adversely affect our business, prospects, financial condition and operating results. Our products may not perform consistent with customers' expectations or on par with those of our competitors. If the average performance of our products, including the usable life of a battery pack or energy system, is below expectations, or if there are product defects or any other failure of our products to perform as expected, our reputation could be harmed, which could result in adverse publicity, lost revenue, delivery delays, product recalls, negative publicity, product liability claims and significant warranty and other expenses and could have a material adverse impact on **our business, prospects, financial condition and operating results. Insufficient reserves to cover future warranty or part replacement needs or other vehicle, powertrain and battery pack repair requirements, including any potential software upgrades, could materially and adversely affect** our business, prospects, financial condition and operating results. We will need to maintain reserves to cover part replacement and other vehicle, powertrain and battery pack repair needs, including any potential software upgrades or warranty claims. If our reserves are inadequate to cover future maintenance requirements on our products, our business, prospects, financial condition and operating results could be materially and adversely affected. We may become subject to significant and unexpected expenses, including claims from our customers. There can be no assurances that then- existing reserves will be sufficient to cover all expenses **. We have experienced product recalls and may experience future product recalls that could materially and adversely affect our business, prospects, financial condition and operating results** . We have experienced product recalls that have either been resolved or are in the process of being resolved. Any future product recall or complications from current recalls may result in negative publicity, damage our brand and materially and adversely affect our business, prospects, financial condition and operating results. In the future, we may, voluntarily or involuntarily, initiate a recall if any of our products, or components thereof, prove to be defective or noncompliant with applicable motor vehicle safety standards or other requirements. If a large number of products are the subject of a recall , or if needed replacement parts are not in adequate supply, we may not be able to deploy recalled products for a significant period of time. These types of disruptions could jeopardize our ability to fulfill existing contractual commitments or satisfy demand for our products and could also result in the loss of business to our competitors. Such recalls also involve significant expense and diversion of management attention and other resources, and could adversely affect our brand image, as well as our business, prospects, financial condition and operating results. Additionally, problems and defects experienced by other electric vehicles from other manufacturers could by association have a negative impact on perception and customer demand for our products. We may become subject to product liability claims, including possible class action and derivative lawsuits, which could harm our financial condition and liquidity if we are not able to successfully defend or insure against such claims. Product liability claims, even those without merit or those that do not involve our products, could harm our business, prospects, financial condition and operating results. The automobile industry in particular experiences significant product liability claims, and we face inherent risk of exposure to claims in the event our products do not perform or are claimed to not have performed as expected. As is true for other electric vehicle suppliers, we expect in the future that our vehicles will be involved in crashes resulting in death or personal injury. Additionally, product liability claims that affect our competitors or suppliers may also cause indirect adverse publicity for us and our products. A successful product liability claim against us could require us to pay a substantial monetary award. Moreover, a product liability claim against us or our competitors could generate substantial negative publicity about our products and business and could have a material adverse effect on our brand, business, prospects, financial condition and operating results. We may self- insure against the risk of product liability claims, meaning that any product liability claims will likely have to be paid from company funds, not by insurance. If we are unable to establish and maintain confidence in our long-term business prospects among customers and analysts and within our industry, then our financial condition, operating results, business prospects and access to capital may be materially and adversely affected. Customers may be less likely to purchase our products if they do not believe that our business will succeed or that our service and support and other operations will continue in the long term. Similarly, suppliers and other third parties may be less likely to invest time and resources in developing business relationships with us if they are not convinced that our business will succeed. Accordingly, in order to build and maintain our business, we must maintain confidence among customers, suppliers, analysts, ratings agencies and other parties in our products, long- term financial viability and business prospects. Maintaining such confidence may be particularly complicated by certain factors, including those that are largely outside of our control, such as our limited operating history, customer unfamiliarity with our products, any delays in scaling manufacturing, delivery and service operations to meet demand, competition, uncertainty regarding the future of electric vehicles (including our vehicles), our manufacturing and sales performance compared with market expectations and any negative publicity with respect to us, our competitors or the industry. We have limited experience servicing our products and our integrated software. If we or our partners are unable to adequately service our products and integrated software, our business, prospects, financial condition and operating results may be materially and adversely affected. Servicing electric vehicles is different than servicing vehicles with internal combustion engines and requires specialized skills, including high voltage training and servicing techniques. We have partnered with ~~a~~ third ~~party~~ **parties** to perform certain servicing services on our vehicles, but our current or future third- party vehicle servicers may initially have limited experience in servicing vehicles like ours. There can be no assurance that our service arrangements will adequately address the service requirements of our customers to their satisfaction, or that we and our servicing partners will have sufficient resources, experience or inventory to meet these service requirements in a timely manner as the volume of our vehicle deliveries increases. In addition, if we are unable to roll out and establish a widespread service network that complies with applicable laws, customer satisfaction could be adversely affected, which in turn could materially and adversely affect our reputation and thus our sales, results of operations and prospects. Our customers will also depend on our customer support team to resolve technical and operational issues relating to the integrated software underlying our products. As we continue to grow, additional pressure may be placed on our customer support team or partners, and we may be unable to respond quickly enough to accommodate short- term increases in customer demand for technical support. We also may be unable to modify the future scope and delivery of our technical support to compete with changes in the technical support provided by our competitors. Increased customer demand for support, without corresponding revenue, could increase costs and negatively affect our operating results. If we are unable establish a reputation for providing high- quality support or successfully address the service requirements of our customers, our brand may be harmed and we may be subject to claims from our customers, including loss of revenue or damages, and our business, prospects, financial condition and operating results may be materially and adversely affected. **We are highly dependent on the services of Dakota Semler and Giordano Sordoni, our co- founders, as well as our key personnel and senior management, and if we are unable to attract and retain key personnel and hire qualified management, technical and electric vehicle engineering personnel, our ability to compete could be materially and adversely affected.** Our success depends, in part, on our ability to retain our key personnel. We are highly dependent on the services of Dakota Semler and Giordano Sordoni, our co- founders. Messrs. Semler and Sordoni are the source of many of the ideas, the strategy and the execution driving the Company. If Messrs. Semler or Sordoni were to discontinue their services to us due to death, disability or any other reason, we would be significantly disadvantaged. Additionally, the unexpected loss of or failure to retain one or more of our key personnel and senior management members could adversely affect our business. Our success also depends, in part, on our continuing ability to identify, hire, attract, train and develop other highly qualified personnel. Experienced and highly skilled personnel are in high demand and competition for such personnel can be intense, and our ability to hire, attract and retain them depends in part on our ability to provide competitive compensation. We may not be able to attract, assimilate, develop or retain qualified personnel in the future, and a failure to do so could adversely affect our business, including the execution of our business strategy. Any failure by our management team and our employees to perform as expected may have a material adverse effect on our business, prospects, financial condition and operating results. We have entered and may continue to enter into agreements and non- binding purchase orders, letters of intent and memorandums of understanding or similar agreements for sales of our products, which are cancellable at the option of our customers. We have entered and may continue to enter into agreements, purchase orders, letters of intent and memorandums of understanding or similar agreements for the sale of our products that include various cancellation rights in favor of the customer. For example, we have entered into binding distribution and purchase agreements for the purchase of vehicles; however, they are subject to the further entry into a definitive agreement with final pricing, warranty coverage and other terms. These purchase obligations may also be canceled by the customer with six months' written notice. As a result, we cannot assure that we will be able to enter into a definitive agreement or that our customers will not exercise their cancellation rights. In addition, we have entered and may continue to enter into purchase orders, letters of intent and memorandums of understanding or similar agreements that are not binding on our customer and may also be subject to modification and cancellation provisions. Any of these adverse actions related to these agreements, purchase orders, letters of intent, memorandums of understanding or any future customer contracts could harm our business, prospects, financial condition and operating results **. The commercial vehicle market is highly competitive, and we may not be successful in competing in this industry** . We face intense competition in bringing our products to market. We face competition from many different sources in the commercial vehicle market for medium- and heavy-duty last- mile and return- to- base segments, including existing major commercial vehicle OEMs, such as Daimler, Ford, General Motors, Navistar, Paccar, and Volvo, as well as new companies that are developing alternative fuel and electric commercial vehicles. Many of our current and potential competitors, including Nikola, Rivian, Workhorse, ~~BYD Motors,~~ Harbinger ~~, Lightning e- Motors~~ , The Lion Electric Company **and** ~~, SEA Electric,~~ Motiv Power Systems ~~, Blue Arc, and Proterra~~ , may have significantly greater financial, technical, manufacturing, marketing and other resources than we do and may be able to devote greater resources to the design, development, manufacturing, distribution, promotion, sale and support of their products, including their vehicles. Additionally, our competitors may also have greater name recognition, longer operating histories, larger sales forces, broader customer and industry relationships and greater resources than we do. These competitors also compete with us in recruiting and retaining qualified research and development, sales, marketing and management personnel, as well as in acquiring technologies complementary to, or necessary for, our products. Future mergers and acquisitions activity may result in even more resources being concentrated ~~in~~ **on** our competitors. In addition, we also compete with manufacturers of vehicles with internal combustion engines. There are no assurances that customers will choose our vehicles over those of our competitors, or over internal combustion engine vehicles. We expect additional competitors to enter the industry as well. We expect competition in our industry to intensify from our existing and future competitors as consumer demand for electric and alternative fuel vehicles increases and regulatory scrutiny on the motor vehicle industry intensifies **. Our growth is dependent upon the last- mile and return- to- base segment' s willingness to adopt electric vehicles** . Our growth is highly dependent upon the adoption of electric vehicles by last- mile delivery fleets and companies. If the market for last- mile and return- to- base electric vehicles does not develop at the rate or in the manner or to the extent that we expect, or if critical assumptions we have made regarding the efficiency of our total cost of ownership are incorrect or incomplete, our business, prospects, financial condition and operating results could be materially and adversely affected. The rapidly evolving market for last- mile and return- to- base electric vehicles is new and untested and is characterized by rapidly changing technologies, price competition, numerous competitors, evolving government regulation and industry standards and uncertain customer demands and behaviors. As a result, the market for our products could be affected by numerous factors, such as: • perceptions about electric vehicle, powertrain and battery pack features, quality, safety, performance, reliability and cost; • perceptions about the limited range over which electric vehicles may be driven on a single charge; • government regulations and economic incentives; • the availability of tax and other government incentives to purchase and operate alternative fuel, hybrid and electric vehicles or future laws requiring increased use of such vehicles; • the decline of vehicle efficiency resulting from deterioration over time in the ability of a battery pack to hold a charge; • the availability of service and associated costs for alternative fuel, hybrid or electric vehicles; • competition, including from other types of alternative fuel, plug- in hybrid, electric and high fuel- economy internal combustion engine vehicles; • changes or improvements in the fuel economy of internal combustion engines, competitors' vehicles and vehicle controls or competitors' electrified systems; • fuel and energy prices, including volatility in the cost of fossil fuels, alternative fuels and electricity; • the timing of adoption and implementation of fully autonomous vehicles; • access to charging facilities and related infrastructure costs and standardization of electric vehicle charging systems; • electric grid capacity and reliability; and • macroeconomic factors. We may not be able to successfully engage target customers or convert early trial deployments with commercial fleets into meaningful orders or additional deployments in the future. Our success, and our ability to increase revenue and operate profitably, depends in part on our ability to identify target customers and to convert early trial deployments with commercial fleets into meaningful orders or additional deployments in the future. Our vehicles have been delivered to certain customers on an early trial deployment basis, where such customers have the ability to evaluate whether these vehicles meet such customers' performance and other requirements before committing to meaningful orders or additional deployments in the future. If we are unable to meet customers' performance requirements or industry specifications, identify target customers, convert early trial deployments in commercial fleets into meaningful orders or obtain additional deployments in the future, our business, prospects, financial condition and operating results may be materially and adversely affected. Our products rely on software and hardware that is highly technical, and if these systems contain errors, bugs or vulnerabilities, or if we are unsuccessful in addressing or mitigating technical limitations in our systems, our business could be adversely affected. Our products rely on software and hardware that is highly technical and complex and will require modification and updates over the life of the vehicle, powertrain or battery pack. In addition, our products depend on the ability of such software and hardware to store, retrieve, process and manage immense amounts of data. Our software and hardware may contain errors, bugs, design defects or vulnerabilities, and our systems are subject to certain technical limitations that may compromise our ability to meet our objectives. Some errors, bugs or vulnerabilities inherently may be difficult to detect and may only be discovered after the code has been released for external or internal use. Although we attempt to remedy any issues we observe in our products as effectively and rapidly as possible, such efforts may not be timely, may hamper production or may not be to the satisfaction of our customers. Additionally, if we are able to address any software issues but our over- the- air update procedures fail, such software updates may have to be installed locally, which could hamper our efforts to remedy issues in a timely fashion. If we are unable to prevent or effectively remedy errors, bugs, vulnerabilities or defects in our software and hardware, we may suffer damage to our reputation, loss of customers, loss of revenue or liability for damages, any of which could adversely affect our business and financial results. The last mile and return to base segment and our technology are rapidly evolving and may be subject to unforeseen changes which could adversely affect the demand for our vehicles. The last mile and return to base segment is rapidly evolving and we may be unable to keep up with changes in electric vehicle technology or alternatives to electricity as a fuel source and, as a result, our competitiveness may suffer. Developments in technology or alternative technologies, such as advanced diesel, ethanol, hybrids, fuel cells, or compressed natural gas, or improvements in the fuel economy of the internal combustion engine, may materially and adversely affect our business and prospects in ways we do not currently anticipate. As technologies evolve, particularly battery cell technology, we plan to release refreshed versions of our vehicles, which may also negatively impact the adoption of our existing products. For example, we have largely retired the Lyra ™ battery technology from production. A relatively small number of Lyra ™ batteries may still be used in certain Powered By Xos ™ use cases and for service ~~. We are currently developing our next generation X- Pack technology while utilizing third- party supplier battery packs in production~~ . Any failure by us to successfully react to changes in existing technologies could materially harm our competitive position and growth prospects. The demand for electric vehicles depends, in part, on the continuation of current trends resulting from dependence on fossil fuels. Extended periods of low gasoline or other petroleum- based fuel prices could adversely affect demand for our products, which could materially and adversely affect our business, prospects, financial condition and operating results. Gasoline and other petroleum- based fuel prices have been extremely volatile, and we believe this continuing volatility will persist. Lower gasoline or other petroleum- based fuel prices over extended periods of time may lower the perception in government and the private sector that cheaper, more readily available energy alternatives should be developed and produced. If gasoline or other petroleum- based fuel prices remain at deflated levels for extended periods of time, the demand for electric vehicles may decrease, which would have an adverse effect on our business, prospects, financial condition and operating results. If the cost of gasoline and other petroleum- based fuel decreased significantly, the outlook for the long- term supply of oil to the United States improved, regulations or economic incentives related to fuel efficiency and alternative forms of energy were eliminated or reduced, or if there is a change in the perception that the burning of fossil fuels negatively impacts the environment, the demand for electric vehicles could be reduced, which could materially and adversely affect our business, prospects, financial condition and operating results. We **are or may be subject to risks associated with strategic alliances or acquisitions and may not be able to identify adequate strategic relationship opportunities, or form strategic relationships, in the future. We** have entered into non- binding memoranda of understanding and letters of intent (" MOUs ") with certain key manufacturers, suppliers and development partners to form strategic alliances with such third parties, and may in the future enter into additional strategic alliances or joint ventures or minority equity investments, in each case with various third parties for the manufacture of our products ~~and for Fleet- as- a- Service~~ . There is no guarantee that any of our MOUs will lead to any binding agreements or lasting or successful business relationships with such key suppliers and development partners. If these strategic alliances are established, they may subject us to several risks, including risks associated with sharing proprietary information, non- performance by the third- party and increased expenses in establishing new strategic alliances, any of which may materially and adversely affect our business. We may have limited ability to monitor or control the actions of these third parties and, to the extent any of these strategic third parties suffer negative publicity or harm to their reputation from events relating to our business, we may suffer negative publicity or harm to our reputation by virtue of our association with any such third- party. Strategic business relationships are expected to be an important factor in the growth and success of our business. However, there are no assurances that we will be able to continue to identify or secure suitable business relationship opportunities in the future and our competitors may capitalize on such opportunities before we do. Moreover, identifying such opportunities could require substantial management time and resources, and negotiating and financing relationships involves significant costs and uncertainties. If we are unable to successfully source and execute on strategic relationship opportunities in the future, our overall growth could be impaired, and our business, prospects, financial condition and operating results could be materially and adversely affected. When appropriate opportunities arise, we may acquire additional assets, products, technologies or businesses that are complementary to our existing business. In addition to possible stockholder approval, we may need approvals and licenses from relevant government authorities for the acquisitions and to comply with any applicable laws and regulations. Obtaining the required approvals and licenses could result in increased ~~delay~~ **delays** and costs, and failure to do so may disrupt our business strategy. Furthermore, acquisitions and the subsequent integration of new assets and businesses into our own require significant attention from our management and could result in a diversion of resources from our existing business, which in turn could have an adverse effect on our operations. Acquired assets or businesses may not generate the financial results we expect. Acquisitions could result in the use of substantial amounts of cash, potentially dilutive issuances of equity securities, the occurrence of significant goodwill impairment charges, amortization expenses for other intangible assets and exposure to potential unknown liabilities of the acquired business. Moreover, the costs of identifying and consummating acquisitions may be significant. Risks Related to our Financial Condition We **are an early- stage company with a history of losses and may incur significant expenses and continuing losses for the foreseeable future. We** incurred an operating loss of $ ~~111~~ **65** . ~~3~~ **0** million for the year ended December 31, ~~2022~~ **2023** . We believe that we will continue to incur operating and net losses each quarter until at least the time we begin wide- scale deliveries of our products and realize increased adoption of our ~~Fleet- as- a- Service~~ **service** ~~products~~

offerings . If we are unable to scale to wide- scale deliveries and realize increased adoption of our ~~Fleet- as- a- Service~~ **service** ~~products~~ **offerings** , we expect to continue to incur operating and net losses. Even if we can successfully develop our products and attract additional customers, there can be no assurance that we will be financially successful. Our potential profitability is dependent upon the successful development and acceptance of our products, which may not occur. We expect to continue to incur losses in future periods as we: • continue to design, develop, manufacture and market our products; • ~~continue to utilize our third- party partners for supply and manufacturing; •~~ expand our manufacturing capabilities, including costs associated with contracting the assembly of our products; • build up inventories of parts and components for our products; • manufacture an inventory of our products; • expand our design, development, installation and servicing capabilities; • ~~further develop our proprietary battery and chassis technology; • increases~~ - **increase** our sales and marketing activities and develop our distribution infrastructure; and • ~~increases~~ - **increase** our general and administrative functions to support our growing operations and to operate as a public company. Because we will incur the costs and expenses from these efforts before we receive any incremental revenues with respect thereto, our losses in future periods ~~will~~ **may** be significant. In addition, we may find that these efforts are more expensive than we currently anticipate or that these efforts may not result in revenues, which would further increase our losses. We will require significant capital to develop and grow our business, and we may be unable to adequately control the costs associated with our operations. We will require significant capital to develop and grow our business, including developing and manufacturing our products, establishing or expanding design, research and development, manufacturing, sales and service facilities and building our brand. We have incurred and expect to continue incurring significant expenses which will impact our profitability, including research and development expenses (including related to developing and commercializing our products), raw material procurement costs, sales and distribution expenses as we build our brand and market our products, and general and administrative expenses as we scale our operations, identify and commit resources to investigate new areas of demand and incur costs as a public company. Our ability to become profitable in the future will not only depend on our ability to complete the design and development of our products to meet projected performance metrics, identify and investigate new areas of demand and successfully market our products, but also our ability to sell or lease products at prices needed to achieve our expected margins and control our costs. If we are unable to efficiently design, develop, manufacture, market, deploy, distribute and service our products, our margins, profitability and prospects may be materially and adversely affected. We **have yet to achieve positive operating cash flow and, given our projected funding needs, our ability to generate positive cash flow is uncertain. We** had negative cash flow from operating activities of $ ~~128~~ **39** . ~~0~~ **3** million for the year ended December 31, ~~2022~~ **2023** . Our business also will at times require significant amounts of working capital to support our expected future growth and expansion of products. An inability to generate positive cash flow for the near term may adversely affect our ability to raise needed capital for our business on reasonable terms, diminish supplier or customer willingness to enter into transactions with us, and have other adverse effects that may decrease our long- term viability. There can be no assurance that we will achieve positive cash flow in the near future or at all. **Our financial results may vary significantly from period to period due to fluctuations in our product development cycle and operating costs, product demand and other factors.** We expect our period- to- period financial results to vary based on our operating costs and product demand, which we anticipate will fluctuate as the pace at which we continue to design, develop and manufacture new products, increase manufacturing capacity and establish or expand design, research and development, manufacturing, sales and service facilities varies. Additionally, our revenues from period to period may fluctuate as we identify and investigate areas of demand, adjust volumes and add new product derivatives based on market demand and margin opportunities, develop and introduce new products or introduce existing products to new markets. As a result of these factors, we believe that quarter- to- quarter comparisons of our financial results, especially in the short term, are not necessarily meaningful and that these comparisons cannot be relied upon as indicators of future performance. Moreover, our financial results may not meet expectations of equity research analysts ~~, ratings agencies~~ or investors, who may be focused primarily on quarterly financial results, which could cause the trading price of our Common Stock to fall substantially, either suddenly or over time. **Our business plans require a significant amount of capital. In addition, our future capital needs may require us to sell additional equity or debt securities that may dilute our stockholders or introduce covenants that may restrict our operations or our ability to pay dividends.** We have incurred, and expect to continue incurring, significant expenses as we expand our business, and that our level of expenses will be significantly affected by customer demand for our products and **services. As** ~~Fleet- as-~~ a ~~- Service offering. We expect that~~ **result, our ability to access capital is critical and until we can generate sufficient revenue to cover our operating expenses, working capital and capital expenditures,** we will ~~have sufficient~~ **need to raise additional** capital **in order** to fund **and scale** our ~~currently planned~~ operations ~~until we generate positive free cash flow contingent on our ability to execute on key projected capital strategy initiatives, such as cost reduction initiatives, improved pricing strategies and scaling manufacturing~~ . The fact that we have a limited operating history means we have limited historical data on the demand for our products. As a result, our future capital requirements are uncertain and actual capital requirements may differ from those we currently anticipate. We have obtained debt financing and **,** in the future, may need to seek equity or additional debt financing to finance a portion of our expenses. Such financing might not be available to us in a timely manner or on terms that are acceptable, or at all. Our ability to obtain the necessary financing to carry out our business plan is subject to a number of factors, including general market conditions and investor acceptance of our business model ~~. In addition, while we have $ 120. 7 million available under the SEPA as of December 31, 2022, the SEPA is subject to certain limitations on the number of shares of Common Stock that may be issued thereunder prior to receiving stockholder approval for the issuance of additional shares of Common Stock in excess of Nasdaq limits. As of the date of this Report, such limitations prevent us from fully utilizing the remaining commitment under the SEPA. If we are unable to obtain stockholder approval for the issuance of shares of Common Stock under the SEPA, we will remain subject to such limitations~~ . These factors may make the timing, amount, terms and conditions of such financing unattractive or unavailable to us. If we are unable to raise sufficient capital, we may have to significantly reduce our spending, delay or cancel our planned activities or substantially change our corporate structure. We may not be able to obtain any funding, and we may not have sufficient resources to conduct our business as projected, both of which could mean that we would be forced to curtail or discontinue our operations. In addition, our future capital needs and other business reasons could cause us to sell additional equity or debt securities or obtain a credit facility. The sale of additional equity or equity- linked securities could dilute our stockholders. The incurrence of indebtedness would result in increased debt service obligations and could result in operating and financing covenants that may restrict our operations or our ability to pay dividends to our stockholders. If we cannot raise additional capital in a timely manner and on acceptable terms, our operations and prospects could be negatively affected. The unavailability, reduction or elimination of government and economic incentives could have a material adverse effect on our business, prospects, financial condition and operating results. Any reduction, elimination or discriminatory application of government subsidies and economic incentives due to policy changes, the reduced push for such subsidies and incentives due to the perceived success of the electric vehicle industry or other reasons may result in the diminished competitiveness of alternative fuel and electric vehicles (including our products). While certain tax credits and other incentives for alternative energy production, alternative fuel vehicles and electric vehicles have been available in the past, there is no guarantee these programs will be available in the future. If current government subsidies and economic incentives, such as credits under the Inflation Reduction Act, are not available in the future, our financial position could be materially and adversely affected. Our ability to use net operating loss carryforwards and other tax attributes may be limited in connection with the Business Combination or other ownership changes. We have incurred losses during our history and ~~do not expect to become profitable soon and~~ may never achieve profitability. To the extent that we continue to generate taxable losses, unused losses will carry forward to offset future taxable income, if any, until such unused losses expire, if at all. As of December 31, ~~2022~~ **2023** , we had federal and state income tax net operating loss carryforwards of $ ~~283~~ **429** . ~~8~~ **6** million. This consists of approximately $ ~~141~~ **197** . ~~2~~ **3** million of federal net operating loss carryovers, and approximately $ ~~142~~ **232** . ~~6~~ **3** million of state net operating loss carryovers. The federal net operating loss carryovers have an indefinite carryforward period, and the state net operating loss carryovers may expire between 2036 and ~~2042~~ **2043** . Under current U. S. federal income tax law, U. S. federal net operating loss carryforwards generated in taxable periods beginning after December 31, 2017 **,** may be carried forward indefinitely, but the deductibility of such net operating loss carryforwards, is limited to 80 % of taxable income. It is uncertain if and to what extent various states will conform to current U. S. federal income tax law. In addition, our net operating loss carryforwards are subject to review and possible adjustment by the IRS and state tax authorities. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (the " Code "), these federal net operating loss carryforwards and other tax attributes may become subject to an annual limitation in the event of certain cumulative changes in our ownership. An " ownership change " pursuant to Section 382 of the Code generally occurs if one or more stockholders or groups of stockholders who own at least 5 % of a company' s stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three- year period. Our ability to utilize net operating loss carryforwards and other tax attributes to offset future taxable income or tax liabilities may be limited as a result of ownership changes, including potential changes in connection with the Business Combination **, the acquisition of ElectraMeccanica** or other transactions. Similar rules may apply under state tax laws. If we earn taxable income, such limitations could result in increased future income tax liability to us and our future cash flows could be adversely affected. We have recorded a full valuation allowance related to our net operating loss carryforwards and other deferred tax assets due to the uncertainty of the ultimate realization of the future benefits of those assets. We may not be able to obtain or agree on acceptable terms and conditions for all or a significant portion of the government grants, loans and other incentives for which we may apply. As a result, our business, prospects, financial condition and operating results may be adversely affected. We have applied, and intend to continue to apply, for federal and state grants, loans and tax incentives under government programs designed to stimulate the economy and support the production of alternative fuel and electric vehicles and related technologies. We anticipate that in the future there will be new opportunities for us to apply for grants, loans and other incentives from U. S. federal, state and foreign governments. Our ability to obtain funds or incentives from government sources is subject to the availability of funds under applicable government programs and approval of our applications to participate in such programs. The application process for these funds and other incentives will likely be highly competitive. We cannot assure you that we will be successful in obtaining any of these additional grants, loans and other incentives or that we will be eligible for certain tax or other economic incentives. If we are not successful in obtaining any of these additional incentives and we are unable to find alternative sources of funding to meet our planned capital needs, our business and prospects could be materially adversely affected **. We previously restated our financial statements for several prior periods, which resulted in unanticipated costs and may adversely affect investor confidence, our stock price, our ability to raise capital in the future and our reputation** . On March 8, 2023, the Audit Committee of our Board of Directors, after discussion with management and with our independent registered public accounting firm, concluded that our previously issued unaudited condensed consolidated financial statements as of and for the quarters ended March 31, 2022, June 30, 2022 and September 30, 2022 (the " Affected Periods ") should no longer be relied upon due to (1) errors in recording results of a physical inventory count, which caused inventories to be overstated and cost of goods sold to be understated, and (2) errors in the improper recording of duplicate inventory receipts as well as improper and inaccurate recording of prepaid inventories, which caused inventories, prepaid inventories (included within Prepaid expenses and other current assets) and accrued expenses (included within Other current liabilities) to be overstated. As a result, we restated the financial statements for the Affected Periods. As a result, we incurred unanticipated costs for accounting and legal fees in connection with the restatements, and the restatements may have the effect of eroding investor confidence in us and our financial reporting and accounting practices and processes and may raise reputational issues for our business. The restatements may **have** negatively ~~impact~~ **impacted** the trading price of our securities and made it more difficult for us to raise capital on acceptable terms, or at all. We identified ~~a~~ material ~~weakness~~ **weaknesses** in our internal control over financial reporting, and we may identify additional material weaknesses in the future that may cause us to fail to meet our reporting obligations or result in material misstatements of our financial statements. If we fail to remediate any material weaknesses or if we otherwise fail to establish and maintain effective control over financial reporting, our ability to accurately and timely report our financial results could be adversely affected and may adversely affect investor confidence, our reputation, our ability to raise additional capital, and our business operations and financial condition. As a public company, we are required to comply with the SEC' s rules implementing Sections 302 and 404 of the Sarbanes-Oxley Act, which requires management to certify financial and other information in our quarterly and annual reports and provide an annual management report on our internal control over financial reporting. ~~In connection with the misstatement as described above for the Affected Periods, management~~ **Management** identified ~~a~~ material ~~weakness~~ **weaknesses** in **our** internal control over financial reporting related to the ineffective operation of controls related to inventory management **and revenue recognition** ~~that resulted in the error as described above~~. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. For a discussion of management' s evaluation of our disclosure controls and procedures and the material ~~weakness~~ **weaknesses** identified, see Part II, Item 9A, " Controls and Procedures " of this Report. Effective internal controls over financial reporting are necessary for us to provide reliable financial reports and prevent fraud. We continue to evaluate steps to remediate the material ~~weakness~~ **weaknesses** . These remediation measures may be time consuming and costly and there is no assurance that these measures will ultimately have the intended effects. In order to remediate the material ~~weakness~~ **weaknesses** in internal controls over financial reporting related to the ineffective operation of controls related to inventory management **and revenue recognition** , management is implementing financial reporting control changes **, remediation steps to improve its disclosure controls** to address the material ~~weakness~~ **weaknesses** . Management, with the oversight of the Audit Committee of our Board of Directors, is implementing remediation steps to improve our disclosure controls and procedures and our internal controls over financial reporting, including further documenting and implementing control procedures to address the identified risks of material misstatements, and implementing monitoring activities over such control procedures. To further remediate the material ~~weakness~~ **weaknesses** , management, including the Chief Executive Officer and Chief Financial Officer, have reaffirmed and re- emphasized the importance of internal controls, control consciousness and a strong control environment. We also expect to continue to review, optimize and enhance our financial reporting controls and procedures. ~~This~~ **These** material ~~weakness~~ **weaknesses** will not be considered remediated until the applicable remediated control operates for a sufficient period of time and management has concluded, through testing, that this enhanced control is operating effectively. Furthermore, we cannot ensure that the measures we have taken to date, and actions we may take in the future, will be sufficient to remediate in a timely manner or at all the control deficiencies that led to our material ~~weakness~~ **weaknesses** in our internal controls over financial reporting or that they will prevent or avoid potential future material weaknesses due to a failure to implement and maintain adequate internal control over financial reporting or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, in the future these controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our financial statements. If we are not able to remediate the material ~~weakness~~ **weaknesses** , or if we identify any new material weaknesses in the future, we may be unable to maintain compliance with the requirements of securities laws, stock exchange listing rules, or debt instrument covenants regarding timely filing of information; we could lose access to sources of capital or liquidity; and investors may lose confidence in our financial reporting and our stock price may decline as a result. Though we are taking steps to remediate the material ~~weakness~~ **weaknesses** , we cannot be assured that the measures we have taken to date, or any measures we may take in the future, will be sufficient to remediate the material ~~weakness~~ **weaknesses** or avoid potential future material weaknesses. As a result of the material ~~weakness~~ **weaknesses** described above and other related matters raised or that may in the future be identified, we face potential for adverse regulatory consequences, including investigations, penalties or suspensions by the SEC or Nasdaq, litigation or other disputes which may include, among others, claims invoking the federal and state securities laws, contractual claims or other claims arising from the ~~restatement and~~ material ~~weakness~~ **weaknesses** in our internal control over financial reporting and the preparation of our consolidated financial statements. As of the date of this filing, we have no knowledge of any such regulatory consequences, litigation, claim or dispute. However, we can provide no assurance that such regulatory consequences, litigation, claim or dispute will not arise in the future. Any such regulatory consequences, litigation, claim or dispute, whether successful or not, could subject us to additional costs, divert the attention of our management, or impair our reputation. Each of these consequences could have a material adverse effect on our business, results of operations and financial condition. We may identify future material weaknesses in our internal controls over financial reporting or fail to meet the demands that will be placed upon us as a public company, including the requirements of the Sarbanes- Oxley Act, and we may be unable to accurately report our financial results, or report them within the timeframes required by law or stock exchange regulations. We cannot assure that our existing material ~~weakness~~ **weaknesses** will be remediated or that additional material weaknesses will not exist or otherwise be discovered, any of which could adversely affect our reputation, financial condition, and results of operations. Risks Related to Our Indebtedness **We have incurred substantial debt, which could impair our flexibility and access to capital and adversely affect our financial position, and our business would be adversely affected if we are unable to service our debt obligations and are subject to default.** As of December 31, ~~2022~~ **2023** , we had total indebtedness of approximately $ ~~56~~ **25** . ~~2~~ **3** million, consisting of convertible notes, equipment notes, finance lease liabilities and insurance financing notes. Our substantial indebtedness may: • limit our ability to use our cash flow or borrow additional funds for working capital, capital expenditures, acquisitions, investments or other general business purposes; • require us to use a substantial portion of our cash flow from operations to make debt service payments **;** • limit our flexibility to plan for, or react to, changes in our business and industry, or our ability to take specified actions to take advantage of certain business opportunities that may be presented to us; • result in dilution to our existing stockholders in the event the Convertible Note ~~or the Convertible~~

~~Debentures (collectively the " Convertible Debt ")~~ is settled in our shares of our Common Stock; • place us at a competitive disadvantage compared to our less leveraged competitors; and • increase our vulnerability to the impact of adverse economic and industry conditions. If our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay investments and capital expenditures, seek additional capital or restructure or refinance our debt. These alternative measures may not be successful and may not permit us to meet our debt service obligations. In the absence of such cash flows and resources, we could face substantial liquidity problems and might be required to dispose of material assets or operations to meet our debt service and other obligations. If we do not make the required payments when due, either at maturity, or at applicable installment payment dates, or if we breach the agreement or become insolvent, the lender could elect to declare all amounts outstanding, together with accrued and unpaid interest, and other payments, to be immediately due and payable. If our indebtedness is accelerated, we cannot assure you that we will have sufficient assets to repay the indebtedness. Any default under our indebtedness would have a material adverse effect on our financial condition and our ability to continue our operations. Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our substantial debt. Our ability to make payments of principal or interest on our indebtedness ~~or to make any potential Prepayments for the Convertible Debentures (described further in Note 8 — Convertible Notes in the accompanying consolidated financial statements), to the extent applicable,~~ depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. If the assumptions underlying our cash flow guidance are incorrect, our business may not continue to generate cash flow from operations in the future sufficient to service our indebtedness and make necessary capital expenditures. ~~Under the Convertible Debentures, we were required to make, and made, Prepayments in the amount of $ 3. 7 million on January 3, 2023 and $ 3. 2 million on January 10, 2023. On March 21, 2023, we received notice that another Prepayment in the amount of $ 3. 5 million would be due on March 31, 2023. We may continue to be subject to an ongoing monthly Prepayment requirement. Even if our current monthly Prepayment obligations were to end, we may be required to make monthly Prepayments again in the future. In addition, our Convertible Debt is subject to certain limitations on the number of shares of Common Stock that may be issued thereunder prior to receiving stockholder approval for the issuance of additional shares of Common Stock in excess of Nasdaq limits. As of the date of this Report, such limitations prevent us from accommodating the full conversion of remaining outstanding principal amount of the Convertible Debentures. If we are unable to obtain stockholder approval for the issuance of shares of Common Stock under the Convertible Debentures exceeding the applicable Nasdaq thresholds, we will also be required to make Prepayments.~~ If we are unable to generate cash flow sufficient to service our indebtedness and make necessary capital expenditures, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or issuing additional equity, equity- linked or debt instruments on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. If we are unable to engage in any of these activities or engage in these activities on desirable terms, we may be unable to meet our debt obligations, which would materially and adversely impact our business, financial condition and operating results. Conversion of the Convertible ~~Debt~~ **Note** may dilute the ownership interest of our stockholders or may otherwise depress the price of our Common Stock. The conversion of some or all of the Convertible ~~Debt~~ **Note** may dilute the ownership interests of our stockholders ~~. Upon conversion of the Convertible Debentures, we must deliver shares of Common Stock, and upon conversion of the Convertible Note, we have the option to pay or deliver, as the case may be, cash, shares of Common Stock, or a combination of cash and shares of Common Stock~~ . If we elect to settle our conversion obligation with respect to the Convertible Note in shares of **our** Common Stock or a combination of cash and shares of **our** Common Stock, any sales in the public market of **our** Common Stock issuable upon such conversion could adversely affect prevailing market prices of **our** Common Stock. In addition, the existence of the Convertible ~~Debt~~ **Note** may encourage short selling by market participants because the conversion of the Convertible ~~Debt~~ **Note** could be used to satisfy short positions, or anticipated conversion of the Convertible ~~Debt~~ **Note** into shares of **our** Common Stock could depress the price of **our** Common Stock. **Risks Related to our Acquisition of ElectraMeccanica We may be unable to realize the opportunities expected from the acquisition of ElectraMeccanica, which could adversely affect our business, financial condition and results of operations. The acquisition of ElectraMeccanica is expected to create growth, operational enhancement, expansion and other opportunities for us, including, among others, through significantly improving our capital position and financial flexibility and providing significant growth funding and runway to execute our business plan. The identification and scope of these opportunities is based on various assumptions, which may or may not prove to be accurate. These opportunities may not arise as expected, or we may not be able to realize the anticipated benefits from these opportunities, from the sources or in the amount, manner or time frame expected, or at all. In addition, we may incur additional or unexpected costs in order to pursue and / or realize these opportunities. Failure to realize these opportunities could significantly reduce the expected benefits associated with the acquisition of ElectraMeccanica. Certain contractual counterparties may seek to modify contractual relationships with us, which could have an adverse effect on our business and operations. As a result of the acquisition of ElectraMeccanica, we may experience impacts on relationships with contractual counterparties (such as suppliers, vendors, business partners or other third- party service providers) that may harm our business and results of operations. Certain counterparties may seek to terminate or modify contractual obligations following the acquisition whether or not contractual rights are triggered as a result of the acquisition. There can be no guarantee that our contractual counterparties will remain with or continue to have a relationship with us or do so on the same or similar contractual terms following the acquisition. If any contractual counterparties (such as suppliers, vendors, business partners or other third- party service providers) seek to terminate or modify contractual obligations or discontinue the relationship with us, our business and results of operations may be harmed. Litigation filed against us or ElectraMeccanica could result in the payment of damages following completion of the acquisition. Various demands and draft complaints were received by us and ElectraMeccanica, and lawsuits have**

been filed by purported stockholders, challenging the disclosures in the joint proxy statement / management information circular on Schedule 14A filed with the SEC and applicable Canadian securities regulatory authorities in connection with the acquisition of ElectraMeccanica. It is possible that additional lawsuits will be filed, or additional allegations will be made, with respect to the acquisition. We and our executive officers and members of our board of directors may also be the subject of potential claims and litigation related to or arising out of the acquisition. The results of complex legal proceedings are difficult to predict and could result in the payment of damages following completion of the acquisition. Moreover, any future litigation could be time consuming and expensive, could divert our attention away from regular business, and, if any lawsuit is adversely resolved, could have a material adverse effect on our or the combined company' s business, results of operations or financial condition. Significant costs have been incurred and are expected to be incurred in connection with the consummation of the acquisition of ElectraMeccanica. We have incurred, and expect to continue to incur, costs related directly to completing the acquisition. Additional unanticipated costs may be incurred as we continue to integrate the two businesses. While we have assumed that certain expenses would be incurred in connection with the acquisition, there are many factors beyond our control that could affect the total amount or the timing of expenses related to the acquisition. Legal and Regulatory Risks **We may face regulatory limitations on our ability to sell vehicles directly to consumers, which could materially and adversely affect our ability to sell our vehicles.** Our business plan includes the direct sale of vehicles to consumers. We have limited experience distributing directly to consumers, and the establishment of our national and global in- house sales and marketing function has proven expensive and time consuming. The laws governing licensing of dealers and sales of motor vehicles vary from state to state. Most states require a dealer license and / or manufacturers license to sell new motor vehicles within the state, and many states prohibit manufacturers or their affiliates from becoming licensed dealers and directly selling new motor vehicles to consumers from within that state. In addition, most states require that we have a physical dealership location in the state before we can be licensed as a dealer. The application of these state laws to our operations continues to be difficult to predict. Laws in some states have limited our ability to obtain dealer licenses from state motor vehicle regulators and may continue to do so. We may face legal challenges to this distribution model. For instance, in states where direct sales are not permitted, dealers and their lobbying organizations may complain to the government or regulatory agencies that we are acting in the capacity of a dealer without a license. In some states, regulators may restrict or prohibit us from directly providing warranty repair service, or from contracting with third parties who are not licensed dealers to provide warranty repair service. Even if regulators decide to permit us to sell vehicles, such decisions may be challenged by dealer associations and others as to whether such decisions comply with applicable state motor vehicle dealer laws. Further, even in jurisdictions where we believe applicable laws and regulations do not currently prohibit our direct sales model, legislatures may impose additional limitations. Our distribution model also includes the sale of vehicles pursuant to agreements with dealers. Xos products sold through dealers may have significantly lower unit margins than those that we sell directly to consumers. Additionally, such dealer relationships may limit our ability to enter into similar agreements with other dealers in certain markets or ~~effect~~ **affect** sales in certain markets other than through the dealer assigned to such market. Our ability to terminate any dealership agreement may be limited due to state and local laws and regulations. Because the laws vary from state to state, our distribution model must be carefully established, and our sales and service processes must be continually monitored for compliance with the various state requirements, which change from time to time. Regulatory compliance and likely challenges to the distribution model may add to the cost of our business or negatively impact our ability to sell and distribute products and services. We, our outsourcing partners and our suppliers are subject to substantial regulation and unfavorable changes to, or failure by us, our outsourcing partners or our suppliers to comply with, these regulations could substantially harm our business and operating results. We and our products, and motor vehicles in general, as well as our third- party outsourcing partners and our suppliers, are or will be subject to substantial regulation under foreign, federal, state and local laws. We continue to evaluate requirements for licenses, approvals, certificates and authorizations necessary to manufacture, deploy or service our products in the jurisdictions in which we plan to operate and intend to take such actions necessary to comply. We may experience difficulties in obtaining or complying with various licenses, approvals, certifications and other governmental authorizations necessary to manufacture, deploy or service our vehicles in any of these jurisdictions. If we, our third- party outsourcing partners or our suppliers are unable to obtain or comply with any of the licenses, approvals, certifications or other authorizations necessary to carry out our operations in the jurisdictions in which we currently operate, or those jurisdictions in which we plan to operate, our business, prospects, financial condition and operating results could be materially and adversely affected. We have incurred, and expect to continue to incur, significant costs in complying with these regulations. Laws related to the electric and alternative fuel vehicle industry are evolving and we face risks associated with changes to these laws, including, but not limited to: • increased support for other alternative fuel systems, which could have an impact on the acceptance of our products; and • increased sensitivity by regulators to the needs of established automobile manufacturers with large employment bases, high fixed costs and business models based on the internal combustion engine, which could lead them to pass regulations that could reduce the compliance costs of such established manufacturers or mitigate the effects of government efforts to promote alternative fuel and electric vehicles. To the extent the laws change, our products may not comply with applicable foreign, federal, state or local laws, which would have an adverse effect on our business. Compliance with changing regulations could be burdensome, time- consuming and expensive. To the extent compliance with new laws is cost- prohibitive, our business, prospects, financial condition and operating results could be adversely affected. Future changes to regulatory requirements may have a negative impact on our business. To the extent the laws change, new laws are introduced, or if we introduce new products in the future, some or all of our products may not comply with applicable foreign, federal, state or local laws. Further, certain industry standards currently regulate electrical and electronics equipment. Although standards for electric vehicles are not yet generally available or accepted as industry standards, our products may become subject to such standards in the future. Compliance with these standards could be burdensome, time-consuming, and expensive. There can be no assurance that we will be able to maintain our profitability by offsetting any increased compliance costs. If ~~the security of~~ our information technology systems **, those of third parties upon which we rely, or** ~~or~~ **our** data **are** ~~(or our~~ - **or were** ~~service providers or vendors) collect, store or process is~~ compromised ~~or is otherwise accessed or acquired without authorization~~ , ~~our reputation may be harmed and~~ we ~~may be exposed to liability~~ **could experience adverse consequences resulting from such compromise** , **including but not limited to** ~~loss of business, litigation,~~ regulatory investigations or actions ~~,~~ **; litigation;** fines and penalties ~~,~~ **;** disruptions ~~to~~ **of** our business operations **; reputational harm; loss of revenue or profits; loss of customers or sales;** and other adverse consequences ~~, which could materially and adversely affect our financial performance and results of operations or prospects~~ . In the ordinary course of our business, we (and the third parties upon which we rely) collect, store, receive, generate, use, transfer, disclose, make accessible, protect, secure, dispose of, transmit, share and otherwise process (collectively, process or processing) personal information, confidential or proprietary information, sensitive information, intellectual property, trade secrets, and financial information (collectively, sensitive information) from vehicles, customers, employees and others as part of our business and operations. We also work with partners and third- party service providers or vendors that process such data on our behalf and in connection with our vehicles. There can be no assurance that any security measures that we or our third- party service providers or vendors have implemented will be effective against current or future threats to such data. Cyber- attacks, malicious internet- based activity, online and offline fraud, and other similar activities threaten the confidentiality, integrity, and availability of our sensitive information and information technology systems, and those of the third parties upon which we rely. Such threats are prevalent and continue to rise, are increasingly difficult to detect, and come from a variety of sources, including traditional computer " hackers, " threat actors, " hacktivists, " organized criminal threat actors, personnel (such as through theft or misuse), sophisticated nation states, and nation- state- supported actors. Some actors now engage and are expected to continue to engage in cyber- attacks, including without limitation nation- state actors for geopolitical reasons and in conjunction with military conflicts and defense activities. **During times of war and other major conflicts, we, the third parties upon which we rely, and our customers may be vulnerable to a heightened risk of these attacks, including retaliatory cyber- attacks, that could materially disrupt our systems and operations, supply chain, and ability to produce, sell and distribute our goods and services.** We and the third parties upon which we rely are subject to a variety of evolving threats, including but not limited to social- engineering attacks (including through **deep fakes, which may be increasingly more difficult to identify as fake, and** phishing attacks), malicious code (such as viruses and worms), malware (including as a result of advanced persistent threat intrusions), denial- of- service attacks **,** ~~(such as~~ credential stuffing ~~)~~ **attacks** , credential harvesting, personnel misconduct or error, ransomware attacks, supply- chain attacks, software bugs, server malfunctions, software or hardware failures, loss of data or other information technology assets, adware, telecommunications failures, earthquakes, fires, floods, **attacks enhanced or facilitated by AI** and other similar threats. In particular, severe ransomware attacks are becoming increasingly prevalent and can lead to significant interruptions in our operations **, ability to provide products or services** , loss of sensitive information and income, reputational harm, and diversion of funds. Extortion payments may alleviate the negative impact of a ransomware attack, but we may be unwilling or unable to make such payments due to, for example, applicable laws or regulations prohibiting such payments. In addition, remote work has become more common and has increased risks to our information technology systems and data, as more of our employees utilize network connections, computers and devices outside our premises or network, including working at home, while in transit and in public locations. Future or past business transactions (such as acquisitions or integrations) could expose us to additional cybersecurity risks and vulnerabilities, as our systems could be negatively affected by vulnerabilities present in acquired or integrated entities' systems and technologies. Furthermore, we may discover security issues that were not found during due diligence of such acquired or integrated entities, and it may be difficult to integrate companies into our information technology environment and security program. We rely on third- party service providers and technologies to operate critical business systems to process sensitive information in a variety of contexts, including, without limitation, cloud- based infrastructure, data center facilities, encryption and authentication technology, employee email, content delivery to customers, and other functions. We also rely on third- party service providers to provide other products, services, vehicle parts, or otherwise to operate our business. Our ability to monitor these third parties' information security practices is limited, and these third parties may not have adequate information security measures in place. If our third- party service providers experience a security incident or other interruption, we could experience adverse consequences. While we may be entitled to damages if our third- party service providers fail to satisfy their privacy or security- related obligations to us, any award may be insufficient to cover our damages, or we may be unable to recover such award. **In addition** ~~If a compromise of data were to occur~~ , **supply- chain attacks have increased in frequency and severity, and** we **cannot guarantee that third** ~~may become liable under our contracts with other~~ parties ~~and under applicable law~~ **' infrastructure in our supply chain** ~~for~~ - **or** ~~damages and incur penalties and other costs~~ **our third- party partners' supply chains have not been compromised. While we have implemented security measures designed** to **protect against security** ~~respond to, investigate and remedy such an incident~~ **incidents** ~~. Third parties may also exploit vulnerabilities in~~ , **there can be no assurance that these measures will be effective** ~~or obtain unauthorized access to, platforms, systems, networks and / or physical facilities utilized by our service providers and vendors~~ . We are also at risk for interruptions, outages and breaches of our: (a) operational systems, including business, financial, accounting, product development, data processing or production processes, owned by us or our third- party vendors or suppliers; (b) facility security systems, owned by us or our third- party vendors or suppliers; (c) transmission control modules or other in- product technology, owned by us or our third- party vendors or suppliers; (d) the integrated software in our products; and (e) customer data and personal information that we process, or our third- party vendors or suppliers, process on our behalf. ~~Such incidents could: materially disrupt our operational systems; result in loss of intellectual property, trade secrets or other proprietary or sensitive information; compromise certain information of customers, employees, suppliers, or others; jeopardize the security of our facilities; divert management' s attention; and affect the performance of in- product technology and the~~

~~integrated software in our products.~~ Our vehicles contain complex information technology systems and built- in data connectivity to accept and install periodic remote updates to improve or update functionality. We utilize in- vehicle services and functionality through the Xosphere ™ that utilize data connectivity to monitor performance and timely capture opportunities to enhance on- the- road performance and for safety and cost- saving preventative maintenance. The availability and effectiveness of our Xosphere ™ services depend on the continued operation of information technology and communications systems. There are inherent risks associated with developing, improving, expanding and updating our current systems, such as the disruption of our data management, procurement, production execution, finance, supply chain and sales and service processes. **For example, software such as our Xosphere ™ platform can contain errors, defects, security vulnerabilities or software bugs that are difficult to detect and correct, particularly when such vulnerabilities are first introduced or when new versions or enhancements of our platform are released. Additionally, even if we are able to develop a patch or other fix to address such vulnerabilities, such a fix may be difficult to push out to our customers or otherwise be delayed. Additionally, our business depends upon the appropriate and successful implementation of our Xosphere ™ platform by our customers. If our customers fail to use the Xosphere ™ platform according to our specifications, our customers may suffer a security incident on their own systems or other adverse consequences. Even if such an incident is unrelated to our security practices, it could result in our incurring significant economic and operational costs in investigating, remediating, and implementing additional measures to further protect our customers from their own vulnerabilities and could result in reputational harm.** These risks may affect our ability to manage our data and inventory, procure parts or supplies or manufacture, deploy, deliver and service our products, adequately protect our intellectual property or achieve and maintain compliance with, or realize available benefits under, applicable laws, regulations and contracts. **We** ~~While we~~ have designed, implemented and tested security measures intended to prevent unauthorized access to our information technology networks, vehicles and related systems. However, unauthorized actors may attempt to gain access to modify, alter and use such networks, vehicles and systems to gain control of or ~~to~~ change our vehicles' functionality, user interface and performance characteristics, or to gain access to data stored in or generated by the vehicle ~~. A significant breach of our third- party service providers' or vendors' or our own network security and systems could have serious negative consequences for our business and future prospects, including possible fines, penalties and damages, reduced customer demand for our products, regulatory investigations, litigation and harm to our reputation and brand. The costs to respond to a security breach and / or to mitigate any security vulnerabilities and security incidents that may be identified could be significant, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service, disruption of management' s attention, negative publicity or other harm to our business. We could be required to fundamentally change our business activities and practices in response to a security breach or related regulatory actions or litigation, which could have an adverse effect on our business~~. We have contractual and other legal obligations to notify individuals, regulatory authorities and others of security breaches involving certain types of data. Laws governing data breaches may be inconsistent or change, and new laws may be adopted. In addition, our agreements with certain customers may require us to notify them in the event of a security breach. Such mandatory disclosures are costly, could lead to negative publicity, could divert management' s attention, could result in penalties or fines, could result in litigation, may cause our customers to lose confidence in the effectiveness of our security measures and may require us to expend significant capital and other resources to respond to and alleviate problems caused by the actual or perceived security breach. We take steps **designed** to detect **, mitigate** and remediate vulnerabilities **in our information systems (such as our hardware and / or software** , ~~but~~ **including that of third parties upon which** we **rely). We** may not ~~be able to~~ **, however,** detect and remediate all ~~vulnerabilities because the threats and techniques used to exploit the vulnerability change frequently and are often sophisticated in nature. Therefore,~~ such vulnerabilities **, including on a timely basis. Further, we may experience delays in developing and deploying remedial measures and patches designed to address vulnerabilities. Vulnerabilities** could be exploited **and result in** ~~but may not be detected until after~~ a security incident ~~has occurred. These vulnerabilities pose material risks to our business. Further, we may experience delays in developing and deploying remedial measures designed to address any such identified vulnerabilities~~. Any of the previously identified or similar threats could cause a security incident or other interruption that could result in unauthorized, unlawful, or accidental acquisition, modification, destruction, loss, alteration, encryption, disclosure of, or access to our sensitive information or our information technology systems, or those of the third parties upon whom we rely. A security incident or other interruption could disrupt our ability (and that of third parties upon whom we rely) to provide our products ~~, or~~ **. We** may **expend significant resources** ~~cause us to breach our~~ - **or** ~~customer contracts~~ **modify our business activities to try to protect against security incidents** . ~~Our agreements with certain~~ **Certain** ~~customers~~ **data privacy and security obligations** may require us to ~~use~~ **implement and maintain specific security measures or** industry- standard or reasonable **security** measures to ~~safeguard personal~~ **protect our** information **technology systems and sensitive information** . ~~We also~~ **Applicable data privacy and security obligations** may ~~be subject to laws that~~ require us to **notify** ~~use industry- standard or reasonable security measures to safeguard personal information. A security breach could lead to claims by our customers or other~~ relevant stakeholders ~~that we have~~ **, including affected individuals, customers, regulators, and investors, of security incidents. Such disclosures are costly, and the disclosure or the** ~~failed~~ - **failure (actual or perceived)** to comply with such ~~legal~~ **requirements could lead to adverse consequences. If we (or a third party upon whom we rely) experience a security incident or are perceived to have experienced a security incident, we may experience adverse consequences, such as government enforcement actions (** ~~or~~ **for** ~~contractual~~ **example, investigations, fines, penalties, audits, and inspections); additional reporting requirements and / or oversight; restrictions on processing sensitive information (including personal data); litigation (including class claims); indemnification** obligations ~~. As a result, we could be subject to legal action~~ **; negative publicity; reputational harm; monetary fund diversions; diversion of management attention; interruptions in** ~~or~~ **our operations (including availability of data); financial loss; and other similar harms. Security incidents and attendant consequences may prevent**

~~our~~ - **or cause** customers ~~could end their relationships with us~~ **to stop using our products, deter new customers from using our products, and negatively impact our ability to grow and operate our business** . **Our contracts may not contain limitations of liability, and even** ~~There~~ **where they do, there** can be no assurance that ~~the~~ limitations of liability in our contracts **are sufficient to** ~~would be enforceable or adequate or would otherwise~~ protect us from liabilities ~~or~~ **,** damages **,** ~~. We may not have adequate insurance coverage for~~ - **or** ~~security incidents~~ **claims related to** ~~or~~ **our** ~~breaches or other failures to comply with obligations governing~~ data privacy ~~or~~ **and** security **obligations** . **We** ~~The successful assertion of one or more large claims against us that exceeds our available insurance coverage, or results in changes to our insurance policies (including premium increases or the imposition of large deductible or co- insurance requirements), could have an adverse effect on our business. In addition, we~~ cannot be sure that our ~~existing~~ insurance coverage will **be adequate or sufficient to protect us from or to mitigate liabilities arising out of our privacy and security practices, that such coverage will** continue to be available on ~~acceptable~~ **commercially reasonable** terms or **at all, or** that ~~our insurers~~ **such coverage** will **pay** ~~not deny coverage as to any~~ future ~~claim~~ **claims . In addition to experiencing a security incident, third parties may gather, collect, or infer sensitive information about us from public sources, data brokers, or other means that reveals competitively sensitive details about our organization and could be used to undermine our competitive advantage or market position** . Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations. New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. For example, legislation known as the Tax Cuts and Jobs Act of 2017 (" TCJA "), the Coronavirus Aid, Relief, and Economic Security Act and the Inflation Reduction Act of 2022 enacted many significant changes to the U. S. tax laws. Further guidance from the Internal Revenue Service and other tax authorities with respect to such legislation may affect us, and certain aspects of such legislation could be repealed or modified in future legislation. In addition, it is uncertain if and to what extent various states will conform to federal tax laws. Future tax reform legislation could have a material impact on the value of our deferred tax assets and could increase our future U. S. tax expense. Effective January 1, 2022, the TCJA eliminated the option to deduct research and development expenses for tax purposes in the year incurred and requires taxpayers to capitalize and subsequently amortize such expenses over five years for research activities conducted in the United States and over 15 years for research activities conducted outside the United States. Unless the United States Department of the Treasury issues regulations that narrow the application of this provision to a smaller subset of our research and development expenses or the provision is deferred, modified, or repealed by Congress, it could harm our future operating results by effectively increasing our future tax obligations. The actual impact of this provision will depend on multiple factors, including the amount of research and development expenses we will incur, whether we achieve sufficient income to fully utilize such deductions and whether we conduct our research and development activities inside or outside the United States. We are subject to **stringent and** evolving U. S. and foreign laws, regulations ~~, standards, policies,~~ and **rules,** contractual obligations **, industry standards, policies and other obligations** related to data privacy and security **. Our** ~~, and our~~ actual or perceived failure to comply with such obligations could **lead to regulatory investigations or actions; litigation (including class claims) and mass arbitration demands; fines and penalties; disruptions of our business operations; reputational** harm **; loss of revenue** ~~our~~ - **or** ~~reputation~~ **profits; loss of customers or sales; and other adverse business consequences. In the ordinary course of business** , **we process personal data and other sensitive information and vehicle data. Our data processing activities** subject us to ~~significant fines~~ **numerous data privacy** and **security** ~~liability, regulatory investigations or actions, litigation~~ -- **obligations** ~~; disruptions of our business operations~~ , **such as various** ~~reputational harm, loss of revenue or profits, loss of customers or sales, or otherwise adversely affect our business. We are subject to a number of federal, state and local~~ laws ~~and~~ **,** regulations, **guidance,** ~~as well as contractual obligations and~~ industry standards, ~~regarding~~ **external and internal privacy and security policies, contractual requirements, and** ~~the~~ **other** ~~confidentiality, protection and appropriate use of personal information and sensitive information. Such~~ obligations **relating to** ~~may govern our processing of such information, including that of our employees, customers and others. The global~~ data **privacy** ~~protection landscape is rapidly evolving,~~ and **security** ~~implementation standards and enforcement practices may remain uncertain for the foreseeable future. We may not be able to monitor and react to all developments in a timely manner. Such developments could impose additional notification requirements, restrict our use of governed information and hinder our ability to acquire new customers or market to existing customers~~ . In the United States, ~~these frameworks~~ **federal, state, and local governments have enacted numerous data privacy and security laws,** ~~include~~ **including data breach notification laws, personal data privacy laws, consumer protection laws (e. g., Section 5 of** the Federal Trade Commission Act **)** , **and** ~~the~~ **other** ~~Electronic~~ **similar laws (e. g., wiretapping laws). For example, the Controlling the Assault of Non- Solicited Pornography and Marketing Act of 2003 (" CAN- SPAM ") and the Telephone Consumer Protection Act of 1991 (" TCPA ") impose specific requirements on communications with customers. For example, the TCPA imposes various consumer consent requirements and other restrictions on certain telemarketing activity and other communications with consumers by phone, fax or text message. TCPA violations can result in significant financial penalties, including penalties or criminal fines imposed by the Federal** Communications **Commission or fines of up to $ 1, 500 per violation imposed through private litigation or by state authorities. In the past few years, numerous U. S. states — including California, Virginia, Colorado, Connecticut, and Utah — have enacted comprehensive** ~~Privacy~~ **privacy** ~~Act~~ **laws that impose certain obligations on covered businesses** , **including providing specific disclosures in privacy notices and affording residents with certain rights concerning** ~~the~~ **their** ~~Computer Fraud~~ **personal data. As applicable, such rights may include the right to access, correct, or delete certain personal data,** and ~~Abuse Act~~ **to opt- out of certain data processing activities, such as targeted advertising, profiling, and automated decision- making. The exercise of these rights may impact our business and ability to provide our products and services.**

Certain states also impose stricter requirements for processing certain personal data, including sensitive information, such as conducting data privacy impact assessments. These state laws allow for statutory fines for noncompliance. For example , the California Consumer Privacy Act **of 2018, as amended by the California Privacy Rights Act of 2020** (**the " CPRA "), (collectively,** the " CCPA "), **applies** ~~California' s Security of Connected Devices Law, and other state and federal laws relating~~ to **personal** ~~privacy and~~ data ~~security. For example, we are subject to the CCPA which applies to personal information~~ of consumers, business representatives, and employees **who are California residents** , and requires businesses to provide specific disclosures in privacy notices and honor requests of ~~California residents~~ **such individuals** to exercise certain privacy rights. The CCPA provides for **fines** ~~civil penalties~~ of up to $ 7, 500 per **intentional** violation and allows private litigants affected by certain data breaches to recover significant statutory damages. ~~As we expand our operations, the CCPA may increase our compliance costs and potential liability. Moreover the California Privacy Rights Act of 2020, or (" the CPRA ") gives California residents the ability to limit the use of their sensitive information, provide for penalties for CPRA violations concerning California residents under the age of 16, and establishes a new California Privacy Protection Agency to implement and enforce the law. These laws exemplify our vulnerability to the evolving regulatory environment related to personal information. Other states, such as Virginia and Colorado, have also passed comprehensive privacy laws, and similar~~ **Similar** laws are being considered in several other states, as well as at the federal and local levels **, and we expect more states to pass similar** ~~. Compliance with these or any other applicable privacy or data security~~ laws ~~and regulations is a rigorous and time-intensive process, and we may be required to put~~ in ~~place additional mechanisms to comply with such laws~~ **the future. These developments further complicate compliance efforts,** and ~~regulations~~ **increase legal risk and compliance costs for us, the third parties upon whom we rely, and our customers** . Outside the United States, an increasing number of laws, regulations, and industry standards ~~may~~ govern data privacy and security. **For example** ~~In Canada, the Personal Information Protection and Electronic Documents Act (" PIPEDA ") and various related provincial laws, as well as Canada' s Anti- Spam Legislation (" CASL "), may apply to our operations. Additionally~~ , the European Union' s General Data Protection Regulation (" EU GDPR "), the United Kingdom' s GDPR (" UK GDPR "), Brazil' s General Data Protection Law (Lei Geral de Proteção de Dados Pessoais, or " LGPD ") (Law No. 13, 709 / 2018), and China' s Personal Information Protection Law (" PIPL ") impose strict requirements for processing personal information. For example, under the EU GDPR, companies may face temporary or definitive bans on data processing and other corrective actions; fines of up to 20 million Euros **under the EU GDPR, 17. 5 million pounds sterling under the UK GDPR** or **, in each case,** 4 % of annual global revenue, whichever is greater; or private litigation related to processing of personal ~~information~~ **data** brought by classes of data subjects or consumer protection organizations authorized at law to represent their interests. ~~Additionally~~ **In Canada** , ~~several states and localities have enacted measures related to the use of artificial intelligence and machine learning in products and services. For example, in Europe, there~~ -- **the Personal Information Protection and Electronic Documents Act** ~~is a proposed regulation related to artificial intelligence~~ (" ~~AI~~ **PIPEDA** ") **and various** ~~that, if adopted, could impose onerous obligations~~ related ~~to the use of AI~~ **provincial laws, as well as Canada' s Anti** - ~~related systems. We~~ **Spam Legislation (" CASL "),** may ~~have~~ **apply** to ~~change~~ our **operations** ~~business practices to comply with such obligations~~ . In the ordinary course of business, we may transfer personal information from Europe and other jurisdictions to the United States or other countries. Europe and other jurisdictions have enacted laws requiring data to be localized or limiting the transfer of personal information to other countries. In particular, the European Economic Area (**"** EEA **"**) and the United Kingdom (**"** UK **"**) have significantly restricted the transfer of personal information to the United States and other countries whose privacy laws it **generally** believes are inadequate. Other jurisdictions may adopt similarly stringent interpretations of their data localization and cross- border data transfer laws. Although there are currently various mechanisms that may be used to transfer personal information from the EEA and UK to the United States in compliance with law, such as the EEA ~~and UK~~ ' s standard contractual clauses **, the UK' s International Data Transfer Agreement / Addendum, and the EU- U. S. Data Privacy Framework and the UK extension thereto (which allows for transfers to relevant U. S.- based organizations who self- certify compliance and participate in the Framework)** , these mechanisms are subject to legal challenges, and there is no assurance that we can satisfy or rely on these measures to lawfully transfer personal information to the United States. If there is no lawful manner for us to transfer personal information from the EEA, the UK or other jurisdictions to the United States, or if the requirements for a legally- compliant transfer are too onerous, we could face significant adverse consequences, including the interruption or degradation of our operations, the need to relocate part of or all of our business or data processing activities to other jurisdictions **(such as Europe)** at significant expense, increased exposure to regulatory actions, substantial fines and penalties, the inability to transfer data and work with partners, vendors and other third parties, and injunctions against our processing or transferring of personal information necessary to operate our business. Additionally, companies that transfer personal information out of the EEA and UK to other jurisdictions, particularly to the United States, are subject to increased scrutiny from regulators, individual litigants, and activist groups. Some European regulators have ordered certain companies to suspend or permanently cease certain transfers out of Europe for allegedly violating the GDPR' s cross- border data transfer limitations. ~~In addition~~ **We are also bound by contractual obligations related** to data privacy and security ~~laws~~ , ~~we are subject to industry standards adopted by industry groups~~ and **our efforts** ~~may become subject~~ to **comply with** such obligations ~~in~~ **may not be successful. For example, certain privacy laws, such as the CCPA, require our customers to impose specific contractual restrictions on** ~~the~~ **their** ~~future~~ **service providers** . We **publish** ~~have established~~ privacy policies, marketing materials ~~,~~ and other ~~documentation~~ **statements** regarding **data privacy** ~~our collection, processing, use~~ and **security** ~~disclosure of personal information and / or other confidential information. Although we endeavor to comply with our established policies and other documentation, we may at times fail to do so or may be perceived to have failed to do so. Moreover, despite our efforts, we may not be successful in achieving compliance if our employees, contractors, service providers or vendors fail to comply with our established policies and documentation~~ . If these policies, materials or statements are found to be deficient, lacking in transparency, deceptive, unfair, or misrepresentative of our practices, we may be subject to investigation, enforcement actions by regulators or other adverse consequences. Obligations related to data privacy and security are quickly changing, becoming increasingly stringent, and creating ~~regulatory~~ uncertainty. Additionally, these obligations may be subject to differing applications and interpretations, which may be inconsistent or conflict among jurisdictions. Preparing for and complying with these obligations requires us to devote significant resources, which may necessitate changes to our services, information technologies, systems, and practices and to those of any third parties that process personal information on our behalf. We may at times fail (or be perceived to have failed) in our efforts to comply with our data privacy and security obligations. Moreover, despite our efforts, our personnel or third parties on whom we rely on may fail to comply with such obligations, which could negatively impact our business operations. If we or the third parties on which we rely fail, or are perceived to have failed, to address or comply with applicable data privacy and security obligations, we could face significant consequences, including but not limited to: government enforcement actions (e. g., investigations, fines, penalties, audits, inspections, and similar), litigation (including class- action claims), **mass arbitration demands,** additional reporting requirements and / or oversight, bans on processing personal information, and orders to destroy or not use personal information **. In particular, plaintiffs have become increasingly more active in bringing privacy- related claims against companies, including class claims and mass arbitration demands. Some of these claims allow for the recovery of statutory damages on a per violation basis, and, if viable, carry the potential for monumental statutory damages, depending on the volume of data and the number of violations** . Any of these events could have a material adverse effect on our reputation, business, or financial condition, including but not limited to: loss of customers, interruptions or stoppages in our business operations (including, interruptions or stoppages of data collection needed to train our algorithms, inability to process personal information or to operate in certain jurisdictions, limited ability to develop or commercialize our products, expenditure of time and resources to defend any claim or inquiry, adverse publicity, or substantial changes to our business model or operations **)** . We are subject to various environmental laws and regulations that could impose substantial costs. Our operations are and will be subject to foreign, federal, state and local environmental laws and regulations, including laws relating to the use, handling, storage and disposal of, and human exposure to, hazardous materials. Environmental and health and safety laws and regulations can be complex, and we have limited experience in compliance. Moreover, we expect that we will be affected by future amendments to such laws or other new environmental and health and safety laws and regulations which may require us to change our operations, potentially resulting in a material adverse effect on our business, prospects, financial condition and operating results. These laws can give rise to liability for administrative oversight costs, cleanup costs, property damage, bodily injury, fines and penalties. Capital and operating expenses needed to comply with environmental laws and regulations can be significant, and violations may result in substantial fines and penalties, third- party damages, suspension of production or a cessation of our operations. Contamination at properties we own or operate, will own or operate, we formerly owned or operated or to which hazardous substances were sent by us, may result in liability for us under environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, which can impose liability for the full amount of remediation- related costs without regard to fault, for the investigation and cleanup of contaminated soil and ground water, for building contamination and impacts to human health and for damages to natural resources. The costs of complying with environmental laws and regulations and any claims concerning noncompliance, or liability with respect to contamination in the future, could have a material adverse effect on our financial condition or operating results. We may in the future expand internationally and may face risks associated with our international operations, including unfavorable regulatory, political, tax and labor conditions, which could harm our business. If we expand our operations internationally, we may face risks associated with our future international operations, including possible unfavorable regulatory, political, tax and labor conditions, which could harm our business. We anticipate having international operations which would subject us to the legal, political, regulatory and social requirements and economic conditions in any future jurisdictions. However, we have limited experience to date selling and servicing our products internationally and such expansion would require us to make significant expenditures, including the hiring of local employees and establishing facilities, in advance of generating any revenue. We are subject to a number of risks associated with international business activities that may increase our costs, impact our ability to sell and lease our products and require significant management attention. These risks include (i) conforming our products to various international regulatory requirements where our products are sold; (ii) difficulties in obtaining or complying with various licenses, approvals, certifications and other authorizations necessary to manufacture, sell, lease or service our products in any of these jurisdictions; (iii) difficulty in staffing and managing foreign operations; and (iv) difficulties attracting customers in new jurisdictions. If we fail to successfully address these risks, our future business, prospects, financial condition and operating results could be materially and adversely affected. Changes in U. S. trade policy, including the imposition of tariffs and the resulting consequences, could adversely affect our business, prospects, financial condition and operating results. The U. S. government has previously imposed tariffs on certain foreign goods, including steel and certain vehicle parts, which have resulted in increased costs for goods imported into the United States. In response to these tariffs, a number of U. S. trading partners have imposed retaliatory tariffs on a wide range of U. S. products, which makes it more costly for us to export our products to those countries. Recent events, including new policy introductions following the 2020 U. S presidential election, may result in substantial regulatory uncertainty regarding international trade and trade policy. United States policies have called for substantial changes to trade agreements, have increased tariffs on certain goods imported into the U. S. and have raised the possibility of imposing significant additional tariff increases. If we are unable to pass price increases on to our customer base or otherwise mitigate the costs, or if demand for our exported products decreases due to the higher cost, our operating results could be materially and adversely affected. While we cannot predict the extent to which the United States or other countries will impose quotas, duties, tariffs, taxes or other similar restrictions upon the import or export of our products in the future, a " trade war " of this nature or other governmental action related to tariffs or international trade agreements could have an adverse impact on demand for our services, sales and clients and affect the economies of the United States and various countries, having an adverse effect on our business, financial condition and results of operations. We are subject to export and import controls and economic sanctions laws that could subject us to liability if we are not in compliance with such laws. Our products are subject to export control, import and economic sanctions laws and regulations, including the U. S. Export Administration Regulations, U. S. Customs regulations and various economic and trade sanctions regulations administered by the U. S. Treasury Department' s Office of Foreign Assets Control. Exports of our products must be made in compliance with these laws and regulations. In addition, these laws may restrict or prohibit altogether the sale or supply of certain of our products, services, and technologies to certain governments, persons, entities, countries, and territories, including those that are the target of comprehensive sanctions, unless there are license exceptions that apply or specific licenses are obtained. If we fail to comply with these laws and regulations, we and certain of our employees could be subject to substantial civil or criminal penalties, including the possible loss of export or import privileges; fines, which may be imposed on us and responsible employees or managers; and, in extreme cases, the incarceration of responsible employees or managers. In addition, changes to our products, or changes in applicable export control, import, or economic sanctions laws and regulations may create delays in the introduction and sale of our products and solutions or, in some cases, prevent the export or import of our products to certain countries, governments, or persons altogether. Any change in export, import, or economic sanctions laws and regulations, shift in the enforcement or scope of existing laws and regulations, or change in the countries, governments, persons, or technologies targeted by such laws and regulations could also result in decreased use of our products, as well as our decreased ability to export or market our products to potential customers. Any decreased use of our products or limitation on our ability to export or market our products would likely adversely affect our business, financial condition and results of operations **. We are subject to U. S. and foreign anti- corruption and anti- money laundering laws and regulations. We can face criminal liability and other serious consequences for violations, which can harm our business. We are subject to the U. S. Foreign Corrupt Practices Act of 1977, as amended, the U. S. domestic bribery statute contained in 18 U. S. C. § 201, the U. S. Travel Act, the USA PATRIOT Act and possibly other anti- bribery and anti- money laundering laws in countries in which we conduct activities. Anti- corruption laws are interpreted broadly and prohibit companies and their employees, agents, contractors and other collaborators from authorizing, promising, offering or providing, directly or indirectly, improper payments or anything else of value to recipients in the public or private sector. We can be held liable for the corrupt or other illegal activities of our employees, agents, contractors and other collaborators, even if we do not explicitly authorize or have actual knowledge of such activities. Any violations of the laws and regulations described above may result in substantial civil and criminal fines and penalties, imprisonment, the loss of export or import privileges, debarment, tax reassessments, breach of contract and fraud litigation, reputational harm and other consequences** . We may need to defend ourselves against intellectual property infringement claims or misappropriation claims, which may be time-consuming and expensive and, if adversely determined, could limit our ability to commercialize our products. Companies, organizations or individuals, including our competitors, may own or obtain patents, trademarks or other proprietary rights that could prevent or limit our ability to make, use, develop or deploy our products, which could make it more difficult for us to operate our business. We may receive inquiries from patent, copyright or trademark owners inquiring whether we infringe upon their proprietary rights. We may also be the subject of more formal allegations that we have misappropriated such parties' trade secrets or other proprietary rights. Companies owning patents or other intellectual property rights relating to battery packs, electric motors, fuel cells or electronic power management systems may allege infringement or misappropriation of such rights. In response to a determination that we have infringed upon or misappropriated a third party' s intellectual property rights, we may be required to do one or more of the following: • cease development, sales or use of our products that incorporate the asserted intellectual property; • pay substantial damages; • obtain a license from the owner of the asserted intellectual property right, which license may not be available on reasonable terms or available at all; or • re- design one or more aspects or systems of our products. A successful claim of infringement or misappropriation against us could materially and adversely affect our business, prospects, financial condition and operating results. Even if we are successful in defending against these claims, litigation could result in substantial costs and demand on management resources. Our business may be adversely affected if we fail to obtain, maintain, enforce and protect our intellectual property and are unable to prevent unauthorized use by third parties of our intellectual property and proprietary technology. Our ability to compete effectively is dependent in part upon our ability to obtain, maintain, enforce and protect our intellectual property rights. To accomplish this, we rely on a combination of patents, trade secrets (including know- how), employee and third- party nondisclosure agreements, copyrights, trademarks, intellectual property licenses and other contractual rights to establish and protect our rights in our technology. Failure to adequately obtain, maintain, enforce and protect our intellectual property could result in our competitors offering identical or similar products, potentially resulting in the loss of our competitive advantage and a decrease in our revenue which would adversely affect our business, prospects, financial condition and results of operations. The protection of our intellectual property rights will be important to our future business opportunities. However, the measures we take to obtain, maintain, protect and enforce our intellectual property, including preventing unauthorized use by third parties, may not be effective for various reasons, including the following: • as noted below, any patent applications we submit may not result in the issuance of patents; • the scope of our patents that may subsequently issue may not be broad enough to protect our proprietary rights; • our issued patents may be challenged or invalidated by third parties; • our employees or business partners may breach their confidentiality, non- disclosure and non- use obligations to us; • third parties may independently develop technologies that are the same or similar to ours; • the costs associated with enforcing patents, confidentiality and invention agreements or other intellectual property rights may make enforcement impracticable; and • current and future competitors may circumvent or otherwise design around our patents. Patent, trademark, copyright and trade secret laws vary throughout the world. Some foreign countries do not protect intellectual property rights to the same extent as do the laws of the United States. Further, policing the unauthorized use of our intellectual property rights in foreign jurisdictions may be difficult. Therefore, our intellectual property rights may not be as strong or as easily enforced outside of the U. S. Also, while we have registered and applied for trademarks in an effort to protect our investment in our brand and goodwill with customers, competitors may challenge the validity of those trademarks and other brand names in which we have invested. Defending such challenges can be expensive and may adversely affect our ability to maintain the goodwill gained in connection with a particular trademark. It is our policy to enter into confidentiality and invention assignment agreements with our employees and contractors that have developed material intellectual property for us, but these agreements may not be self- executing and may not otherwise adequately protect our intellectual property, particularly with respect to conflicts of ownership relating to work product generated by the employees and contractors. Furthermore, we cannot be certain that these agreements will not be breached and that third parties will not gain access to our trade secrets, know- how and other proprietary technology. Third parties may also independently develop the same or substantially similar proprietary technology. Monitoring unauthorized use of our intellectual property is difficult and costly, as are the steps we have taken or will take to prevent misappropriation. We may license patents and other intellectual property from third parties, including suppliers and service providers, and we may face claims that our use of this in- licensed technology infringes, misappropriates or otherwise violates the intellectual property rights of third parties. In such cases, we will seek indemnification from our licensors. However, our rights to indemnification may be unavailable or insufficient to cover our costs and losses. Furthermore, disputes may arise with our licensors regarding the intellectual property subject to, and any of our rights and obligations under, any license or other commercial agreement. To prevent unauthorized use of our intellectual property, it may be necessary to prosecute actions for infringement, misappropriation or other violation of our intellectual property against third parties. Any such action could result in significant costs and diversion of our resources and management' s attention, and there can be no assurance that we will be successful in any such action. Furthermore, many of our current and potential competitors have the ability to dedicate substantially greater resources to enforce their intellectual property rights than we do. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing, misappropriating or otherwise violating our intellectual property. Any of the foregoing could adversely affect our business, prospects, financial condition and results of operations. Our patent applications for our proprietary technology, including for the X- Platform ™ and X- Pack battery pack, may not issue, which may have a material adverse effect on our ability to prevent others from commercially exploiting products similar to ours. We cannot be certain that we are the first inventor of the subject matter disclosure or to file a patent application for our proprietary technology, including for the X- Platform ™ and X- Pack. If another party has filed a patent application to the same or similar subject matter as we have, we may not be entitled to the protection sought by the patent application. We also cannot be certain whether the claims included in a patent application will ultimately be allowed in the applicable issued patent. Further, the scope of protection of issued patent claims is often difficult to determine. As a result, we cannot be certain that the patent applications that we file will issue, or that our issued patents will afford protection against competitors with similar technology. In addition, our competitors may design around our issued patents, which may adversely affect our business, prospects, financial condition and operating results. Our business may be adversely affected by labor and union activities. Although none of our employees are currently represented by a labor union, it is common throughout the automobile industry generally for many employees at automobile companies to belong to a union, which can result in higher employee costs and increased risk of work stoppages. We may also directly and indirectly depend upon other companies with unionized work forces, such as our manufacturing partners, parts suppliers and trucking and freight companies, and work stoppages or strikes organized by such unions could have a material adverse impact on our business, financial condition or operating results. Risks Related to Operating as a Public Company and Ownership of Our Securities ~~The~~ **If we fail to establish and maintain proper and effective internal control over financial reporting, as a public company our ability to produce accurate and timely financial statements could be impaired, investors or analysts may lose confidence in our financial reporting, the trading** price of our Common Stock ~~currently does~~ **may decline and we could face regulatory investigations or actions. We are required to comply with Section 404 of the Sarbanes- Oxley Act, which will require management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of our internal control over financial reporting. When we lose our status as an " emerging growth company " and become an " accelerated filer " or a " large accelerated filer, " an attestation of the independent registered public accounting firm will also be required. The rules governing the standards that must be met for management to assess internal control over financial reporting are complex and require significant documentation, testing and possible remediation. To comply with the Sarbanes- Oxley Act, the requirements of being a reporting company under the Exchange Act and any complex accounting rules in the future, we may need to, among other things, upgrade our information technology systems; implement additional financial and management controls, reporting systems and procedures; and hire additional accounting and finance staff. If we are unable to hire the additional accounting and finance staff necessary to comply with these requirements, we may need to retain additional outside consultants, which may result in significant additional expenses. Our management is responsible for establishing and maintaining adequate internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Our management is likewise required, on a quarterly basis, to evaluate the effectiveness of our internal controls and to disclose any changes and material weaknesses identified through such evaluation of those internal controls. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will** not **be prevented** ~~meet the requirements for~~ - **or detected** ~~continued listing~~ on **a timely basis. We have identified material weaknesses in the past and present, and cannot assure you that** ~~the~~ **there** ~~Nasdaq Global Market~~ **will not be additional material weaknesses in our internal control over financial reporting in the future. Any failure to maintain internal control over financial reporting could severely inhibit our ability to accurately report our financial condition, results of operations or cash flows** . If we ~~fail~~ **are unable** to ~~maintain~~ **conclude that** ~~or~~ **our** ~~regain~~

~~compliance with the minimum listing requirements~~ **internal control over financial reporting is effective** , ~~our~~ - **or if our independent registered** ~~Common Stock will be subject to delisting. Our ability to publicly~~ -- **public accounting firm determines that we have a material weakness in** ~~or~~ **our** ~~privately sell equity securities and~~ **internal control over financial reporting, investors may lose confidence in** the ~~liquidity~~ **accuracy and completeness of our financial reports, the market price** of our Common Stock could **significantly decline** ~~be adversely affected if our Common Stock is delisted. Our Common Stock is currently listed on the Nasdaq Global Market. In order to maintain that listing~~ , ~~we must satisfy minimum financial~~ and ~~other continued listing requirements and standards, including those regarding director independence and independent committee requirements, minimum stockholders' equity, minimum bid price, and certain corporate governance requirements. On December 28, 2022,~~ we ~~received a notice from Nasdaq that we were not in compliance with Nasdaq' s Listing Rule 5450 (a) (1), because the closing bid price of our Common Stock had been below $ 1. 00 per share for 30 consecutive business days, which is the minimum closing bid price required for continued listing on the Nasdaq Global Market pursuant to Nasdaq Listing Rule 5450 (a) (1). We have a grace period of 180 days, or until June 26, 2023, to meet the minimum bid price requirement to regain compliance. To regain compliance, the closing bid price of our Common Stock must be at least $ 1. 00 per share for a minimum of ten consecutive business days (unless the Nasdaq staff exercises its discretion to extend this ten business day period). While we may be able to qualify for additional time to attempt to regain compliance, there can be no assurance that we will qualify for additional time to regain compliance, or that we will regain compliance with or without such additional time. We intend to monitor the closing bid price of our Common Stock and may, if appropriate, consider available options to regain compliance, which~~ could ~~include seeking to effect a reverse stock split. If we do not regain compliance within the allotted compliance period (s), including any extensions that may~~ be ~~granted~~ **subject to sanctions or investigations** by Nasdaq, **the SEC** ~~Nasdaq will provide notice that our~~ - **or** ~~shares of Common Stock will be subject to delisting. In the event that our Common Stock is delisted from Nasdaq and is not eligible for quotation or listing on another~~ -- **other** ~~market~~ **authorities. Failure to remedy any material weakness in** ~~or~~ **our** ~~exchange~~ **internal control over financial reporting** , ~~trading of our~~ - **or** ~~Common Stock~~ **to implement or maintain other effective control systems required of public companies,** 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 **restrict** ~~be a reduction in~~ our **future access** ~~coverage by securities analysts and the news media, which could cause the price of our Common Stock~~ to **the** ~~decline further. Also, it may be difficult for us to raise additional~~ capital **markets** ~~if we are not listed on a major exchange~~ . The price of our Common Stock and Warrants may be volatile. Historically, the price of our Common Stock and Warrants has been volatile. During the year ended December 31, ~~2022~~ **2023** , our stock traded as high as $ ~~3~~ **35** . ~~545~~ **70** per share and as low as $ ~~0~~ **5** . ~~430~~ **50** per share, and the price of our Warrants has ranged from $ 0. ~~480~~ **1321** to $ 0. ~~032~~ **015, with such prices adjusted for our 1- for- 30 reverse stock split that occurred on December 6, 2023** . The price of our Common Stock, as well as the Warrants, may fluctuate due to a variety of factors, including: • changes in the industries in which we and our customers operate; • developments involving our competitors; • changes in laws and regulations affecting our business; • variations in our operating performance and the performance of our competitors in general; • actual or anticipated fluctuations in our quarterly or annual operating results; • publication of research reports by securities analysts about us or our competitors or our industry **;** • the public' s reaction to our press releases, our other public announcements and our filings with the SEC, particularly with respect to fluctuations in our growth expectations and outlook ~~; • actions by stockholders, including the sale by the PIPE Investors of any of their shares of our Common Stock~~ ; • additions and departures of key personnel; • commencement of, or involvement in, litigation involving us; • changes in our capital structure, such as future issuances of securities or the incurrence of additional debt; • the volume of shares of our Common Stock available for public sale; and • general economic and political conditions, such as the effects of **health crises** ~~the COVID- 19 pandemic~~ , recessions, interest rates, local and national elections, fuel prices, international currency fluctuations, corruption, political instability and acts of war or military conflict, including repercussions of the ~~recent~~ military conflict between Russia and Ukraine **and in Israel** , or terrorism. These market and industry factors may materially reduce the market price of our Common Stock and the Warrants regardless of our operating performance. We do not expect to declare any dividends in the foreseeable future. We intend to retain future earnings, if any, to finance the further development and expansion of our business and do not intend to pay cash dividends in the foreseeable future. Any future determination to pay dividends will be at the discretion of our Board of Directors (our " Board ") and will depend on our financial condition, results of operations, capital requirements, restrictions contained in future agreements and financing instruments, business prospects and such other factors as our Board deems relevant ~~. Future resales of our Common Stock may cause the market price of our securities to drop significantly, even if our business is doing well. In connection with the Business Combination, Dakota Semler and Giordano Sordoni, our co-founders, entered into lock- up agreements pursuant to which they will be contractually restricted from selling or transferring any of (i) their shares of our Common Stock held immediately following the Closing and (ii) any of their shares of our Common Stock that result from converting securities held immediately following the Closing (the " Lock- up Shares "). Such restrictions began at Closing and will end on August 19, 2023. Additionally, they are only permitted to sell their Lock- Up Shares via written trading plans in compliance with Rule 10b5- 1 under the Exchange Act. As of March 28, 2023, approximately 48 % of the outstanding shares of our Common Stock were subject to lock- up agreements. However, following the expiration of such lock- ups, the holders subject to lock- up agreements will not be restricted from selling shares of our Common Stock held by them, other than by applicable securities laws. As such, sales of a substantial number of shares of our Common Stock in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our Common Stock. The shares held by the holders subject to lock- up agreements may be sold after the expiration of their applicable lock- up periods. As restrictions on resale end and registration statements are available for use, the sale or possibility of sale of these shares could increase the volatility in our share price and~~

~~the market price of our Common Stock could decline~~ . There is no guarantee that the Warrants will be in the money at the time they become exercisable, and they may expire worthless. The exercise price for our Warrants is $ ~~11~~ **345** . ~~50~~ **00** per share of **our** Common Stock. There is no guarantee that the Warrants will be in the money following the time they become exercisable and prior to their expiration, and as such, the Warrants may expire worthless. The terms of the Warrants may be amended in a manner adverse to a holder if holders of at least 65 % of the then outstanding Public Warrants approve of such amendment. The Warrants were issued in registered form under a Warrant Agreement between the warrant agent and NextGen. The Warrant Agreement provides that (a) the terms of the Warrants may be amended without the consent of any holder for the purpose of (i) curing any ambiguity or correct any mistake, including to conform the provisions of the Warrant Agreement to the description of the terms of the Warrants and the Warrant Agreement set forth in the related prospectus, or defective provision or (ii) adding or changing any provisions with respect to matters or questions arising under the Warrant Agreement as the parties to the Warrant Agreement may deem necessary or desirable and that the parties deem to not adversely affect the rights of the registered holders of the Warrants under the Warrant Agreement and (b) all other modifications or amendments require the vote or written consent of at least 65 % of the then outstanding Public Warrants; provided that any amendment that solely affects the terms of the Private Placement Warrants or any provision of the Warrant Agreement solely with respect to the Private Placement Warrants will also require at least 65 % of the then outstanding Private Placement Warrants. Accordingly, we may amend the terms of the Public Warrants in a manner adverse to a holder if holders of at least 65 % of the then outstanding Public Warrants approve of such amendment. Although our ability to amend the terms of the Public Warrants with the consent of at least 65 % of the then outstanding Public Warrants is unlimited, examples of such amendments could be amendments to, among other things, increase the exercise price of the Warrants, shorten the exercise period or decrease the number of shares of our Common Stock purchasable upon exercise of a Warrant. We may redeem unexpired Warrants prior to their exercise at a time that is disadvantageous to warrant holders, thereby making such Warrants worthless. We have the ability to redeem the outstanding Warrants at any time after they become exercisable and prior to their expiration, at a price of $ 0. ~~01~~ **30** per warrant if, among other things, the last reported sale price of our Common Stock for any 20 trading days within a 30- trading day period ending on the third trading day prior to the date on which we send the notice of redemption to the warrant holders equals or exceeds $ ~~18~~ **540** . 00 per share (as adjusted for share splits, share dividends, rights issuances, subdivisions, reorganizations, recapitalizations and the like). Redemption of the outstanding Warrants as described above could force warrant holders to: (i) exercise their Warrants and pay the exercise price therefor at a time when it may be disadvantageous for them to do so; (ii) sell their Warrants at the then- current market price when they might otherwise wish to hold their Warrants; or (iii) accept the nominal redemption price which, at the time the outstanding Warrants are called for redemption, we expect would be substantially less than the market value of the Warrants. None of the Private Placement Warrants will be redeemable by us (subject to limited exceptions) so long as they are held by NextGen Sponsor or its permitted transferees. In addition, we have the ability to redeem the outstanding Warrants at any time after they become exercisable and prior to their expiration, at a price of $ ~~0~~ **3** . ~~10~~ **00** per warrant if, among other things, the last reported sale price of our Common Stock for any 20 trading days within a 30- trading day period ending on the third trading day prior to the date on which we send the notice of redemption to the warrant holders equals or exceeds $ ~~10~~ **300** . 00 per share (as adjusted for share splits, share dividends, rights issuances, subdivisions, reorganizations, recapitalizations and the like). In such a case, the holders will be able to exercise their Warrants prior to redemption for a number of shares of our Common Stock determined based on the redemption date and the fair market value of our Common Stock. The value received upon exercise of the Warrants (i) may be less than the value the warrant holders would have received if they had exercised their Warrants at a later time where the underlying share price is higher and (ii) may not compensate the holders for the value of the Warrants, including because the number of shares received of our Common Stock is capped at 0. ~~361~~ **012** shares per Warrant (subject to adjustment) irrespective of the remaining life of the ~~warrants~~ **Warrants** . The Warrants are accounted for as derivative liabilities with changes in fair value each period included in earnings, which may have an adverse effect on the market price of our securities. We account for the Warrants as derivative warrant liabilities. At each reporting period, (1) the accounting treatment of the Warrants will be re- evaluated for proper accounting treatment as a liability or equity, and (2) the fair value of the liability of the Public Warrants and Private Placement Warrants will be remeasured and the change in the fair value of the liability will be recorded as other ~~income (~~ expense ~~)~~ **, net** in our ~~income~~ statement **of operations and comprehensive loss** . The impact of changes in fair value on earnings may have an adverse effect on the market price of our securities. We may issue a substantial number of additional shares of **our** Common Stock or Preferred Stock, including under our equity incentive plan. Any such issuances would dilute the interest of our stockholders and likely present other risks. **On March 26, 2024, we completed the previously announced business combination involving ElectraMeccanica. Subject to the terms and conditions set forth in the Arrangement Agreement and the Plan of Arrangement, on March 26, 2024, each ElectraMeccanica Share outstanding immediately prior to the effective time of the Arrangement was converted automatically into the right to receive 0. 0143739 of a share of Common Stock, for total consideration of 1, 766, 388 shares of Common Stock.** We may issue a substantial number of additional shares of **our** Common Stock or Preferred Stock, including under our equity incentive plan. Any such issuances of additional shares of **our** Common Stock or Preferred Stock: • may significantly dilute the equity interests of our investors; • may subordinate the rights of holders of **our** Common Stock if Preferred Stock is issued with rights senior to those afforded our Common Stock; • could cause a change in control if a substantial number of shares of our Common Stock are issued, which may affect, among other things, our ability to use our net operating loss carry forwards, if any, and could result in the resignation or removal of our present officers and directors; and • may adversely affect prevailing market prices for our Common Stock and / or Warrants. Concentration of ownership among our existing executive officers and directors and their respective affiliates may prevent other investors from influencing significant corporate decisions. As of March ~~28~~ **26** , ~~2023~~ **2024** , our executive officers and directors and their respective affiliates as a group beneficially owned approximately ~~52~~ **38** % of the outstanding Common Stock. As a result, these stockholders are able to exercise a significant level of control over all matters requiring stockholder approval, including the election of directors, amendment of our Certificate of Incorporation and approval of significant corporate transactions. This control could have the effect of delaying or preventing a change of control of us or changes in management and will make the approval of certain transactions difficult or impossible without the support of these stockholders. Investments in us may be subject to U. S. foreign investment regulations which may impose conditions or limitations on certain investors (including, but not limited to, limits on purchasing our Common Stock, limits on information sharing with such investors, requiring a voting trust, governance modifications, forced divestiture, or other measures). Certain investments that involve the acquisition of, or investment in, a U. S. business by a non- U. S. investor may be subject to review and approval by the Committee on Foreign Investment in the United States (" CFIUS "). Whether CFIUS has jurisdiction to review an acquisition or investment transaction depends on ~~-~~ **,** among other factors ~~-~~ **,** the nature and structure of the transaction, including the level of beneficial ownership interest and the nature of any information or governance rights involved. For example, investments that result in " control " of a U. S. business by a foreign person always are subject to CFIUS jurisdiction. Significant CFIUS reform legislation, which was fully implemented through regulations that became effective on February 13, 2020, among other things expanded the scope of CFIUS' s jurisdiction to investments that do not result in control of a U. S. business by a foreign person but afford certain foreign investors certain information or governance rights in a U. S. business that has a nexus to " critical technologies, " " critical infrastructure " and / or " sensitive personal data. " Moreover, other countries continue to strengthen their own foreign direct investment (" FDI ") regimes, and investments and transactions outside of the U. S. may be subject to review by non- U. S. FDI regulators if such investments are perceived to implicate national security policy priorities. Any review and approval of an investment or transaction by CFIUS or another FDI regulator may have outsized impacts on transaction certainty, timing, feasibility, and cost, among other things. CFIUS and other FDI regulatory policies and practices are rapidly evolving, and in the event that CFIUS or another FDI regulator reviews one or more proposed or existing investment by investors, there can be no assurances that such investors will be able to maintain, or proceed with, such investments on terms acceptable to such investors. CFIUS or another FDI regulator may seek to impose limitations or restrictions on, or prohibit, investments by such investors (including, but not limited to, limits on purchasing our Common Stock, limits on information sharing with such investors, requiring a voting trust, governance modifications, or forced divestiture, among other things). General Risk Factors We have been, and may in the future be, adversely affected by health **crises,** epidemics and pandemics ~~,~~ ~~including the ongoing global COVID- 19 pandemic~~ , the duration and economic, governmental and social impact of which is difficult to predict, which may significantly harm our business, prospects, financial condition and operating results. We face various risks related to public health issues, including epidemics, pandemics and other outbreaks, such as the recent pandemic of respiratory illness caused by a novel coronavirus known as COVID- 19. The **potential** impact of ~~COVID- 19~~ **public health crises** , including changes in consumer and business behavior, pandemic fears, market downturns and restrictions on business and individual activities, has caused and may ~~continue to~~ **in the future** cause volatility in the global economy. **Public health crises have** ~~The spread of COVID- 19 has~~ also created **, and may in the future create,** a disruption in the manufacturing, delivery and overall supply chain of vehicle manufacturers and suppliers. The ~~spread~~ **ultimate impact** of ~~COVID- 19~~ **a public health crisis on our business, operations or the global economy** has **a whole** ~~caused us and many~~ - **may** ~~of our contractors and service providers to modify our business practices, and we and our contractors and service providers may be required to take further actions as may be required by government authorities or that it determines are in the best interests of our employees, customers, suppliers, vendors and business partners. There is no certainty that such actions will be sufficient to mitigate the risks posed by the virus or otherwise be satisfactory to government authorities. If significant portions of our workforce or contractors and service providers are unable to work effectively, including due to illness, quarantines, social distancing, government actions or other restrictions in connection with the COVID- 19 pandemic, our operations will be impacted. The extent to which the COVID- 19 pandemic impacts our business, prospects and results of operations will~~ depend on **factors that** ~~future developments, which~~ are highly uncertain and ~~cannot be~~ **that are difficult to** ~~predicted~~ -- **predict** , including, but not limited to, the duration and spread of the ~~pandemic~~ **health crisis** , its severity, the actions to contain the ~~virus~~ **crisis** or treat its impact and how quickly and to what extent normal economic and operating activities can resume ~~. The COVID- 19 pandemic could limit the ability of our customers, suppliers, vendors and business partners to perform, including third- party suppliers' ability to provide components and materials used in our products. We may also experience an increase in the cost of raw materials used in our manufacture of our products. Even after the COVID- 19 pandemic has subsided, we may continue to experience an adverse impact on our business as a result of COVID- 19' s global economic impact, including any recession that has occurred or may occur in the future. Specifically, difficult macroeconomic conditions, such as decreases in spending by businesses as a result of the COVID- 19 pandemic, could have a material adverse effect on the demand for electric vehicles. Under difficult economic conditions, potential customers may seek to reduce spending by foregoing electric vehicles for other options and cancel agreements for our products. Decreased demand for electric vehicles, particularly in the United States, could negatively affect our business. There are no comparable recent events which may provide guidance, and, as a result, the ultimate impact of the COVID- 19 pandemic or a similar health epidemic is highly uncertain and subject to change. We do not yet know the full extent of COVID- 19' s impact on our business, operations, or the global economy as a whole~~ . However, the effects could have a material impact on our results of operations ~~, and we will continue to monitor the situation closely~~ . Catastrophic events may disrupt our business. Labor discord or disruption, geopolitical events, social unrest, war, military conflict, including repercussions of the ~~recent~~ military conflict between Russia and Ukraine **and in Israel** , terrorism, political instability, acts of public violence, boycotts, hostilities and social unrest and other health pandemics ~~, such as COVID- 19,~~ that lead to avoidance of public places or cause people to stay at home could harm our business. Additionally, natural disasters or other catastrophic events may cause damage or disruption to our operations, international commerce, and the global economy, and thus could harm our business. In ~~particular, the COVID- 19 pandemic, including the reactions of governments, markets, and the general~~

~~public, has resulted and may further result in a number of adverse consequences for our business, operations, and results of operations, many of which are beyond our control. In~~ the event of a major earthquake, hurricane or catastrophic event such as fire, power loss, telecommunications failure, cyber- attack, war or terrorist attack, we may be unable to continue our operations and may endure system interruptions, reputational harm, breaches of data security, and loss of critical data, all of which would harm our business, results of operations, and financial condition. In addition, the insurance we maintain would likely not be adequate to cover our losses resulting from disasters or other business interruptions. We have been and may continue to be impacted by macroeconomic conditions, rising inflation rates, uncertain credit and global financial market, including ~~the recent and~~ potential bank failures, supply chain disruption and geopolitical events, such as the ~~war~~ **wars** between Russia and Ukraine **and in Israel** . In recent years, the United States and other significant markets have experienced cyclical downturns and worldwide economic conditions remain uncertain. Economic uncertainty and associated macroeconomic conditions, including high volatility and uncertainty in the capital markets including as a result of inflation and interest rate spikes and ~~recent and~~ potential future disruptions in access to bank deposits or lending commitments due to bank failures, supply chain disruption and geopolitical events, such as the war between Russia and Ukraine **and in Israel** , make it difficult for our customers and us to accurately forecast and plan future business activities, and could cause our customers to slow spending on our products and services ~~like Fleet- as- a- Service, Xos Energy Services ™, and Xosphere ™~~ . Furthermore, during uncertain economic times our customers may face issues gaining timely access to sufficient funding, which could result in an impairment of their ability to make timely payments to us. If that were to occur, we may be required to increase our allowance for doubtful accounts and our results could be negatively impacted. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption. In addition, there is a risk that our current or future suppliers, service providers, manufacturers or other partners may not survive such difficult economic times, which would directly affect our ability to attain our operating goals on schedule and on budget. A significant downturn in economic activity, or general spending on transit or commercial vehicle electrification technologies, may cause our current or potential customers to react by reducing their capital and operating expenditures in general or by specifically reducing their spending on electric commercial vehicles and related technologies. In addition, our customers may delay or cancel projects to upgrade or replace existing vehicles in their fleets, or other projects to electrify commercial vehicle fleets, with our products or seek to lower their costs by renegotiating contracts. Moreover, competitors may respond to challenging market conditions by lowering prices and attempting to lure away our customers. Given the global nature of our supply chain and customer base, global political, economic, and other conditions, including geopolitical risks such as the current ~~conflict~~ **conflicts** between Russia and Ukraine **and in Israel** and related sanctions, may adversely affect our business and results of operations in ways we cannot foresee at the outset or at this point. War and economic dislocations may spur recessions, economic downturns, slowing economic growth and social and political instability; commodity shortages, supply chain risks and price increases; instability in U. S. and global capital and credit markets which could impact us, our suppliers and customers; and currency exchange rate fluctuations among other impacts that adversely affect our business or results of operations. We cannot predict the timing, strength, or duration of any economic slowdown or any subsequent recovery generally, or in any industry. If the conditions in the general economy and the markets in which we operate worsen from present levels, our business, financial condition, and operating results could be adversely affected. Our Certificate of Incorporation designates specific courts as the exclusive forum for certain stockholder litigation matters, which could limit the ability of our stockholders to obtain a favorable forum for disputes with us or our directors, officers or employees. Our Certificate of Incorporation requires, to the fullest extent permitted by law, that derivative actions brought in our name, actions against current or former directors, officers or other employees for breach of fiduciary duty, other similar actions, any other action as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware and any action or proceeding concerning the validity of our Certificate of Incorporation or our Bylaws may be brought only in the Court of Chancery in the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction thereof, any state court located in the State of Delaware or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the District of Delaware), unless we consent in writing to the selection of an alternative forum. This provision would not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. Our Certificate of Incorporation also provides that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. This provision may limit our stockholder' s ability to bring a claim in a judicial forum that it finds favorable for disputes with us and our directors, officers or other employees and may have the effect of discouraging lawsuits against our directors, officers and other employees. Furthermore, our stockholders may be subject to increased costs to bring these claims, and the exclusive forum provision could have the effect of discouraging claims or limiting investors' ability to bring claims in a judicial forum that they find favorable. In addition, the enforceability of similar exclusive forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with one or more actions or proceedings described above, a court could rule that this provision in our Certificate of Incorporation is inapplicable or unenforceable. In March 2020, the Delaware Supreme Court issued a decision in Salzburg et al. v. Sciabacucchi, which found that an exclusive forum provision providing for claims under the Securities Act to be brought in federal court is facially valid under Delaware law. We intend to enforce this provision, but we do not know whether courts in other jurisdictions will agree with this decision or enforce it. If a court were to find the exclusive forum provision contained in our Certificate of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, prospects, financial condition and operating results. Anti- takeover provisions in our charter documents and under Delaware law could make an acquisition of our company more difficult, limit attempts by our stockholders to replace or remove our current management and limit the market price of our Common Stock. Provisions in our amended and restated certificate of incorporation and amended and restated bylaws may have the effect of preventing a change of control or changes in our management. Our amended and restated certificate of incorporation and amended and restated bylaws include provisions that: • authorize our board of directors to issue, without further action by the stockholders, shares of undesignated preferred stock with terms, rights, and preferences determined by our board of directors; • require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent; • specify that special meetings of our stockholders can be called only by our board of directors, the chairperson of our board of directors, or our chief executive officer; • establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors; • establish that our board of directors is divided into three classes, with each class serving three- year staggered terms; • prohibit cumulative voting in the election of directors; • provide that our directors may be removed for cause only upon the vote of the holders of at least a majority of the voting power of the then- outstanding shares of capital stock; • provide that vacancies on our board of directors may be filled only by the affirmative vote of a majority of directors then in office, even though less than a quorum; and • require the approval of our board of directors or the holders of at least 66 2 / 3 % of the voting power of all of the then- outstanding shares of capital stock to amend our bylaws and certain provisions of our certificate of incorporation. These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally, subject to certain exceptions, prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any " interested " stockholder for a period of three years following the date on which the stockholder became an " interested " stockholder. Any of the foregoing provisions could limit the price that investors might be willing to pay in the future for shares of **our** Common Stock, and they could deter potential acquirers of our company, thereby reducing the likelihood that holders of **our** Common Stock would receive a premium for their shares of **our** Common Stock in an acquisition.