

REFINITIV

DELTA REPORT

10-K

AAON - AAON, INC.

10-K - DECEMBER 31, 2023 COMPARED TO 10-K - DECEMBER 31, 2022

The following comparison report has been automatically generated

TOTAL DELTAS 1569

■ CHANGES	223
■ DELETIONS	599
■ ADDITIONS	747

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended **December 31, 2022** December 31, 2023
or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: 0-18953

AAON, INC.

(Exact name of registrant as specified in its charter)

Nevada 87-0448736

(State or other jurisdiction
of incorporation or organization) (IRS Employer
Identification No.)

2425 South Yukon Ave., Tulsa, Oklahoma 74107
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (918) 583-2266

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	AAON	NASDAQ

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.

Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934).

Large accelerated filer	<input checked="" type="checkbox"/> Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> Smaller reporting company	<input type="checkbox"/>
	Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Act.)

Yes No

The aggregate market value of the common equity held by non-affiliates computed by reference to the closing price of registrant's common stock on the last business day of registrant's most recently completed second quarter **June 30, 2022** **June 30, 2023** was **\$2,388.5 million** **\$4,193.6 million** based upon the closing price reported for such date on the Nasdaq Global Select Market.

As of **February 22, 2023** **February 23, 2024**, registrant had outstanding a total of **53,481,412** **81,581,679** shares of its \$.004 par value Common Stock.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of registrant's definitive Proxy Statement to be filed in connection with the **2023** **2024** Annual Meeting of Stockholders to be held **May 16, 2023** **May 21, 2024**, incorporated herein by reference in Part III of this Annual Report on Form 10-K to the extent stated herein.

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Forward-Looking Statements

This Annual Report on Form 10-K (or statements otherwise made by the Company or on the Company's behalf from time to time in other reports, filings with the Securities and Exchange Commission ("SEC"), news releases, conferences, website postings, presentations or otherwise) includes "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Any statements contained herein that are not historical facts are forward-looking statements and involve risks and uncertainties. For all of these forward-looking statements, we claim the protection of the safe harbor for forward-looking statements contained in the U.S. Private Securities Litigation Reform Act of 1995. Words such as "expects", "anticipates", "intends", "plans", "believes", "seeks", "estimates", "confident", "outlook", "project", "should", "will", and variations of such words and other words of similar meaning or similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions, which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in such forward-looking statements. Important factors that could cause results to differ materially from those in the forward-looking statements include, among others:

- market conditions and customer demand for our products;
- the timing and extent of changes in raw material and component prices;
- naturally-occurring events, pandemics, and other disasters causing disruption to our manufacturing operations, product deliveries and production capacity;
- the impact caused by inflationary cost pressures, national or global health issues, such as the coronavirus pandemic ("COVID-19"), any variants or similar outbreaks (including the response thereto) and their effects on, among other things, demand for our products, supply chain disruptions, our liquidity and financial position, results of operations, stock price, payment of dividends, our ability to secure new orders, our ability to convert backlog to revenue and impacts to the operations status of our facilities;
- natural disasters and extreme weather conditions, including, without limitation, their effects on locations where our products are manufactured;
- the effects of fluctuations in the commercial/industrial new construction market;
- the timing of introduction and market acceptance of new products;
- the timing and extent of changes in interest rates, as well as other competitive factors during the year;
- general economic, market or business conditions;
- creditworthiness of our customers and their access to capital;
- changing technologies;
- the material failure, interruption of service, compromised data or information technology security, phishing emails, cybersecurity breaches or other impacts to our information technology and related systems and networks (including any of the foregoing of third-party vendors and other contractors who provide information technology or other services);
- costs and results of litigation, including trial and appellate costs;
- economic, market or business conditions in the specific industry and market in which our businesses operate;
- future levels of capital expenditures, research and development and indebtedness, including, without limitation, our ability to reduce indebtedness and risks associated with the same;
- legal, regulatory, and environmental issues, including, without limitation, compliance of our products with mandated standards and specifications; and
- integration of acquired businesses and our ability to realize synergies and cost savings.

Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date on which they are made. Except as required by federal securities laws, we undertake no obligation to update any forward-looking statement to reflect events, occurrences or developments after the date on which such statement is made. For a discussion of risks and uncertainties which could cause actual results to differ from those contained in the forward-looking statements, please see Item 1A "Risk Factors" included in this Annual Report on Form 10-K, and as otherwise disclosed from time to time in our other filings with the SEC.

PART I

Item 1. Business.

Overview

AAON, Inc., a Nevada corporation, ("AAON Nevada") was incorporated on August 18, 1987. Our operating subsidiaries include AAON, Inc., an Oklahoma corporation ("AAON Oklahoma"), AAON Coil Products, Inc., a Texas corporation ("AAON Coil Products"), and BasX, BASX, Inc., an Oregon corporation ("BASX"). Unless the context otherwise requires, references in this Annual Report to "AAON", the "Company", "we", "us", "our", or "ours" refer to AAON Nevada and our subsidiaries.

AAON is a lead producer in heating, ventilation, and air conditioning ("HVAC") systems for commercial and industrial indoor environments. We are engaged in the engineering, manufacturing, marketing, and sale selling of premium heating, ventilation, and air conditioning and heating equipment consisting primarily of standard, semi-custom and custom rooftop units, data center cooling solutions, cleanroom systems, packaged outdoor mechanical rooms, air handling units, makeup air units, energy recovery units, condensing units, geothermal/water-source heat pumps, coils, and controls.

Business Segments

The Company conducts its business through three business segments: AAON Oklahoma, AAON Coil Products, and BASX.

AAON Oklahoma: AAON Oklahoma designs, engineers, manufactures, sells, and services standard, sells, semi-custom, and custom heating, ventilation, and air conditioning ("HVAC") HVAC systems, designs and produces manufactures controls solutions, for all of our HVAC units, and sells retail parts to customers through our two retail part stores in and online. AAON Oklahoma includes the operations of our Tulsa, Oklahoma as well as online. Through our OK and Parkville, MO manufacturing facilities, two retail locations, and the Norman Asbjornson Innovation Center ("NAIC") research and development laboratory facility in Tulsa, Oklahoma, accredited by the Company is able to test units under various environmental conditions. AAON Oklahoma includes Air Movement and Control Association International, Inc. ("AMCA").

With the operations of our Tulsa, Oklahoma and Parkville, Missouri facilities, our NAIC, a world-class research and development ("R&D") laboratory facility in Tulsa, OK, our products are continuously tested under a variety of extreme environmental conditions to ensure they deliver the ultimate performance, efficiency, and two retail parts locations, value.

Also located in Tulsa, OK, our cutting-edge Customer Exploration Center showcases the engineering, design attributes and premium build quality of our equipment side-by-side the market alternatives.

AAON Coil Products: AAON Coil Products designs engineers and manufactures a selection of our standard, semi-custom, and custom HVAC systems. AAON Coil Products also designs and manufactures various systems as well as a variety of heating and cooling coils to be used in HVAC systems, mostly for the benefit of AAON Oklahoma, and AAON Coil Products. Products, and BASX. AAON Coil Products consists of operations at our Longview, Texas TX manufacturing facilities.

BASX: BASX provides product development design engineers, manufactures, and manufacturing sells an array of custom, engineered air handling systems including high efficiency high-performance cooling solutions for the rapidly growing hyperscale data center cooling market, ventilation solutions for cleanroom HVAC systems, commercial/industrial HVAC systems, environments in the bio-pharmaceutical, semiconductor, medical and agriculture markets, and highly custom, air handlers and modular solutions. Additionally, BASX designs and manufactures cleanroom environmental control systems to support hospital surgical suites, pharmaceutical process facilities, semiconductor and electronics manufacturing, laboratory and isolation and modular cleanrooms solutions for facility flexibility, a vast array of markets. BASX consists of operations at our Redmond, Oregon facility, OR manufacturing facilities.

For more information on our business segments' financial position and results of operations, refer to Note 22, "Segments," of the notes to consolidated financial statements.

Business and Marketing Strategy

Our products serve the commercial, industrial, data center, cooling solutions, and cleanroom new construction and replacement markets within the HVAC equipment industry. Our business strategy involves mass customization that uses semi-customization leveraging flexible computer-aided manufacturing systems to produce standard, semi-custom, and custom equipment and combines highly configurable equipment. We differentiate from other HVAC manufacturers by combining the low unit costs of mass production processes with the flexibility of individual customization.

Through a collaborative effort with our network of independent representative sales offices, representatives, we design engineer and manufacture the precise semi-custom product offering products and systems that best serves serve the customer's needs.

buyer's unique needs and applications.

Our marketing go-to-market strategy focuses on is centered around customers and markets that demand HVAC equipment with higher extraordinary performance and durability, greater energy efficiency, and best indoor air quality overall value. We manufacture equipment with more capabilities configurability than the standard other "standard" offerings found in the HVAC equipment industry. We further focus industry and we do not manufacture equipment that has not been pre-specified by our customers with an emphasis on developing a company culture focused upon high customer satisfaction reducing and reduced product delivery channel time time.

Since day one, AAON has been dedicated to manufacturing and cost, and continuing product leadership with the goal of product and manufacturing technology leadership and innovation. Our product mix, with a heavy investment in innovation through research and development has an with a specific emphasis on energy performance, durability, efficiency, environment, and indoor air quality.

We are committed As a result of our strategy to designing engineer and manufacturing manufacture innovative HVAC products of the highest quality, performance, efficiency, and performance. As such, value, we are naturally committed to meeting regulatory and certification standards of the relevant standard setting bodies, including the Air-Conditioning, Heating, and Refrigeration Institute ("AHR"); the American National Standards Institute ("ANSI"); American Society of Heating, Refrigeration and Air-Conditioning Engineers ("ASHRAE"); the Air Movement and Control Association ("AMCA") AMCA and the International Organization for Standardization ("ISO").

To date, our sales have been primarily derived from the domestic market. Foreign sales accounted for approximately \$27.6 million \$39.9 million, \$14.8 million \$27.6 million, and \$11.7 million \$14.8 million of our net sales in 2023, 2022, 2021, and 2020, 2021, respectively. As a percentage of net sales, foreign sales accounted for approximately 3.1% 3.4%, 3.0% 3.1%, and 2.0% 3.0% of our net sales in each of those years, respectively.

Products - AAON Oklahoma and AAON Coil Products

Our rooftop and condensing unit markets units are primarily consist of units installed on commercial or industrial structures of generally less than ten stories in height structures. Our air handling units, self-contained units, geothermal/water-source heat pumps, and coils are suitable for all sizes of commercial and industrial buildings.

The size of these markets is determined primarily by the number of commercial and industrial building completions and replacement demand from existing buildings. The replacement market consists of products installed to replace existing units/components that are worn or damaged and products to upgrade certain components, such as low leakage dampers, high efficiency heat exchangers and modern controls components.

The commercial and industrial new construction markets are subject to cyclical fluctuations in that they generally lag behind the housing market. The housing market, in turn, is influenced by cyclical factors such as interest rates, inflation, consumer spending habits, employment rates, the state of the economy and other macroeconomic factors. When new construction is down, we emphasize the replacement market.

Based on our 2022 combined sales of \$771.1 million at AAON Oklahoma and AAON Coil Products, we estimate that we have approximately a 12% share of the greater than five ton rooftop market and a 2% share of the less than five ton market. The ratio of sales for new construction versus replacement is related to various factors. Generally, the cyclical of the new construction market impacts this ratio the most over an economic cycle.

We purchase certain components, fabricate sheet metal and tubing and then assemble and test the finished products. Our primary finished products consist product consists of a single unit system containing that generates heating and cooling in a self-contained cabinet, referred to in the industry as "unitary products" product". Our other finished products are coils, air handling units, condensing units, makeup air units, energy recovery units, rooftop units, geothermal/water-source heat pumps, and controls.

We offer three groups of rooftop units: the RQ Series, consisting of five cooling sizes ranging from two to six tons; the RN Series, offered in 28 cooling sizes ranging from six to 140 tons; and the RZ Series, which is offered in 15 cooling sizes ranging from 45 to 261 tons.

The When configured as Air-Source Heat Pumps ("ASHP"), the RQ series and RN Series 2 (2 to 50 tons, feature tons), are capable of operating in ambient outside temperatures as low as zero degrees Fahrenheit. Known as the option of AAON Alpha Class, our Zero Degree Cold Climate Air-Source Heat Pumps. Our Zero Degree Cold Climate Air-Source Heat Pumps omni-climate ASHPs are a critical solution to that meet the increasing demand for building decarbonization in cold climates. With decarbonization. Utilizing variable speed operation, technology, these heat pumps innovative ASHPs provide energy efficient energy-efficient heating and cooling throughout the seasons and the heat pump heating performance has been tested year in the NAIC down virtually any climate.

In addition to an ambient temperature of 0°F.

We also our legendary RTUs, we offer the SA, SB and M2 Series as indoor packaged, water-cooled or geothermal/water-source heat pump self-contained units with cooling capacities of three to 70 tons.

Our condensing unit, the CF Series, is available from 2 two to 70 tons.

tons and can be configured as an Alpha Class ASHP.

Our air handling units consist of the indoor H3 and V3 Series and the modular M2 Series, as well as air handling unit configurations of the RQ, RN, RZ, and SA Series units.

Our energy recovery option applicable to our RQ, RN, RZ, and SB units, as well as our H3, V3, and M2 Series air handling units, responds to the U.S. Clean Air Act mandate to increase fresh air in commercial structures. Our products are designed to compete on the higher quality end of standardized products.

Our RN, RQ, M2, and SB Series, are AHRI certified in accordance with ANSI/AHRI/ASHRAE/ISO 13256.

Our unitary products (RQ and RN Series) are certified with AHRI and the US Department of Energy to ANSI/AHRI 210/240 up to 5^{five} tons capacity and ANSI/AHRI 340/360 up to 63 tons capacity.

Performance characteristics of our products range in cooling capacity from 2^{two} to 261 tons and in heating capacity from 7,200 to 4,500,000 British Thermal Units ("BTUs"). Many of our products far exceed these minimum standards and are among the highest efficiency products currently available in the market.

A typical commercial building installation requires one ton of air conditioning for every 300-400 square feet or, for a 100,000 square foot building, 250 tons of air conditioning, which can involve multiple units.

Our packaged rooftop units RTUs with two stage or variable speed compressors are optimized with high efficiency evaporator and condenser coils and variable speed fans, leading to an AHRI Certified performance up to 20.3 SEER seasonal energy efficiency ratio ("SEER") and 22.5 IEER integrated energy efficiency ratio ("IEER"). AAON H3/V3 Series energy recovery wheel air handling units provide energy efficient 100% outside air ventilation by recovering energy that would otherwise be exhausted from a building.

We in addition to the equipment we manufacture, we design and produce high-performance controls solutions for all of that enhances our HVAC units including rooftop units, air handlers equipment's unique features and water-source heat pumps. We provide capabilities. Our controls division provides factory-developed and tested controls control options for variable air volume Variable Air Volume, Make-Up Air, Single Zone VAV, Constant Volume, and Zoning systems associated with those units our products and other HVAC related equipment.

We offer several controls options: the Orion Controller, Pioneer Gold, Pioneer Silver, factory installed customer provided controls, and terminal block for field installed controls, and factory installed customer provided controls. Most of our controls are Underwriters Laboratories category ZPVI2 compliant and BACnet Testing Laboratories certified which ensures our products meet internationally recognized standards for safety, traceability, conformance, and production quality. Our economizer function is California Title 24 certified to minimize energy consumption. Our proven sequences of operation optimize the performance of our HVAC units.

Out of the box, our controls are user-friendly and configurable to provide a variety of HVAC unit application options, but in addition, we are also able to customize our controls to meet customers' unique requirements. We have controls solutions that enhance our products unique features and capabilities.

Products - BASX

The products BASX manufactures are highly engineered and customized products, fully complementing our existing legacy business. BASX data center cooling solutions are focused on providing highly configurable, purpose-built equipment with a focus on efficiency, speed of deployment, and quality. High-performance air-cooled chiller solutions are provided with indirect airside economization and optional adiabatic assisted cooling, and are designed to integrate with high performance computing systems requiring direct to chip cooling. White space process cooling solutions include fan coil walls, computer room air handling ("CRAH") units, overhead fan coils, in-row coolers, and chilled water air handlers. Packaged solutions include coupled economizing chillers with integrated air handling units, direct evaporative coolers, and packaged direct expansion ("DX") solutions with airside economizers.

BASX cleanroom products are built to provide environmental control serving critical processes and high-fidelity control for precise industry requirements. Process cooling solutions include recirculation air handling units and make up air handling units including integration of piping systems and controls. Environmental control solutions include modular cleanroom environments, fan filter units, filtered ceiling grids with integral flush mount lighting, pressurized plenums with integral ceiling grids, and hospital surgical suites.

BASX custom air handling products are primarily used in commercial, industrial, healthcare, and institutional facilities employing chilled water cooling, packaged direct expansion, heating hot water, indirect gas direct heat, humidification, dehumidification, filtration, and integrated controls. BASX manufactures plenum fans for integration into air handling units as well as for replacement applications. BASX also offers integrated sound performance solutions.

Air Quality Products

The Coronavirus Disease 2019 ("COVID-19") pandemic fueled a great deal of concern over best practices in the design and operation of building HVAC systems. In order to mitigate the spread of COVID-19, influenza, and other similar type respiratory diseases, we have performed significant research on what affects the transmission of these diseases and how AAON HVAC systems can be best designed. The American Society of Heating, Refrigeration and Air-Conditioning Engineers ("ASHRAE"), ASHRAE, a professional association with a goal of advancing HVAC systems designs and construction, established an Epidemic Task Force in 2020 and determined several recommendations to mitigate the spread of the virus, including humidity control, air filtration, increased outdoor air ventilation, and air disinfection.

Humidity control - We continue to lead the market in developing energy efficient humidity control with the use of variable capacity compressors and modulating hot gas reheat. Designing HVAC systems with superior humidity control allows building management to maintain ASHRAE's recommended ambient relative humidity levels of 40%-60%, the ideal level to inactivate viruses in the air and on surfaces.

Air Filtration - We standardized a design that uses a backward curved fan wheel, which can accommodate higher airflow and static pressure required for the ASHRAE recommended MERV 13 filtration, the minimum filter level for virus mitigation, with very little reconfiguration. Prior to 2020, a vast majority of commercial buildings used

filtration levels of MERV 4 to MERV 8, which has always been acceptable for filtering out typical particulates in the air stream.

Outdoor Air Ventilation - Our innovative use of energy recovery wheels and energy recovery plates combined with its superior humidity control design can help building management follow outdoor ventilation air recommendations while limiting an increase of energy usage and maintaining recommended humidity levels. AAON has been the leader in Dedicated Outdoor Air Systems ("DOAS") for many years.

On October 31st, 2022, the US Department of Energy ("DOE") released their final ruling concerning DX-DOAS. These are systems that condition primarily fresh outside air streams to maintain space comfort and air quality.

Starting May 1, 2024 the DOE will begin regulating the efficiency of dedicated outdoor air units separately from other comfort cooling systems. AAON perceives this as an advantage because our equipment is designed for higher energy efficiency and superior part load and dehumidification performance than competitors who focus on the initial sale price of their equipment or do not participate in the certification programs offered by AHRI.

Air Disinfection - Our basic design characteristics allow for an easy installation of ultraviolet lighting equipment. In addition to this equipment offered as options in new units sold, our basic design characteristics allow for easy installation in units already used in the field.

Overall, we are well positioned to accommodate the heightened demand for features that can help mitigate virus transmission and improve indoor air quality. The features that ASHRAE recommends require premium designs and configurations that are standard in our units. As a result, we are able to incorporate air quality features into our units at a minimal price premium and with no delivery delay.

Representatives

As of December 31, 2022 December 31, 2023, we employ a sales staff of 6982 individuals and utilize approximately 6459 independent manufacturer representatives' organizations ("Representatives") having 127139 offices to market our products primarily in the United States and Canada. Sales are made directly to the contractor or end user, with shipments being made from our Tulsa, Oklahoma, Longview, Texas, Parkville, Missouri, or Redmond, Oregon facilities to the job site.

Historically, our products and sales strategy focused on niche markets, markets and applications. However, market trends related to the COVID-19 pandemic and indoor air quality, decarbonization and energy efficiency, and higher energy prices, have positioned us to focus on a wider spectrum of the nonresidential HVAC equipment industry. The targeted markets for our equipment are customers seeking products of higher performance and better quality than those offered, and/or options not offered, by standardized manufacturers.

To support and service our customers and the ultimate consumer, we provide parts availability through our Representatives' sales offices, as well as our two Tulsa, Oklahoma operated retail parts stores, to serve the local markets. We also have factory service organizations at each of our facilities. Additionally, a number of the Representatives we utilize have their own service organizations, which, in connection with us, provide the necessary warranty work and/or normal service to customers.

We have a program focused on increasing service capabilities across our North America Representative network, by assisting Representatives with business plans, providing training, and creating a cohesive network of service organizations to better meet the operational and maintenance needs of our customer base.

Warranties

Our product warranty policy is the earlier of one year from the date of first use or 18 months from date of shipment for parts only, including controls; 18 months for data center cooling solutions and cleanroom systems; five years for compressors (if applicable); 15 years on aluminized steel gas-fired heat exchangers (if applicable); 25 years on stainless steel heat exchangers (if applicable); and ten years on gas-fired heat exchangers in our historical RL products (if applicable). Our warranty policy for the RQ series covers parts for two years from date of unit shipment. Our warranty policy for the WH and WV Series geothermal/water-source heat pumps covers parts for five years from the date of installation.

The Company also sells extended warranties on parts for various lengths of time ranging from six months to ten years. Revenue for these separately priced warranties is deferred and recognized on a straight-line basis over the separately priced warranty period.

Major Customers

One customer, For the years-ended December 31, 2023, 2022, and 2021, Texas AirSystems LLC, accounted for approximately 13.8%, 12.4%, and 11.7% of our sales, respectively. Through portfolio groups, Meriton has an ownership interest in Texas AirSystems and certain other of our sales representatives. The aggregate sales percentages through Meriton-affiliated groups that are in addition to Texas AirSystems' sales for the years-ended December 31, 2023, 2022 and 2021 accounted for an additional 2.3%, 1.4% and 2.7%, respectively. Two other similar groups, Ambient and Hobbs/Insight, share common ownership of some of our other sales representatives through portfolio groups and for the year-ended December 31, 2023, aggregate sales through their portfolio groups accounted for approximately 11.5% and 10.2% of our sales, respectively. Sales through the portfolio groups of either Ambient or Hobbs/Insight did not account for 10% or more of our sales during 2022, 2021, and 2020. No other customer accounted for more than 10% of our sales during 2022, 2021, and 2020. One customer, Texas AirSystems LLC, accounted for more than 10% of our accounts receivable balance at December 31, 2022. No customers accounted for more than 10% of our accounts receivable balance at December 31, 2021 any years-ended prior to December 31, 2023.

Backlog

Our backlog as of February 1, 2023 February 1, 2024 was approximately \$547.3 million, compared to approximately \$347.6 million as of February 1, 2022 \$507.7 million. The current Management considers the orders that make up the backlog consists of orders considered by management to be firm and our goal commitments with minimal risk of cancellation. This is to fill orders within approximately 25 weeks after an order is deemed to become firm; however, the consistent with historical trends as we rarely receive cancellations, even during recessionary times. Nonetheless, orders are subject to cancellation, by the customers in which case, cancellation charges apply up to the full price of the equipment.

After an order is deemed firm and is entered into the backlog, lead times to fulfill orders for AAON Oklahoma and AAON Coil Products is generally around 11 weeks. Orders for BASX product, including orders built at AAON Coil Products' Longview location are typically placed months in advance of requested delivery to secure production for those projects. As a result, portions of the backlog do not turn over within our 11 week lead time.

Competition

Our AAON Oklahoma and AAON Coil Products product offerings primarily compete with Lennox (Lennox International, Inc.), Trane (Trane Technologies plc), York International (Johnson Controls International PLC), Carrier (Carrier Global Corporation), and Daikin (Daikin Industries). Our BASX product offerings primarily compete with Vertiv (Vertiv Holdings Co.), STULZ (STULZ Air Technology Systems, Inc.), Munters, Silent Aire (Johnson Controls International PLC), Nortek (Nortek Air Management) Solutions, and Engineered Air.

All of our publicly traded competitors are substantially larger and have greater resources than we do. Our products compete on the basis of total value, quality, function, serviceability, efficiency, availability of product, reliability, product line recognition, and acceptability of sales outlets. Historically, our premium equipment was sold at a higher average price compared to most of the competition. In the replacement market and other owner-controlled purchases, we have been successful at taking market share due to the total value proposition and lower cost of ownership our products provide to building owners over the life span of the equipment. In the new construction market where the contractor is the purchasing decision maker, we were often at a competitive disadvantage because of the emphasis placed on initial cost. However, due to operational efficiency improvements we made over the last several years, the cost of our semi-custom equipment is more comparable to the standard equipment market. As a result, the value proposition of our higher quality equipment is now more attractive, making us more competitive in both the new construction and replacement markets.

Resources

Sources and Availability of Raw Materials

The most important materials we purchase are steel, copper, and aluminum. We also purchase from other manufacturers certain components, including coils, compressors, electric motors, and electrical controls used in our products. We attempt to obtain the lowest possible cost in our purchases of raw materials and components, consistent with meeting specified quality standards. We are not dependent upon any one source for raw materials or the major components of our manufactured products. By having multiple suppliers, we believe that we will have adequate sources of supplies to meet our manufacturing requirements for the foreseeable future.

We attempt to limit the impact of price fluctuations on these materials by entering into cancellable and non-cancellable contracts with our major suppliers for periods of six to 18 months. We expect to receive delivery of raw materials from our contracts for use in our manufacturing operations.

Working Capital Practices

Working capital practices in the industry center on inventories and accounts receivable. Our management regularly reviews our working capital with a view of maintaining the lowest level consistent with requirements of anticipated levels of operation and expected supply chain restraints. Our working capital requirements are generally met by cash flow from operations and a bank revolving credit facility, which currently permits borrowings up to \$200.0 million and had a \$71.0 million \$38.3 million outstanding balance at December 31, 2022 December 31, 2023. Borrowings available under the revolving credit facility at December 31, 2022 December 31, 2023, were \$128.2 million \$159.4 million. We believe that we will have sufficient funds available to meet our working capital needs for the foreseeable future.

Research and Development

Our products are engineered for performance, flexibility, and serviceability. This has become a critical factor in competing in the HVAC equipment industry. We must continually develop new and improved products in order to compete effectively and to meet evolving regulatory standards in all of our major product lines.

We self-sponsor our **Research and Development ("R&D")** activities, rather than needing to be customer-sponsored. R&D activities have involved the RQ, RN, and RZ (rooftop units), H3, SA, V3, and M2 (air handling units), **CB CF** (condensing **unit** units), and the SA and SB (self-contained units), as well as component evaluation and refinement, development of control systems and new product development. R&D expenses incurred were approximately **\$46.8 million** **\$43.7 million**, **\$16.6 million** **\$46.8 million**, and **\$17.4 million** **\$16.6 million** in 2023, 2022, 2021, and **2020**, 2021, respectively. The significant increase for the year ended December 31, 2022 was related to the inclusion of a full year of operations of BASX (Note 4) as well as our commitment to product performance and innovation.

Our NAIC research and development laboratory facility includes many unique capabilities, which, to our knowledge, exist nowhere else in the world. A few features of the NAIC include supply, return, and outside sound testing at actual load conditions, testing of up to a 300 ton air conditioning system, up to a 540 ton chiller system, and 80 million BTU/hr of gas heating test capacity. The NAIC carries accreditation from AMCA for standards AMCA 210 (aerodynamic performance rating) & AMCA 300 (reverberant room sound testing). Environmental application testing capabilities include -20 to **140°** **130°F** testing conditions, up to 8 inches per hour rain testing, up to 2 inches per hour snow testing, and up to 50 mph wind testing. We believe we have the largest sound-testing chamber in the world for testing heating and air conditioning equipment and are not aware of any similar labs that can conduct this testing while putting the equipment under full environmental load. The unique capabilities of the NAIC will enable us to lead the industry in the development of quiet, energy efficient commercial and industrial heating and air conditioning equipment.

The NAIC currently houses twelve testing chambers. These testing chambers allow us to meet and maintain AHRI and **U.S. Department of Energy ("DOE")** **DOE** certification and solidify the Company's industry position as a technological leader in the manufacturing of HVAC equipment. Current voluntary industry certification programs and government regulations only go up to 63 tons of air **conditioning as that is the largest environmental chamber currently available for testing outside of our facility.** **conditioning.** The NAIC contains both a 100 ton and a **540** **300** ton chamber, allowing us to uniquely prove to customers our capacity and efficiency on these larger units.

The NAIC was designed to test products well beyond the standard AHRI rating points and allows us to offer testing services on our equipment throughout our range of product application. This capability is vital for critical facilities where the units must perform properly and allows our customers to verify the performance of our units in advance, rather than after installation. These same capabilities **will enable** **have allowed** AAON to develop a new extended range of operational **low ambient air source heat pump** products that are unique in being able to address the growing need for these type units that address electrification initiatives and prove their capabilities.

commitments.

Our Parkville, Missouri location is home to our new Electronics Prototyping Lab ("Lab") featuring a fully functional SMD (Surface Mount Device) production line. The production line incorporates automated pick-and-place equipment able to quickly and accurately place devices as small as 0.1mm by 0.2mm, the same technology scale used in cell phones. The production line also includes a profiled reflow oven to assure reliability in the finished prototypes. The Lab has allowed us to increase our speed to market and incorporate cutting-edge technology into our control designs. In addition, it allows our Controls Engineering team to utilize their hardware and software development skills to outpace our **Competitors** **competitors** in responding to market changes and upsets.

Patents, Trademarks, Licenses, and Concessions

We do not consider any patents, trademarks, licenses, or concessions to be material to our business operations, other than those described below.

We hold several patents that relate to the design and use of our products. We consider these patents important, but no single patent is material to the overall conduct of our business. We proactively obtain patents to further our strategic intellectual property objectives. We own certain trademarks we consider important in the marketing of our products and services, and we protect our marks through national registrations and common law rights. Our patents have legal terms of 20 years with expiration dates ranging from 2023 to 2039.

The Company's trademarks, certain of which are material to its business, are registered or otherwise legally protected in the U.S.

Seasonality

Historically, sales of our products were moderately seasonal with the peak period being May-October of each year due to timing of construction projects being directly related to warmer weather. However, in recent years, given the increase in demand of our products and increase in our backlog, sales has become more constant throughout the year.

Environmental & Regulatory Matters

Laws concerning the environment that affect or could affect our operations include, among others, the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Occupational Safety and Health Act, the National Environmental Policy Act, the Toxic Substances Control Act, regulations promulgated under these Acts and any other federal, state or local laws or regulations governing environmental matters. We believe that we are in compliance with these laws and that future compliance will not materially affect our earnings or competitive position.

Since our founding in 1987, we have maintained a commitment to design, develop, manufacture, and deliver heating and cooling products to perform beyond all expectations and to demonstrate our quality and value to our customers. Our equipment is designed with energy efficiency in mind, without sacrificing premium features and options. In addition to our high standard of product performance, is a commitment to sustainability for our employees, our stockholders, and our customers. We strive to conduct our business in a socially responsible and ethical manner with a focus on environmental stewardship, team member safety and community engagement. We comply with industry regulations and requirements while pursuing responsible economic growth and profitability.

In 2022, we published our fourth annual environmental, social, and governance ("ESG") report sharing our approach in the material areas of stakeholder engagement, innovation and efficiency, environmental responsibility, climate change, occupational health and safety, talent attraction and retention, diversity and inclusion, community engagement and investment, corporate governance and ethics and compliance. The report also highlights achievements and long-term targets related to greenhouse gas emissions, hazardous waste recycling, and non-fossil fuel consuming products. We participate in a sustainability benchmarking initiative, (The Sustainability Alliance Scor3card) through which we monitor and report in the material areas of energy, material management, water,

community stewardship, transportation, communication, and health. We achieved Platinum level in this program in 2023 and 2022. Our ESG committee provides oversight for ESG activities, ESG report development and an internal grassroots sustainability committee provides education opportunities, communications and recommendations to the Company on a regular basis.

We are committed to environmental responsibility and continue to make progress toward reducing greenhouse gas ("GHG") emissions, increasing hazardous waste paint byproduct recycling from our facilities and increasing the percentage of non-fossil fuel powered units we produce. Our approach toward emissions reduction and climate change includes product solutions for our customers and improvements to our own facilities. Approximately one-quarter of our energy portfolio is currently derived from renewable sources, and the Company's Scope 1 and 2 emissions (emissions that occur from sources that are controlled or owned by an organization and emissions associated with the purchase of electricity, steam, heat, or cooling) are being tracked. We opted into an additional percentage of renewable energy at our Tulsa, Oklahoma facilities in 2022, continued to invest and partner on projects that reduce GHG emissions globally and selected to begin have begun the transition to the lower global warming potential R-454B refrigerant starting in 2023. We continue to develop and manufacture non-fossil fuel consuming units to provide the most sustainable commercial HVAC equipment in the market and announced the zero degree cold air-source heat pump in 2022 as a critical solution that meets the increasing demand for building decarbonization in cold climates.

In the area of energy efficiency and conservation, our Tulsa, Oklahoma and Longview, Texas facilities have transitioned to over 95% nearly 100% LED lighting in our facilities leading to considerable cost savings and reduced energy consumption. Our Redmond, Oregon facilities are installing LED lights into any new fixtures in their current facility and working towards retrofitting old fixtures to LED. We participate in an energy demand response program through the public utility provider to reduce demand during peak hours. Energy efficiency has been a priority not only in product development, but also in overall capital investments which include the acquisition of new, energy efficient equipment for the production floor, new high-speed overhead facility doors, the installation of new HVAC equipment, building control systems, the application of heat and light reflective material to production facilities, along with other behavioral-based energy efficiency changes. We are tracking our energy usage intensity before and after these updates.

We also opened the Customer Exploration Center in 2023, a net-zero facility powered by solar and geothermal energy.

In the area of material management, we focus on recycling, reducing, reusing and sourcing more environmentally-friendly materials into our processes. At our Tulsa, Oklahoma and Longview, Texas facilities, we recycled over 13,678 tons, 14,928 tons, and 13,793 tons of metal in 2023, 2022, and 2021, respectively. Also, through our partnership with a waste to energy facility, we successfully diverted over 694 tons, 668 tons, and 460 tons of waste from landfills in 2023, 2022, and 2021, respectively. We have identified hazardous waste paint product recycling partners for paint products at both our Tulsa, Oklahoma and Longview, Texas facilities. We also recycle paper, wood, and cardboard where available. We continue to innovate ways to reduce and reuse shipping packaging between facilities and identify new opportunities to reduce or reuse items in our production and administrative areas.

Human Capital Resources

Our employees are not represented by unions or other collective bargaining agreements. Management considers its relations with our employees to be good. The following table represents the number of our direct employees and contract personnel we employed on each respective date:

		As of February 22, 2023	As of February 22, 2022	As of February 23, 2021
		As of		
		As of		
		As of		
		February 20, 2024		
		February 20, 2024		
		February 20, 2024		
AAON Oklahoma	AAON Oklahoma	2,474	1,979	1,778
AAON Oklahoma	AAON Coil Products	681	574	490
BASX1		511	328	—

AAON Coil Products				
AAON Coil Products				
BASX				
BASX				
BASX				
Total employees	Total employees	3,666	2,881	2,268

¹ BASX was acquired by the Company on December 10, 2021.

Total employees

Total employees

Our key human capital measures include employee safety, turnover, absenteeism, and production. We frequently benchmark our compensation practices and benefits programs against those of comparable industries and in the geographic areas where our facilities are located. We believe that our compensation and employee benefits are competitive and allow us to attract and retain skilled and unskilled labor throughout our organization. Some of our notable health, welfare, and retirement benefits include:

- Employee medical plan (with 175% employer health saving plan match)
- 401(k) Plan (with 175% employer match)
- Profit sharing bonus plan
- Tuition assistance program
- Paid time off
- Paid parental leave
- Military pay
- Short-term and long-term disability
- Identity theft protection
- Group life insurance

Available Information

Our Internet website address is <http://www.aaon.com>. Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, will be available free of charge through our Internet website as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. The information on our website is not a part of, or incorporated by reference into, this annual report on Form 10-K.

Copies of any materials we file with the SEC can also be obtained free of charge through the SEC's website at <http://www.sec.gov>, at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549, or by calling the SEC at 1-800-732-0330.

Item 1A. Risk Factors.

The following risks and uncertainties may affect our performance and results of operations. The discussion below contains "forward-looking statements" as outlined in the Forward-Looking Statements section above. Our ability to mitigate risks may cause our future results to materially differ from what we currently anticipate. Additionally, the ability of our competitors to react to material risks will affect our future results.

Risks Related to the COVID-19 Pandemic

Our business, results of operations, financial condition, cash flows, and stock price can be adversely affected by pandemics, epidemics, or other public health emergencies, such as COVID-19.

In March 2020, the World Health Organization characterized COVID-19 as a pandemic, and the President of the United States declared the COVID-19 outbreak a national emergency. The outbreak resulted in governments around the world implementing increasingly stringent measures to help control the spread of the virus, including quarantines, "shelter in place" and "stay at home" orders, travel restrictions, business curtailments, school closures, vaccination or testing mandates and other measures. In addition, governments and central banks in several parts of the world enacted fiscal and monetary stimulus measures to counteract the impacts of COVID-19.

We are considered a critical infrastructure industry, as defined by the U.S. Department of Homeland Security. Although we have continued to operate our facilities to date consistent with federal guidelines and state and local orders, the outbreak of COVID-19 and any preventive or protective actions taken by governmental authorities may have a material adverse effect on our operations, supply chain, customers, and transportation networks, including business shutdowns or disruptions. During 2023, 2022, and 2021 we experienced some price increases in our components and raw materials, especially copper and steel, which appear to be a result of COVID-19 and subsequent inflation, as well as supply chain challenges related to certain manufacturing parts.

Even though the COVID-19 pandemic has subsided, we may experience materially adverse impacts to our business due to any resulting economic recession or depression. Additionally, concerns over the economic impact of COVID-19 have caused extreme volatility in financial and other capital markets which may adversely impact our stock price and our ability to access capital markets. To the extent the COVID-19 pandemic adversely affects our business and financial results, it may also have the effect of heightening many of the other risks described in this Annual Report, such as those relating to our products and financial performance.

Risks Related to Our Business

Our business can be hurt by economic conditions.

Our business is affected by a number of economic factors, including the level of economic activity in the markets in which we operate. Sales in the commercial and industrial new construction markets correlate to the number of new homes and buildings that are built, which in turn is influenced by cyclical factors such as interest rates, inflation, consumer spending habits, employment rates, and other macroeconomic factors over which we have no control. In the HVAC business, a decline in economic activity as a result of these cyclical or other factors typically results in a decline in new construction and replacement purchases which could impact our sales volume and profitability.

Our results of operations and financial condition could be negatively impacted by the loss of a one or more major customer.

customers.

From time to time in the past we derived a significant portion of our sales from a limited number of customers, and such concentration may continue in the future. In 2022, 2021, and 2020, one customer, Texas AirSystems LLC accounted for more than 10% of our sales. The loss of, or significant reduction in sales to significant customers (or a major customer related portfolio group of customers) could have a material adverse effect on our results of operations, financial condition and cash flow. Further, the addition of new major customers in the future could increase our customer concentration risks as described above.

Our results of operations and financial condition could be negatively impacted by the loss of a major third-party representative.

We are dependent on our third-party representatives to market and sell our products. If such relationships were terminated or impaired for any reason, it could materially and adversely affect our ability to generate revenues and profits. Certain of our competitors with greater financial resources than us could target our third-party representatives for exclusive sales channels. We may not be able to secure additional third-party representatives who will effectively market our products in certain geographical areas. In addition, adding new representatives requires additional administrative efforts and costs. If we are unable to establish new representative relationships or continue current relationships, or terminate and replace our third-party representatives, our business, financial condition, and results of operations could be materially and adversely affected.

We may incur material costs as a result of warranty and product liability claims that would negatively affect our profitability.

The development, manufacture, sale and use of our products involve a risk of warranty and product liability claims. Our product liability insurance policies have limits that, if exceeded, may result in material costs that would have an adverse effect on our future profitability. An excess of or significant claim(s) could lead to the cancellation of our policies and the loss of and inability to find additional insurance carriers. In addition, warranty claims are not covered by our product liability insurance and there may be types of product liability claims that are also not covered by our product liability insurance.

We depend on our senior leadership team and the loss of our Chief Executive Officer or one or more key employees or an inability to attract and retain highly skilled employees could adversely affect our business.

Our success depends largely upon the continued services of our officers and senior leadership team. In particular, our Chief Executive Officer ("CEO"), Gary D. Fields, is critical to our vision, strategic direction, culture, and overall business success. Furthermore, Mr. Fields' extensive industry knowledge and sales-channel experience would be difficult to replace. We also rely on our senior leadership team in the areas of research and development, marketing, production, sales, and general and administrative functions. From time to time, there may be changes in our senior leadership team resulting from the hiring or departure of senior leadership team members, which could disrupt our business. While we have a robust succession plan in place for each one of our officers and senior leadership team members, the loss of one or more could have a serious adverse effect on our business.

We do not maintain key-man insurance for Gary D. Fields or any other member of our senior leadership team. Other than the employment agreements negotiated with certain employees of BASX, we do not have employment agreements with our officers or senior leadership team members that require them to continue to work for us for any specified period and, therefore, they could terminate their employment with us at any time. The employment agreements with the employees of BASX guarantee certain compensation, such as salary and benefits, and employment terms. We do not believe the terms or conditions of these agreements are outside the standard expectation of another employee at a similar level.

Operations may be affected by natural disasters, especially since most of our operations are performed at a single location.

Natural disasters such as tornadoes, ice storms and fires, as well as accidents, acts of terror, infection, and other factors beyond our control could adversely affect our operations. Our facilities are in areas where tornadoes are likely to occur, and the majority of our operations are at our Tulsa, Oklahoma facilities. With the acquisition of BASX in 2021, we now have operations in an area that is, historically, ~~effected impacted~~ by wild fires. The effects of natural disasters and other events could damage our facilities and equipment and force a temporary halt to manufacturing and other operations, and such events could consequently cause severe damage to our business. We maintain insurance against these sorts of events; however, this is not guaranteed to cover all the losses and damages incurred. Furthermore, we may experience ~~significant~~ increases in our insurance premium costs in relation to these matters that may have a material adverse effect upon our business, liquidity, financial condition, or results of operations.

If we are unable to hire, develop or retain employees, it could have an adverse effect on our business.

We compete to hire new employees and then seek to train them to develop their skills. We may not be able to successfully recruit, develop, and retain the personnel we need. Unplanned turnover or failure to hire and retain a diverse, skilled workforce, could increase our operating costs and adversely affect our results of operations.

Variability in self-insurance liability estimates could impact our results of operations.

We self-insure for certain employee health insurance and workers' compensation insurance coverage up to a predetermined level, beyond which we maintain stop-loss insurance from a third-party insurer. Our aggregate exposure varies from year to year based upon the number of participants in our insurance plans. We estimate our self-insurance liabilities using an analysis provided by our claims administrator and our historical claims experience. Our accruals for insurance reserves reflect these estimates and other management judgments, which are subject to a high degree of variability. If the number or severity of claims for which we self-insure increases, it could cause a material and adverse change to our reserves for self-insurance liabilities, as well as to our earnings.

Risks Related to Our Brand and Product Offerings

We may not be able to compete favorably in the highly competitive HVAC business.

Competition in our various markets could cause us to reduce our prices or lose market share, which could have an adverse effect on our future financial results. Substantially all of the markets in which we participate are highly competitive. The most significant competitive factors we face are product reliability, product performance, service, manufacturing lead-times, and price, with the relative importance of these factors varying among our product line. Other factors that affect competition in the HVAC market include the development and application of new technologies and an increasing emphasis on the development of more efficient HVAC products. Moreover, new product introductions are an important factor in the market categories in which our products compete. Several of our competitors have greater financial and other resources than we have, allowing them to invest in more extensive research and development. We may not be able to compete successfully against current and future competition and current and future competitive pressures faced by us may materially adversely affect our business and results of operations.

We may not be able to successfully develop and market new products.

Our future success will depend upon our continued investment in research and new product development and our ability to continue to achieve new technological advances in the HVAC industry. Our inability to continue to successfully develop and market new products or our inability to implement technological advances on a pace consistent with that of our competitors could lead to a material adverse effect on our business and results of operations. Furthermore, our continued investment in new product development may render certain legacy products and components obsolete resulting in increased inventory obsolescence expense that may have a material adverse effect upon our financial condition or results of operations.

Risks Related to Material Sourcing and Supply

We may be adversely affected by problems in the availability, or increases in the prices, of raw materials and components.

Problems in the availability, or increases in the prices, of raw materials or components could depress our sales or increase the costs of our products. We are dependent upon components purchased from third parties, as well as raw materials such as steel, copper and aluminum. Occasionally, we enter into cancellable and non-cancellable contracts on terms from six to 18 months for raw materials and components. However, if a key supplier is unable or unwilling to meet our supply requirements, we could experience supply interruptions or cost increases, either of which could have an adverse effect on our gross profit.

We risk having losses resulting from the use of non-cancellable contracts.

Historically, we have attempted to limit the impact of price fluctuations on commodities by entering into non-cancellable contracts with our major suppliers for periods of six to 18 months. We expect to receive delivery of raw materials from our contracts for use in our manufacturing operations. These contracts are not accounted for using hedge accounting

since they meet the normal purchases and sales exemption. The use of such contracts could cause us to forego the economic benefits we would otherwise realize if prices were to change in our favor. Additionally, should there be a downturn in the market, we could be committed to purchase more materials than necessary for our production and carry excess inventory which could result in additional costs to the business.

Risks Related to Electronic Data Processing and Digital Information

Our business is subject to the risks of interruptions by cybersecurity attacks.

We depend upon information technology infrastructure, including network, hardware and software systems to conduct our business. Despite our implementation of network and other cybersecurity measures, our information technology system and networks could be disrupted due to technological problems, a cyber-attack, acts of terrorism, severe weather, a solar event, an electromagnetic event, a natural disaster, the age and condition of information technology assets, human error, or other reasons. To date, we have not experienced a material impact to our business or operations resulting from cyber-security or other similar information attacks, but due to the ever-evolving attack methods, as well as the increased amount and level of sophistication of these attacks, our security measures may not be adequate to protect against highly targeted sophisticated cyber-attacks, or other improper disclosures of confidential and/or sensitive information. Additionally, we may have access to confidential or other sensitive information of our customers, which, despite our efforts to protect, may be vulnerable to security breaches, theft, or other improper disclosure. Any cyber-related attack or other improper disclosure of confidential information could have a material adverse effect on our business, as well as other negative consequences, including significant damage to our reputation, litigation, regulatory actions, and increased cost.

We are reliant on information technology.

We are reliant on information technology in all aspects of our business, operated and maintained by the Company as well as under control of third parties. If we do not invest sufficient capital in a timely manner to acquire, develop, or implement new information technologies or maintain or upgrade current information technologies, we could suffer outages as well as be at a competitive disadvantage within our industry which could have a material adverse effect upon our financial condition and results of operations.

Risks Related to Governmental Regulation and Policies

Exposure to environmental liabilities could adversely affect our results of operations.

Our future profitability could be adversely affected by current or future environmental laws. We are subject to extensive and changing **Federal, federal**, state and local laws and regulations designed to protect the environment in the United States and in other parts of the world. These laws and regulations could impose liability for remediation costs and result in civil or criminal penalties in case of non-compliance. Compliance with environmental laws increases our costs of doing business. Because these laws are subject to frequent change, we are unable to predict the future costs resulting from environmental compliance.

We are subject to potentially extreme governmental regulations and policies.

We always face the possibility of new governmental regulations, policies and trade agreements which could have a substantial or even extreme negative effect on our operations and profitability. Several intrusive component part governmental regulations are in process. If these proposals become final rules, the effect would be the regulation of compressors and fans in products for which the Department of Energy does not have current authority. This could affect equipment we currently manufacture and could have an impact on our product design, operations, and profitability.

The Dodd-Frank Wall Street Reform and Consumer Protection Act contains provisions to improve transparency and accountability concerning the supply of certain minerals, known as "conflict minerals", originating from the Democratic Republic of Congo and adjoining countries. As a result, in August 2012, the SEC adopted annual disclosure and reporting requirements for those companies who use conflict minerals in their products. Accordingly, we began our reasonable country of origin inquiries in fiscal year 2013, with initial disclosure requirements beginning in May 2014. There are costs associated with complying with these disclosure requirements, including for due diligence to determine the sources of conflict minerals used in our products and other potential changes to products, processes or sources of supply as a consequence of such verification activities. The implementation of these rules could adversely affect the sourcing, supply, and pricing of materials used in our products. As there may be only a limited number of suppliers offering "conflict free" conflict minerals, we cannot be sure that we will be able to obtain necessary conflict minerals from such suppliers in sufficient quantities or at competitive prices. Also, we may face reputational challenges if we determine that certain of our products contain minerals not determined to be conflict free or if we are unable to sufficiently verify the origins for all conflict minerals used in our products through the procedures we may implement.

Our operations could be negatively impacted by new legislation as well as changes in regulations and trade agreements, including tariffs and taxes. Unfavorable conditions resulting from such changes could have a material adverse effect on our business, financial condition and results of operations.

We are subject to adverse changes in tax laws.

Our tax expense or benefits could be adversely affected by changes in tax provisions, unfavorable findings in tax examinations, or differing interpretations by tax authorities. We are unable to estimate the impact that current and future tax proposals and tax laws could have on our results of operations. We are currently subject to state and local tax examinations for which we do not expect any major assessments.

We are subject to international regulations that could adversely affect our business and results of operations.

Due to our use of Representatives in foreign markets, we are subject to many laws governing international relations, including those that prohibit improper payments to government officials and commercial customers, and restrict where we can do business, what information or products we can supply to certain countries and what information we can provide to a non-U.S. government, including but not limited to the Foreign Corrupt Practices Act, U.K. Bribery Act and the U.S. Export Administration Act. Violations of these laws, which are complex, may result in criminal penalties or sanctions that could have a material adverse effect on our business, financial condition and results of operations.

Changes in legislation or government regulations or policies could adversely affect our results of operations.

Our sales, gross margins and profitability could be directly impacted by changes in legislation or government regulations or policies. Specifically, changes in environmental and energy efficiency standards and regulations related to global climate change are being implemented to curtail the use of hydrofluorocarbons which are used in refrigerants that are essential to many of our products. Our inability or delay in developing or marketing products that match customer demand while also meeting applicable efficiency and environmental standards may negatively impact our results.

We are transitioning to a new refrigerant with lower global warming potential for our HVAC systems and must be fully compliant under current governmental regulations by 2025. We expect to incur costs associated with this transition related to the purchase of the new refrigerant as well as additional sensors and detectors on our HVAC systems. In addition, we expect to incur cost to our facilities, specifically costs to store and use the new refrigerant in production; however, we do not expect these costs to be significant. Due to the increased flammability of the new refrigerant, the insurance industry may require higher premiums for companies once the conversion begins. Furthermore, due to the expected increased demand of the newer refrigerants as well as the older hydrofluorocarbon refrigerants (as they are phased out), we expect to see increased manufacturing costs related to purchases of refrigerants and could see higher costs for future warranty claims. **As with any significant regulatory change, delays or other changes to implementation timing could also have a negative impact on our operations and profitability.**

Additionally, regulations that reduce or eliminate the use of fossil fuels such as natural gas and propane may reduce or eliminate sales of gas fired equipment for which AAON holds a strong market position. This will result in a shift to more air- and water-cooled heat pump type units to provide space heating. This shift in product line could affect production productivity material costs and aftermarket warranty costs.

Future legislation or regulations relating to environmental policies, product certification, product liability, taxes, amount and availability of tax incentives and other matters, may impact the results of each of our operating segments and our consolidated results.

Item 1B. Unresolved Staff Comments.

None.

ITEM 1C. Cybersecurity

Cybersecurity risk management and strategy

Our cybersecurity risk management is based on recognized cybersecurity industry frameworks and standards, including those of the National Institute of Standards and Technology ("NIST"), the Center for Internet Security ("CIS"), the Computer Objectives for Information and related Technology ("COBIT"), and the International Organization for Standardization ("ISO"). We use these frameworks, together with information collected from

None. internal assessments, to develop policies for use of our information assets, access to specific intellectual property or technologies, and protection of personal information. We protect these information assets through industry-standard techniques, such as multifactor authentication and malware defenses. We also work with internal stakeholders across the company to integrate foundational cybersecurity principles throughout our organization's operations, including employment of multiple layers of cybersecurity defenses, restricted access based on business need, and integrity of our business information. Throughout the year, we also regularly train our employees on cybersecurity awareness, confidential information protection and simulated phishing attacks.

We engage third-party assessors to conduct penetration testing and measure our program to industry standard frameworks as needed. We also have standing engagements with incident response experts and external counsel. We frequently collaborate with industry experts and cybersecurity practitioners at other companies to exchange information about potential cybersecurity threats, best practices and trends.

Our cybersecurity risk management is an important part of our comprehensive business continuity program and internal risk management. Our information security team periodically engages with a cross-functional group of subject matter experts and leaders to assess and refine our cybersecurity risk posture and preparedness. We practice our response to potential cybersecurity incidents through regular tabletop exercises, threat hunting and red team exercises.

For more information about cybersecurity risks, see the Risk factors discussion in Item 1A of this Form 10-K.

Governance of cybersecurity risk management

The board of directors, as a whole, has oversight responsibility for our strategic and operational risks. The audit committee assists the board of directors with this responsibility by reviewing and discussing our risk assessment and risk management practices, including cybersecurity risks, with members of management. The audit committee, in turn, periodically reports on its review with the board of directors.

Management is responsible for day-to-day assessment and management of cybersecurity risks. Our chief information officer has primary oversight of material risks from cybersecurity threats. Our chief information officer has more than 25 years of experience across various engineering, business and management roles, including leading the development and implementation of information technology strategies and roadmaps for manufacturing automation.

Our chief information officer assesses our cybersecurity readiness through internal assessment tools as well as third-party control tests, vulnerability assessments, audits and evaluation against industry standards. We have governance and compliance structures that are designed to elevate issues relating to cybersecurity to our chief information officer, such as potential threats or vulnerabilities. We also employ various defensive and continuous monitoring techniques using recognized industry frameworks and cybersecurity standards.

Our chief information officer meets with the audit committee periodically to review our information technology systems and discuss key cybersecurity risks. In addition, the chief financial officer reviews with the audit committee at least annually our risk management program, which includes cybersecurity risks, and is also reported to the board.

Item 2. Properties.

Our manufacturing areas are heavy industrial type buildings, with some coverage by overhead cranes, containing manufacturing equipment designed for sheet metal fabrication, metal stamping and tube forming. The manufacturing equipment contained in the facilities consists primarily of automated sheet metal fabrication equipment, supplemented by presses and tube bending equipment. Assembly lines consist of cart-type and roller-type conveyor lines with variable line speed adjustment. Subassembly areas and production line manning are based upon line rates set by production management.

We own and lease our properties and facilities, as further described below. We believe that all of our facilities are well maintained and are in good condition and suitable for the conduct of our business.

AAON Oklahoma

Our plant and office facilities in Tulsa, Oklahoma, consist of a 342,000 square foot building (327,000 square feet of manufacturing/warehouse space and 15,000 square feet of office space) located on a 12-acre tract of land at 2425 South Yukon Avenue. Additionally we own a 940,000 square foot manufacturing/warehouse building and a 70,000 square foot office building located on an approximately 79-acre tract of land across the street from the original facility (2440 South Yukon Avenue) and a 40,000 square foot building used as warehouse space located on a 6-acre tract.

In 2023, we acquired an additional 17-acre tract of land adjacent to the east side of the current 12-acre tract. We also lease a 198,000 square foot warehouse space which is used for additional inventory storage.

storage in Tulsa, Oklahoma.

In addition to a retail parts store location at our Tulsa facilities, we also own a 13,500 square foot stand alone building (7,500 square foot warehouse and 6,000 square foot office) which is utilized as an additional retail parts store to provide our customers more accessibility to our products. The stand alone parts store building is on approximately one acre and is located at 9528 E 51st St in Tulsa, Oklahoma.

Our Tulsa location is also home to our engineering research and development laboratory, the Norman Asbjornson Innovation Center ("NAIC"). The three-story, 134,000 square foot stand alone facility is both an acoustical and a performance measuring laboratory. This facility currently consists of twelve test chambers, allowing AAON to meet and maintain industry certifications. This facility is located west of the 940,000 square foot manufacturing/warehouse building at 2440 South Yukon Avenue.

In 2023, we opened our Exploration Center will open at our Tulsa location. The Exploration Center is a 28,000 square foot facility located adjacent to the NAIC. The Exploration Center will provide provides an immersive and educational experience of our products, solutions and our people and also serve serves as an event hub for our stakeholders, including our customers, employees, Representatives representatives and investors. The Exploration Center will add adds a dimension of customer engagement that doesn't currently exist, showcasing showcases our products and our competitors competitors' products and allowing allows our customers to interact with our employees.

Our operations in Parkville, Missouri, are conducted in a leased plant/office at 8500 NW River Park Drive, containing approximately 51,000 square feet. This location is home to our Controls design and manufacturing facilities. In October 2022, we modified the existing lease to expand increased our manufacturing and office space to approximately 86,000 square feet and expect to be able to utilize the feet. During mid-2023, we began utilizing this additional space beginning in the second quarter of 2023.

for manufacturing operations.

AAON Coil Products

Our plant and office facilities in Longview, Texas, consist of a 263,000 square foot building (256,000 square feet of manufacturing/warehouse space and 7,000 square feet of office space) located on a 13-acre tract of land, a 222,000 square foot building (210,000 square feet of manufacturing/warehouse space and 12,000 square feet of office space) located on

an approximately 22-acre tract of land, and a 5,000 square foot building utilized as a retail parts store which we lease to a Representative of the Company. All of these facilities are located on Gum Springs Road.

In January 2023, we purchased additional real property and improvements consisting of 64,000 square feet of warehouse space located on a 10-acre tract of land at 115 Kodak Boulevard in Longview, Texas.

In April 2023, we broke ground on an expansion to our 222,000 square foot building. The expansion consists of 237,500 square feet of office and manufacturing space that will be dedicated to unit production. We expect that we will be able to utilize this space in late 2024.

BASX

Our operations in Redmond, Oregon, are conducted in a plant/office at 3500 SW 21st Place, containing approximately 194,000 square feet (169,000 square feet of manufacturing/warehouse space and 25,000 square feet of office space) on a 13-acre tract of land and a leased manufacturing/warehouse building containing approximately 15,000 square feet at 2895 SW 13th Street. Additionally, we lease an office of approximately 4,000 square feet located at 1725 Blankenship Road, West Linn, Oregon.

land.

In August 2022, we purchased additional real property of approximately one-acre adjacent to the plant/office at 3500 SW 21st Place, to facilitate future growth of our operations. In the third quarter of 2023, we broke ground on an approximate 30,000 square foot fabrication facility residing on the one-acre tract of land. We expect to be in operation in this facility in late 2024.

We lease several properties near our main Redmond, Oregon location. In the aggregate, these properties contain approximately 104,500 square feet of additional warehouse space. Additionally, we lease an office of approximately 4,000 square feet located at **BASX**.

1725 Blankenship Road, West Linn, Oregon.

Item 3. Legal Proceedings.

See Note 18 of the Consolidated Financial Statements.

Item 4. Mine Safety Disclosure.

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information - Our common stock is quoted on the NASDAQ Global Select Market under the symbol "AAON". As of the close of business on **February 22, 2023** **February 23, 2024**, there were **955** **1,030** holders of record of our common stock.

Dividends - At the discretion of the Board of Directors, we pay cash dividends. Board approval is required to determine the date of declaration and amount for each cash dividend payment.

Our cash dividends for the three years ended **December 31, 2022** **December 31, 2023** are as follows:

Declaration Date	Record Date	Payment Date	Dividend per Share
May 15, 2020	June 3, 2020	July 1, 2020	\$0.19
November 10, 2020	November 27, 2020	December 18, 2020	\$0.19
May 17, 2021	June 3, 2021	July 1, 2021	\$0.19
November 9, 2021	November 26, 2021	December 17, 2021	\$0.19
May 18, 2022	June 3, 2022	July 1, 2022	\$0.19
November 8, 2022	November 28, 2022	December 16, 2022	\$0.24

Declaration Date ₁	Record Date	Payment Date	Dividend per Share ₂	Annualized Dividend per Share ₂
May 17, 2021	June 3, 2021	July 1, 2021	\$0.13	\$0.26

November 9, 2021	November 26, 2021	December 17, 2021	\$0.13	\$0.26
May 18, 2022	June 3, 2022	July 1, 2022	\$0.13	\$0.26
November 8, 2022	November 28, 2022	December 16, 2022	\$0.16	\$0.32
March 1, 2023	March 13, 2023	March 31, 2023	\$0.08	\$0.32
May 18, 2023	June 9, 2023	June 30, 2023	\$0.08	\$0.32
August 18, 2023	September 8, 2023	September 29, 2023	\$0.08	\$0.32
November 10, 2023	November 29, 2023	December 18, 2023	\$0.08	\$0.32

¹ Effective with the cash dividend declared on March 1, 2023 (paid on March 31, 2023), the Company moved from semi-annual cash dividends to quarterly cash dividends.

² Reflects three-for-two stock split effective August 16, 2023.

Stock Split - On July 7, 2023, the Board of Directors declared a three-for-two stock split of the Company's common stock to be paid in the form of a stock dividend. Stockholders of record at the close of business on July 28, 2023 received one additional share for every two shares they held as of that date on August 16, 2023 (ex-dividend date August 17, 2023).

Share-Based Compensation Plans - The following is a summary of our share-based compensation plans as of December 31, 2022 December 31, 2023:

EQUITY COMPENSATION PLAN INFORMATION				
Plan category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))	
The 2007 Long-Term Incentive Plan	161,854	\$ 15.02	—	—
The 2016 Long-Term Incentive Plan	1,862,571	\$ 29.55	5,070,436	5,070,436

EQUITY COMPENSATION PLAN INFORMATION				
Plan category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))	
The 2007 Long-Term Incentive Plan	119,208	\$ 22.62	—	—
The 2016 Long-Term Incentive Plan	1,257,805	\$ 42.31	3,599,896	3,599,896

Issuer Purchases of Equity Securities - Repurchases during the fourth quarter of 2022, 2023, which include repurchases from our open market, 401(k) and employee repurchase programs, program, were as follows:

(a) Total Number of Shares (or Units)	(b) Average Price Paid (Per Share)	ISSUER PURCHASES OF EQUITY SECURITIES			(c) Total Number of Shares (or Units) Purchased as part of Publicly Announced Plans or Programs	(d) Maximum Nu Approximate Value) of Sha Units) that ma Purchased un Plans or Pro	Period	Purchased)	(a) Total Number of Shares (or Units)	(b) Average Price Paid (Per Share)	(c) Total Number of Shares (or Units) Purchased as part of Publicly Announced Plans or Programs	(d) Maximum Nu Approximate Value) of Sha Units) that ma Purchased un Plans or Pro
		(a) Total Number of Shares (or Units)	(b) Average Price Paid (Per Share)	(c) Total Number of Shares (or Units) Purchased as part of Publicly Announced Plans or Programs								
October 2022	2023	87,049	1,158	\$ 55.33	54.89	87,049	1,158					
November 2022	2023	23	180	\$ 65.00	61.00	23	180					
December 2022	2023	196	348	\$ 76.66	70.99	196	348					
	Total	87,268	1,686	\$ 55.38	58.86	87,268	1,686					

Contingent Shares Issued in BASX Acquisition - On December 10, 2021, we closed on the acquisition of BASX (Note 4). Under the MIPA Agreement, \$78.0 million in the aggregate of contingent consideration to the former owners of BASX, which is payable in approximately 1.56 million shares of AAON stock,

per share. The shares do not accrue dividends.

Under the MIPA Agreement, the potential future issuance of the shares is contingent upon BASX meeting certain post-closing earn-out milestones during each of 2021, 2022, and 2023. We estimated the fair value of contingent consideration related to these shares to be approximately \$60.0 million, which is included in capital on the consolidated balance sheets. As of December 31, 2023, 0.58 million, and 0.73 million shares related to the earn-out milestones for the years ended respectively, have been issued to the former owners of BASX as private placements exempt from registration with the SEC under Rule 506(b), which are included in stock on the consolidated statements of stockholders' equity.

Rule 10b5-1 Trading Arrangements - The following table describes contracts, instructions or written plans for the purchase or sale of our securities intended to satisfy the affirmative defense conditions of Rule 10b5-1(c).

Name and Title of Director or Officer	Date of Adoption of Arrangement	Duration of the Arrangement	Aggregate Number to be Purchased Pursuant to the Rule
Stephen E. Wakefield <i>Vice President and Chief Operating Officer</i>	November 23, 2022	Terminated May 17, 2023	95,710
Stephen E. Wakefield <i>Vice President and Chief Operating Officer</i>	September 13, 2023	Terminated December 27, 2023	181,100

Comparative Stock Performance Graph

The following performance graph compares our cumulative total shareholder return for the Company's common stock for the five-year period ending on December 31, 2023, compared to an overall stock market index (the NASDAQ Composite Index) and the Company's peer group index (S&P 600 Capital Goods Industry Group Index). We believe the S&P 600 Capital Goods Industry Group Index best represents our relative peer group based on our current business and market characteristics. The graph assumes that \$100 was invested at the close of trading December 31, 2017 December 31, 2018, with the reinvestment of dividends since that date, and is intended to forecast future performance of our Common Stock.



Company / Index	2018	2019	2020	2021	2022
AAON, Inc.	\$ 100	\$ 142	\$ 193	\$ 231	\$ 220
NASDAQ Composite Index	100	137	198	242	163
S&P 600 Capital Goods Industry Group Index	\$ 100	\$ 130	\$ 150	\$ 188	\$ 180

This stock performance graph is not deemed to be "soliciting material" or otherwise be considered to be "filed" with the SEC or subject to Regulation 14A or the Securities Exchange Act of 1934 (Exchange Act) or to the liabilities of Section 18 of the Exchange Act, and should not be deemed to be incorporated by reference under the Securities Act of 1933 or the Exchange Act, except to the extent the Company specifically incorporates it by reference into such a filing.

Item 6. Reserved.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Overview

The following discussion summarizes the significant factors affecting the consolidated operating results, financial condition and liquidity of the Company for the year ended December 31, 2022 December 31, 2023. This discussion should be read in conjunction with the other sections of this Annual Report on Form 10-K, including the financial statements and related notes contained in Item 8, *Financial Statements and Supplementary Data*. A detailed discussion of the year to year changes for the year ended December 31, 2021 December 31, 2022 and 2020 2021 is not included herein and can be found in Part II, Item 7, *Management's Discussion and Analysis of Financial Condition and Results of Operations* section of the Company's Annual Report on Form 10-K for the year ended December 31, 2021 December 31, 2022.

Description of the Company

AAON is a leader in HVAC solutions for commercial and industrial indoor environments. The company's industry-leading approach to designing and manufacturing configurable equipment to meet exact needs creates a premier ownership experience with greater efficiency, performance, and long-term value. AAON is headquartered in Oklahoma, where its world-class innovation center and testing capabilities enable continuous advancement toward a cleaner and more sustainable future.

We engineer, manufacture, market, and sell premium heating, ventilation, and air conditioning and heating equipment consisting of standard, semi-custom and units, data center cooling solutions, cleanroom systems, packaged outdoor mechanical rooms, air handling units, makeup air units, energy recovery units, and geothermal/water-source heat pump, pumps, coils, and controls. These products are marketed and sold to a variety of vertical markets including retail, educational, lodging, supermarket, data centers, medical and pharmaceutical, industrial, and other commercial industries. We market and sell our products in the United States and certain provinces in Canada.

Our business can be affected by a number of economic factors, including the level of economic activity in the markets in which we operate. The uncertainty negatively impacted the commercial and industrial new construction markets in 2020 and the first half of 2021. Since August 2021, however, nonresidential spending has been recovering. In the third quarter of 2022, the market returned to pre-pandemic strong, recovering well beyond pre-2020 levels and finishing at levels. Currently, recently, however, certain leading indicators, including architectural billings and nonresidential construction starts, are at historically high levels. A slowing in construction spending within the nonresidential construction market will continue to be strong over the next nine to 12 months. Furthermore, although general indicators are suggesting the general economy is slowing, which could also impact the replacement market remains strong. Nevertheless, both the new replacement markets are cyclical. If the domestic economy were to slow or enter a recession, this could result in a decrease in our sales volume. Sales in the commercial and industrial new construction markets generally lag the housing market, which in turn is influenced by cyclical factors such as interest consumer spending habits, employment rates, the state of the economy and other macroeconomic factors over which we have no control. Sales in the replacement market are driven by various factors, including general economic growth, the Company's new product introductions, fluctuations in the average age of existing equipment, government regulations and stimulus, change in market demand between more customized, higher performing HVAC equipment and lower priced standard equipment, and many other factors. When new construction is down, we emphasize the replacement market.

We sell our products to property owners and contractors mainly through a network of independent manufacturers' Representatives. This go-to-market strategy is compared to most of our larger competitors in that most control their sales channel. We value the independent sales channel as we think it is a more effective way to market share. Although we concede full control of the sales process with this strategy, the entrepreneurial aspect of the independent sales channel attracts those who provide greater financial incentives for its salespeople. Furthermore, the independent sales channel sells different types of equipment from various manufacturers. We operate with more of a solutions-based mindset, as opposed to an internal sales department of a manufacturing company that is incentivized to only sell its equipment if it is the best solution for the end customer. We also have a small internal sales force that supports the relationships between the Company and our sales channel. BASX sells highly customized products for unique applications for a more concentrated customer base and an internal sales force is more effective for such products.

The principal components of cost of sales are labor, raw materials, component costs, factory overhead, freight out, and engineering expense. The principal materials used in our manufacturing processes are steel, copper, and aluminum, and are obtained from domestic suppliers. We also purchase from domestic and certain components, including coils, compressors, motors, and electrical controls.

The price levels of our raw materials fluctuate given that due to various economic factors within the market continues to be volatile and unpredictable as a result of related to the U.S. economy and global economy. For the year ended December 31, 2022, December 31, 2023, the prices for copper, galvanized steel, and aluminum decreased by approximately 4.5%, 38.9%, and 3.3%, respectively, and aluminum increased by approximately 15.5%, 13.4%, 14.5%, 61.0%, and 14.0%, respectively, for the year ended December 31, 2021, 2022.

We attempt to limit the impact of price fluctuations on these materials by entering into cancellable and non-cancellable contracts with our major suppliers for periods of months. We expect to receive delivery of raw materials from our contracts for use in our manufacturing operations.

We occasionally increase the price of our products to help offset any inflationary headwinds. In recent years, price increases have been more frequent due to inflation the business has endured. In 2021, we implemented three price increases. In 2022, we implemented two significant price increases as well as a recent price increase effective beginning June 1, 2022 and ending on April 1, 2023.

We reinstated a recurring 1% monthly price increase on October 1, 2023 and carried that through February 1, 2024.

Additionally, we continue to experience challenges in a tight labor market, especially the hiring of both skilled and unskilled production labor. We have implemented wage increases to remain competitive and to attract and retain employees:

- In March 2021, we awarded annual merit raises for an overall 5.0% increase to wages.
- In July 2021, we increased starting wages for our production workforce by 7.0%.
- In October 2021, we implemented a cost of living increase of 3.5% in place for all employees below our Senior Leadership Team ("SLT") which consists of officers and key members of management.
- In March 2022, we awarded annual merit raises for an overall 3.0% increase to wages.
- In October 2022, we implemented a cost of living increase of 3.5% in place for all employees below the SLT level.

• In March 2023, we awarded annual merit raises for an overall 3.9% increase to wages.

We will continue to implement human resource initiatives to retain and attract labor to further improve productivity and production efficiencies.

Backlog

The following table shows our historical backlog levels:

	December 31, 2023		December 31, 2022
	(in thousands)		(in thousands)
\$	510,028	\$	548,022
December 31, 2022		December 31, 2021	
	(in thousands)		(in thousands)
\$	548,022	\$	548,022

The Company has increased While our backlog both through the acquisition of BASX is down at December 31, 2023 compared to December 31, 2022, our bookings are strong. The year-ended December 31, 2022 was a record year for bookings and organic growth due primarily to our backlog was elevated causing us to favorable. Investments made in our facilities and workforce have significantly improved our capacity and operational efficiencies. Production rates are at all time highs, trimming down to a more manageable size and allowing our lead times and increased overall demand to improve.

Consolidated Results of Operations

	Years Ended December 31	
	2022	
	(in thousands)	
Net Sales	\$ 888,788	\$
Cost of Sales	651,216	651,216
Gross Profit	237,572	237,572
Selling, general and administrative expenses	110,823	110,823
Gain on disposal of assets	(12)	(12)
Income from operations	<u>126,761</u>	<u>126,761</u>

	Years Ended December 31	
	2023	
	(in thousands)	
Net Sales	\$ 1,168,518	\$
Cost of Sales	769,498	769,498
Gross Profit	399,020	399,020
Selling, general and administrative expenses	171,539	171,539
Gain on disposal of assets	(13)	(13)
Income from operations	<u>227,494</u>	<u>227,494</u>

The following are highlights of our results of operations, cash flows, and financial condition:

- Our backlog has been at record levels during all of 2022. New bookings from BASX were a record for that business as it benefited from a strong pipeline in the data center and semiconductor markets. Revenue synergies from the BASX acquisition has increased bookings for AAON Coil Products as well. BASX is strong primarily due to our favorable lead times and strong end-market demand.
- Net sales for 2022 2023 grew 66.3% 31.5% to \$888.8 million \$1,168.5 million due to organic growth, the addition of BASX revenues record production increases realized during the period as compared to the same period in the prior year.
- Overall gross margin increased 90 740 basis points in 2022, as the 2023 due to increased costs of material organic volumes for operational efficiencies offset by increased efficiencies of operations as well as price increases. better overhead absorption.

- We continue to invest in the future growth of the Company as evidenced by our **\$54.0 million** **\$104.3 million** in capital expenditures and **\$22.0 million** increase **\$50.3 million** or **93.1%** when compared to 2022.
- We completed the purchase repurchase of the BASX building. **\$25.0 million** of shares under our current share repurchase authorization.

We report our financial results based on three reportable segments: AAON Oklahoma, AAON Coil Products, and BASX, which are further described in Item 1. The Company's chief decision maker ("CODM"), our CEO, allocates resources and assesses the performance of each operating segment using information about each segment's net sales and income from operations. The CODM does not evaluate operating segments using asset or liability information.

Segment Operating Results for the Years Ended December 31, 2022 December 31, 2023 and 2021

For the years ended December 31,								
Percent of Sales ₂		Percent of Sales ₂		\$ Change	% Change			
(in thousands)								
Net Sales₃								
For the years ended December 31,								
For the years ended December 31,								
For the years ended December 31,								
2023								
2023								
2023								
(in thousands)								
(in thousands)								
(in thousands)								
Net Sales₂								
Net Sales₂								
Net Sales₂								
AAON Oklahoma								
AAON Oklahoma								
AAON	AAON							
Oklahoma	Oklahoma	\$663,845	74.7 %	\$463,845	86.8 %	\$200,000 43.1 %		
AAON	AAON							
Coil	Coil							
Products	Products	107,290	12.1 %	66,589	12.5 %	40,701 61.1 %		
BASX ₁		117,653	13.2 %	4,083	0.8 %	113,570 2781.5 %		
AAON Coil Products								
AAON Coil Products								
BASX								
BASX								
BASX								
Net sales								
Net sales								
Net sales	Net sales	\$888,788		\$534,517		\$354,271 66.3 %		
Cost of Sales₃								
Cost of Sales₂								
Cost of Sales₂								
Cost of Sales₂								
AAON Oklahoma								
AAON Oklahoma								

AAON AAON

Oklahoma Oklahoma \$490,862 73.9 % 336,977 72.6 % \$153,885 45.7 %

AAON AAON

Coil Coil

Products Products 73,979 69.0 % 56,514 84.9 % 17,465 30.9 %

BASX¹ 86,375 73.4 % 3,196 78.3 % 83,179 2602.6 %

AAON Coil Products

AAON Coil Products

BASX

BASX

Cost of sales

Cost of sales

Cost of sales Cost of sales \$651,216 73.3 % \$396,687 74.2 % \$254,529 64.2 %

Gross Profit

Gross Profit

Gross Profit

AAON Oklahoma

AAON Oklahoma

AAON AAON

Oklahoma Oklahoma \$172,983 26.1 % \$126,868 27.4 % \$ 46,115 36.3 %

AAON AAON

Coil Coil

Products Products 33,311 31.0 % 10,075 15.1 % 23,236 230.6 %

BASX¹ 31,278 26.6 % 887 21.7 % 30,391 3426.3 %

AAON Coil Products

AAON Coil Products

BASX

BASX

Gross profit Gross profit \$237,572 26.7 % \$137,830 25.8 % \$ 99,742 72.4 %

¹ BASX was acquired on December 10, 2021. We have included the results of BASX's operations in our consolidated financial statements as of December 11, 2021.

² Cost of

sales and

gross profit

for each

segment

are

calculated

as a

percentage

of the

respective

segment's

net sales.

Total cost

of sales

and total

gross profit

are

calculated

as a

percentage

Total net sales increased \$354.3 million \$279.7 million, or 66.3% 31.5%, with 17.0% of the addition increase coming from realization of inorganic sales from t BASX contributing to 19.5% of our growth. Net sales also grew through price increases of \$100.0 million and the remaining 14.5% coming from increases volumes, product mix and other of \$149.8 million.

volume. AAON Coil Products gross profit increased significantly had a smaller backlog and along with inefficiencies related to 31.0%. Price increases were realized for implementing a new production line of BASX product at AAON Coil Products given their led to smaller backlog, which is the primary driver of the year over year gross margin sales for this segment. Additionally, The increase in BASX net sales is primarily related to large jobs in the new manufacturing building for AAON completed in early 2021, resulting in data center market as a result of the revenue synergies created by being part of AAON.

Gross profit as a percent of sales increased capacity and operational efficiencies to 34.1% during 2022 2023 as compared to 2021.

26.7% in 2022. As noted above, realization of price increases has improved our margin profile along with the slowing of inflation. Additional organic growth noted above comes from our AAON Oklahoma segment, significantly improving overhead absorption and margin performance in net sales at BASX has improved their overhead absorption, thus increasing their gross profit margin year over year.

As shown in the table below, we've experienced increases year over year fluctuations in the cost of our several raw materials. We have implemented multiple price increases during 2021 2022 and 2022 2023 to counteract the increased cost of material. Some of the 2022 price increases have yet to be realized. Additionally, in order to remain competitive we continue to award periodic raises in tight labor markets, we implemented several wage increases in late 2022 addition to our annual merit raises to our employees.

Raw Material Costs

Twelve month average raw material cost per pound as of December 31:

2023			2023			2022		
			%					
			2022	2021	Change			
Copper								
Copper	Copper	\$ 5.60	\$ 4.94	13.4 %		\$ 5.35	\$ 5.60	(4.5) %
Galvanized	Galvanized					\$ 0.58	\$ 0.95	(38.9) %
Steel	Steel	\$ 0.95	\$ 0.83	14.5 %	Galvanized Steel			
Stainless	Stainless					\$ 3.19	\$ 3.30	(3.3) %
Steel	Steel	\$ 3.30	\$ 2.05	61.0 %	Stainless Steel			
Aluminum	Aluminum	\$ 2.20	\$ 1.93	14.0 %	Aluminum	\$ 2.54	\$ 2.20	15.5 %

Selling, General and Administrative Expenses

Years Ended December 31,			Percent of Sales					
2022	2021	2022	2021					
(in thousands)								
Years Ended December 31,					Years Ended December 31,			
2023					2023			2022
(in thousands)								
Warranty								
Warranty	Warranty	\$ 8,497	\$ 6,351	1.0 %	1.2 %	\$ 16,165	\$ 8,497	1.4 %
Profit Sharing	Profit Sharing	14,009	8,526	1.6 %	1.6 %	Profit Sharing	14,009	2.1 %
Salaries & Benefits	Salaries & Benefits	41,351	23,458	4.7 %	4.4 %	Salaries & Benefits	53,281	4.6 %
Stock	Stock					Stock	41,351	4.6 %
Compensation	Compensation	7,025	5,543	0.8 %	1.0 %	Compensation	9,318	0.8 %
Advertising	Advertising	2,353	1,616	0.3 %	0.3 %	Advertising	2,594	0.2 %
Depreciation & Amortization	Depreciation & Amortization	8,050	2,924	0.9 %	0.5 %	Depreciation & Amortization	13,761	1.2 %
Insurance	Insurance	3,755	3,010	0.4 %	0.6 %	Insurance	5,354	0.5 %
Professional Fees	Professional Fees	5,754	7,245	0.6 %	1.4 %	Professional Fees	15,372	1.3 %
Donations	Donations	1,134	738	0.1 %	0.1 %	Donations	1,242	0.1 %

Other	Other	18,895	9,187	2.1 %	1.7 %	Other	29,862	18,895	18,895	2.6	2.6 %
Total SG&A	Total SG&A	\$ 110,823	\$ 68,598	12.5 %	12.8 %	Total SG&A	\$ 171,539	\$	\$ 110,823	14.7	14.7 %

Warranty expense Selling, general and administrative expenses increased consistent with our increase in net sales but decreased \$60.7 million or 54.8% compared to the prior year. As a percentage of sales, as we continue selling, general and administrative increased from 12.5% to focus on our commitment quality.

Salaries and benefits increased \$17.9 million, with a full year of BASX included accounting for \$10.5 million 14.7%. Most of the increase. The remaining increase attributable is due to overall professional fees that increased headcount and \$9.6 million due to the impact of employee pay increases that went into effect during 2022 litigation settlement (Note 18).

Depreciation and amortization expense at BASX was \$4.5 million, accounting for the majority of the change period over period. Profit sharing increased for AAO and AAON Coil Products by \$4.8 million \$10.6 million or 75.5% due to our increased operating results, while profit sharing at BASX results. Other expenses increased as a result of a full \$11.0 million or 58.0% during year of BASX's employee incentive program.

Professional fees decreased due mostly due to increased travel, consulting expenses and closing costs related to the transaction costs associated with the BASX 2023 New Market Tax Credit (Note 4) of \$4.4 million included in 2021. Excluding \$3.8 million of other SG&A at BASX, other SG&A increased \$5.9 million due to consulting services and increased travel expenses due to lighter COVID-19 restrictions in 2022.

17).

Income Taxes

	Years Ended December 31,		Effective Tax Rate
	2022	2021	
	(in thousands)		
Income tax provision	\$ 24,157	\$ 10,424	19.4 %

	Years Ended December 31,		Effective Tax Rate
	2023	2022	
	(in thousands)		
Income tax provision	\$ 45,531	\$ 24,157	20.4 %

The Company's estimated annual 2023 effective tax rate, excluding discrete events, was 23.8%.

During the increase year over year in the year ended December 31, 2022, the Company recorded an excess overall effective tax benefit of \$3.0 million \$5.4 million in 2021, a decrease of 45.3%. The decrease rate was primarily due to the non-deductible executive compensation. In accordance with the 2017 Tax under Internal Revenue Code Section 162(m), the tax deduction for covered executives of public companies is limited to timing \$1.0 million per individual. Because exercises and restricted stock vesting and our high stock price during and timing of executive stock option exercises this resulted in an increase to the quarter income tax provision of 2021. \$3.8 million for the year ended December 31, 2023.

The decrease in excess tax benefits was partially offset by an increase of \$1.8 million in research and development tax credits as defined under the Internal Revenue Code. To qualify for the research and development tax credits, we perform annual studies that identifies, documents, and eligible expenses related to qualified research and development activities. Eligible expenses include but are not limited to supplies, material and wages. With the addition of BASX in December 2021 (Note 4), we identified additional eligible expenses related to qualified research and development activities.

Liquidity and Capital Resources

Our working capital and capital expenditure requirements are generally met through net cash provided by operations and the use of the revolving bank line of credit current liquidity at the time.

Working Capital - Our unrestricted cash and cash equivalents increased \$2.6 million decreased \$5.2 million from December 31, 2021 December 31, 2022 to December 31, 2023. As of December 31, 2022 December 31, 2023, we had \$5.9 million \$9.0 million in cash and cash equivalents and restricted cash.

Revolving Line of Credit - Our revolving credit facility ("Revolver"), as amended and restated, provides for maximum borrowings of \$200.0 million. As of December 31, 2023 and December 31, 2021, we had an outstanding balance under the Revolver of \$71.0 million \$38.3 million and \$22.0 million, respectively. We had two standby letters of credit totaling \$2.3 million as of December 31, 2023 and one standby letter of credit totaling \$0.8 million as of December 31, 2022 and December 31, 2021, respectively. Borrowings available under the Revolver at December 31, 2022 December 31, 2023, were \$128.2 million \$159.4 million. The Revolver matures on May 27, 2027.

Any outstanding loans under the Revolver bear interest at the daily compounded secured overnight financing rate ("SOFR") plus the applicable margin. A margin, ranging from 1.25% - 1.75%, is determined quarterly based on the Company's leverage ratio. The Company is also subject to letter of credit fees, ranging from 0.10% - 0.20%. The applicable fee percentage is determined quarterly based on the Company's leverage ratio. As of December 31, 2023 and December 31, 2021, the weighted average interest rate of our Revolver was 3.0% 6.3% and 1.3% 3.0%, respectively. Fees associated with the commitment portion of the committed amount are included in interest expense on our consolidated statements of income and were not material for the years ended December 31, 2023 and 2021.

2022.

If SOFR cannot be determined pursuant to the definition, as defined by the Revolver agreement, any outstanding effected loans will be deemed to have been converted into alternative base rate ("ABR") loans. ABR loans would bear interest at a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50%, or (c) daily simple SOFR for a one-month tenor in effect on such day plus 1.00%.

At December 31, 2022 December 31, 2023, we were in compliance with our financial covenants, as defined by the Revolver. These covenants require that the Company maintain certain financial ratios, including a leverage ratio and a debt-to-equity ratio. The leverage ratio is calculated as total debt divided by total assets, and the debt-to-equity ratio is calculated as total debt divided by total equity. At December 31, 2022 December 31, 2023, our leverage ratio was 0.46 0.15 to 1.0, which meets the requirement of not exceeding 1.0.

2019 New Market Markets Tax Credit Obligation - On October 24, 2019, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "Investor" "2019 Investor") and a certified Community Development Entity under a qualified New Markets Tax Credit ("2019 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, related to an investment in plant and equipment to facilitate the expansion of our Longview, Texas manufacturing operations ("Project" "2019 Project"). In connection with the 2019 NMTC transaction, the Company received a \$23.0 million NMTC allocation for the Project and secured low interest financing and the potential for future debt forgiveness related to the 2019 Project.

Upon closing of the 2019 NMTC transaction, the Company provided an aggregate of approximately \$15.9 million to the 2019 Investor, in the form of a loan receivable over twenty-five years, bearing an interest rate of 1.0%. This \$15.9 million in proceeds plus capital contributed from the 2019 Investor was used to make an aggregate investment in the Project. The financing arrangement is secured by equipment at the Company's Longview, Texas facilities and a guarantee from the 2019 Investor, including an unconditional guarantee of the NMTCs.

2023 New Markets Tax Credit - On April 25, 2023, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "Investor" "2023 Investor") and a certified Community Development Entity under a qualified New Markets Tax Credit ("2023 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, related to an investment in plant and equipment to facilitate the expansion of our Longview, Texas manufacturing operations (the "2023 Project"). In connection with the 2023 NMTC transaction, the Company received a \$23.0 million NMTC allocation for the 2023 Project and secured low interest financing and the potential for future debt forgiveness related to the expansion of its Longview, Texas facilities.

Upon closing of the 2023 NMTC transaction, the Company provided an aggregate of approximately \$16.7 million to the Investor, in the form of a loan receivable over twenty-five years, bearing an interest rate of 1.0%. This \$16.7 million in proceeds plus capital contributed from the 2023 Investor was used to make an aggregate investment in the 2023 Project.

\$23.8 million loan to a subsidiary of the Company. This financing arrangement is secured by a guarantee from the Company, including an unconditional guarantee of the NMTCs. The net proceeds from the closing of the 2023 NMTC is included in restricted cash on our consolidated balance sheets required to be used for the 2023 Project.

2024 New Markets Tax Credit - On February 27, 2024, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "Investor" "2024 Investor") and a certified Community Development Entity under a qualified New Markets Tax Credit ("2024 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, related to an investment in real estate to facilitate the current expansion of our Longview, Texas manufacturing operations (the "2024 Project"). In connection with the 2024 NMTC transaction, the Company received a \$15.5 million NMTC allocation for the Project and secured low interest financing and the potential for future debt forgiveness related to the expansion of its Longview, Texas facilities.

Upon closing of the 2024 NMTC transaction, the Company provided an aggregate of approximately \$11.0 million to the Investor, in the form of a loan receivable over twenty-five years, bearing an interest rate of 1.0%. This \$11.0 million in proceeds plus capital contributed from the Investor was used to make an aggregate investment in the 2024 Project.

Stock Repurchase - The Board has authorized stock repurchase programs for the Company. The Company may purchase shares on the open market from time to time. The Board must authorize the timing and amount of these purchases and all repurchases are in accordance with the rules and regulations of the SEC allowing for the repurchase of shares from the open market.

Our open market repurchase programs are as follows:

Agreement Execution Date	Authorized Repurchase \$	Expiration Date
March 13, 2020	\$20 million	November 9, 2022
November 3, 2022	\$50 million	** ^{1, 2}

¹ Expiration Date is at Board's discretion. The Company is authorized to effectuate repurchases of the Company's common stock on terms and conditions approved in advance by the Board.

² As of December 31, 2023, there is approximately \$25.0 million remaining under the current stock repurchase program. The remaining amount available is subject to a Board authorized 10b5-1 requiring certain market conditions and requirements.

The Company also had a stock repurchase arrangement by which employee-participants in our 401(k) Plan were entitled to have shares in AAON, Inc. stock sold to the Company. The 401(k) Plan was amended in June 2022 to discontinue this program. No additional shares have been purchased by the Company arrangement since June 2022.

Lastly, the Company repurchases shares of AAON, Inc. stock from certain of its directors and employees for payment of statutory tax withholdings on stock transactions. Repurchases from directors or employees are contingent upon Board approval. All repurchases are done at current market prices.

Our repurchase activity is as follows:

		2022			2021		
		(in thousands, except share and per share data)					
		2023					
		2023					
		2023					
Program	Program	Shares	Total \$	\$ per share	Shares	Total \$	\$ per
Open market	Open market	122,112	\$ 6,823	\$ 55.87	—	\$ —	\$ —
Open market							
Open market							
401(k)	401(k)	103,936	5,913	56.89	297,772	20,876	
Directors and employees		17,228	1,019	59.15	22,526	1,590	
401(k)							
401(k)							
Employees							
Employees							
Employees							
Total	Total	243,276	\$ 13,755	\$ 56.54	320,298	\$ 22,466	\$
Total							
Total							

¹ Reflects three-for-two stock split effective August 16, 2023.

² Reflects three-for-two stock split effective August 16, 2023.

³ Reflects three-for-two stock split effective August 16, 2023.

Inception to Date							
(in thousands, except share and per share data)							
Inception to Date				Inception to Date			
(in thousands, except share and per share data)				(in thousands, except share and per share data)			
Program	Program	Shares	Total \$	\$ per share	Program	Shares ¹	Total \$
Open market	Open market	4,327,367	\$ 81,616	\$ 18.86			

401(k)	401(k)	8,308,368	171,789	20.68
Directors	Directors			
and	and			
employees	employees	2,044,955	23,360	11.42

Total Total 14,680,690 \$276,765 \$18.85

¹ Reflects

three-for-two

stock split

effective

August 16,

2023.

¹ Reflects three-for-two stock split effective August 16, 2023.

Dividends - At the discretion of the Board of Directors, we pay cash dividends. Board approval is required to determine the date of declaration and amount of dividend payment.

Our recent dividends are as follows:

Declaration Date	Record Date	Payment Date	Dividend per Share
May 17, 2021	June 3, 2021	July 1, 2021	\$0.19
November 9, 2021	November 26, 2021	December 17, 2021	\$0.19
May 18, 2022	June 3, 2022	July 1, 2022	\$0.19
November 8, 2022	November 28, 2022	December 16, 2022	\$0.24

Declaration Date ¹	Record Date	Payment Date	Dividend per Share ²	Annualized per Share
May 18, 2022	June 3, 2022	July 1, 2022	\$0.13	\$0.24
November 8, 2022	November 28, 2022	December 16, 2022	\$0.16	\$0.32
March 1, 2023	March 13, 2023	March 31, 2023	\$0.08	\$0.32
May 18, 2023	June 9, 2023	June 30, 2023	\$0.08	\$0.32
August 18, 2023	September 8, 2023	September 29, 2023	\$0.08	\$0.32
November 10, 2023	November 29, 2023	December 18, 2023	\$0.08	\$0.32

¹ Effective with the cash dividend declared on March 1, 2023 (paid on March 31, 2023), the Company moved from semi-annual cash dividends to quarterly cash dividends.

² Reflects three-for-two stock split effective August 16, 2023.

On July 7, 2023, the Board of Directors declared a three-for-two stock split of the Company's common stock that was paid in the form of a stock dividend. Stock at the close of business on July 28, 2023 received one additional share for every two shares they held as of that date on August 16, 2023 (ex-dividend date August 16, 2023). Share and per share information has been updated to reflect the effects of this stock split.

Based on historical performance and current expectations, we believe our cash and cash equivalents balance, the projected cash flows generated from our existing committed revolving credit facility (or comparable financing), and our expected ability to access capital markets will satisfy our working capital needs, capital expenditures, and other liquidity requirements associated with our operations in 2023 and the foreseeable future.

Off-Balance Sheet Arrangements - We are not party to any off-balance sheet arrangements that have or are reasonably likely to have a material current or future effect on our financial condition, changes in financial condition, revenues, expenses, results of operations, liquidity, capital expenditures, or capital resources.

Statement of Cash Flows

The table below reflects a summary of our net cash flows provided by operating activities, net cash flows used in investing activities, and net cash flows provided by financing activities for the years indicated.

Operating Activities	Operating Activities	2022		2021	
		(in thousands)			
Net Income	Net Income	\$	100,376	\$	58,758
Net Income					

Net Income			
Income statement adjustments, net			
Income statement adjustments, net			
Income statement adjustments, net	Income statement adjustments, net	38,516	46,566
Changes in assets and liabilities:	Changes in assets and liabilities:		
Changes in assets and liabilities:			
Accounts receivable			
Accounts receivable			
Accounts receivable	Accounts receivable	(56,306)	(9,737)
Income taxes	Income taxes	18,195	(1,136)
Income taxes			
Income taxes			
Inventories			
Inventories			
Inventories	Inventories	(71,409)	(45,955)
Contract assets	Contract assets	(9,402)	1,886
Contract assets			
Contract assets			
Prepaid expenses and other long-term assets			
Prepaid expenses and other long-term assets			
Prepaid expenses and other long-term assets	Prepaid expenses and other long-term assets	(2,367)	1,374
Accounts payable	Accounts payable	11,574	10,899
Accounts payable			
Accounts payable			
Contract liabilities			
Contract liabilities			
Contract liabilities	Contract liabilities	13,882	(229)
Extended warranties	Extended warranties	1,314	447
Extended warranties			
Extended warranties			
Accrued liabilities and other long-term liabilities			
Accrued liabilities and other long-term liabilities			
Accrued liabilities and other long-term liabilities	Accrued liabilities and other long-term liabilities	16,945	(1,690)
Net cash provided by operating activities	Net cash provided by operating activities	61,318	61,183
Net cash provided by operating activities			
Net cash provided by operating activities			
Investing Activities			
Investing Activities			
Investing Activities	Investing Activities		
Capital expenditures	Capital expenditures	(54,024)	(55,362)
Capital expenditures			
Capital expenditures			
Cash paid for building (Note 4)	Cash paid for building (Note 4)	(22,000)	—
Cash paid for building (Note 4)			
Cash paid for building (Note 4)			

Cash paid in business combination, net of cash acquired			
Cash paid in business combination, net of cash acquired			
Cash paid in business combination, net of cash acquired	Cash paid in business combination, net of cash acquired	(249)	(103,430)
Acquisition of intangible assets			
Acquisition of intangible assets			
Acquisition of intangible assets			
Other			
Other			
Other	Other	60	73
Net cash used in investing activities	Net cash used in investing activities	(76,213)	(158,719)
Net cash used in investing activities			
Net cash used in investing activities			
Financing Activities			
Financing Activities			
Financing Activities	Financing Activities		
Borrowings under revolving credit facility	Borrowings under revolving credit facility	225,758	40,000
Borrowings under revolving credit facility			
Borrowings under revolving credit facility			
Payments under revolving credit facility	Payments under revolving credit facility	(194,754)	—
Payments under revolving credit facility			
Payments under revolving credit facility			
Proceeds from financing obligation, net of issuance costs			
Proceeds from financing obligation, net of issuance costs			
Proceeds from financing obligation, net of issuance costs			
Payment related to financing costs			
Payment related to financing costs			
Payment related to financing costs			
Principal payments on financing lease	Principal payments on financing lease	(115)	—
Principal payments on financing lease			
Principal payments on financing lease			
Stock options exercised			
Stock options exercised			
Stock options exercised	Stock options exercised	23,140	21,148
Repurchase of stock	Repurchase of stock	(12,737)	(20,876)
Repurchase of stock			
Repurchase of stock			
Employee taxes paid by withholding shares			
Employee taxes paid by withholding shares			
Employee taxes paid by withholding shares	Employee taxes paid by withholding shares	(1,018)	(1,590)
Cash dividends paid to stockholders	Cash dividends paid to stockholders	(22,917)	(19,947)

Net cash provided by financing activities	\$ 17,357	\$ 18,735
Cash dividends paid to stockholders		
Cash dividends paid to stockholders		
Net cash (used in) provided by financing activities		
Net cash (used in) provided by financing activities		
Net cash (used in) provided by financing activities		

Cash Flows from Operating Activities

The Company currently manages cash needs through working capital as well as drawing on its line of credit as needed. **credit**. Collections and payments cycles pattern and fluctuate due to timing of receipts and payments.

The decrease in cash flows from receivables was a result of a larger volume of sales in **In early 2022**, the fourth quarter of 2022 in addition to higher priced receivables of 2022. The Company has also increased **began increasing** the purchase of inventory to take advantage of favorable pricing opportunities and also to mitigate future supply chain disruptions on our operations.

Payment terms for BASX jobs typically require upfront cash to fund the job resulting in cash inflows related to our contract liabilities. **liabilities and cash inflows fluctuate** timing and scheduling.

The increase **decrease** in cash flows from income taxes is primarily due to the 2017 Tax Cuts & Jobs Act, which requires research and development expenses December 31, 2021 to be capitalized and amortized over 5 years. This defers our current period income tax deduction which increased our income tax payment end of 2022.

The increase in cash flows from accrued and other long-term liabilities is primarily related to the increase in amounts due to Representatives (timing of receipts), employee profit sharing, and increases in accrued payroll and employee benefits.

Cash Flows from Investing Activities

Net cash outflows from investing activities decreased. **The capital expenditures increase during 2023 related to our continued investment** in 2022 as company capabilities. Purchases during 2023 relate to 2021 primarily due to the cash paid **additional sheet metal and other machinery** for the acquisition of BASX replacement and growth, **additional production and warehouse space** in December 2021. **Longview, Texas, additional office space in Tulsa, Oklahoma, additional** Oklahoma for future growth, and a partial interest in an airplane. The cash paid for building is related to the purchase of the BASX office and manufacturing facility (Note 4).

Our capital expenditure program for **2023** **2024** is estimated to be approximately **\$135.0 million** **\$125.0 million**. Many of these projects are subject to review and discretion of our CEO and Board of Directors without incurring substantial charges.

Cash Flows from Financing Activities

The change in cash from financing activities in **2022** **2023** is primarily related to borrowings under our revolving credit facility to manage our working capital and strategic purchases of inventory to avoid supply chain delays and the funding of the BASX building in May 2022, **certain capital expenditures**, offset by repayment to make due to our increased operating results and financial condition.

Cash flow changes related to stock option exercised. **Furthermore, cash flows from financing activities** is **historically** affected by the timing of stock options exercised by employees. The decrease in our repurchase of stock was the result of the discontinuance of the 401(k) buyback program in June 2022. Cash dividends paid to stockholders **Stock options exercised increased to \$22.9 million** both due to the increase in **the number of shares outstanding** **employee options exercised** and the **average stock price** during 2023 as compared to the previous period.

Additionally, we repurchased approximately 424,777 shares for approximately \$26.3 million during 2023 (Note 16).

Effective with the cash dividend per share declared on March 1, 2023 (paid on March 31, 2023), the Company moved from \$0.19 semi-annual cash dividends to a December 2022 dividend payment. We expect to continue paying quarterly cash dividends.

Commitments and Contractual Agreements

We are occasionally party to short-term, cancellable and occasionally non-cancellable, contracts with major suppliers for the purchase of raw material and components. We expect to receive delivery of raw materials for use in our manufacturing operations. These contracts are not accounted for as derivative instruments because they are normal purchase and normal sales exemption. **In 2023, the Company executed a five-year purchase commitment for refrigerants.** **In 2023, the Company made**

\$10.1 million on this contract. Estimated minimum future payments are \$11.9 million, \$9.1 million, \$10.5 million, and \$11.2 million for 2024, 2025, 2026, and 2027. We had no other material contractual purchase obligations as of December 31, 2022, except as noted below.

On April 27, 2022, the Company entered into a purchase and sale agreement with a third party manufacturer to purchase certain assets to design and manufacture the purchase price of \$6.5 million December 31, 2023. As of December 31, 2022, we have paid approximately \$3.5 million related to this agreement, which is included in long-term assets and property, plant and equipment with the remaining \$3.0 million included in accounts payable and other long-term assets on our consolidated balance sheet. The final payment will be made in 2023.

Contingencies

We are subject to various claims and legal actions that arise in the ordinary course of business. We closely monitor these claims and legal actions and frequently consult with legal counsel to determine whether they may, when resolved, have a material adverse effect on our financial position, results of operations or cash flows and, if so, disclose loss contingencies as appropriate. See Note 18 of the Consolidated Financial Statements for additional information with respect to specific legal proceedings.

Critical Accounting Estimates

The preparation of financial statements and related disclosures in conformity with accounting principles generally accepted in the United States of America ("US GAAP") requires management to make estimates and assumptions about future events and judgments that affect the reported amounts of assets, liabilities, revenue, and expenses in our consolidated financial statements and related notes. We base our estimates and judgments on historical experience, current trends, and other factors believed to be relevant at the time our consolidated financial statements are prepared. However, because future events and their effects cannot be determined with certainty, actual results could differ from our estimates and assumptions, and such differences could be material. We believe the following critical accounting policies affect our more significant estimates, assumptions and judgments used in the preparation of financial statements. We discuss these estimates with the Audit Committee of the Board of Directors periodically.

Inventory - Inventories are valued at the lower of cost or net realizable value using the first-in, first-out ("FIFO") method. Raw material or component inventory transfers from one stage of manufacturing to another at a standard cost. The standard cost is set by management to reflect the actual costs incurred. We continually monitor costs to ensure that standard costs reasonably reflect the FIFO value of the inventory produced and make manual adjustments to the value of inventory accordingly. Adjustments from standards to actual inventory costs require applying judgment regarding a number of factors, including changes in inventory quantities during recent versus historical inventory purchase costs.

Raw material or component inventory typically transfers from one stage of manufacturing to another where it accumulates additional costs directly incurred with finished goods, including estimated standard labor and overhead costs. Labor and overhead costs associated with the manufacturing of our products are capitalized on an estimated standard basis. These include certain direct and indirect costs such as compensation, manufacturing, and facility costs associated with manufacturing functions. We continually monitor our labor and overhead standard costs to ensure that standard costs reasonably reflect our actual costs and make manual adjustments to inventory accordingly. Our manual adjustments from standard to actual labor and overhead costs contain uncertainties that require management to make assumptions and apply judgment regarding a number of factors, including inventory turns, supply usage, manufacturing efficiencies, and historical production costs.

Inventory Reserves - We establish a reserve for inventories based on the change in inventory requirements due to product line changes, the feasibility of using upgraded part substitutions, the required parts needed for part supply sales and replacement parts, and for estimated shrinkage. Assumptions used to estimate reserves include future manufacturing requirements and industry trends. Evolving technology and changes in product mix or customer demand can significantly affect the outcome of this analysis.

Warranty Accrual - A provision is made for estimated warranty costs at the time the product is shipped and revenue is recognized. Our product warranty policies provide for a warranty period of one year from the date of first use or 18 months from date of shipment for parts only; 18 months for data center cooling solutions and cleanroom systems; an additional year for compressors (if applicable); 15 years on aluminized steel gas-fired heat exchangers (if applicable); 25 years on stainless steel heat exchangers (if applicable); and 10 years on gas-fired heat exchangers in our historical RL products (if applicable). Our warranty policy for the RQ series covers parts for two years from date of installation. Our warranty policy for the WH and WV Series geothermal/water-source heat pumps covers parts for five years from the date of installation. Warranty expense is estimated based on the warranty period, historical warranty trends and associated costs, and any known identifiable warranty issue.

Due to the absence of warranty history on new products, an additional provision may be made for such products. Our estimated future warranty cost is subject to change from time to time depending on changes in actual warranty trends and cost experience. Should actual claim rates differ from our estimates, revisions to the estimated liability would be required.

Share-Based Compensation - We measure and recognize compensation expense for all share-based payment awards made to our employees and directors, including options, restricted stock awards, performance stock units ("PSUs"), and key employee awards ("Key Employee Awards") based on their fair values at the date of grant. Compensation expense is recognized on a straight-line basis over the service period of stock options, restricted stock awards, and PSUs. Compensation expense is recognized for the Key Employee Awards on a straight line basis over the service period when the performance condition is determined to be probable. Forfeitures are accounted for in the period in which they occur.

occur. The fair value of each option award is estimated on the date of grant using the Black-Scholes-Merton option pricing model. The fair value of the PSUs is date of grant using the Monte Carlo Model. The use of the Black-Scholes-Merton option valuation model and the Monte Carlo Model requires the input of subjective such as: the expected volatility, the expected term of the grant, forward-looking market conditions, risk-free rate, and expected dividend yield for stock options. restricted stock awards and Key Employee Awards is based on the fair market value of AAON common stock on the respective grant dates. The fair value of awards is reduced for the present value of dividends.

Definite-Lived Intangible Assets – Definite-lived intangible assets include various customer relationships and intellectual property acquired in business combinations. The value of customer relationships and intellectual property is estimated based on management's judgments and assumptions or third party valuation models. These include the use of subjective inputs and assumptions such as expected useful lives, growth of existing customers, attrition of customers, future margins and expense, and future revenue growth. These inputs and assumptions can be inherently uncertain and can significantly affect the outcome of the estimates and analysis. We amortize definite-lived intangible assets on a straight-line basis over the estimated useful lives of the assets. Our definite-lived intangible assets have estimated useful lives of 10 and 30 years. We evaluate the carrying value of our amortizable intangible assets for potential impairment when events and circumstances warrant such a review.

Goodwill and Indefinite-Lived Intangible Assets – Goodwill represents the excess of the consideration paid for the acquired businesses over the fair value of assets acquired, net of liabilities assumed. Indefinite-lived intangible assets consist of trademarks and trade names. The fair value of trademarks and trade names is based on management's judgments and assumptions or third party valuations. These models require the use of subjective inputs such as royalty rate, discount rate, and value.

Goodwill and indefinite-lived intangible assets are not amortized, but instead are evaluated for impairment at least annually. We perform our annual assessment during the fourth quarter of our fiscal year, and more frequently if circumstances warrant.

To perform this assessment, we first consider qualitative factors to determine whether it is more likely than not that the fair value of the reporting unit and indefinite-lived assets exceeds their carrying amount. If we conclude that it is more likely than not that the fair value of a reporting unit and indefinite-lived assets does not exceed their carrying amount, we calculate the fair value for the reporting unit and indefinite-lived assets and compare the amount to their carrying amount. If the fair value of a reporting unit and indefinite-lived asset exceeds their carrying amount, the reporting unit and indefinite-lived assets are not considered impaired. If the carrying amount of the reporting unit and indefinite-lived assets exceeds their fair value, the reporting unit and indefinite-lived assets are considered to be impaired and the balance is reduced by the difference between the fair value and carrying amount of the reporting unit and indefinite-lived assets.

We performed a qualitative assessment as of December 31, 2022 December 31, 2023 to determine whether it was more likely than not that the fair value of the reporting unit and indefinite-lived assets was greater than the carrying value of the reporting unit and indefinite-lived assets. Based on these qualitative assessments, we determined that the fair value of the reporting unit and indefinite-lived assets was more likely than not greater than the carrying value of the reporting unit and indefinite-lived assets.

Estimates and assumptions used to perform the impairment evaluation are inherently uncertain and can significantly affect the outcome of the analysis. The assumptions we use in the annual impairment assessment included macro-industry trends, market participant considerations, historical profitability, including free cash flow, and forecasted multi-year operating results. Changes in operating results and other assumptions could materially affect these estimates. A considerable amount of judgment and assumptions are required in performing the impairment tests.

Contingent Consideration – As part of a business combination, we agreed to issue shares of the Company's common stock based on certain milestones in accordance with the acquisition agreement. This contingent consideration is valued at fair value on the acquisition date and is included in goodwill and additional paid-in capital on the balance sheets.

The fair value of the contingent consideration was determined using the Option Pricing Method through a Monte Carlo simulation, as this model is appropriate for the type of consideration for which the payoff structure is nonlinear. The use of this model requires the input of subjective inputs and assumptions such as: future earnings, future cash flows, volatility of future earnings, risk-free rate, discount rate, and future stock performance. These inputs and assumptions can be inherently uncertain and can significantly affect the outcome of the estimates and analysis.

New Accounting Pronouncements

Changes to U.S. GAAP are established by the Financial Accounting Standards Board ("FASB") in the form of accounting standards updates ("ASUs") to the FASB's Codification.

We consider the applicability and impact of all ASUs. ASUs not listed below were assessed and determined to be either not applicable or are expected to have no impact on our consolidated financial statements and notes thereto.

In October 2023, the FASB issued ASU 2023-06, Disclosure Improvements: Codification Amendments in Response to SEC's Disclosure Update and Simplification. This ASU provides new guidance intended to update a variety of disclosure requirements. The effective date for each amendment will be the date on which the SEC removes the disclosure from Regulation S-X or Regulation S-K becomes effective. Early adoption is prohibited. Upon adoption, this ASU is not expected to have a material impact on the Company's financial statements and related disclosures.

In November 2023, the FASB issued ASU No. 2023-07, Segment Reporting (Topic 280). The new guidance improves reportable segment disclosures primarily by requiring annual disclosures about significant segment expenses and by requiring current annual disclosures to be provided in interim periods. The amendments in this ASU are effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. Upon adoption, the new guidance is not expected to have a material impact on the Company's financial statements and related disclosures.

In December 2023, the FASB issued ASU 2023-09, Income Taxes (Topic 740). The new guidance is intended to enhance the transparency and decision usefulness of income tax disclosures. The amendments in this ASU are effective for annual periods beginning after December 15, 2024. Upon adoption, this ASU is not expected to have a material impact on the Company's financial statements and related disclosures.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Commodity Price Risk

We are exposed to volatility in the prices of commodities used in some of our products and, occasionally, we use cancellable and non-cancellable contract suppliers for periods of six to 18 months to manage this exposure.

Interest Rate Risk

We are exposed to changes in interest rates related to our outstanding debt. As of December 31, 2022, December 31, 2023, we had an outstanding balance of \$ million. For each one percentage point increase in the interest rate applicable to our outstanding debt, our annual income before taxes would decrease by approximately \$0.4 million.

Item 8. Financial Statements and Supplementary Data.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders
AAON, Inc.

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of AAON, Inc. (a Nevada corporation) and subsidiaries (the "Company") as of December 31, 2023 and 2021, 2022, the related consolidated statements of income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2023, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly in all respects, the financial position of the Company as of December 31, 2022, December 31, 2023 and 2021, 2022, and the results of its operations and its cash flow for each of the three years in the period ended December 31, 2022, December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2022, December 31, 2023, based on criteria established in the 2013 Internal Control—Integrated Framework issued by the Internal Control—Integrated Framework issued by the Sponsoring Organizations of the Treadway Commission ("COSO"), and our report dated February 27, 2023, February 28, 2024 expressed an unqualified opinion.

Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant judgments made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matters

Critical audit matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and especially challenging, subjective, or complex judgments. The communication of We determined that there are no critical audit matters does not alter in any way the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit accounts or disclosures to which it relates.

Inventory – manual inventory adjustments

As described in Note 2 to the financial statements, the Company reports inventory using the first in, first out ("FIFO") method, which involves manual adjustment of the general ledger such as inventory variance, inventory allowance and labor and overhead adjustments, which had the potential to be larger or require more judgment. For the year ended December 31, 2022, where the Company experienced changes in the prices of certain raw materials due to the COVID-19 pandemic, as well as other challenges. These manual adjustments have been identified as a critical audit matter.

The principal considerations for our determination that manual inventory adjustments are a critical audit matter are these manual adjustments require significant management estimates and require the Company to have effective inventory valuation processes. Significant management judgments and estimates utilized to determine the manual inventory adjustments are subject to estimation uncertainty and require significant auditor subjectivity in evaluating the reasonableness of those judgments and estimates.

Our audit procedures related to the manual inventory adjustments included the following, among others.

- We tested the design and operating effectiveness of controls over inventory valuation, including the standard cost updates in the accounting system, completeness and accuracy of the inputs to the inventory variance calculation and any related adjustments.
- We recalculated the Company's standard costing of inventory which approximated FIFO by obtaining FIFO buildups and inspected underlying documents for raw materials.
- We assessed the reasonableness of management's inventory reserve by recalculating the reserve using management's inputs.
- We tested labor and overhead rate changes by recalculating the rates used and tested any adjustments recorded to the general ledger.

matters.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2004.

Tulsa, Oklahoma

February 27, 2023

28, 2024

Assets	December 31,		AAON, Inc. and Subsidiaries		Consolidated	
	2022		2023			
	(in thousands, except share and per share data)		(in thousands, except share and per share data)			
Current assets:	Current assets:		Assets			
Cash and cash equivalents	Cash and cash equivalents	\$ 5,451	\$ 2,859			
Restricted cash	Restricted cash	498	628			

Accounts receivable, net of allowance for credit losses of \$477 and \$549, respectively	127,158	70,780
Income tax receivable	—	5,723
Accounts receivable, net		
Accounts receivable, net		
Accounts receivable, net		
Inventories, net		
Inventories, net		
Inventories, net	198,939	130,270
Contract assets	Contract assets	15,151 5,749
Prepaid expenses and other	Prepaid expenses and other	1,919 2,071
Total current assets	Total current assets	349,116 218,080
Property, plant and equipment:	Property, plant and equipment:	Property, plant and equipment:
Land	Land	8,537 5,016
Buildings	Buildings	169,156 135,861
Machinery and equipment	Machinery and equipment	342,045 318,259
Furniture and fixtures	Furniture and fixtures	30,033 23,072
Total property, plant and equipment	Total property, plant and equipment	549,771 482,208
Less: Accumulated depreciation	Less: Accumulated depreciation	245,026 224,146
Property, plant and equipment, net	Property, plant and equipment, net	304,745 258,062
Intangible assets, net	Intangible assets, net	64,606 70,121
Intangible assets, net		
Intangible assets, net		
Goodwill	Goodwill	81,892 85,727
Right of use assets	Right of use assets	7,123 16,974
Other long-term assets	Other long-term assets	6,421 1,216
Total assets	Total assets	\$813,903 \$650,180
Total assets		
Total assets		
Liabilities and Stockholders' Equity		
Liabilities and Stockholders' Equity		
Liabilities and Stockholders' Equity	Liabilities and Stockholders' Equity	
Current liabilities:	Current liabilities:	Current liabilities:
Accounts payable		
Accounts payable		

Accounts payable	Accounts payable	\$ 45,513	\$ 29,020
Accrued liabilities	Accrued liabilities	78,630	50,206
Contract liabilities	Contract liabilities	<u>21,424</u>	<u>7,542</u>
Total current liabilities	Total current liabilities	145,567	86,768
Revolving credit facility, long-term	Revolving credit facility, long-term	71,004	40,000
Deferred tax liabilities	Deferred tax liabilities	18,661	31,993
Other long-term liabilities	Other long-term liabilities	11,508	18,843
New market tax credit obligation (a)		6,449	6,406
New markets tax credit obligations ¹			
Commitments and contingencies (Note 18)	Commitments and contingencies (Note 18)		Commitments and contingencies (Note 18)
Stockholders' equity:			Stockholders' equity:
Preferred stock, \$001 par value, 5,000,000 shares authorized, no shares issued	Preferred stock, \$001 par value, 5,000,000 shares authorized, no shares issued	—	—
Common stock, \$004 par value, 100,000,000 shares authorized, 53,425,184 and 52,527,985 issued and outstanding at December 31, 2022 and 2021, respectively		214	210
Common stock, \$004 par value, 100,000,000 shares authorized, 81,508,381 and 80,137,776 issued and outstanding at December 31, 2023 and 2022, respectively ²			
Additional paid-in capital	Additional paid-in capital	98,735	81,654
Retained earnings		461,765	384,306
Retained earnings ²			
Total stockholders' equity	Total stockholders' equity	<u>560,714</u>	<u>466,170</u>
Total liabilities and stockholders' equity	Total liabilities and stockholders' equity	<u>\$813,903</u>	<u>\$650,180</u>
(a) Held by variable interest entities (Note 17)			
¹ Held by variable interest entities (Note 17)			

² Reflects three-for-two stock split effective August 16, 2023.
² Reflects three-for-two stock split effective August 16, 2023.
² Reflects three-for-two stock split effective August 16, 2023.

The accompanying notes are an integral part of these consolidated financial statements.

**AAON, Inc. and
Subsidiaries**

AAON, Inc. and Subsidiaries

AAON, Inc. and Subsidiaries

AAON, Inc. and Subsidiaries

Consolidated Statements of Income

Consolidated Statements of Income

**Consolidated
Statements of
Income**

Consolidated Statements of Income

Years Ended December 31,

2022

2021

2020

(in thousands, except share and per share data)

Net sales

Net sales

Net sales	Net sales	\$	888,788	\$	534,517	\$	514,551
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Cost of sales	Cost of sales		651,216		396,687		358,702
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Cost of sales

Cost of sales

Gross profit

Gross profit

Gross profit	Gross profit		237,572		137,830		155,849
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Selling, general and administrative expenses	Selling, general and administrative expenses		110,823		68,598		60,491
--	--	--	---------	--	--------	--	--------

Gain on disposal of assets and insurance recoveries		(12)		(21)		(6,478)	
---	--	------	--	------	--	---------	--

Selling, general and administrative expenses

Selling, general and administrative expenses

Gain on disposal of assets

Gain on disposal of assets

Gain on disposal of assets

Income from operations	Income from operations		126,761		69,253		101,836
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Interest (expense) income, net		(2,627)		(132)		88	
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Income from operations

Income from operations

Interest expense, net

Interest expense, net

Interest expense, net

Other income, net

Other income, net

Other income, net	Other income, net		399		61		51
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Income before taxes	Income before taxes		124,533		69,182		101,975
---------------------	---------------------	--	---------	--	--------	--	---------

Income before taxes

Income before taxes					
Income tax provision					
Income tax provision					
Income tax provision	Income tax provision	24,157		10,424	22,966
Net income	Net income	\$ 100,376		\$ 58,758	\$ 79,009
Net income					
Net income					
Earnings per share:	Earnings per share:				
Basic		\$ 1.89		\$ 1.12	\$ 1.51
Diluted		\$ 1.86		\$ 1.09	\$ 1.49
Cash dividends declared per common share:	\$ 0.43		\$ 0.38		\$ 0.38
Earnings per share:					
Earnings per share:					
Basic ¹					
Basic ¹					
Basic ¹					
Diluted ¹					
Diluted ¹					
Diluted ¹					
Cash dividends declared per common share ¹ :					
Cash dividends declared per common share ¹ :					
Cash dividends declared per common share ¹ :					
Weighted average shares outstanding:	Weighted average shares outstanding:				
shares outstanding:	shares outstanding:				
Basic		53,054,986		52,404,199	52,168,679
Diluted		54,097,072		53,728,989	53,061,169
Weighted average shares outstanding:					
Weighted average shares outstanding:					
Basic ¹					
Basic ¹					
Basic ¹					
Diluted ¹					
Diluted ¹					
Diluted ¹					
1 Reflects three-for-two stock split effective August 16, 2023.					
1 Reflects three-for-two stock split effective August 16, 2023.					
1 Reflects three-for-two stock split effective August 16, 2023.					

The accompanying notes are an integral part of these consolidated financial statements.

AAON, Inc. and Subsidiaries						Consolidated Stockholders
Common Stock			Common Stock	Paid-in Capital	Retained Earnings ¹	Total
Shares ¹	Amount ¹	(in thousands)				
Common Stock	Paid-in Capital	Earnings ¹				
Shares	Amount	Capital	Earnings	Total		

<i>(in thousands)</i>						
Balance at December 31,						
2019	52,079	\$ 208	\$ 3,631	\$ 286,301	\$ 290,140	
Balance at December 31, 2020						
Net income	Net income	—	—	—	79,009	79,009
Stock options exercised and restricted	Stock options exercised and restricted	712	3	21,415	—	21,418
stock awards granted	stock awards granted					
Share-based compensation	Share-based compensation	—	—	11,342	—	11,342
Stock repurchased and retired		(566)	(2)	(31,227)	—	(31,229)
Dividends		—	—	—	(19,815)	(19,815)
Balance at December 31, 2020						
	52,225	209	5,161	345,495	350,865	
Net income		—	—	—	58,758	58,758
Stock options exercised and restricted		623	2	21,146	—	21,148
stock awards granted						
Share-based compensation						
Share-based compensation	Share-based compensation	—	—	11,812	—	11,812
Stock repurchased and retired	Stock repurchased and retired	(320)	(1)	(22,465)	—	(22,466)
Contingent consideration (Note 4)	Contingent consideration (Note 4)	—	—	66,000	—	66,000
Dividends	Dividends	—	—	—	(19,947)	(19,947)
Balance at December 31, 2021	Balance at December 31, 2021	52,528	210	81,654	384,306	466,170
Net income	Net income	—	—	—	100,376	100,376
Stock options exercised and restricted	Stock options exercised and restricted	1,140	5	23,135	—	23,140
stock awards granted	stock awards granted					
Share-based compensation	Share-based compensation	—	—	13,700	—	13,700
Share-based compensation						
Stock repurchased and retired	Stock repurchased and retired	(243)	(1)	(13,754)	—	(13,755)
Contingent consideration (Note 4)	Contingent consideration (Note 4)	—	—	(6,000)	—	(6,000)
Dividends	Dividends	—	—	—	(22,917)	(22,917)

Balance at December 31, 2022	Balance at December 31, 2022	53,425	\$ 214	\$ 98,735	\$ 461,765	\$ 560,714
Net income						
Stock options exercised and restricted						
Stock awards granted						
Share-based compensation						
Share-based compensation						
Share-based compensation						
Stock repurchased and retired						
Dividends						
Balance at December 31, 2023						
†Reflects three-for-two stock split effective August 16, 2023.						
†Reflects three-for-two stock split effective August 16, 2023.						

The accompanying notes are an integral part of these consolidated financial statements.

AAON, Inc. and Subsidiaries							Consolidated of C	
		Years Ended December 31,			Years Ended December 31,			
		2022	2021	2020	2023	2022	2021	
Operating Activities	Operating Activities	(in thousands)			Operating Activities			(in thousands)
Net income	Net income	\$100,376	\$ 58,758	\$ 79,009				
Adjustments to reconcile net income to net cash provided by operating activities:	Adjustments to reconcile net income to net cash provided by operating activities:				Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	Depreciation and amortization	35,106	30,343	25,634				
Amortization of debt issuance costs	Amortization of debt issuance costs	43	43	43				
Amortization of right of use assets	Amortization of right of use assets	324	73	—				
Provision for credit losses on accounts receivable, net of adjustments		(72)	43	153				
Provision for excess and obsolete inventories		2,740	629	1,108				

	(Recoveries of) provision for credit losses on accounts receivable, net of adjustments					
	Provision for excess and obsolete inventories, net of write- offs					
Share-based compensation	Share-based compensation	13,700	11,812	11,342		
Gain on disposition of assets and insurance recoveries		(12)	(21)	(6,478)		
Foreign currency transaction loss (gain)		41	(1)	(12)		
Gain on disposition of assets						
Foreign currency transaction (gain) loss						
Interest income on note receivable	Interest income on note receivable	(22)	(24)	(24)		
Deferred income taxes	Deferred income taxes	(13,332)	3,669	13,027		
Changes in assets and liabilities:	Changes in assets and liabilities:				Changes in assets and liabilities:	
Accounts receivable	Accounts receivable	(56,306)	(9,737)	19,859		
Income taxes	Income taxes	18,195	(1,136)	(3,815)		
Inventories	Inventories	(71,409)	(45,955)	(9,726)		
Contract assets	Contract assets	(9,402)	1,886	—		
Prepaid expenses and other long-term assets	Prepaid expenses and other long-term assets	(2,367)	1,374	(2,364)		
Accounts payable	Accounts payable	11,574	10,899	(2,155)		
Contract liabilities	Contract liabilities	13,882	(229)	—		
Extended warranties	Extended warranties	1,314	447	1,010		
Accrued liabilities and other long-term liabilities	Accrued liabilities and other long-term liabilities	16,945	(1,690)	2,203		

Net cash provided by operating activities	Net cash provided by operating activities	61,318	61,183	128,814	
Investing Activities	Investing Activities	Investing Activities			
Capital expenditures	Capital expenditures	(54,024)	(55,362)	(67,802)	
Cash paid for building (Note 4)	Cash paid for building (Note 4)	(22,000)	—	—	
Cash paid in business combination, net of cash acquired	Cash paid in business combination, net of cash acquired	(249)	(103,430)	—	
Proceeds from sale of property, plant and equipment	Proceeds from sale of property, plant and equipment	12	19	60	
Insurance proceeds		—	—	6,417	
Acquisition of intangible assets					
Principal payments from note receivable					
Principal payments from note receivable					
Principal payments from note receivable	Principal payments from note receivable	48	54	52	
Net cash used in investing activities	Net cash used in investing activities	(76,213)	(158,719)	(61,273)	
Financing Activities	Financing Activities	Financing Activities			
Borrowings under revolving credit facility	Borrowings under revolving credit facility	225,758	40,000	—	
Payments under revolving credit facility	Payments under revolving credit facility	(194,754)	—	—	
Proceeds from financing obligation, net of issuance costs					
Payments related to financing costs					
Principal payments on financing lease	Principal payments on financing lease	(115)	—	—	
Stock options exercised	Stock options exercised	23,140	21,148	21,418	
Repurchase of stock	Repurchase of stock	(12,737)	(20,876)	(30,060)	
Employee taxes paid by withholding shares	Employee taxes paid by withholding shares	(1,018)	(1,590)	(1,169)	

Dividends paid to stockholders	Dividends paid to stockholders	(22,917)	(19,947)	(19,815)
Net cash provided by (used in) financing activities		17,357	18,735	(29,626)
Net cash (used in) provided by financing activities				
Net increase (decrease) in cash, cash equivalents and restricted cash	Net increase (decrease) in cash, cash equivalents and restricted cash	2,462	(78,801)	37,915
Cash, cash equivalents and restricted cash, beginning of year	Cash, cash equivalents and restricted cash, beginning of year	3,487	82,288	44,373
Cash, cash equivalents and restricted cash, end of year	Cash, cash equivalents and restricted cash, end of year	\$ 5,949	\$ 3,487	\$82,288

The accompanying notes are an integral part of these consolidated financial statements.

AAON, Inc. and Subsidiaries
Notes to Consolidated Financial Statements
December 31, 2022 2023

1. Business Description

AAON, Inc. is a Nevada corporation which was incorporated on August 18, 1987. Our operating subsidiaries include AAON, Inc., an Oklahoma corporation, AAC Inc., a Texas corporation, and BasX, BASX, Inc., an Oregon corporation (collectively, the "Company"). The consolidated financial statements include our accounts of our subsidiaries.

We are engaged in the engineering, manufacturing, marketing, and sale of premium air conditioning and heating equipment consisting of standard, semi-custom rooftop units, data centers cooling solutions, cleanroom systems, packaged outdoor mechanical rooms, air handling units, makeup air units, energy recovery units, geothermal/water-source heat pumps, coils, and controls.

Impact of COVID-19 Pandemic

The magnitude of the impact of the COVID-19 pandemic remains unpredictable and could unfavorably impact our business. However, the direct effects of the pandemic has had no significant impact on our planned cash outflows for raw materials, dividend payments, or capital expenditures.

Although future disruptions and costs are expected to be temporary, there is still significant uncertainty around the duration and overall impacts to our business. We are continually monitoring the progression of the pandemic, including new COVID-19 variants, and their potential effect on our consolidated financial position, operations and cash flows.

Inflation and Labor Market

In late 2021 and throughout 2022, we have witnessed increases in our raw material and component prices. Due to our favorable liquidity position, we continue to make strategic purchases of materials when we see opportunities. We continue to manage the increase in the cost of raw materials through price increases for our products. We also experienced supply chain challenges related to specific manufacturing parts, which we have managed through our strong vendor relationships as well as the diversification of vendors.

Additionally, we continue to experience challenges in a tight labor market, especially the hiring of both skilled and unskilled production labor. We have implemented wage increases to remain competitive and to attract and retain employees:

- In March 2021, we awarded annual merit raises for an overall 5.0% increase to wages.
- In July 2021, we increased starting wages for our production workforce by 7.0%.

- In October 2021, we implemented a cost of living increase of 3.5% in place for all employees below our Senior Leadership Team ("SLT"), which consists of officers and key members of management.
- In March 2022, we awarded annual merit raises for an overall 3.0% increase to wages.
- In October 2022, we implemented a cost of living increase of 3.5% in place for all employees below the SLT level.
- In March 2023, we awarded annual merit raises for an overall 3.9% increase to wages.

We will continue to implement human resource initiatives to retain and attract labor to further improve productivity and production efficiencies.

Despite efforts to mitigate the impact of inflation, supply chain issues and the tight labor market, future disruptions, while temporary, could negatively impact financial position, results of operations and cash flows.

First Quarter 2021 Planned Maintenance and Adverse Weather

During the fourth quarter of 2020, we made the strategic decision to shut down our Tulsa, OK and Longview, TX manufacturing facilities to perform planned maintenance during the last week of December 2020 as well several days in early January 2021.

In February 2021, record-breaking winter storms affected Oklahoma and Texas, causing sustained below freezing temperatures, hazardous driving conditions, water main breaks, and a host of other weather related issues. In addition to significant absenteeism as a result of employees being unable to travel to and from inadequate transportation and/or hazardous road conditions, the Company made the decision to shut down the Tulsa, OK and Longview, TX plants for several days. The decision was based on the expected employee absenteeism, as well as the expected rolling blackouts caused by the increased demand on the electrical and natural gas systems.

WH Series and WV Series Water Source Heat Pump Units

As part of the normal course of business, management is continually monitoring the profitability of the Company's various product series offerings. In the first quarter of 2022, management made the decision to no longer produce our small packaged geothermal/water-source heat pump units consisting of the WH Series configuration and WV Series vertical configuration, from one-half to 12 1/2 tons ("WH/WV"). These WH/WV units are produced solely out of the AAON plant in Longview, TX. Production of the remaining WH/WV backlog is expected to continue through the first quarter of 2023.

A majority of the long-lived assets used in the production of these units will be immediately reallocated to other product production, providing us additional manufacturing capacity with minimal costs. The workforce from these production lines will also be reallocated to other product production lines. Management has identified some related parts and parts that cannot be used in other products or sold through our parts business; therefore, we have increased our provision for excess and obsolete inventory. The cost of sales on our consolidated statements of income, by approximately \$1.2 million was completed during the year ended December 31, 2022.

second quarter 2023.

Change in Estimate

During the first quarter of 2022, a review of the Company's useful lives for certain sheet metal manufacturing equipment at our Longview, Texas facilities resulted in an estimate that increased the useful lives from between ten and twelve years to fifteen years. This determination was based on recent and estimated future product demand as management's knowledge of the equipment and historical and future use of the equipment. The change in estimate was made prospectively and resulted in a depreciation expense within cost of sales on our consolidated statements of income of \$1.8 million during the year ended December 31, 2022.

We do not believe the impact of these events had a material adverse effect on our consolidated financial position, results of operations and cash flows.

2. Summary of Significant Accounting Policies

Principles of Consolidation

These financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All inter-company intercompany accounts and transactions have been eliminated.

Our financial statements also consolidate all of our affiliated entities in which we have a controlling financial interest. Because we hold certain rights that give direct the activities of two five variable interest entities ("VIEs") (Note 17) that most significantly impact the VIEs economic performance, combined with a vari gives us the right to receive potentially significant benefits or the obligation to absorb potentially significant losses, we have a controlling financial interest in those

On December 10, 2021, we closed on the acquisition of all of the issued and outstanding equity ownership of BasX, BASX, LLC, doing business as BASX Sc (Note 4). On December 29, 2021, BasX, BASX, LLC converted to a C-Corporation, BasX, BASX, Inc. ("BASX"), and is subject to income tax. We have includ BASX's operations in our consolidated financial statements beginning December 11, 2021.

Cash and Cash Equivalents

We consider all highly liquid temporary investments with original maturity dates of three months or less to be cash equivalents. Cash and cash equivalents deposits and highly liquid, interest-bearing money market funds.

The Company's cash and cash equivalents are held in a few financial institutions in amounts that exceed the insurance limits of the Federal Deposit Insura However, management believes that the Company's counterparty risks are minimal based on the reputation and history of the institutions selected.

Restricted Cash

Restricted cash held at December 31, 2022 December 31, 2023 and December 31, 2021 December 31, 2022 consists of bank deposits and highly liquid, interest market funds held for the purpose of the Company's qualified New Markets Tax Credit program programs (Note 17) to benefit an investment in plant and equip the expansion of our Longview, Texas manufacturing operations.

The Company's restricted cash is held in a financial institutions in amounts that exceed the insurance limits of the Federal Deposit Insurance Corporation. Howe believes that the Company's counterparty risks are minimal based on the reputation and history of the institutions selected.

Accounts and Note Receivable

Accounts and note receivable are stated at amounts due from customers, net of an allowance for credit losses. We generally do not require that our customers p however, our billings and customer payment terms can vary based on product type as a way to manage collections risk. The Company determines its allowance by considering a number of factors, including the credit risk of specific customers, the customer's ability to pay current obligations, historical trends, econo conditions, and the age of the receivable. Accounts are considered past due when the balance has been outstanding for ninety days past negotiated credit accounts are generally written-off against the allowance for credit losses only after all collection attempts have been exhausted.

Concentration of Credit Risk

Our customers are concentrated primarily in the domestic commercial and industrial new construction and replacement markets. To date, our sales have bee domestic market, with foreign sales accounting for approximately 3.1% 3.4%, 3.0% 3.1%, and 2.0% 3.0% of revenues for the years ended December 31, 2023, 2021, 2022, and 2020, 2021, respectively.

One customer, For the years-ended December 31, 2023, 2022, and 2021, Texas AirSystems LLC, accounted for more than 10.0% approximately 13.8%, 12.4%, 11.1% sales, during 2022, 2021, respectively. Through portfolio groups, Meriton has an ownership interest in Texas AirSystems and 2020. No certain other customer ac than 10.0% of our sales during representatives. The aggregate sales percentages through Meriton-affiliated groups that are in addition to Texas AirSystems' sa ended December 31, 2023, 2022 and 2021 accounted for an additional 2.3%, 1.4% and 2020. One customer, 2.7%, respectively. Two other similar groups, Ambi Hobbs/Insight, share common ownership of some of our other sales representatives through portfolio groups and for the year-ended December 31, 2023, through their portfolio groups accounted for approximately 11.5% and 10.2% of our sales, respectively. Sales through the portfolio groups of either Ambi or Hobbs/Insight did not account for 10% or more of our sales for any years-ended prior to December 31, 2023.

As of December 31, 2023 and 2022, Texas AirSystems LLC, accounted for more than 10.0% approximately 13.5% and 12.3%, of our accounts receivable balan 31, 2022. No customers respectively. The aggregate percentages through Meriton-affiliated groups that are in addition to Texas AirSystems' accounts receivable 31, 2023 and 2022, accounted for more than 10.0% an additional 2.0% and 3.2%, respectively. Two other similar groups, Ambient and Hobbs/Insight, aggregated through their portfolio groups accounted for approximately 16.8% and 11.5% of our accounts receivable balance at December 31, 2021 as of December 31, 2022. Accounts receivables of the portfolio groups did not account for 10% or more of our accounts receivable as of December 31, 2022, except for Ambient's aggregate approximately 10.9%.

Inventories

Inventories are valued at the lower of cost or net realizable value using the first-in, first-out ("FIFO") or average cost method. Cost in inventory includes purchased materials, direct labor and applied manufacturing overhead. We establish an allowance for excess and obsolete inventories based on product line changes, substituting parts and the need for supply and replacement parts.

Property, Plant and Equipment

Property, plant, and equipment, including significant improvements, are recorded at cost, net of accumulated depreciation; except for property, plant, and equipment in a business combination which is recorded at fair value. Repairs and maintenance and any gains or losses on disposition are included in operations.

Depreciation is computed using the straight-line method over the following estimated useful lives:

Buildings and leasehold improvements	3 - 40 years
Machinery and equipment	3 - 20 years
Furniture and fixtures	3 - 15 years

On April 22, 2020, our plant and office facilities in Tulsa, Oklahoma experienced hail related weather damage and we filed a property insurance claim which was deductible. We did not experience any significant structural damage or any operational interruption as a result of this weather event. In November 2020, we received a settlement with our insurance carrier, resulting in a net cumulative gain of \$6.4 million, which is included in the consolidated statements of income. The received funds were used to make improvements to the current roof at our plant and office facilities in Tulsa, Oklahoma to extend the overall useful life.

In January 2023, we purchased additional real property and improvements for our AAON Coil Products operations in Longview, Texas for \$3.6 million. This acquisition consists of 64,000 square feet of warehouse space that will enable the continued growth of our AAON Coil Products operations.

Business Combinations

The Company applies the acquisition method of accounting for business acquisitions. The results of operations of the businesses acquired by the Company are included in the financial statements from the date of acquisition. The acquisition date fair value of the consideration transferred, including the fair value of any contingent consideration, is allocated to the assets acquired and liabilities assumed based upon their estimated fair values at the date of acquisition. To the extent the acquisition date fair value of the consideration transferred exceeds the fair value of the identifiable tangible and intangible assets acquired and liabilities assumed, such excess is allocated to goodwill. The Company will adjust the preliminary purchase price allocation, as necessary, as it obtains more information regarding asset valuations and liabilities assumed that existed but were not known at the acquisition date, which is generally up to one year after the acquisition closing date. Acquisition related expenses are recognized separately from the business combination and are expensed as incurred.

Fair Value Financial Instruments and Measurements

The carrying amounts of cash and cash equivalents, receivables, accounts payable, and accrued liabilities approximate fair value because of the short-term nature of these items. The carrying amount of the Company's revolving line of credit, and other payables, approximate their fair values either due to their short term nature, or they are associated with the debt or based on current rates offered to the Company for debt with similar characteristics.

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants as of the measurement date. Fair value is based upon assumptions that market participants would use when pricing an asset or liability. We use the following fair value hierarchy to prioritize valuation technique inputs used to measure fair value into three broad levels:

- Level 1: Quoted prices in active markets for identical assets and liabilities that we have the ability to access at the measurement date.
- Level 2: Inputs (other than quoted prices included within Level 1) that are either directly or indirectly observable for the asset or liability, including (i) quoted prices for identical assets or liabilities in active markets, (ii) quoted prices for identical or similar assets or liabilities in inactive markets, (iii) inputs other than quoted prices that are observable for the asset or liability, and (iv) inputs that are derived from observable market data by correlation or other means.
- Level 3: Unobservable inputs for the asset or liability including situations where there is little, if any, market activity for the asset or liability. Items categorized under Level 3 may include the estimated fair values of

property, plant and equipment, intangible assets, contingent consideration, and goodwill acquired in a business combination.

The fair value hierarchy gives the highest priority to quoted prices in active markets (Level 1) and the lowest priority to unobservable inputs (Level 3). In some cases, the same input used to measure fair value might fall into different levels of the fair value hierarchy. The lowest level input that is significant to a fair value measurement determines the level in the fair value hierarchy. Assessing the significance of a particular input to a fair value measurement requires judgment, considering factors specific to the input.

Software Development Costs

We capitalize costs incurred to purchase or develop software for internal use. Internal-use software development costs are capitalized during the application development period. These capitalized costs are reflected in intangible assets, net on the consolidated balance sheets and are amortized over the estimated useful life of the software. The estimated useful life of our internal-use software development costs is generally 1-6 years.

Definite-Lived Intangible Assets

Our definite-lived intangible assets include various trademarks, service marks, and technical knowledge acquired in business combinations (Note 4). We amortize our definite-lived intangible assets on a straight-line basis over the estimated useful lives of the assets. We evaluate the carrying value of our amortizable assets for potential impairment when events and circumstances warrant such a review.

Amortization is computed using the straight-line method over the following estimated useful lives:

Intellectual property	6 - 30 years
Customer relationships	14 years

Goodwill and Indefinite-Lived Intangible Assets

Goodwill represents the excess of the consideration paid for the acquired businesses over the fair value of the individual assets acquired, net of liabilities assumed. Goodwill is expected to be tax deductible in future periods. Indefinite-lived intangible assets consist of trademarks, and trade names, and are also subject to annual impairment testing. Internal-use software is not amortized, but instead are evaluated for impairment at least annually. Goodwill and indefinite-lived intangible assets are not amortized, but instead are evaluated for impairment at least annually. We perform our annual assessment of impairment during the fourth quarter of our fiscal year, and more frequently if circumstances warrant.

To perform this assessment, we first consider qualitative factors to determine whether it is more likely than not that the fair value of the reporting unit and indefinite-lived assets exceeds their carrying amount. If we conclude that it is more likely than not that the fair value of a reporting unit and indefinite-lived assets does not exceed their carrying amount, we calculate the fair value for the reporting unit and indefinite-lived assets and compare the amount to their carrying amount. If the fair value of a reporting unit and indefinite-lived asset exceeds their carrying amount, the reporting unit and indefinite-lived assets are not considered impaired. If the carrying amount of the reporting unit and indefinite-lived assets exceeds their fair value, the reporting unit and indefinite-lived assets are considered to be impaired and the balance is reduced by the difference between the fair value and carrying amount of the reporting unit and indefinite-lived assets.

We performed a qualitative assessment as of December 31, 2022 December 31, 2023 to determine whether it was more likely than not that the fair value of the reporting unit and indefinite-lived assets was greater than the carrying value of the reporting unit and indefinite-lived assets. Based on these qualitative assessments, we determined that the fair value of the reporting unit and indefinite-lived assets was more likely than not greater than the carrying value of the reporting unit and indefinite-lived assets.

Estimates and assumptions used to perform the impairment evaluation are inherently uncertain and can significantly affect the outcome of the analysis. The assumptions we use in the annual impairment assessment included market participant considerations and future forecasted operating results. Changes in operating assumptions could materially affect these estimates. A considerable amount of management judgment and assumptions are required in performing the impairment evaluation.

The changes in the carrying amount of goodwill were as follows:

		Years Ended December 31,	
		2022	2021
(in thousands)			
Years Ended December 31,			
Years Ended December 31,			
Years Ended December 31,			
2023			
2023			
2023			
		(in thousands)	
		(in thousands)	
		(in thousands)	
Balance, beginning of period	Balance, beginning of period	\$ 85,727	\$ 3,229
Additions due to acquisitions (Note 4)		—	82,498
Balance, beginning of period			

Balance, beginning of period		
Additions due to acquisitions		
Additions due to acquisitions		
Additions due to acquisitions		
Decreases due to acquisition adjustments (Note 4)		
Decreases due to acquisition adjustments (Note 4)		
Decreases due to acquisition adjustments (Note 4)	Decreases due to acquisition adjustments (Note 4)	(3,835)
Balance, end of period	Balance, end of period	81,892
Balance, end of period		85,727
Balance, end of period		

The acquisition adjustments were recorded during the first quarter of 2022. The revisions were the result of the finalization of our preliminary estimates and this models related to the acquisition of BASX (Note4) in 2021. The impact of such revisions on consolidated net income were not significant.

Contingent Consideration

As part of a business combination, we agreed to issue shares of the Company's common stock based on certain milestones in accordance with the acquisition contingent consideration is valued at fair value on the acquisition date and is included in additional paid-in capital on the consolidated balance sheets.

Impairment of Long-Lived Assets

We review long-lived assets for possible impairment when events or changes in circumstances indicate, in management's judgment, that the carrying amount of the asset may not be recoverable. Recoverability is measured by a comparison of the carrying amount of an asset or asset group to its estimated undiscounted future cash flow generated by the asset or asset group. If the undiscounted cash flows are less than the carrying amount of the asset or asset group, an impairment loss is recognized to the extent by which the carrying amount of the asset or asset group exceeds its fair value.

Research and Development

The costs associated with research and development for the purpose of developing and improving new products are expensed as incurred. For the years ended December 31, 2022, December 31, 2023, 2021, 2022, and 2020, research and development costs amounted to approximately \$46.8 million, \$43.7 million, \$16.6 million, \$17.4 million, and \$16.6 million, respectively. The significant increase for the year ended December 31, 2022 was related to the inclusion of a full year of operations of our R&D center as well as our commitment to product performance and innovation.

Advertising

Advertising costs are expensed as incurred. incurred and included in selling, general, and administrative expenses on our consolidated statement of income. Advertising costs for the years ended December 31, 2022, December 31, 2023, 2021, 2022, and 2020 amounted to approximately \$2.4 million, \$2.6 million, \$1.6 million, \$2.4 million, and \$1.6 million, respectively.

Shipping and Handling

We incur shipping and handling costs in the distribution of products sold that are recorded in cost of sales. Shipping charges that are billed to the customer are revenues and as an expense in cost of sales. For the years ended December 31, 2022, December 31, 2023, 2021, 2022, and 2020, shipping and handling costs amounted to approximately \$24.4 million, \$29.0 million, \$14.4 million, \$24.4 million, and \$14.3 million, respectively.

Income Taxes

Income taxes are accounted for under the asset and liability method. The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the book carrying amounts and the tax basis of assets and liabilities. Excess tax benefits and deficiencies are reported as an income tax expense or benefit on the statement of income and are treated as discrete items to the income tax provision in the reporting period in which they occur. We establish reserves for unrecognized tax positions when it is more likely than not that our tax return positions may not be fully sustained. The Company records a valuation allowance against assets when, in the opinion of management, it is more likely than not that deferred tax assets will not be realized.

Share-Based Compensation

The Company recognizes expense for its share-based compensation based on the fair value of the awards that are granted. The Company's share-based compensation awards provide for the granting of stock options, restricted stock, and performance stock units ("PSUs"). In conjunction with the acquisition of BASX (Note 4), we awarded key employees ("Key Employee Awards") of BASX.

The fair values of stock options are estimated at the date of grant using the Black-Scholes-Merton option valuation model. The fair value of the PSUs is estimated using the Monte Carlo Model. The use of the Black-Scholes-Merton option valuation model and the Monte Carlo Model requires the input of subjective assumptions: the expected volatility, the expected term of the grant, expected market performance, risk-free rate, and expected dividend yield for stock options. The fair value of stock awards and Key Employee Awards is based on the fair market value of AAON common stock on the respective grant dates. The fair value of restricted stock awards is reduced for the present value of dividends. The Key Employee Awards and PSUs do not accrue dividends.

Share-based compensation expense is recognized on a straight-line basis over the service period of the related share-based compensation award. Historically, restricted stock awards, granted to employees, vested at a rate of 20% per year. Restricted stock awards granted to directors historically vest over the shorter of the remaining elected term or one-third each year. Beginning March 2021, all new grants of stock options and restricted stock awards granted to employees, vest at a rate of 20% per year. Forfeitures are accounted for as they occur.

Historically, if the employee or director is retirement eligible (as defined by the Long Term Incentive Plans) or becomes retirement eligible during service period of a share-based compensation award, the service period is the lesser of 1) the grant date, if retirement eligible on grant date, or 2) the period between grant date and retirement eligible date. All share-based compensation awards granted on or after March 1, 2020 to retirement eligible employees or directors contain a one-year employment period (minimum service period) or the entire award is forfeited. Forfeitures are accounted for as they occur.

The PSUs cliff vest at the end of their respective service period. Share-based compensation expense is recognized on a straight-line basis over the service period. PSUs are subject to several service and market conditions, as defined by the PSU agreement, which allows the holder to retain a pro-rata amount of awards as a result of certain termination conditions, retirement, change in common control, or death. Forfeitures are accounted for as they occur.

The Key Employee Awards cliff vest on December 31, 2023. Share-based compensation expense is recognized on a straight-line basis over the service period. Key Employee Awards when it is probable that the performance conditions will be satisfied. The Key Employee Awards are subject to several service and performance conditions defined by the Key Employee Award agreement, which allows the holder to retain an amount of the awards as a result of certain termination conditions or change in common control. Forfeitures are accounted for as they occur.

Derivative Instruments

In the course of normal operations, the Company occasionally enters into contracts such as forward priced physical contracts for the purchase of raw materials that are designated as normal purchase or normal sale contracts. Such contracts are exempted from the fair value accounting requirements and are accounted for at fair value as purchased or sold under the related contract. The Company does not engage in speculative transactions, nor does the Company hold or issue financial instruments for investment purposes.

Revenue Recognition

Due to the highly customized nature of many of the Company's products and each product not having an alternative use to the Company without significant modification, the Company recognizes revenue over time as progress is made toward satisfying the performance obligations of each contract. The Company has no policies and generally does not accept returns on these units. As a result, many of the Company's products do not have an alternative use and therefore, for these products, the Company recognizes revenue over the time it takes to produce the unit.

Contract costs include direct materials, direct labor, installation, freight and delivery, commissions and royalties. Other costs not related to contract performance include labor and materials, small tools and supplies,

operating expenses, field rework and back charges are charged to expense as incurred. Provisions for estimated losses on contracts in progress are made in the period in which such losses are determined. Changes in job performance, job conditions, and estimated profitability, including those arising from contract penalty provisions and settlements, may result in revisions to costs and income, and are estimated and recognized by the Company.

Company throughout the life of the contract. The aggregate of costs incurred and income recognized on uncompleted contracts in excess of billings is shown as a liability within our consolidated balance sheets, and the aggregate of billings on uncompleted contracts in excess of related costs incurred and income recognized is shown as a liability within our consolidated balance sheets.

For all other products that are part sales or standardized units, the Company recognizes revenue, presented net of sales tax, when it satisfies the performance contracts. As the primary performance obligation in such a contract is delivery of the requested manufactured equipment, we satisfy the performance obligation is passed to the customer, generally at time of shipment. Final sales prices are fixed based on purchase orders.

Sales allowances and customer incentives are treated as reductions to sales and are provided for based on historical experiences and current estimates.

Historically, sales of our products were moderately seasonal with the peak period being May-October of each year due to timing of construction projects being warmer weather. However, in recent years, given the increases in demand of our product and increases in our backlog, sales has become more constant through

Product Warranties

A provision is made for the estimated cost of maintaining product warranties to customers at the time the product is sold based upon historical claims experience. The Company records a liability and an expense for estimated future warranty claims based upon historical experience and management's estimate of the claims. Changes in the estimated amounts recognized in prior years are recorded as an adjustment to the liability and expense in the current year.

The Company also sells extended warranties on parts for various lengths of time ranging from six months to 10 years. Revenue for these separately priced warranties are recognized on a straight-line basis over the separately priced warranty period.

Representatives and Third Party Products

We are responsible for billings and collections resulting from all sales transactions, including those initiated by our independent manufacturer representatives ("Representatives"). Representatives are national companies that are in the business of providing heating, ventilation, and air conditioning ("HVAC") units and other related product customers. The end user customer orders a bundled group of products and services from the Representative and expects the Representative to fulfill the order. The related products and services may include controls purchased from another manufacturer to operate the unit, start-up services, and curbs for supporting the unit ("Products"). All are associated with the purchase of a HVAC unit but may be provided by the Representative or another third party. Only after the specifications are agreed to by the Representative and the customer, and the decision is made to use an AAON HVAC unit, will we receive notice of the order. We establish the amount we must pay for the HVAC unit ("minimum sales price"), but do not control the total order price that is negotiated by the Representative with the end user customer. The Representative sends the total order price to us for invoicing and collection. The total order price includes our minimum sales price and an additional amount which may include both the fee and amounts due for additional products and services required by the customer. The Company is considered the principal for the equipment we design and manufacture. The Company records revenue gross. The Company has no control over the Third Party Products to the end customer and the Company is under no obligation related to the products. Amounts related to Third Party Products are not recognized as revenue but are recorded as a liability and are included in accrued liabilities on the consolidated balance sheets.

The Representatives' fee and Third Party Products amounts ("Due to Representatives") are paid only after all amounts associated with the order are collected from the customer. The amount of payments to our Representatives was \$39.1 million \$59.2 million, \$43.9 million \$39.1 million, and \$50.0 million \$43.9 million for each of the years ended December 31, 2022 December 31, 2023, 2021, 2022, and 2020, 2021, respectively.

Insurance Reserves

Under the Company's insurance programs, coverage is obtained for significant liability limits as well as those risks required to be insured by law or contract. It is the Company's policy to self-insure a portion of certain expected losses related primarily to workers' compensation and medical liability. Provisions for losses expected under insurance policies are recorded based on the Company's estimates of the aggregate liabilities for the claims incurred.

Leases

New leases entered into by the Company are assessed at lease inception for proper lease classification. At December 31, 2022, December 31, 2023 and 2022, the leases are classified as operating leases.

We have entered into various short-term operating leases with an initial term of twelve months or less. These leases are not recorded on our consolidated balance sheet as of December 31, 2022 December 31, 2023 and 2021, 2022, and the rent expense for these short-term leases is not significant.

As our leases do not provide an implicit interest rate, we use our incremental borrowing rate based on the information available at the commencement date in order to determine the present value of lease payments. Our incremental borrowing rate represents the interest rate which we would pay to borrow on a collateralized basis, an amount equal to the lease payments over a similar term in a similar economic environment.

Expense related to these leases is recognized on straight-line basis over the lease term. Certain of our leases contain escalating lease payments based on pred
Most leases contain options to renew or terminate. Right-of-use assets and lease liabilities reflect only the options which the Company is reasonably certain to ex

The Company's leases generally require us to pay for insurance, taxes, utilities, and other operating costs. These payments are not included in the right-of-use liability and are expensed as incurred.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Because these estimates and assumptions require significant judgment, actual results could differ from those estimates and could have a significant effect on our results of operations, financial position, and cash flows. We reevaluate our estimates and assumptions as needed, but at a minimum on a quarterly basis. The estimates include, but are not limited to, inventory valuation, inventory reserves, warranty accrual, workers' compensation accrual, medical insurance accrual, useful lives of property, plant, and equipment, estimated future use of leased property, share-based compensation, business combinations, revenue percentage of completion, and estimated costs to complete. Actual results could differ materially from those estimates.

3. Revenue Recognition

The following tables show disaggregated net sales by reportable segment (Note 22) by major source, net of intercompany sales eliminations.

Year Ended December 31, 2022									
AAON									
AAON		Coil							
Oklahoma	Products	BASX1	Total						
(in thousands)									
Year Ended December 31, 2023									
AAON									
Oklahoma				AAON Oklahoma		AAON Coil Products			
(in thousands)									
Rooftop	Rooftop								
Units	Units	\$ 579,363	\$ —	\$ —	\$ 579,363				
Condensing	Condensing								
Units	Units	302	46,287	—	46,589				
Air	Air								
Handlers	Handlers	—	47,442	14,434	61,876				
Outdoor	Outdoor								
Mechanical	Mechanical								
Rooms	Rooms	612	855	—	1,467				
Cleanroom	Cleanroom								
Systems	Systems	—	—	47,020	47,020				
Data Center	Data Center								
Cooling	Cooling								
Solutions	Solutions	—	—	53,522	53,522				
Water-	Water-								
Source	Source								
Heat	Heat								
Pumps	Pumps	11,529	8,797	—	20,326				
Part Sales	Part Sales	52,927	—	671	53,598				
Other	Other	19,112	3,909	2,006	25,027				
\$									
		\$ 663,845	\$ 107,290	\$ 117,653	\$ 888,788				
Year Ended December 31, 2021									
AAON									
AAON		Coil							
Oklahoma	Products	BASX1	Total						

(in thousands)													
Year Ended December 31, 2022													
Year Ended December 31, 2022													
Year Ended December 31, 2022													
AAON				AAON Oklahoma									
Oklahoma				AAON Coil Products									
(in thousands)													
Rooftop	Rooftop												
Units	Units	\$ 398,461	\$ —	—	\$398,461								
Condensing	Condensing												
Units	Units	762	25,989	—	26,751								
Air	Air												
Handlers	Handlers	—	26,589	95	26,684								
Outdoor	Outdoor												
Mechanical	Mechanical												
Rooms	Rooms	820	464	—	1,284								
Cleanroom	Cleanroom												
Systems	Systems	—	—	2,288	2,288								
Data Center	Data Center												
Cooling	Cooling												
Solutions	Solutions	—	—	1,688	1,688								
Water-	Water-												
Source	Source												
Heat	Heat												
Pumps	Pumps	10,831	10,343	—	21,174								
Part Sales	Part Sales	41,127	1	—	41,128								
Other	Other	11,844	3,203	12	15,059								
\$													
		\$ 463,845	\$ 66,589	\$ 4,083	\$ 534,517								
Year Ended December 31, 2020													
AAON				AAON Oklahoma									
AAON		Coil Products		BASX ¹		Total							
(in thousands)													
Year Ended December 31, 2021													
Year Ended December 31, 2021													
Year Ended December 31, 2021													
AAON				AAON Oklahoma									
Oklahoma				AAON Coil Products									
(in thousands)													
Rooftop	Rooftop												
Units	Units	\$ 400,946	\$ —	—	\$400,946								
Condensing	Condensing												
Units	Units	900	20,249	—	21,149								
Air	Air												
Handlers	Handlers	—	23,931	—	23,931								
Outdoor	Outdoor												
Mechanical	Mechanical												
Rooms	Rooms	2,355	487	—	2,842								
Cleanroom													
Systems													
Data Center													
Cooling													
Solutions													

Water- Source	Water- Source				
Heat	Heat				
Pumps	Pumps	10,663	8,390	—	19,053
Part Sales	Part Sales	32,561	—	—	32,561
Other	Other	11,532	2,537	—	14,069
		<u>\$ 458,957</u>	<u>\$ 55,594</u>	<u>—</u>	<u>\$514,551</u>

¹BASX was acquired by the Company on December 10, 2021, as such, the only applicable periods presented for BASX is the year ended December 31, 2022 and December 11, 2021 through December 31, 2021.

\$

¹ BASX was acquired on December 10, 2021. We have included the results of BASX's operations in our consolidated financial statements beginning December 11, 2021.

¹ BASX was acquired on December 10, 2021. We have included the results of BASX's operations in our consolidated financial statements beginning December 11, 2021.

Other sales include freight, extended warranties and miscellaneous revenue.

4. Business Combination

On November 18, 2021, the Company entered into a membership interest purchase agreement (the "MIPA Agreement") to acquire of all of the issued and owned ownership of BasX, **BASX**, LLC, an Oregon limited liability company, doing business as BASX Solutions. We closed this transaction on December 10, 2021 for a (i) \$100.0 million payable in cash (not including working capital adjustments), and (ii) up to \$80.0 million in the aggregate of contingent consideration payable Company's stock, par value \$0.004 per share (the "Shares").

The \$80.0 million of contingent consideration payable consists of \$78.0 million payable to the former owners of BasX, **BASX**, LLC and \$2.0 million payable to **BASX**, LLC whom are now employed by the Company. The potential future issuance of the Shares is contingent upon BASX meeting certain post milestones during each of 2021, 2022, and 2023 under the terms of the MIPA Agreement (Note 16). The Company funded the acquisition cash portion of the related transaction costs with cash on hand.

Additionally, as a condition to closing, the Company entered into a real estate purchase agreement with BasX **BASX** Properties, LLC, an affiliate of BasX, **BASX** the principal real property and improvements utilized by BASX for an additional \$22.0 million, **in cash**, subject to customary closing conditions and adjustment closed this real estate transaction on May 31, 2022, which terminated the related lease (Note 5).

We incurred \$4.4 million in transaction fees related to the acquisition which are included in selling, general, and administrative expenses on our consolidated statement for the year ended December 31, 2021. We have included the results of BASX's operations in our consolidated financial statements beginning December 11, 2021.

We applied pushdown accounting, allowable under ASC 805 "Business Combinations," to "pushdown" our stepped-up basis in the assets acquired and liabilities in BASX's subsidiary financial statements. The decision to apply pushdown accounting is irrevocable. Goodwill was calculated and recognized consistent with accounting, resulting **We incurred \$4.4 million** in the pushdown of \$78.7 million in goodwill as of December 31, 2022.

The following table presents the allocation of the consideration paid to the assets acquired and liabilities assumed in the acquisition described above, which was at December 31, 2021. The revisions indicated below were recorded during the first quarter of 2022. The revisions were the result of updates to our preliminary third party valuation models. The impact of such revisions on consolidated net income were not significant.

	Estimated Allocation as of December 31, 2021		
	Final Allocation	December 31, 2021	Re
Accounts receivable			<i>(in thousands)</i>
	13,699	\$ 13,699	\$

Inventories	2,725	2,725
Contract assets	7,635	7,635
Prepaid expenses and other	341	341
Property, plant and equipment	15,611	15,611
Right of use assets	13,169	13,169
Intangible assets	68,413	70,329
Goodwill	78,663	82,498
Accounts payable	(9,388)	(9,388)
Accrued liabilities	(3,807)	(3,807)
Contract liabilities	(7,771)	(7,771)
Lease liabilities	(15,611)	(15,611)
Contingent Consideration - shares of AAON	(60,000)	(66,000)
Consideration paid	\$ 103,679	\$ 103,430

The Company recognized the following definite and indefinite-lived intangible assets as part of the acquisition:

	Final Allocation	Estimated Allocation as of		Re
		December 31, 2021	(in thousands)	
Definite-lived intangible assets				
Intellectual property	\$ 6,295	\$ 6,479	\$ 6,479	\$
Customer relationships	47,547	48,684	48,684	
	<u>53,842</u>	<u>55,163</u>	<u>55,163</u>	
Indefinite-lived intangible assets				
Trademarks	14,571	15,166	15,166	
Total intangible assets acquired	\$ 68,413	\$ 70,329	\$ 70,329	\$

Goodwill is the excess of the consideration paid for the acquired businesses over the fair value of the individual assets acquired, net of liabilities assumed. Goodwill is the premium paid to acquire the skilled workforce and expanded market opportunities. Goodwill of \$47.1 million was tax deductible upon completion of the transaction. The consideration paid to the assets acquired and liabilities acquired. Future additional amounts of goodwill transaction fees related to the contingent consideration are deductible acquisition which are included in selling, general, and administrative expenses on our consolidated statement of income for the future if the earn out MIPA are achieved.

year ended December 31, 2021.

Pro Forma Results of Operations (unaudited)

The operations of BASX have been included in our consolidated statements of income since the closing date on December 10, 2021. The following unaudited consolidated results of operations for the years year ended December 31, 2021 and 2020 are presented as if the combination had been made on January 1, 2021 and reflects the three-for-two stock split effective August 16, 2023.

	Years ended December 31,		(unaudited)
	2021	2020	
<i>(in thousands, except per share data)</i>			
Revenues	\$ 611,158	\$ 63,491	
Net income			
Earnings per share:			
Basic	1.21	\$	
Dilutive	1.18	\$	

(unaudited)

Year ended December 31, 2021

(in thousands, except per share data)

Revenues	\$	611,158
Net income		63,491
Earnings per share:		
Basic	\$	0.80
Dilutive	\$	0.78

These unaudited pro forma results include adjustments necessary in connection with the acquisition.

The unaudited consolidated pro forma financial information was prepared in accordance with GAAP and is not necessarily indicative of the results of operations that would have occurred if the acquisition had been completed on the date indicated, nor is it indicative of the future operating results of the Company.

The unaudited pro forma results do not reflect events that either have occurred or may occur after the acquisition date, including, but not limited to, the anticipated operating synergies in subsequent periods. These results also do not give effect to certain charges that the Company expects to incur in connection with the acquisition, including, but not limited to, additional professional fees and employee integration.

5. Leases

The Company has lease arrangements for certain administrative, manufacturing and warehousing facilities and equipment. Currently, all **All** leases are classified as operating leases.

	Balance Sheet Classification	December 31, 2022	
		<i>(in thousands)</i>	
Right-of-use assets	Right of use assets	\$	7,123
Current lease liability	Accrued liabilities		1,254
Noncurrent lease liability	Other long-term liabilities		5,993

Through the acquisition of BASX (Note 4), we acquired various leases for plant/office space and equipment, which were classified as operating leases. This acquisition included BASX's manufacturing and office facility in Redmond, Oregon was leased from a related party (Note 21). On May 31, 2022, we completed the real estate transaction described in Note 4 and the associated operating lease was terminated.

	Balance Sheet Classification	December 31, 2023	
		<i>(in thousands)</i>	
Right-of-use assets	Right of use assets	\$	11,774
Current lease liability	Accrued liabilities		2,021
Noncurrent lease liability	Other long-term liabilities		10,201

Since 2018, the Company has leased the manufacturing, engineering and office space used by our operations in Parkville, Missouri. In October 2022, the lease was amended to expand our manufacturing and office space from 51,000 square feet to 86,000 square feet. The amended lease will provide for 31,000 square feet of additional manufacturing and engineering space and for 4,000 square feet of additional office space. The amended lease extends the lease term through December 31, 2028.

Through the acquisition of BASX (Note 4), we acquired various leases for plant/office space and equipment, which were classified as operating leases. This acquisition included BASX's manufacturing and office facility in Redmond, Oregon was leased from a related party (Note 21). On May 31, 2022, we completed the real estate transaction described in Note 4 and the associated operating lease was terminated.

In November 2022, the Company entered into a lease arrangement for additional storage facilities in Tulsa, Oklahoma to support our operations. The lease will provide for 198,000 square feet to our operations. In January 2024, we amended the lease for an additional 157,550 square feet for operations and parts distribution. The amended lease term will expire **October 31, 2025** November 30, 2029.

We also lease several properties near our Redmond location. In the aggregate, these leases contain approximately 104,500 square feet of additional warehouse space. The leases have expiring terms from February 2025 to November 2033.

In June 2022, July 2023, the Company entered into a lease agreement with a start date of September 1, 2023, for land and approximately 72,000 square feet of Oklahoma Redmond, Oregon to support our manufacturing operations. This lease was classified term is approximately five years with additional renewal options. Total undiscounted future lease payments are as a finance lease as the Company had the option to and was reasonably certain to purchase the underlying asset. However, during the third quarter of 2022, it was determined that the Company would no longer purchase the land or facility and terminate the lease due to unanticipated structural issues. We vacated the property and cancelled the lease at the end of 2022. follows:

	(in thousands)
2024	\$
2025	
2026	
2027	
2028	
Thereafter	

6. Accounts Receivable

Accounts receivable and the related allowance for credit losses are as follows:

	December 31,		December 31,		
	2022	2021	2023		2024
	(in thousands)		(in thousands)		
Accounts receivable					
receivable	\$127,635	\$71,329			
Less: Allowance for credit losses	(477)	(549)			
Total, net	<u>\$127,158</u>	<u>\$70,780</u>			

	Years Ended December 31,			Years Ended December 31,	
	2022	2021	2020	2023	2022
	(in thousands)			(in thousands)	
Allowance for credit losses:	Allowance for credit losses:			Allowance for credit losses:	
Balance, beginning of period	Balance, beginning of period			\$549	\$506
Provisions for expected credit losses, net of adjustments	Provisions for expected credit losses, net of adjustments			359	43
Accounts receivable written off, net of recoveries	Accounts receivable written off, net of recoveries			(431)	—
Balance, end of period	Balance, end of period			<u>\$477</u>	<u>\$549</u>
					<u>\$506</u>

7. Inventories

Inventories are valued at the lower of cost or net realizable value. Cost is determined by the first-in, first-out ("FIFO") method. We establish an allowance for excess and obsolescence.

inventories based on product line changes, the feasibility of substituting parts and the need for supply and replacement parts.

The components of inventories and the related changes in the allowance for excess and obsolete inventories are as follows:

	December 31,		December 31,	2023
	2022	2021		
	(in thousands)			(in thousands)
Raw materials	Raw materials	\$194,159	\$124,480	
Work in process	Work in process	3,501	3,049	
Finished goods	Finished goods	5,806	4,528	
		203,466	132,057	
Less: Allowance for excess and obsolete inventories	Less: Allowance for excess and obsolete inventories	(4,527)	(1,787)	
Total, net	Total, net	\$198,939	\$130,270	

	Years Ended December 31,			Years Ended December 31:
	2022	2021	2020	2023
Allowance for excess and obsolete inventories:	Allowance for excess and obsolete inventories:	(in thousands)	Allowance for excess and obsolete inventories:	(in thousands)
Balance, beginning of period	Balance, beginning of period	\$1,787	\$3,261	\$2,644
Provisions for excess and obsolete inventories	Provisions for excess and obsolete inventories	2,852	629	1,108
Inventorys written off	Inventorys written off	(112)	(2,103)	(491)
Balance, end of period	Balance, end of period	\$4,527	\$1,787	\$3,261

We continuously evaluate our inventory parts and write off inventory when no alternative use can be found. During the third quarter of 2022, we made the decision to produce our small packaged geothermal/water-source heat pump units consisting of the WH Series horizontal configuration and WV Series vertical configuration. As a result, we have increased our provision for excess and obsolete inventory and written off certain related components and parts that are no longer used in other products or sold through our parts business. As a result, we increased our provision for excess and obsolete inventory, within cost of sales on our consolidated income statement, by approximately \$1.2 million during the year ended December 31, 2022.

8. Intangible Assets

Our intangible assets consist of the following:

	December 31,	December 31,
	2022	2021

Definite-lived intangible assets	Definite-lived intangible assets	(in thousands)	Definite-lived intangible assets	(in thousands)
Intellectual property	Intellectual property	\$ 6,295	\$ 6,479	
Customer relationships	Customer relationships	47,547	48,684	
Capitalized internal-use software				
Less:	Less:			
Accumulated amortization	Accumulated amortization	(3,807)	(208)	
Total, net	Total, net	50,035	54,955	
Indefinite-lived intangible assets	Indefinite-lived intangible assets			
Indefinite-lived intangible assets				
Indefinite-lived intangible assets				
Trademarks				
Trademarks				
Trademarks	Trademarks	14,571	15,166	
Total intangible assets, net	Total intangible assets, net	\$64,606	\$70,121	

On April 27, 2022, the Company entered into a purchase and sale agreement with a third-party manufacturer to purchase certain assets to design and manufacture the purchase price of \$6.5 million. As of December 31, 2023, approximately \$5.5 million is included intangible asset (intellectual property) and approximately included in property, plant and equipment, respectively, on our consolidated balance sheets.

Amortization expense recorded in cost of sales is as follows:

	Years Ended December 31,	
	2022	2021
	(in thousands)	
Amortization expense	\$ 3,599	\$ 246
Years Ended December 31,		
	2023	2022
	(in thousands)	
Amortization expense	\$ 5,331	\$ 3,599

Excluding the impact of any Total future acquisitions, the Company anticipates amortization expense to be approximately \$3.6 million for each of the years ended 2027. finite-lived intangible assets was estimated as follows:

	(in thousands)
2024	\$
2025	
2026	
2027	
2028	
Thereafter	
Total future amortization expense	
Internal-use software projects in process	
Total	\$

9. Supplemental Cash Flow Information

Supplemental disclosures:	Supplemental disclosures:	Years Ended December 31,			Years Ended December 31,	
		2022 2021 2020			2023	
		(in thousands)			(in thousands)	
Interest paid	Interest paid	\$ 2,412	\$ —	\$ —		
Income taxes paid, net	Income taxes paid, net	19,293	7,891	13,754		
Non-cash investing and financing activities: financing activities:						
Non-cash capital expenditures	Non-cash capital expenditures	1,919	(3,714)	2,843		
Non-cash capital expenditures	Non-cash capital expenditures					

10. Warranties

The Company has product warranties with various terms from one year from the date of first use or 18 months for parts, data center cooling solutions, and clear 25 years for certain heat exchangers. The Company has an obligation to replace parts if conditions under the warranty are met. A provision is made for estimate at the time the related products are sold based upon the warranty period, historical trends, new products, and any known identifiable warranty issues.

Changes in the warranty accrual are as follows:

	Years Ended December 31,	
	2022	2021
Warranty accrual:		
Balance, beginning of period	\$ 13,769	\$ 13,522
Payments made	(6,584)	(6,734)
Provisions	8,497	6,351
Assumed in business combination (Note 4)	—	630
Balance, end of period	\$ 15,682	\$ 13,769
Warranty expense:		
	\$ 8,497	\$ 6,351
Years Ended December 31,		
	2023	2022
	(in thousands)	
Warranty accrual:		
Balance, beginning of period	\$ 15,682	\$ 13,769
Payments made	(11,274)	(6,584)
Provisions	16,165	8,497
Assumed in business combination (Note 4)	—	—
Balance, end of period	\$ 20,573	\$ 15,682
Warranty expense:		
	\$ 16,165	\$ 8,497

11. Accrued Liabilities and Other Long-Term Liabilities

Accrued liabilities were comprised of the following:

	December 31, 2022	
	(in thousands)	
Warranty	\$ 15,682	\$
Due to representatives	15,545	
Payroll	11,901	
Profit sharing	5,451	
Workers' compensation	367	
Medical self-insurance	1,178	
Customer prepayments	3,750	
Donations, short-term	637	
Accrued income taxes	12,472	
Employee vacation time	6,329	
Extended warranties, short-term	1,330	
Lease liability, short-term	1,254	
Other	2,734	
Total	\$ 78,630	\$

	December 31, 2023	
	(in thousands)	
Warranty	\$ 20,573	\$
Due to representatives	14,428	
Payroll	18,829	
Profit sharing	7,596	
Workers' compensation	338	
Medical self-insurance	1,460	
Customer prepayments	2,621	
Donations, short-term	381	
Accrued income taxes	1,170	
Employee vacation time	10,315	
Extended warranties, short-term	2,387	
Lease liability, short-term	2,021	
Other	3,389	
Total	\$ 85,508	\$

Other long-term liabilities were comprised of the following:

	December 31, 2022		December 31, 2021	
	(in thousands)		(in thousands)	
	December 31, 2023		2023	
	(in thousands)		(in thousands)	
Lease liability	\$ 5,993	\$ 15,467		
Extended warranties	4,539	3,042		
Donations and other	976	334		

Total	Total	\$11,508	\$18,843
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12. Revolving Credit Facility

On November 24, 2021, we amended our revolving credit facility to provide for maximum borrowings of \$100.0 million, with an option to increase to \$200.0 million. In 2022, we amended our \$100.0 million Amended and Restated Loan Agreement dated November 24, 2021 ("Revolver"), to provide for maximum borrowings of \$71.0 million as of December 31, 2022. December 31, 2023 and December 31, 2021. December 31, 2022, we had an outstanding balance under the Revolver of \$71.0 million. \$40.0 million \$71.0 million, respectively. We had two standby letters of credit totaling \$2.3 million as of December 31, 2023 and one standby letter of credit \$0.8 million as of December 31, 2022 and 2021, respectively. Borrowings available under the Revolver at December 31, 2022 December 31, 2021 \$159.4 million. The Revolver expires on May 27, 2027.

Any outstanding loans under the Revolver bear interest at the daily compounded secured overnight financing rate ("SOFR") plus the applicable margin. The margin, ranging from 1.25% - 1.75%, is determined quarterly based on the Company's leverage ratio. The Company is also subject to letter of credit fees, ranging from 0.10% - 0.20%. The applicable fee percentage is determined quarterly based on the Company's leverage ratio. As of December 31, 2023, 2022, and 2021, the weighted average interest rate of our Revolver was 6.3%, 3.0%, and 1.3%, respectively. Fees associated with the unused portion of committed amounts are included in interest expense on our consolidated statements of income and were not material for the years ended December 31, 2023, 2022, and 2021, respectively.

If SOFR cannot be determined pursuant to the definition, as defined by the Revolver agreement, any outstanding effected loans will be deemed to have been alternative base rate ("ABR") loans. ABR loans would bear interest at a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50%, or (c) daily simple SOFR for a one-month tenor in effect on such day plus 1.00%.

At December 31, 2022 December 31, 2023, we were in compliance with our financial covenants as defined by the Revolver. These covenants require us to maintain a covenant that we meet certain parameters related to our leverage ratio. At December 31, 2022 December 31, 2023, our leverage ratio was 0.46 0.15 to 1.0, which is below the requirement of not being above 3 to 1.

The previous revolving credit facility, prior to November 24, 2021, allowed for maximum borrowings of \$30.0 million with an interest rate of LIBOR. There were no fees associated with the unused portion of committed amounts under the previous revolving credit facility.

13. Income Taxes

The provision for income taxes consists of the following:

	Years Ended December 31,			Years Ended December 31,		
	2022	2021	2020	2023	2022	
	(in thousands)			(in thousands)		
Current	Current	\$ 37,489	\$ 6,755	\$ 9,939		
Deferred	Deferred	(13,332)	3,669	13,027		
Income tax provision	Income tax provision	\$24,157	\$10,424	\$22,966		

The provision for income taxes differs from the amount computed by applying the statutory Federal income tax rate before the provision for income taxes.

The reconciliation of the Federal statutory income tax rate to the effective income tax rate is as follows:

	Years Ended December 31,			Years Ended December 31,	
	2022	2021	2020	2023	2022
Federal statutory rate	Federal statutory rate	21.0 %	21.0 %	21.0 %	
Federal statutory rate					21.0 %
Federal statutory rate					21.0 %

State income taxes, net of Federal benefit	State income taxes, net of Federal benefit	4.1 %	1.8 %	5.3 %	State income taxes, net of Federal benefit	3.9 %	4.1 %
Change in valuation allowance	Change in valuation allowance	— %	1.0 %	— %	Change in valuation allowance	(1.4) %	— %
Excess tax benefits related to share-based compensation (Note 14)	Excess tax benefits related to share-based compensation (Note 14)	(2.4)%	(7.8)%	(3.2)%	Excess tax benefits related to share-based compensation (Note 14)	(4.0) %	(2.4) %
Return to provision	Return to provision	(0.3)%	— %	0.1 %	Return to provision	0.2 %	(0.3) %
Non-deductible executive compensation	Non-deductible executive compensation					1.7 %	— %
Research and development tax credits	Research and development tax credits	(2.1)%	(1.1)%	(0.9)%	Research and development tax credits	(1.2) %	(2.1) %
Other	Other	(0.9)%	0.2 %	0.2 %	Other	0.2 %	(0.5) %
Effective tax rate	Effective tax rate	19.4 %	15.1 %	22.5 %	Effective tax rate	20.4 %	19.4 %

On May 21, 2021, the State of Oklahoma enacted House Bill 2960, effectively reducing the corporate income tax rate in Oklahoma from 6% to 4%. This resulted in \$0.8 million included in the table above under State income taxes, net of Federal benefit, for the year ending December 31, 2021.

We earn have historically earned investment tax credits from the state of Oklahoma's manufacturing property investment tax credit program. We use the flow-through accounting to account for the investment tax credits earned on eligible tangible asset expenditures. Under this method, the investment tax credits are recognized as our Oklahoma income tax expense in the year they are used. As of December 31, 2022 our expansion projects in Oklahoma, we identified a separate, modified Oklahoma credit program (not income tax related) which will cause us to discontinue our accumulation of credits for Oklahoma's manufacturing property investment in the 2022 tax year.

The Company had investment tax credit carryforwards with a valuation allowance reserved against them as we did not have sufficient taxable income to utilize them in part because we generated more credit each year than we were able to utilize. Because the Company will not generate additional excess credits after our 2022 tax year, we will be able to use our credit carryforwards against future taxable income and the related valuation allowance was reversed resulting in a one-time benefit of \$3.8 million for the year ended December 31, 2023. As of December 31, 2023, we have investment tax credit carryforwards totaling of approximately \$3.8 million. These credits have estimated expirations starting from the year 2039 through 2043.

In accordance with the 2017 Tax Cuts & Jobs Act, under Internal Revenue Code Section 162(m), the tax deduction for covered executives of public companies is limited to \$1 million per individual. Because of the increase in 2023, our stock price and timing of executive stock option exercises this resulted in an increase to the income tax provision for the year ended December 31, 2023.

We also earn research and development tax credits as defined under Section 41 of the Internal Revenue Code. To qualify for the research and development tax credit, we perform annual studies that identifies, documents, identify, document, and supports support eligible expenses related to qualified research and development activities. These expenses include but are not limited to supplies, material materials, contractor expenses and internal employee wages. With the addition of BASX in December 2022, we identified additional eligible expenses related to qualified research and development activities.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

The significant components of the Company's deferred tax assets and liabilities are as follows:

	December 31, 2022	
	(in thousands)	
Deferred income tax assets (liabilities):		
Allowance for credit losses and inventory reserves	\$	1,337
Warranty accrual	\$	4,184

Other accruals	4,814
Share-based compensation	7,440
Research & development expenses	11,265
Oklahoma investment credit carryforward	3,115
Other, net	2,339
	34,494
Valuation allowance	(3,115)
Net deferred income tax assets	31,379
Property & equipment	(50,040)
Total deferred income tax liabilities	(50,040)
Net deferred income tax liabilities	\$ (18,661) \$

	December 31, 2023	
	(in thousands)	
Deferred income tax assets (liabilities):		
Allowance for credit losses and inventory reserves	\$ 1,724	\$
Warranty accrual	5,462	
Other accruals	3,989	
Share-based compensation	8,560	
Research & development expenses	18,647	
Oklahoma investment credit carryforward	2,306	
Other, net	1,673	
	42,361	
Valuation allowance	—	
Net deferred income tax assets	42,361	
Property & equipment	(54,495)	
Total deferred income tax liabilities	(54,495)	
Net deferred income tax liabilities	\$ (12,134)	\$

In accordance with the 2017 Tax Cuts & Jobs Act, under Internal Revenue Code Section 174, research and development expenses incurred after December 31, 2017, required to be capitalized and amortized over 5 years. The amortization requirements for tax purposes is a mid-year convention, meaning that the tax amortization begins in the year of acquisition, 20% in the following 4 years, and 10% in the final year. Estimated Section 174 research and development costs for the year ended December 31, 2022, were \$46.8 million. This resulted in a reduction of our deferred tax liability of approximately \$11.3 million for the year ended December 31, 2022.

Realization of deferred tax assets, including the associated credit carryforwards, is dependent upon generating sufficient taxable income in the appropriate tax years. We believe that it is more likely than not that we may not realize the benefit of our Oklahoma investment tax credit carryforward and, accordingly, have established a valuation allowance against this deferred tax asset.

The amount of income tax that we pay annually is dependent on various factors, including the timing of certain deductions. These deductions can vary from year to year, consequently, the amount of income taxes paid in future years will vary from the amounts paid in prior years.

We file income tax returns in the U.S., state and foreign income tax jurisdictions. We are subject to U.S. income tax examinations for the tax years 2018-2020 and to non-U.S. income tax examinations for the tax years 2017-2019 to present. In addition, we are subject to state and local income tax examinations for tax years 2018-2020 to present. The Company continues to evaluate its need to file returns in various state jurisdictions. Any interest or penalties would be recognized as a component of expense.

14. Share-Based Compensation

As discussed in Note 16, the Company declared a three-for-two stock split effective August 16, 2023. All share and per share information has been updated to reflect this stock split.

On May 22, 2007, our stockholders adopted a Long-Term Incentive Plan (as amended, "LTIP") which provided an additional 3.3 million 5.0 million shares that could be issued in the form of stock options, stock appreciation rights, restricted stock awards, performance units, and performance awards. Under the LTIP, the exercise price can be less than 100% of the fair market value at the date of the grant.

On May 24, 2016, our stockholders adopted the 2016 Long-Term Incentive Plan ("2016 Plan") which provides for approximately 8.9 million 13.4 million shares, 5.1 million new shares provided for under the 2016 Plan, approximately 0.4 million 0.6 million shares that were available for issuance under the previous 1 authorized for issuance under the 2016 Plan, approximately 2.6 million 3.9 million shares that were approved by the stockholders on May 15, 2018, a 2.5 3.8 million shares that were approved by the stockholders on May 12, 2020.

Under the 2016 Plan, shares can be granted in the form of stock options, stock appreciation rights, restricted stock awards, performance awards, dividend equity other awards. Under the 2016 Plan, the exercise price of shares granted may not be less than 100% of the fair market value at the date of the grant. T administered by the Compensation Committee of the Board of Directors or such other committee of the Board of Directors as is designated by the Board "Committee". Membership on the Committee is limited to independent directors. The Committee may delegate certain duties to one or more officers of the Com in the 2016 Plan. The Committee determines the persons to whom awards are to be made, determines the type, size and terms of awards, interprets the 2016 and revises rules and regulations relating to the 2016 Plan and makes any other determinations that it believes necessary for the administration of the 2016 Plan.

Options

The following weighted average assumptions were used to determine the fair value of the stock options granted on the original grant date for expense recognition options granted during the years ended December 31, 2022 December 31, 2023, 2021, 2022, and 2020 2021 using a Black Scholes-Merton Model:

	2022		2021	
Directors and SLT¹:				
Expected dividend yield	\$	0.38	\$	0.38
Expected volatility		36.07 %		35.78 %
Risk-free interest rate		2.31 %		0.51 %
Expected life (in years)		4.0		4.0
Employees:				
Expected dividend yield	\$	0.39	\$	0.38
Expected volatility		37.49 %		38.67 %
Risk-free interest rate		2.35 %		0.32 %
Expected life (in years)		3.0		3.0

¹ Senior Leadership Team ("SLT") consists of officers and key members of management.

	2023		2022	
Directors and SLT¹:				
Expected dividend yield	\$	0.32	\$	0.25
Expected volatility		37.89 %		36.07 %
Risk-free interest rate		4.39 %		2.31 %
Expected life (in years)		4.0		4.0
Employees:				
Expected dividend yield	\$	0.32	\$	0.25
Expected volatility		38.25 %		37.49 %
Risk-free interest rate		4.41 %		2.35 %
Expected life (in years)		3.0		3.0

¹ Senior Leadership Team ("SLT") consists of officers and key members of management.

The expected term of the options is based on evaluations of historical and expected future employee exercise behavior. The risk-free interest rate is based on rates at the date of grant with maturity dates approximately equal to the expected life at the grant date. Volatility is based on historical volatility of our stock equal to the expected life at grant date.

The following is a summary of stock options vested and exercisable as of December 31, 2022 December 31, 2023:

	Weighted Average	Weighted Average

Range of Range of											
Range of	Range of	Number	Remaining Contractual Life	Average Exercise Price	Intrinsic Value	Exercise Prices	Number of Shares	Remaining Contractual Life	Average Exercise Price	Exercise Prices	
(in thousands)											
\$20.92 - 41.37	1,031,134	5.14	\$ 36.60	\$ 39,926							
\$42.42 - 54.20	247,535	7.03	44.68	7,583							
\$54.29 - 79.92	98,344	8.10	72.38	294							
\$13.95 - 27.58											
\$28.28 - 37.07											
\$37.09 - 69.62											
Total	Total	1,377,013	5.69	\$ 40.61	\$ 47,803						

A summary of option activity under the plans is as follows:

Options	Shares
Outstanding at December 31, 2021	3,365,469 \$
Granted	465,515
Exercised	(597,761)
Forfeited or Expired	(192,876)
Outstanding at December 31, 2022	3,040,347 \$
Exercisable at December 31, 2022	1,377,013 \$

Options	Shares
Outstanding at December 31, 2022	4,560,520 \$
Granted	329,173
Exercised	(1,142,640)
Forfeited or Expired	(127,468)
Outstanding at December 31, 2023	3,619,585 \$
Exercisable at December 31, 2023	2,024,425 \$

The total pre-tax compensation cost related to unvested stock options not yet recognized as of December 31, 2022 December 31, 2023 is \$12.9 \$8.3 million and recognized over a weighted-average period of 1.61.1 years.

The total intrinsic value of options exercised during the years ended December 31, 2022 December 31, 2023, 2022, and 2021 and 2020 was \$39.0 million, \$10 million, and \$15.5 million \$22.6 million, respectively. The cash received from options exercised during the year ended December 31, 2022 December 31, 2023, and 2020 was \$33.3 million, \$23.1 million, \$21.1 million, and \$21.4 million \$21.1 million, respectively. The impact of these cash receipts is included in accompanying consolidated statements of cash flows.

Restricted Stock

The fair value of restricted stock awards is based on the fair market value of AAON common stock on the respective grant dates, reduced for the present value December 31, 2022 December 31, 2023, unrecognized compensation cost related to unvested restricted stock awards was approximately \$4.4 \$4.6 million which

be recognized over a weighted average period of **1.6** **1.3** years.

A summary of the unvested restricted stock awards is as follows:

Restricted stock	Shares
Unvested at December 31, 2021	161,225 \$
Granted	68,020
Vested	(72,936)
Forfeited	(11,483)
Unvested at December 31, 2022	144,826 \$

Restricted stock	Shares
Unvested at December 31, 2022	217,168 \$
Granted	75,499
Vested	(99,309)
Forfeited	(6,274)
Unvested at December 31, 2023	187,084 \$

PSUs

We have awarded performance restricted stock units ("PSUs") to certain officers and employees under our 2016 Plan. Unlike our restricted stock awards, the PSUs are considered legally outstanding and do not accrue dividends during the vesting period. These PSUs vest based on the level of achievement with respect to the shareholder return ("TSR") benchmarked against similar companies included in the capital goods sector of the S&P Smallcap 600 Index. The TSR measurement period is three years. At the end of the measurement period, each award will be converted into AAON common stock at 0% to 200% of the PSUs held, depending on overall performance relative to the S&P SmallCap 600 Index benchmark companies.

The total pre-tax compensation cost related to unvested PSUs not yet recognized as of **December 31, 2022** **December 31, 2023** is **\$2.0** **\$4.3** million and is recognized over a weighted average period of approximately **2.0** **1.5** years.

The following weighted average assumptions were used to determine the fair value of the PSUs granted on the original grant date for expense recognition purposes. The assumptions were granted during the years ended **December 31, 2022** **December 31, 2023** and **2021**, using a Monte Carlo Model:

	2022	2021		2023	2022
Expected dividend rate	\$0.38	\$0.38			
Expected volatility	37.60 %	39.10 %	Expected volatility	32.71 %	37.60 %
Risk-free interest rate	2.00 %	0.28 %	Risk-free interest rate	4.66 %	2.00 %
Expected life (in years)	2.80	2.80	Expected life (in years)	2.80	2.80

The expected term of the PSUs is based on their remaining performance period. The risk-free interest rate is based on the U.S. Treasury rates at the date of grant. The expected life of the PSUs is based on historical data approximately equal to the expected life at the grant date. Volatility is based on historical volatility of our stock over time periods equal to the expected life of the PSUs.

A summary of the unvested PSUs is as follows:

		Weighted Average Grant Date Fair Value		
	Shares		Shares	Weighted Average Fair Value
Unvested at December 31, 2021	16,851	\$ 87.78		
Granted	Granted	50,839	44.74	
Vested	Vested	—	—	
Forfeited	Forfeited	(5,031)	62.14	
Unvested at December 31, 2022 ¹	62,659	\$ 54.92		
1 Consists of 14,817 PSUs cliff vesting December 31, 2024 and 47,842 PSUs cliff vesting December 31, 2025.				
Unvested at December 31, 2023 ^{1, 2}				
1 Consists of 22,222 PSUs cliff vesting December 31, 2023, 71,760 PSUs cliff vesting December 31, 2025, and 58,130 PSUs cliff vesting December 31, 2026.				
2 The 22,222 PSUs cliff vesting December 31, 2023 were approved by the Compensation Committee and issued to holders in February 2024.				

Key Employee Awards

Subject to the MIPA Agreement (Note 4), the Company granted awards to key employees of BASX ("Key Employee Awards"). Unlike our restricted stock award Plan, the Key Employee Awards are not considered legally outstanding and do not accrue dividends during the vesting period. The potential future issuance of the Awards is contingent upon BASX meeting certain post-closing earn-out milestones during each of the years ending 2021, 2022, and 2023 as defined by the MIP, continued employment with the Company. At the end of the earn-out period, ending December 31, 2023, each eligible Key Employee Award will vest and be converted into common stock. The fair value of Key Employee Awards was based on the fair market value of AAON common stock on the grant date.

The total **All** pre-tax compensation cost related to unvested Key Employee Awards not yet **has been** recognized as of December 31, 2022 is \$1.0 million and **i** recognized over a weighted average period of approximately 1.0 year.

December 31, 2023.

A summary of the unvested Key Employee Awards is as follows:

	Shares	Weighted Average Grant Date Fair Value
Unvested at		
December 31, 2021	26,599	\$ 80.18
Unvested at	Shares	Shares
December 31, 2022	26,599	\$ 80.18
Granted	Granted	—
Vested	Vested	—
Forfeited	Forfeited	—
Unvested at		
December 31, 2022	<u>26,599</u>	<u>\$ 80.18</u>
Unvested at		
December 31, 2023	<u><u>26,599</u></u>	<u><u>\$ 80.18</u></u>

Summary of Share-based Compensation

A summary of share-based compensation is as follows for the years ended **December 31, 2022** **December 31, 2023**, **2021**, **2022**, and **2020**:

		2023	2022
Grant date fair value of awards during the period:			
Options		\$ 5,259	\$ 6,522
PSUs		4,907	2,275
Restricted stock		4,505	3,671
Key employee awards		—	—
Total		\$ 14,671	\$ 12,468
		2022	2021
Grant date fair value of awards during the period:			
Share-based compensation expense:			
Options	Options	\$ 6,522	\$ 7,010
PSUs			\$ 12,615
Restricted stock	Restricted stock	3,671	2,517
PSUs		2,275	1,622
Key employee awards	Key employee awards	—	1,572
			—
		2023	2022
Share-based compensation expense:			
Options	Options	\$ 6,522	\$ 7,010
PSUs			\$ 12,615
Restricted stock	Restricted stock	3,671	2,517
PSUs		2,275	1,622
Key employee awards	Key employee awards	—	1,572
			—

Total	Total	\$12,468	\$12,721	\$15,931
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Share-based compensation expense:

	2022	2021
Options	\$ 8,585	\$ 8,724
Restricted stock	3,105	2,519
PSUs	958	525
Key employee awards	1,052	44
Total	<u><u>\$ 13,700</u></u>	<u><u>\$ 11,812</u></u>

Income tax benefit related to share-based compensation:

	2023	2022
Options	\$ 8,138	\$ 2,715
Restricted stock	720	241
Total	<u><u>\$ 8,858</u></u>	<u><u>\$ 2,956</u></u>

Income tax benefit related to share-based compensation:

	2022	2021
Options	\$ 2,715	\$ 4,571
Restricted stock	241	837
Total	<u><u>\$ 2,956</u></u>	<u><u>\$ 5,408</u></u>

15. Employee Benefits

Defined Contribution Plan - 401(k)

We sponsor a defined contribution plan (the "Plan"). Eligible employees may make contributions in accordance with the Plan and IRS guidelines. In addition 401(k), eligible employees are given the option of making an after-tax contribution to a Roth 401(k) or a combination of both. The Plan provides for automatic e an automatic increase to the deferral percentage at January 1st of each year and each year thereafter. Eligible employees are automatically enrolled in the deferral rate and currently contributing employees deferral rates will be increased to 6.0% unless their current rate is above 6.0% or the employee elects to decl enrollment or increase. Administrative expenses are paid for by Plan participants. The Company paid no administrative expenses for the years ended 2023, 2020.

2021.

The Company matches 175.0% up to 6.0% of employee contributions of eligible compensation. Additionally, Plan participant forfeitures are used to reduce Company contributions.

	Years Ended December 31,	
	2022	2021
Contributions, net of forfeitures, made to the defined contribution plan	\$ 15,475	\$ 9,724

	Years Ended December 31,	
	2023	2022
Contributions, net of forfeitures, made to the defined contribution plan	\$ 18,264	\$ 15,475

Profit Sharing Bonus Plans

We maintain a discretionary profit sharing bonus plan under which approximately 10.0% of pre-tax profit from AAON Oklahoma and AAON Coil Products is allocated to employees on a quarterly basis in order to reward employee productivity. Eligible employees are regular full-time employees of AAON Oklahoma or AAON Coil Products who are actively employed and working on the first and last days of the calendar quarter and who were employed full-time for at least three full months prior to the end of the calendar quarter, excluding the Company's senior leadership team.

BASX has a separate employee incentive program (EIP) ("EIP"), under which 5.0% of BASX's pre-tax profit, plus certain add backs, is paid ratably to eligible employees on a quarterly basis in order to reward employee productivity. Eligible employees are regular full-time and part-time employees who have worked during the year and are still employed as of December 31. Payment is made following the end of the fiscal year, excluding members of BASX's senior leadership team and any employee paid commissions or royalties.

	Years Ended December 31,	
	2022	2021
	(in thousands)	
Profit sharing bonus plan and employee incentive plan expense	\$ 14,009	\$ 8,526

	Years Ended December 31,	
	2023	2022
	(in thousands)	
Profit sharing bonus plan and employee incentive plan expense	\$ 24,590	\$ 14,009

Employee Medical Plan

At AAON Oklahoma and AAON Coil Products, we self-insure for our employees' health insurance, and make medical claim payments up to certain stop-loss amounts. We estimate our self-insurance liabilities using an analysis provided by our claims administrator and our historical claims experience. Eligible employees are regular full-time employees who are actively employed and working. Participants are expected to pay a portion of the premium costs for coverage of the benefits provided under the Plans. In addition, the Company matches 175.0% of a participating AAON Oklahoma and AAON Coil Products employee's allowed contributions to a qualified health savings account to assist employees with their health insurance plan deductibles.

BASX is insured for healthcare coverage through a third party. Eligible employees are regular full-time employees who are actively employed and working. Participants are expected to pay a portion of the premium costs for coverage of the benefits provided under the Plans. In addition, the Company contributes certain amounts to employees enrolled in a high deductible plan to a qualified health savings account to assist employees with health insurance plan deductibles.

	Years Ended December 31,			(in thousands)	
	Years Ended December 31,				
	31,	2023	2022		
	2022	2021	2020		
Medical claim payments	Medical claim payments	\$ 10,459	\$ 9,640	\$ 9,060	
Health saving account contributions	Health saving account contributions	3,862	3,482	3,476	

16. Stockholders' Equity

Stock Repurchase

The Board has authorized two active stock repurchase programs for the Company. The Company may purchase shares on the open market from time to time. The Company must authorize the timing and amount of these purchases and all repurchases are in accordance with the rules and regulations of the SEC allowing the Company to repurchase shares from the open market.

Our open market repurchase programs are as follows:

Agreement Execution Date	Authorized Repurchase \$	Expiration Date
March 5, 2019 ¹	\$20 million	March 4, 2020
March 13, 2020	\$20 million	November 9, 2022
November 3, 2022	\$50 million	^{**1, 2}

¹The 2018 and 2019 purchase authorizations were executed under 10b5-1 programs.

²Expiration Date is at Board's discretion. The Company is authorized to effectuate repurchases of the Company's common stock on terms and conditions approved in advance by the Board.

²As of December 31, 2023, there is approximately \$25.0 million remaining under the current stock repurchase program. The remaining amount available is subject to a Board authorized 10b5-1 plan re-market conditions and requirements.

The Company repurchases shares of AAON stock from employees for payment of statutory tax withholdings on stock transactions. All other repurchases by employees are contingent upon Board approval. All repurchases are done at current market prices.

Lastly, the Company also had a stock repurchase arrangement by which employee-participants in our 401(k) Plan were entitled to have shares of AAON stock sold to the Company. The 401(k) Plan was amended in June 2022 to discontinue this program. No additional shares have been purchased by the Company arrangement since June 2022.

Our repurchase activity is as follows:

Program	2022			2021			2020	
	Shares	Total \$	\$ per share	Shares	Total \$	\$ per share	Shares	Total \$
Open market	122,112	\$ 6,823	\$ 55.87	—	\$ —	\$ —	103,689	\$ 4,987
401(k)	103,936	5,913	56.89	297,772	20,876	70.11	438,921	25,073
Directors & employees	17,228	1,019	59.15	22,526	1,590	70.59	23,272	1,169
Total	243,276	\$ 13,755	\$ 56.54	320,298	\$ 22,466	\$ 70.14	565,882	\$ 31,229

Program	2023			2022			2021	
	Shares ¹	Total \$	\$ per share ¹	Shares ¹	Total \$	\$ per share ¹	Shares ¹	Total \$
Open market	402,873	\$ 25,009	\$ 62.08	183,168	\$ 6,823	\$ 37.25	—	\$ —
401(k)	—	—	—	155,904	5,913	37.93	446,658	20,876
Employees	21,904	1,302	59.44	25,842	1,019	39.43	33,789	1,590
Total	424,777	\$ 26,311	\$ 61.94	364,914	\$ 13,755	\$ 37.69	480,447	\$ 22,466

¹Reflects three-for-two stock split effective August 16, 2023.

Our repurchase activity since Company inception, including our current authorized stock repurchase programs are as follows:

Inception to Date								
(in thousands, except share and per share data)								
Inception to Date								
(in thousands, except share and per share data)								
Program	Program	Shares	Total \$	\$ per share	Program	Shares ¹	Total \$	\$ per share ¹
Open market	Open market	4,327,367	\$ 81,616	\$ 18.86				
401(k)	401(k)	8,308,368	171,789	20.68				
Directors & employees	Directors & employees	2,044,955	23,360	11.42				
Total	Total	14,680,690	\$ 276,765	\$ 18.85				

¹ Reflects
three-for-two
stock split
effective
August 16,
2023.

¹ Reflects three-for-two stock split effective August 16, 2023.

Dividends

At the discretion of the Board of Directors, we pay cash dividends. Board approval is required to determine the date of declaration and amount for each cash dividend.

Our cash dividends for the three years ended December 31, 2022 December 31, 2023 are as follows:

Declaration Date	Record Date	Payment Date	Dividend per Share
May 15, 2020	June 3, 2020	July 1, 2020	\$0.19
November 10, 2020	November 27, 2020	December 18, 2020	\$0.19
May 17, 2021	June 3, 2021	July 1, 2021	\$0.19
November 9, 2021	November 26, 2021	December 17, 2021	\$0.19
May 18, 2022	June 3, 2022	July 1, 2022	\$0.19
November 8, 2022	November 28, 2022	December 16, 2022	\$0.24

Declaration Date ¹	Record Date	Payment Date	Dividend per Share ²	Annualized per Share
May 17, 2021	June 3, 2021	July 1, 2021	\$0.13	\$0.26
November 9, 2021	November 26, 2021	December 17, 2021	\$0.13	\$0.26
May 18, 2022	June 3, 2022	July 1, 2022	\$0.13	\$0.26
November 8, 2022	November 28, 2022	December 16, 2022	\$0.16	\$0.32
March 1, 2023	March 13, 2023	March 31, 2023	\$0.08	\$0.32
May 18, 2023	June 9, 2023	June 30, 2023	\$0.08	\$0.32
August 18, 2023	September 8, 2023	September 29, 2023	\$0.08	\$0.32
November 10, 2023	November 29, 2023	December 18, 2023	\$0.08	\$0.32

¹ Effective with the cash dividend declared on March 1, 2023 (paid on March 31, 2023), the Company moved from semi-annual cash dividends to quarterly cash dividends.

² Reflects three-for-two stock split effective August 16, 2023.

We paid cash dividends of \$22.9 million \$26.4 million, \$19.9 million \$22.9 million, and \$19.8 million \$19.9 million in 2023, 2022, 2021, and 2020 2021, respectively.

Stock Split

On July 7, 2023, the Board of Directors declared a three-for-two stock split of the Company's common stock to be paid in the form of a stock dividend. Stockholders the close of business on July 28, 2023 received one additional share for every two shares they held as of that date on August 16, 2023 (ex-dividend date August 15, 2023). The stock split was paid in lieu of fractional shares (approximately \$0.5 million). All share and per share information has been updated to reflect the effects of this stock split. The effect of the stock split resulted in approximately \$0.1 million reclassification between common stock and retained earnings within stockholders' equity on the consolidated balance sheet.

Contingent Shares Issued in BASX Acquisition

As discussed above, the Company declared a three-for-two stock split effective August 16, 2023. All share and per share information has been updated to reflect the effects of the stock split.

On December 10, 2021, we closed on the acquisition of BASX (Note 4). Under the MIPA Agreement, we committed to \$78.0 million in the aggregate of contingent consideration to the former owners of BASX, which is payable in approximately 1,037,000 1.56 million shares of AAON stock, par value \$0.004 per share. The shares do not affect the Company's earnings per share.

Under the MIPA Agreement, the potential future issuance of the shares is contingent upon BASX meeting certain post-closing earn-out milestones during each of the years 2021, 2022, and 2023. We estimated the fair value of contingent consideration related to these shares to be approximately \$60.0 million, which is included in capital on the consolidated balance sheets. As of December 31, 2022 December 31, 2023, 486,286 0.58 million and 0.73 million shares related to the earn-out in the years ended 2022 and 2021, respectively, have been issued to the former owners of BASX as part of a private placement placements exempt from registration under Rule 506(b) of the Securities Act of 1933, as amended, which are included in common stock on the consolidated statements of stockholders' equity. No additional shares have been issued since February 22, 2023 subsequent to December 31, 2023.

17. New Markets Tax Credit

2019 New Markets Tax Credit

On October 24, 2019, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "Investor" "2019 Investor" Community Development Entity under a qualified New Markets Tax Credit ("2019 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 19 related to an investment in plant and equipment to facilitate the expansion of our Longview, Texas manufacturing operations (the "Project" "2019 Project"). In connection with the 2019 NMTC transaction, the Company received a \$23.0 million NMTC allocation for the Project and secured low interest financing and the potential for future debt issuance costs related to the 2019 Project.

Upon closing of the 2019 NMTC transaction, the Company provided an aggregate of approximately \$15.9 million to the 2019 Investor, in the form of a loan receivable of twenty-five years, bearing an interest rate of 1.0%. This \$15.9 million in proceeds plus capital contributed from the 2019 Investor was used to make an aggregate loan to a subsidiary of the Company. This financing arrangement is secured by equipment at the Company's Longview, Texas facilities and a guarantee from the 2019 Investor, including an unconditional guarantee of the NMTCs.

This transaction also includes a put/call feature that either of which can be exercised at the end of the seven-year compliance period. The 2019 Investor may exercise the option or the Company can exercise the call, both of which could serve to trigger forgiveness of a portion of the debt. The value attributable to the put/call is \$6.4 million. The 2019 Investor's interest of \$6.4 million is recorded in New market tax credit obligation on the consolidated balance sheets. The Company incurred approximately \$0.4 million of debt issuance costs related to the above transactions, which are being amortized over the life of the transaction.

2023 New Markets Tax Credit

On April 25, 2023, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "2023 Investor") and a community development entity under a qualified New Markets Tax Credit ("2023 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, related to an investment in plant and equipment to facilitate the expansion of our Longview, Texas manufacturing operations (the "2023 Project"). In connection with the 2023 NMTC transaction, the Company received a \$23.0 million NMTC allocation for the 2023 Project and secured low interest financing and the potential for future debt forgiveness related to the expansion of its Longview, Texas facilities.

Upon closing of the 2023 NMTC transaction, the Company provided an aggregate of approximately \$16.7 million to the Investor, in the form of a loan receivable of twenty-five years, bearing an interest rate of 1.0%. This \$16.7 million in proceeds plus capital contributed from the 2023 Investor was used to make an aggregate loan to a subsidiary of the Company. This financing arrangement is secured by a guarantee from the Company, including an unconditional guarantee of the 2023 Investor. The proceeds from the closing of the 2023 NMTC is included in restricted cash on our consolidated balance sheets required to be used for the 2023 Project.

This transaction also includes a put/call feature either of which can be exercised at the end of the seven-year compliance period. The 2023 Investor may exercise the option or the Company can exercise the call, both of which could serve to trigger forgiveness of a portion of the debt. The 2023 Investor's interest of \$5.7 million is recorded in New market tax credit obligation on the consolidated balance sheets. The Company incurred approximately \$0.4 million of debt issuance costs related to the above transaction, which are being amortized over the life of the transaction.

The 2019 Investor and the 2023 Investor are each subject to 100 percent recapture of the 2019 and 2023 NMTC, respectively, if it receives for a period of time provided in the Internal Revenue Code and applicable U.S. Treasury regulations in the event that the financing facility of the Borrower under the transaction (AAC Inc.) becomes ineligible for NMTC treatment per the Internal Revenue Code requirements. The Company is required to be in compliance with various regulation provisions that apply to the 2019 NMTC arrangement and 2023 NMTC arrangements, respectively. Noncompliance with applicable requirements could result in the 2019 and/or 2023 Investor's projected tax benefits not being realized and, therefore, require the Company to indemnify the 2019 Investor and 2023 Investor for the recapture of the 2019 NMTC and 2023 NMTC, respectively, related to the financing until such time as the recapture provisions have expired under the applicable limitations. The Company does not anticipate any credit recapture will be required in connection with this financing arrangement.

The 2019 Investor and 2023 Investor and its majority owned community development entity are considered VIEs and the Company is the primary beneficiary. This conclusion was reached based on the following:

- the ongoing activities of the VIEs, collecting and remitting interest and fees and NMTC compliance, were all considered in the initial design and are not expected to significantly affect performance throughout the life of the VIE;
- contractual arrangements obligate the Company to comply with NMTC rules and regulations and provide various other guarantees to the Investor and community development entity;
- the 2019 Investor and 2023 Investor lacks a material interest in the underlying economics of the project; and
- the Company is obligated to absorb losses of the VIEs.

Because the Company is the primary beneficiary of the VIEs, they have been included in the consolidated financial statements. There are no other assets, liabilities or equity interests in these VIEs outside of the financing transactions executed as part of the NMTC arrangement.

2024 New Markets Tax Credit

On February 27, 2024, the Company entered into a transaction with a subsidiary of an unrelated third-party financial institution (the "2024 Investor") and a community development entity under a qualified New Markets Tax Credit ("2024 NMTC") program pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, related to an investment in real estate to facilitate the current expansion of our Longview, Texas manufacturing operations (the "Project"). In connection with the 2024 NMTC transaction, the Company received a \$15.5 million NMTC allocation for the Project and secured low interest financing and the potential for future debt forgiveness related to the expansion of our Longview, Texas facilities.

Upon closing of the 2024 NMTC transaction, the Company provided an aggregate of approximately \$11.0 million to the Investor, in the form of a loan receivable over twenty-five years, bearing an interest rate of 1.0%. This \$11.0 million in proceeds plus capital contributed from the Investor was used to make an aggregate \$16.0 million subsidiary of the Company. This financing arrangement is secured by a guarantee from the Company, including an unconditional guarantee of NMTCs.

This transaction also includes a put/call feature that either of which can be exercised at the end of the seven-year compliance period. The Investor may exercise the Company can exercise the call, both of which could serve to trigger forgiveness of a portion of the debt.

The 2024 Investor is subject to 100 percent recapture of the 2024 NMTC it receives for a period of seven years, as provided in the Internal Revenue Code and Treasury regulations in the event that the financing facility of the Borrower under the transaction (AAON Coil Products, Inc.) becomes ineligible for NMTC under Internal Revenue Code requirements. The Company is required to be in compliance with various regulations and contractual provisions that apply to this arrangement. Noncompliance with applicable requirements could result in the 2024 Investor's projected tax benefits not being realized and, therefore, require the Company to indemnify the 2024 Investor for any loss or recapture of the 2024 NMTC related to the financing until such time as the recapture provisions have expired under the statute of limitations. The Company does not anticipate any credit recapture will be required in connection with this financing arrangement.

18. Commitments and Contingencies

Havtech Litigation

On January 24, 2022, one of the Company's former independent sales representative firms, Havtech, LLC (and its affiliate, Havtech Parts Division, LLC, collectively) filed a complaint (the "Complaint") in the Circuit Court for Howard County, Maryland (*Havtech, LLC, et al., v. AAON, Inc., et al.*). The Complaint challenges the termination of its business relationship with Plaintiffs. The Company removed the action to the United States District Court for the District of Maryland (Northern District of Maryland) and moved to dismiss the Complaint. Plaintiffs' First Amended Complaint ("First Amended Complaint") was entered by the court on July 28, 2022. The First Amended Complaint asserts that the Company improperly terminated Plaintiffs and seeks damages alleged to be no less than \$48.6 million, plus fees and costs. The Company filed its First Amended Complaint on January 31, 2023. The Company believes that Plaintiffs' claims are without merit and intends to vigorously defend itself.

On September 28, 2023, the parties attended a court ordered settlement conference and agreed to resolve the case for \$7.5 million. A settlement agreement was reached on October 25, 2023 and the case has been dismissed with prejudice. The settlement of \$7.5 million has been included in selling, general and administrative expenses in the consolidated statement of income. The final payment was made on October 26, 2023.

Other Matters

The Company is involved from time to time in claims and lawsuits incidental to our business arising from various matters, including alleged violations of contract warranty, environmental, regulatory, personal injury, intellectual property, employment, tax and other laws. We closely monitor these claims and legal action and consult with our legal counsel to determine whether they may, when resolved, have a material adverse effect on our financial position, results of operations or cash flows. We do not believe these matters will have a material adverse effect on our business, financial position or cash flows.

We are occasionally party to short-term, cancellable and occasionally non-cancellable, fixed price contracts with major suppliers for the purchase of raw materials and parts. We expect to receive delivery of raw materials for use in our manufacturing operations. These contracts are not accounted for as derivative instruments because they are not derivatives of the normal purchase and normal sales exemption. In 2023, the Company executed a five-year purchase commitment for refrigerants. In 2023, the Company paid \$10.1 million on this contract. Estimated minimum future payments are \$11.9 million, \$9.1 million, \$10.5 million, and \$11.2 million for 2024, 2025, 2026, and 2027, respectively. We had no other material contractual purchase obligations as of December 31, 2022, except as noted below. December 31, 2023.

On April 27, 2022, the Company entered into a purchase and sale agreement with a third-party manufacturer to purchase certain assets to design and manufacture a new product. The purchase price of \$6.5 million. As of December 31, 2022, we have paid approximately \$3.5 million related to this agreement, which is included in other long-term assets, property, plant and equipment, with the remaining \$3.0 million included in accounts payable and other long-term assets on our consolidated balance sheets. The remaining \$3.0 million will be paid in 2023.

19. New Accounting Pronouncements

Changes to U.S. GAAP are established by the FASB in the form of accounting standards updates ("ASUs") to the FASB's Accounting Standards Codification. The applicability and impact of all ASUs. ASUs not listed below were assessed and determined to be either not applicable or are expected to have minimal impact on financial statements and notes thereto.

In October 2023, the FASB issued ASU 2023-06, *Disclosure Improvements: Codification Amendments in Response to SEC's Disclosure Update and Simplification*. The new guidance is intended to update a variety of disclosure requirements. The effective date for each amendment will be the date on which the SEC's removal of disclosure from Regulation S-X or Regulation S-K becomes effective. Early adoption is prohibited. Upon adoption, this ASU is not expected to have a material impact on the Company's financial statements and related disclosures.

In November 2023, the FASB issued ASU No. 2023-07, Segment Reporting (Topic 280). The new guidance improves reportable segment disclosures primarily by disclosures about significant segment expenses and by requiring current annual disclosures to be provided in interim periods. The amendments in this ASU are effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. Upon adoption, this ASU is not expected to have a material impact on the Company's financial statements and related disclosures.

In December 2023, the FASB issued ASU 2023-09, Income Taxes (Topic 740). The new guidance is intended to enhance the transparency and decision usefulness of disclosures. The amendments in this ASU are effective for annual periods beginning after December 15, 2024. Upon adoption, this ASU is not expected to have a material impact on the Company's financial statements and related disclosures.

20. Earnings Per Share

Basic net income per share is calculated by dividing net income by the weighted average number of shares of common stock outstanding during the period. Diluted net income per share assumes the conversion of all potentially dilutive securities and is calculated by dividing net income by the sum of the weighted average number of shares of common stock outstanding plus all potentially dilutive securities. Dilutive common shares consist primarily of stock options and restricted stock awards.

The following table sets forth the computation of basic and diluted earnings per share:

	2022	2021	
	(in thousands, except share and per share data)		
Numerator:			
Net income	\$ 100,376	\$ 58,758	\$
Denominator:			
Basic weighted average shares	53,054,986	52,404,199	
Effect of dilutive shares related to stock based compensation ¹	842,783	1,301,698	
Effect of dilutive shares related contingent consideration ²	199,303	23,092	
Diluted weighted average shares	54,097,072	53,728,989	
Earnings per share:			
Basic	\$ 1.89	\$ 1.12	\$
Dilutive	\$ 1.86	\$ 1.09	\$
Anti-dilutive shares:			
Shares	605,480	304,029	

¹ Dilutive shares related to stock options, restricted stock, PSUs and Key Employee Awards (Note 14)

² Dilutive shares related to contingent shares issued to former owners of BASX (Note 4)

	2023	2022	
	(in thousands, except share and per share data)		
Numerator:			
Net income	\$ 177,623	\$ 100,376	\$
Denominator:			
Basic weighted average shares ³	81,156,114	79,582,480	
Effect of dilutive shares related to stock based compensation ^{1, 3}	1,972,380	1,264,175	
Effect of dilutive shares related contingent consideration ^{2, 3}	166,796	298,955	
Diluted weighted average shares ³	83,295,290	81,145,610	
Earnings per share:			
Basic ³	\$ 2.19	\$ 1.26	\$
Dilutive ³	\$ 2.13	\$ 1.24	\$
Anti-dilutive shares:			
Shares ³	314,108	908,221	

¹ Dilutive shares related to stock options, restricted stock, PSUs and Key Employee Awards (Note 14)

² Dilutive shares related to contingent shares issued to former owners of BASX (Note 4)

³ Reflects three-for-two stock split effective August 16, 2023.

21. Related Parties

The following is a summary of transactions and balances with affiliates:

	Years Ended December 31,	
	2023	2022
	(in thousands)	(in thousands)
Sales to affiliates	\$ 7,860	\$ 5,789
Payments to affiliates	1,476	1,318
	December 31,	December 31,
	2023	2022
	(in thousands)	(in thousands)
Due from affiliates	\$ 994	\$ 145
Due to affiliates	145	145

The nature of our related party transactions is as follows:

- The Company sells units to an entity owned by a member of the CEO/President's immediate family. This entity is also one of the Company's Repres such, the Company makes payments to the entity for third party products. Additionally, the
- The Company purchases some supplies from entities controlled by two of the Company's board members and a member of the Company's executive ma
- The Company also periodically makes part sales and makes payments to a board member related to a consulting agreement.
- The Company periodically rents space partially owned by the CEO/President for parts. various Company meetings.
- The Company purchases flight time for use of an aircraft partially owned by two members of the Company's executive management team.
- From December 10, 2021 through May 31, 2022 (Note 4), the Company leased a manufacturing and office facility in Redmond, Oregon from an entity members of BASX management have had an ownership interest. This facility was purchased 100% by the Company on May 31, 2022.

Following is a summary of transactions and balances with affiliates:

	Years Ended December 31,	
	2022	2021
	(in thousands)	(in thousands)
Sales to affiliates	\$ 5,789	\$ 3,752
Payments to affiliates	1,318	185
	December 31,	December 31,
	2022	2021
	(in thousands)	(in thousands)
Due from affiliates	\$ 432	\$ 432

22. Segments

The Company has determined that it has three reportable segments for financial reporting purposes. Management evaluates the performance of its business se on gross profit. The Company's chief decision maker ("CODM"), our CEO, allocates resources and assesses the performance of each operating segment using i the operating segment's net sales and income from operations. The CODM does not evaluate operating segments using asset or liability information.

AAON Oklahoma: AAON Oklahoma designs, engineers, manufactures, sells, and services standard, sells, semi-custom, and custom heating, ventilation, and ("HVAC") HVAC systems, designs and produces manufactures controls solutions, for all of our HVAC units, and sells retail parts to customers through our two in and online. AAON Oklahoma includes the operations of our Tulsa, Oklahoma as well as online. Through our OK and Parkville, MO manufacturing facilities, tw and the Norman Asbjornson Innovation Center ("NAIC") research and development laboratory facility in Tulsa, Oklahoma, accredited by the Company is able to various environmental conditions. AAON Oklahoma includes Air Movement and Control Association International, Inc. ("AMCA").

With the operations of our Tulsa, Oklahoma and Parkville, Missouri facilities, our NAIC, a world-class research and development ("R&D") laboratory facility products are continuously tested under a variety of extreme environmental conditions to ensure they deliver the ultimate performance, efficiency, and locations value.

Also located in Tulsa, OK, our cutting-edge Customer Exploration Center showcases the engineering, design attributes and premium build quality of our equipment the market alternatives.

AAON Coil Products: AAON Coil Products designs, engineers, and manufactures a selection of our standard, semi-custom, and custom HVAC systems. AAON designs and manufactures various systems as well as a variety of heating and cooling coils to be used in HVAC systems, mostly for the benefit of AAON Oklahoma Coil Products, Products, and BASX. AAON Coil Products consists of operations at our Longview, Texas TX manufacturing facilities.

BASX: BASX provides product development, design, engineering, manufacturing, and manufacturing. It sells an array of custom, engineered air handling system efficiency high-performance cooling solutions for the rapidly growing hyperscale data center cooling market, ventilation solutions for cleanroom commercial/industrial HVAC systems, environments in the bio-pharmaceutical, semiconductor, medical and agriculture markets, and highly custom, air handling solutions. Additionally, BASX designs and manufactures cleanroom environmental control systems to support hospital surgical suites, pharmaceutical, semiconductor and electronics manufacturing, laboratory and isolation and modular cleanrooms solutions for facility flexibility, a vast array of markets. BASX is located at our Redmond, Oregon facility, OR manufacturing facilities.

The following table summarizes certain financial data related to our segments. Transactions between segments are recorded based on prices negotiated between segments. The Gross Profit amounts shown below are presented after elimination entries.

	Years Ended December 31,	
	2023	2022
	(in thousands)	
Net Sales		
AAON Oklahoma		
External sales	\$ 897,919	\$ 663,845
Inter-segment sales	4,324	3,251
AAON Coil Products		
External sales	112,320	107,290
Inter-segment sales	38,831	30,932
BASX ¹		
External sales	158,279	117,653
Inter-segment sales	1,480	79
Eliminations	(44,635)	(34,262)
Net sales	<u><u>\$ 1,168,518</u></u>	<u><u>\$ 888,788</u></u>
Gross Profit		
AAON Oklahoma	\$ 320,067	\$ 172,983
AAON Coil Products	29,324	33,311
BASX ¹	49,629	31,278
Gross profit	<u><u>\$ 399,020</u></u>	<u><u>\$ 237,572</u></u>

¹ BASX was acquired on December 10, 2021. We have included the results of BASX's operations in our consolidated financial statements beginning December 11, 2021.

	Years Ended December 31,	
	2022	2021
	(in thousands)	
Net Sales		
AAON Oklahoma		
External sales	\$ 663,845	\$ 463,845
Inter-segment sales	3,251	2,504
AAON Coil Products		
External sales	107,290	66,589
Inter-segment sales	30,932	24,250
BASX ¹		
External sales	117,653	4,083
Inter-segment sales	79	—
Eliminations	(34,262)	(26,754)
Net sales	<u><u>\$ 888,788</u></u>	<u><u>\$ 534,517</u></u>

Gross Profit				
AAON Oklahoma	\$ 172,983	\$ 126,868	\$ 10,075	
AAON Coil Products	33,311			
BASX ₁	31,278	887		
Gross profit	\$ 237,572	\$ 137,830	\$ 887	
	December 31,			
	2022	2021		
			<i>(in thousands)</i>	
	December 31,			
	2023			
	December 31,			
	2023			
	December 31,			
	2023			
			<i>(in thousands)</i>	
			<i>(in thousands)</i>	
			<i>(in thousands)</i>	
Long-lived assets				
Long-lived assets				
Long-lived assets	Long-lived assets			
AAON Oklahoma	AAON Oklahoma	\$ 213,731	\$ 183,840	
AAON Oklahoma				
AAON Oklahoma				
AAON Coil Products				
AAON Coil Products				
AAON Coil	AAON Products	68,013	62,534	
BASX	BASX	35,578	28,662	
BASX				
BASX				
Total long-lived assets				
Total long-lived assets				
Total long-lived assets	Total long-lived assets	\$ 317,322	\$ 275,036	
Intangible assets				
Intangible assets				
Intangible assets	Intangible assets			
and goodwill	and goodwill			
Intangible assets				
and goodwill				
Intangible assets				
and goodwill				
AAON Oklahoma				
AAON Oklahoma				

AAON	AAON		
Oklahoma	Oklahoma	\$ 3,229	\$ 3,229
AAON	AAON		
Coil	Coil		
Products	Products	—	—
AAON Coil Products			
AAON Coil Products			
BASX			
BASX			
BASX	BASX	<u>143,269</u>	<u>152,619</u>
Total	Total		
intangible	intangible		
assets	assets		
and	and		
goodwill	goodwill	<u>\$146,498</u>	<u>\$155,848</u>

¹ BASX was acquired on December 10, 2021. We have included the results of BASX's operations in our consolidated financial statements beginning December 11, 2021.

Total
intangible
assets
and
goodwill

Total intangible
assets and goodwill

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

(a) Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of December 31, 2022 December 31, 2023.

Based upon the evaluation, our principal executive and principal financial officers have concluded that our disclosure controls and procedures were effective December 31, 2023 to ensure the information required to be disclosed by us in reports that we file or submit under the Exchange Act is accumulated and our management, including our principal executive and principal financial officers, as appropriate, to allow timely decisions regarding required disclosure processed, summarized and reported within the time periods specified in the rules and forms of the SEC.

(b) Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting as defined in Rules 13a-15(e) and 15c of the Exchange Act. Our internal control over financial reporting is a process designed by, or under the supervision of, our principal executive and principal financial officers, effected by our board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In making our assessment of internal control over financial reporting, management has used the criteria issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in the 2013 *Internal Control—Integrated Framework*. Based on our assessment, our management concluded that the Company maintained internal control over financial reporting as of December 31, 2022 December 31, 2023.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2022 December 31, 2023 has been audited by Grant Thornton LLP, an independent registered public accounting firm, as stated in their report which is included in this Item 9A of this report on Form 10-K.

(c) *Changes in Internal Control over Financial Reporting*

There have been no changes in internal control over financial reporting that occurred during the fourth quarter of 2022 2023 that have materially affected, or are expected to materially affect, our internal control over financial reporting.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders
AAON, Inc.

Opinion on internal control over financial reporting

We have audited the internal control over financial reporting of AAON, Inc. (a Nevada corporation) and subsidiaries (the "Company") as of December 31, 2023, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022 December 31, 2023, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated financial statements of the Company as of and for the year ended December 31, 2022 December 31, 2023, and our report dated February 27, 2023 February 28, 2024 expressed an unqualified opinion on those financial statements.

Basis for opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting ("Management's Report"). Our firm is responsible for expressing an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and limitations of internal control over financial reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness of internal control over financial reporting for future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ GRANT THORNTON LLP

Tulsa, Oklahoma
February 27, 2023 28, 2024

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

The information required by Items 401, 405, 406 and 407(c)(3), (d)(4) and (d)(5) of Regulation S-K is incorporated by reference to the information contained in our Statement to be filed with the Securities and Exchange Commission in connection with our annual meeting of stockholders scheduled to be held on **May 16, 2023**.

Code of Ethics

We adopted a code of ethics that applies to our principal executive officer, principal financial officer, and principal accounting officer or persons performing similar functions as well as other employees and directors. Our code of ethics can be found on our website at www.aaon.com. We will also provide any person without charge, upon request, a copy of our code of ethics. Requests may be directed to AAON, Inc., 2425 South Yukon Avenue, Tulsa, Oklahoma 74107, attention Rebecca A. Thompson, or by calling (918) 621-6216.

Item 11. Executive Compensation.

The information required by Items 402 and 407(e)(4) and (e)(5) of Regulation S-K is incorporated by reference to the information contained in our definitive Proxy Statement to be filed with the Securities and Exchange Commission in connection with our annual meeting of stockholders scheduled to be held on **May 16, 2023** **May 21, 2024**.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by Item 403 and Item 201(d) of Regulation S-K is incorporated by reference to the information contained in our definitive Proxy Statement to be filed with the Securities and Exchange Commission in connection with our annual meeting of stockholders scheduled to be held **May 16, 2023** **May 21, 2024**.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

The information required to be reported pursuant to Item 404 of Regulation S-K and paragraph (a) of Item 407 of Regulation S-K is incorporated by reference to our proxy statement relating to our annual meeting of stockholders scheduled to be held **May 16, 2023** **May 21, 2024**.

Our Code of Conduct guides the Board of Directors in its actions and deliberations with respect to related party transactions. Under the Code, conflicts of interest involving the directors or any Named Officers, are prohibited except under any guidelines approved by the Board of Directors. Only the Board of Directors may waive the Code of Conduct for a director or a Named Officer, and only then in compliance with all applicable laws, rules and regulations. We have not entered into any related party transactions and have no preexisting material related party transactions in **2023, 2022, 2021, or 2020**.

2021.

Item 14. Principal Accountant Fees and Services.

This information is incorporated by reference in our definitive Proxy Statement to be filed with the Securities and Exchange Commission in connection with our annual meeting of stockholders scheduled to be held **May 16, 2023** **May 21, 2024**.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

(a)	Financial statements.	
(1)	10-K.	The consolidated financial statements and the report of independent registered public accounting firm are included in Item 8 of this Form 10-K.
(2)		The consolidated financial statements other than those listed at item (a)(1) above have been omitted because they are not required under the related instructions or are not applicable.
(3)		The exhibits listed at item (b) below are filed as part of, or incorporated by reference into, this Form 10-K.
(b)	Exhibits:	
(3)	(A)	Amended and Restated Articles of Incorporation (ii)
	(B)	Amended and Restated Bylaws (i)
(4.1)		Amended and Restated Loan Agreement (dated November 24, 2021) and related documents (iii)
(4.2)		First Amendment to the Amended and Restated Loan Agreement (dated May 27, 2022) and related documents (viii)
(4.16)		
(4.16)		Description of Securities
(10.1)		AAON, Inc. 1992 Stock Option Plan, as amended (v)
(10.2)		AAON, Inc. 2007 Long-Term Incentive Plan, as amended (vi)
(10.3)		AAON, Inc. 2016 Long-Term Incentive Plan (iv)
(21)		List of Subsidiaries
(23)		Consent of Grant Thornton LLP
(31.1)		Certification of CEO
(31.2)		Certification of CFO
(32.1)		Section 1350 Certification – CEO
(32.2)		Section 1350 Certification – CFO
(97.1)		Executive Officer Compensation Recovery Policy
(99.1)		Membership Interest Purchase Agreement - Acquisition of BASX, LLC (dated November 18, 2021) (vii)
(101)	(INS)	Inline XBRL Instance Document
(101)	(SCH)	Inline XBRL Taxonomy Extension Schema
(101)	(CAL)	Inline XBRL Taxonomy Extension Calculation Linkbase
(101)	(DEF)	Inline XBRL Taxonomy Extension Definition Linkbase
(101)	(LAB)	Inline XBRL Taxonomy Extension Label Linkbase
(101)	(PRE)	Inline XBRL Taxonomy Extension Presentation Linkbase
(104)		Cover Page Interactive Data File (embedded within the Inline XBRL Document and included in Exhibit 101)
(i)		Incorporated herein by reference to the exhibits to our Form 8-K dated May 15, 2020.
(ii)		Incorporated herein by reference to exhibits to our Annual Report on Form 10-K for the fiscal year ended December 31, 2014.
(iii)		Incorporated herein by reference to exhibit to our Form 8-K dated November 24, 2021.
(iv)		Incorporated herein by reference to our Form S-8 Registration Statement No. 333-212863 dated August 2, 2016, our Form S-8 Registration Statement No. 333-226512 dated August 2, 2018, and our Form S-8 Registration Statement No. 333-241538 dated August 6, 2020.
(v)		Incorporated herein by reference to exhibits to our Annual Report on Form 10-K for the fiscal year ended December 31, 1991, and to our Form S-8 Registration Statement No. 333-52824.
(vi)		Incorporated herein by reference to our Form S-8 Registration Statement No. 333-151915, Form S-8 Registration Statement No. 333-207737.
(vii)		Incorporated herein by reference to exhibits to our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.
(viii)		Incorporated herein by reference to the exhibits to our Form 8-K dated May 27, 2022.

SIGNATURES

Pursuant to the requirement of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

AAON, INC.

Dated: February 27, 2023 ~~28, 2024~~

By:

/s/ Gary D. Fields

Gary D. Fields, Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

Dated: February 27, 2023 ~~28, 2024~~

/s/ Gary D. Fields

Gary D. Fields
Chief Executive Officer President, and Director
(principal executive officer)

Dated: February 27, 2023 ~~28, 2024~~

/s/ Rebecca A. Thompson

Rebecca A. Thompson
Chief Financial Officer
(principal financial officer)

Dated: February 27, 2023 ~~28, 2024~~

/s/ Christopher D. Eason

Christopher D. Eason
Chief Accounting Officer
(principal accounting officer)

Dated: February 27, 2023 ~~28, 2024~~

/s/ Norman H. Asbjornson

Norman H. Asbjornson
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ Angela E. Kouplen

Angela E. Kouplen
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ Caron A. Lawhorn

Caron A. Lawhorn
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ Stephen O. LeClair

Stephen O. LeClair
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ A.H. McElroy II

A.H. McElroy II
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ David R. Stewart

David R. Stewart
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ Bruce Ware

Bruce Ware
Director

Dated: February 27, 2023 ~~28, 2024~~

/s/ Luke A. Bomer

Luke A. Bomer
Secretary

DESCRIPTION OF THE REGISTRANT'S SECURITIES
REGISTERED PURSUANT TO SECTION 12 OF THE

SECURITIES EXCHANGE ACT OF 1934

As of **February 27, 2023** **February 28, 2024**, AAON, Inc., a Nevada corporation, ("AAON") has one class of securities registered under Section 12 Exchange Act of 1934, as amended (the "Exchange Act"), our Common Stock.

Description of Common Stock

The following description of our Common Stock is a summary based on and qualified by our Amended and Restated Articles of Incorporation of AAON amended to date, the "Articles of Incorporation") and our Bylaws (as amended to date, the "Bylaws").

Authorized Capital Shares

Our authorized capital shares consist of 100,000,000 shares of common stock, \$0.004 par value per share ("Common Stock"), and 5,000,000 shares of stock, \$0.001 par value per share ("Preferred Stock"). The outstanding shares of our Common Stock are fully paid and nonassessable.

Voting Rights

Holders of Common Stock are entitled to one vote per share on all matters voted on by the stockholders, including the election of directors. Our Common have cumulative voting rights.

Dividend Rights

Subject to the rights of holders of outstanding shares of Preferred Stock, if any, the holders of Common Stock are entitled to receive dividends, if any, as from time to time by the Board of Directors in its discretion out of funds legally available for the payment of dividends.

Liquidation Rights

Subject to any preferential rights of outstanding shares of Preferred Stock, if any, holders of Common Stock will share ratably in all assets legally available to our stockholders in the event of dissolution.

Other Rights and Preferences

Our Common Stock has no sinking fund or redemption provisions or preemptive, conversion or exchange rights.

Listing

The Common Stock is traded on The Nasdaq Stock Market LLC under the trading symbol "AAON."

LIST OF SUBSIDIARIES OF AAON, INC.

Subsidiary	Jurisdiction of Organization
AAON, Inc.	Oklahoma
AAON Coil Products, Inc.	Texas
BasX, Inc.	Oregon

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our reports dated **February 27, 2023** **February 28, 2024**, with respect to the consolidated financial statements and internal control over financial reporting in the Annual Report of AAON, Inc. on Form 10-K for the year ended **December 31, 2022** **December 31, 2023**. We consent to the incorporation by reference of our Registration Statements of AAON, Inc. on Forms S-8 (File No. 333-151915, File No. 333-207737, File No. 333-212863, File No. 333-226512, and File No. 333-226513).

/s/ GRANT THORNTON LLP

Tulsa, Oklahoma

February 27, 2023 **28, 2024**

CERTIFICATION

I, Gary D. Fields, certify that:

1. I have reviewed this Annual Report on Form 10-K of AAON, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and I have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including our consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
 - d) disclosed in this report any change in the registrant's internal controls over financial reporting that occurred during the registrant's most recent fiscal quarter (or such earlier date as required by law or regulation for the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's ability to record, process, summarize and report financial information;
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's principal executive officer and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: **February 27, 2023** **28, 2024**

/s/ Gary D. Fields

Gary D. Fields
Chief Executive Officer

CERTIFICATION

I, Rebecca A. Thompson, certify that:

1. I have reviewed this Annual Report on Form 10-K of AAON, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and I:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including our consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
 - d) disclosed in this report any change in the registrant's internal controls over financial reporting that occurred during the registrant's most recent fiscal quarter (or in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: February 27, 2023 ~~28, 2024~~

/s/ Rebecca A. Thompson

Rebecca A. Thompson
Chief Financial Officer

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of AAON, Inc. (the "Company"), on Form 10-K for the year ended ~~December 31, 2022~~ December 31, 2023, Securities and Exchange Commission on the date hereof (the "Report"), I, Gary D. Fields, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, that the Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended, and that I have signed the Report with the knowledge that it will be filed with the Securities and Exchange Commission.

adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and our results of operations.

Dated: February 27, 2023 28, 2024

/s/ Gary D. Fields

Gary D. Fields
Chief Executive Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of AAON, Inc. (the "Company"), on Form 10-K for the year ended December 31, 2022 December 31, 2023, Securities and Exchange Commission on the date hereof (the "Report"), I, Rebecca A. Thompson, Chief Financial Officer of the Company, certify, pursuant to 1 as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and our results of operations.

Dated: February 27, 2023 28, 2024

/s/ Rebecca A. Thompson

Rebecca A. Thompson
Chief Financial Officer

AAON, Inc.

**Executive Officer Compensation Recovery Policy
(As adopted November 2, 2023)**

This Executive Officer Compensation Recovery Policy (this "**Policy**") of AAON, Inc. (the "**Company**") is hereby adopted as of October 2, 2023 **Date**) by the Compensation Committee (the "**Committee**") of the Board of Directors of the Company (the "**Board**") in compliance with Securities Exchange Act of 1934 and Rule 5608 of the Nasdaq Listing Rules. Certain terms shall have the meanings set forth in "Section 3. Definitions"

Section 1. Recovery Requirement

Subject to Section 4 of this Policy, in the event the Company is required to prepare an Accounting Restatement, then the Committee hereof shall cause the Company, to the fullest extent permitted by governing law, to recover from each Executive Officer the amount received by an Executive Officer as Erroneously Awarded Compensation, with such recovery occurring reasonably promptly after the Restatement Date relating to such Accounting Restatement.

Executive Officer shall be deemed to have "received" Incentive-Based Compensation in the Company's fiscal period during which the Final Measure specified in the Incentive-Based Compensation award is attained, even if the payment or grant of the Incentive-Based Compensation is at the end of that fiscal period.

The Committee may effect recovery in any manner consistent with applicable law including, but not limited to, (a) seeking reimbursement of all or part of the Erroneously Awarded Compensation previously received by an Executive Officer and to the extent that the Executive Officer does not return the Erroneously Awarded Compensation, suing and enforcing recovery against the Executive Officer for repayment of the Erroneously Awarded Compensation together with any expenses incurred by the Company in enforcing such recovery, (b) cancelling prior grants of Incentive-Based Compensation, whether unvested, restricted or deferred, or paid or unpaid, and through the forfeiture of previously vested equity awards, (c) cancelling or setting-off any future grants of Incentive-Based Compensation, (d) deducting all or any portion of such Erroneously Awarded Compensation from any other amounts payable by the Company to such Executive Officer, and (e) any other method authorized by applicable law or contract.

The Company's right to recovery pursuant to this Policy is not dependent on if or when the Accounting Restatement is filed with the Securities and Exchange Commission.

Section 2. Incentive-Based Compensation Subject to this Policy.

This Policy applies to all Incentive-Based Compensation received by each Executive Officer on or after the Effective Date:

- (i) if such Incentive-Based Compensation was received on and after the date such person became an Executive Officer of the Company;
- (ii) if such Executive Officer served as an Executive Officer at any time during the performance period for that Incentive-Based Compensation;
- (iii) if such Incentive-Based Compensation was received during the three completed fiscal years immediately preceding the Restatement or during any transition period that results from a change in the Company's fiscal year that is within or immediately following those three completed fiscal years (but not during a transition period of nine to 12 months that is deemed to be a completed fiscal year).

This Policy shall apply and govern Incentive-Based Compensation received by any Executive Officer, notwithstanding any contrary or supplemental condition in any document, plan or agreement including without limitation any employment contract, indemnification agreement, equity agreement or other document.

Section 3. Definitions:

For purposes of this Policy, the following terms have the meanings set forth below:

- a. ***Accounting Restatement*** means an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error (i) in previously issued financial statements that is material to the previously issued financial statements (commonly referred to as a "Big R" restatement) or (ii) that would result in a material error if the error were corrected in the current period or left uncorrected in the current period (commonly referred to as a "little r" restatement).
- a. ***Erroneously Awarded Compensation*** means the amount of Incentive-Based Compensation received that exceeds the amount of Incentive-Based Compensation that otherwise would have been received by the Executive Officer had it been determined based on the restated amounts in the Accounting Restatement (computed without regard to any taxes paid). For Incentive-Based Compensation based on stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in the Accounting Restatement the Company shall: (i) base the calculation of the amount on a reasonable estimate of the effect of the Accounting Restatement on the stock price or TSR upon which the Incentive-Based Compensation received was based; and (ii) retain documentation of the determination of the estimate and provide such documentation to the Nasdaq Stock Market or, if a class of securities of the Company is no longer listed on the Nasdaq Stock Market, such other national securities exchange or national securities association on which a class of the Company's securities is then listed.

- a. **"Executive Officer"** has the meaning set forth in Rule 5608(d) of the Nasdaq Listing Rules.
- a. **"Financial Reporting Measures"** has the meaning set forth in Rule 5608(d) of the Nasdaq Listing Rules.
- a. **"Incentive-Based Compensation"** means any compensation that is granted, earned, or vested based wholly or in part upon the Financial Reporting Measure (including, without limitation, stock price or TSR), including, any short-term or long-term incentive awards, restricted stock awards or restricted stock unit awards that vest based on achievement of a Financial Reporting Measure. Equity awards exclusively upon completion of a specified employment period, without any performance condition, and bonus awards that are discretionary or subjective goals or goals unrelated to Financial Reporting Measures, do not constitute Incentive-Based Compensation.

- a. **"Restatement Date"** means the earlier to occur of (i) the date the Board or the Committee (or an officer or officers of the Company authorizes such action if Board action is not required) concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement and (ii) the date a court, regulator, or other legally authorized body directs the Company to prepare an Accounting Restatement.

Section 4. Exceptions to Recovery

Notwithstanding the foregoing, the Company is not required to recover Erroneously Awarded Compensation to the extent that the Committee determines that recovery would be impracticable and that:

- (i) the direct expense paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered (provided, that, before concluding that recovery would be impracticable to recover based on the expense of enforcement, the Company must make a reasonable attempt to recover such Erroneously Awarded Compensation and must document such attempts and provide such documentation to the Nasdaq Stock Market);
- (ii) recovery would violate one or more laws of the home country that were adopted prior to November 28, 2022 (provided, that, before concluding that recovery would be impracticable to recover based on violation of home country law, the Company must obtain an opinion of home country counsel, acceptable to the Nasdaq Stock Market, that recovery would result in a such a violation and provide a copy of such opinion to the Nasdaq Stock Market);
- (iii) recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company and its subsidiaries, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder; or
- (iv) any other exception permitted under Rule 5608 of the Nasdaq Listing Rules.

Section 5. No Right to Indemnification or Insurance

The Company shall not indemnify any Executive Officer against the loss of Erroneously Awarded Compensation or losses arising from any claim made against the Executive Officer in connection with the Company's enforcement of this Policy. In addition, the Company shall not pay, or reimburse any Executive Officer for, any premiums for a third-party insurance policy purchased by the Executive Officer or any other party that would fund any of the Executive Officer's potential recovery obligations under this Policy.

Section 6. Award Agreements and Plan Documents

The Committee further directs the Company to include clawback language in each of the Company's incentive compensation plans so that any individual who receives Incentive-Based Compensation under those plans understands and agrees that all or any portion of such Incentive-Based Compensation may be subject to recovery by the Company, and such individual may be required to repay all or any portion of such Incentive-Based Compensation, if (i) recovery of such Incentive-Based Compensation is required by this Policy, (ii) such Incentive-Based Compensation is determined to be based on materially inaccurate financial and/or performance information (which includes, but is not limited to, earnings, revenues or gains); or (iii) repayment of such Incentive-Based Compensation is required by applicable federal or state securities or banking laws.

Section 7. Interpretation and Amendment of this Policy.

The Committee, in its discretion, shall have the sole authority to interpret and make any determinations regarding this Policy. Any interpretation, decision, order, action made or taken by the Committee shall be final, binding, and conclusive on all interested parties. The determination of the Committee shall be uniform with respect to one or more officers. The Committee may amend this Policy from time to time in its discretion and shall amend the Policy in accordance with applicable law or with any rules or standards adopted by the Nasdaq Stock Market or any national securities exchange on which the Company is then listed. The Committee may terminate this Policy at any time.

Section 8. Other Recoupment Rights.

The Company intends that this Policy will be applied to the fullest extent of the law. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar employment agreement, equity award agreement, or similar agreement and any other remedies available to the Company under applicable law. Without limiting the foregoing, following a restatement of the Company's financial statements, the Company also shall recover any compensation received by the Chief Executive Officer and Chief Financial Officer that is required to be recovered by Section 303 of the Sarbanes-Oxley Act of 2002.

MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Membership Interest Purchase Agreement (this "Agreement") is entered into as of the 18th day of November, 2021, by and among D-VEL, an Oregon limited liability company ("D-Velopment"), JVK HOLDINGS, LLC, an Arizona limited liability company ("JVK"), Randa K. Brooks ("Brooks"), Matthew J. Tobolski in his capacity as trustee of the TOBOLSKI FAMILY TRUST ("TFT"), DAVE BENSON, an individual ("Benson"), KUCERA, an individual ("Kucera"), Matt Tobolski, an individual ("Tobolski"), and AAON, INC., a Nevada corporation ("Buyer"). D-Velopment, JV-TFT are sometimes referred to collectively herein as the "Sellers" or individually as a "Seller"; Benson, Kucera, Brooks and Tobolski are sometimes referred to collectively herein as the "Principals" or individually as a "Principal", and the Sellers and the Principals are sometimes referred to collectively as "Seller Parties" or individually as a "Seller Party".

RECITALS:

- A.** Sellers collectively own all of the issued and outstanding equity ownership interests (the "Membership Interests") of BASX, LLC, an Oregon limited liability company (the "Company").
- B.** Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers, the Membership Interests, subject to the terms and conditions of this Agreement.

ARTICLE I DEFINITIONS

Unless otherwise defined elsewhere in this Agreement, capitalized terms shall be given the meanings assigned to such terms in this Article I.

"AAON Signing VWAP" means the volume-weighted average price per share of AAON Common Stock for a five (5) day trading period, starting on the opening of trading on the fifth (5th) trading day prior to the Calculation Date and ending with the closing of trading on the day prior to the Calculation Date, rounded to the nearest cent, as reported on Bloomberg Finance L.P.

AAON Common Stock means shares of common stock, par value \$0.004 per share, of AAON, Inc., a Nevada corporation.

Accredited Investor has the meaning set forth in Regulation D promulgated under the Securities Act.

Acquisition Proposal has the meaning set forth in **Section 5.03(a)**.

Action means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

Affiliate of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is controlled with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, otherwise.

Ancillary Documents means the Employment Agreements, the REPA, the Restricted Stock Grants and the amendment to the Facility Lease by Section 8.01(e).

Adjusted EBITDA means, for the applicable period, the Company's earnings before interest, income taxes, depreciation and amortization following additional adjustments, all as set forth in the example of calculation of the Company's Adjusted EBITDA on **Exhibit "A"** attached hereto.

and incorporated herein. In the event of supply chain disruptions in a given year that have 1) a material impact on the timely shipment of orders to the Company or 2) require the use of alternative sourcing of components that adversely affect profit margin, EBITDA shall be adjusted for that year to reflect the impact of such disruptions on a project by project basis in an amount determined by Sellers, subject to the approval of the Board of Directors. Approval shall not be unreasonably withheld. To the extent an adjustment is made in one year, an equal and opposite adjustment shall be made in the following year.

Audited Financial Statements has the meaning set forth in **Section 3.06**.

Balance Sheet has the meaning set forth in **Section 3.06**.

Balance Sheet Date has the meaning set forth in **Section 3.06**.

Basket has the meaning set forth in **Section 8.04(a)**.

Benefit Plan has the meaning set forth in **Section 3.20(a)**.

Brooks Restricted Stock Grant means the Restricted Stock Grant to be entered into as Closing by Brooks and Buyer, pursuant to which Brooks and Buyer will potentially receive her respective portion of the 2021 Contingent Consideration, the 2022 Contingent Consideration and the 2023 Contingent Consideration to be defined.

Business Day means any day except Saturday, Sunday or any other day on which commercial banks located in Tulsa, Oklahoma are authorized by Law to be closed for business.

Buyer Employee Benefit Plans means (i) that certain AAON, Inc. 2007 Long-Term Incentive Plan, originally adopted by the Buyer on March 22, 2007 and approved by the Buyer's shareholders on May 22, 2007, as amended, and (ii) that certain AAON, Inc. 2016 Long-Term Incentive Plan, originally adopted by the Buyer on February 24, 2016 and approved by the Buyer's shareholders on May 24, 2016, as amended.

Buyer's Accountants means Grant Thornton LLP.

Calculation Date means the close of business on the fifth (5th) Business Day immediately preceding the public announcement of the Agreement.

CARES Act means Coronavirus Aid, Relief, and Economic Security Act, as amended.

Cause shall be as defined in the Employee Restricted Stock Grants.

CERCLA means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Ar Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

Closing has the meaning set forth in **Section 2.05**.

Closing Date has the meaning set forth in **Section 2.05**.

Closing Date Payment has the meaning set forth in **Section 2.04(a)(i)**.

Closing Indebtedness Certificate means a certificate executed by a Manager of the Company certifying on behalf of the Company an ite outstanding Indebtedness as of the close of business on the Closing Date and the Person to whom such outstanding Indebtedness is owed an total of such outstanding Indebtedness.

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Closing Transaction Expenses Certificate means a certificate executed by a Manager of the Company, certifying the amount of Transa remaining unpaid as of the close of business on the Closing Date (including an itemized list of each such unpaid Transaction Expense with a de nature of such expense and the person to whom such expense is owed).

Closing Working Capital means: (a) the Current Assets of the Company, less (b) the Current Liabilities of the Company, determined as business on the Closing Date as calculated pursuant to the Closing Working Capital Statement.

Closing Working Capital Statement has the meaning set forth in **Section 2.04(b)(i)**.

Code means the Internal Revenue Code of 1986, as amended.

Company Intellectual Property means all Intellectual Property that is owned by the Company.

Company IP Agreements means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants, waivers, releases, permissions and other Contracts, whether written or oral, relating to Intellectual Property to which the Company is a party otherwise bound.

Company IP Registrations means all Company Intellectual Property that is subject to any issuance, registration or application by or with any Authority or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyright applications for any of the foregoing.

Company IT Systems means all Software, computer hardware, servers, networks, platforms, peripherals, and similar or related items computerized, or other information technology (IT) networks and systems (including telecommunications networks and systems for voice, data and leased, licensed, or used (including through cloud-based or other third-party service providers) by the Company.

Construction Loan means that certain construction loan in the original maximum amount of \$6,000,000.00 (with such loan amount subsequ by at least an additional \$3,704,679.00) to the Real Estate Owner made by UMB Bank, N.A., evidenced by a Promissory Note dated as of July 8 loan may have been or may hereafter be amended, modified, substituted or replaced.

Construction Loan Guaranty means that certain Unconditional and Continuing Guaranty and Subordination Agreement dated as of July 8, the Company and certain other parties thereto in favor of UMB Bank, N.A., as such instrument may have been or may hereafter be amend

pursuant to which the Company has delivered its guaranty of the Construction Loan.

Contracts means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures, agreements, commitments and legally binding arrangements, whether written or oral.

COVID-19 means SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemics or outbreaks.

Current Assets means cash and cash equivalents, accounts receivable, inventory, costs in excess of billings, and prepaid expenses, but excluding the portion of any prepaid expense of which Buyer will not receive the benefit following the Closing, (b) deferred Tax assets, and (c) receivables from the Company's Affiliates, managers, members, employees or officers and any of their respective Affiliates, other than those receivables arising in the course of the Company's business, determined in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and estimation methodologies that were used in the preparation of the Audited Financial Statements for the most recent fiscal year end as if such financial statements were being prepared and audited as of a fiscal year end.

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Current Liabilities means accounts payable, accrued Taxes, billings in excess of costs, and accrued expenses, but excluding payable amounts to the Company's Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates (other than accrued expenses for participation in incentive plans, PTO, and similar expenses, which will be on the balance sheet as of the Closing Date, scheduled for payment on the next regular payment date therefor), deferred Tax liabilities, Transaction Expenses and the current portion of any Indebtedness of the Company, determined in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, applied using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Audited Financial Statements for the most recent fiscal year end as if such accounts were being prepared and audited as of a fiscal year end.

Disclosure Schedules means the Disclosure Schedules delivered by Sellers and Buyer concurrently with the execution and delivery of this Agreement.

Disputed Amounts has the meaning set forth in **Section 2.04(c)(iii)**.

Dollars or **\$** means the lawful currency of the United States.

D-Development Restricted Stock Grant means the Restricted Stock Grant to be entered into as of Closing by D-Development and Buyer, pursuant to which D-Development's rights to potentially receive its respective portion of the 2021 Contingent Consideration, the 2022 Contingent Consideration and the 2023 Contingent Consideration shall be defined.

EBITDA Targets means, collectively, the 2021 EBITDA Target, the 2022 EBITDA Target and the 2023 EBITDA Target.

Employment Agreements means employment agreements to be entered into as of the Closing by the Company with Benson, Tobolski, . Swarr and Mark Nordstrom, on terms and conditions acceptable to the Buyer and each respective employee.

Encumbrance means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, re-sale or exercise of any other attribute of ownership.

Environmental Attributes means any emissions and renewable energy credits, energy conservation credits, benefits, offsets and allowances, reduction credits or words of similar import or regulatory effect (including emissions reduction credits or allowances under all applicable environmental compliance or budget programs, or any other federal, state or regional emission, renewable energy or energy conservation trading or budget program), held, allocated to or acquired for the development, construction, ownership, lease, operation, use or maintenance of the Company as of: (i) the date of this Agreement; and (ii) future years for which allocations have been established and are in effect as of the date of this Agreement.

Environmental Claim means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, or any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigation, or defense of such Person).

governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Material or actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

Environmental Law means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to the cleanup thereof or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use or storage,

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recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Material. The term "Environmental Law" includes, without limitation, the following (including their implementing regulations and any state analogs): the Resource Conservation and Recovery Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 6901 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1972, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; the Occupational Safety and

Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

Environmental Notice means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to a non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

Environmental Permit means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, authorized by or made pursuant to Environmental Law.

ERISA means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

ERISA Affiliate means all employers (whether or not incorporated) that would be treated together with the Company or any of its Affiliates as a single employer" within the meaning of Section 414 of the Code or Section 4001 of ERISA.

Estimated Closing Working Capital has the meaning set forth in Section [2.04\(a\)\(ii\)](#).

Estimated Closing Working Capital Statement has the meaning set forth in [Section 2.04\(a\)\(ii\)](#).

Excluded Matter means any adverse effect, change, or event, directly arising from or related to any adverse change in or effect on the Company (a) that is cured before the Closing or (b) directly related to the announcement, pendency or completion of the transactions contemplated by this Agreement (including, but not limited to, any action required by any Governmental Entity in order to consummate, or as a condition to consummating, the transactions contemplated by this Agreement).

Facility Lease means the Commercial Lease Agreement dated February 17, 2021 between the Company as tenant and Real Estate Owner as landlord.

Financial Statements has the meaning set forth in [Section 3.06](#).

Fraud means, actual fraud as determined under the laws of the State of Nevada and the federal laws of the United States of America.

Fundamental Representations means the representations and warranties contained in [Section 3.02](#), [Section 3.03](#), [Section 4.01](#), [Section 4.02](#), [Section 4.03](#) and [Section 5.01](#).

GAAP means United States generally accepted accounting principles in effect from time to time.

Government Contracts has the meaning set forth in [Section 3.09\(a\)\(viii\)](#).

“Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrument of government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental

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authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or competent jurisdiction.

“Governmental Order” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“Hazardous Materials” means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Laws; and (b) any petroleum or petroleum derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing formaldehyde foam insulation, and polychlorinated biphenyls.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Indebtedness” means, without duplication and with respect to the Company, all (a) indebtedness for borrowed money; (b) obligations for purchase price of property or services (other than Current Liabilities taken into account in the calculation of Closing Working Capital), (c) long-term obligations evidenced by notes, bonds, debentures or other similar instruments; (d) obligations under any interest rate, currency swap or agreement or arrangement; (e) capital lease obligations; (f) any unpaid interest, prepayment penalties, premiums, costs and fees that would arise as a result of the prepayment of any of the obligations referred to in the foregoing clauses (a) through (f). Indebtedness excludes indebtedness of \$512,000 incurred in connection with any furniture, fixtures and equipment (and components thereof) ordered or to be ordered.

“Indemnity Cap” shall initially mean an amount equal to \$10,000,000; however, the Indemnity Cap shall be increased at the time of issuance of 2021 Contingent Consideration in an amount equal to 10% of the amount of 2021 Contingent Consideration actually issued; shall be further increased at the time of issuance of 2022 Contingent Consideration, in an amount equal to 10% of the amount of 2022 Contingent Consideration actually issued; and increased at the time of issuance of 2023 Contingent Consideration, in an amount equal to 10% of the amount of 2023 Contingent Consideration provided, that in no event shall the Indemnity Cap exceed an aggregate sum of \$18,000,000.

“Independent Accountant” has the meaning set forth in **Section 2.04(c)(iii)**.

“Insurance Policies” has the meaning set forth in **Section 3.16**.

“Intellectual Property” means any and all rights in, arising out of, or associated with any of the following in any jurisdiction throughout the world: (a) patents and patent applications (whether provisional or non-provisional), including divisionals, continuations, continuations-in-part, substitutions, reexaminations, extensions, or restorations of any of the foregoing, and other Governmental Authority-issued indicia of invention ownership (including of invention, petty patents, and patent utility models) (“**Patents**”); (b) trademarks, service marks, brands, certification marks, logos, trade dress, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications and renewals of, any of the foregoing (“**Trademarks**”); (c) copyrights and works of authorship, whether or not copyrightable, and all registrations, registrations, renewals and renewals of any of the foregoing (“**Copyrights**”); (d) internet domain names and social media account or user names (including whether or not Trademarks, all associated web addresses, URLs, websites and web pages, social media sites and pages, and all content and materials relating thereto, whether or not Copyrights); (e) mask works, and all registrations, applications for registration, and renewals thereof; (f) industrial Patents, registrations, applications for registration, and renewals thereof; (g) trade secrets, know-how, inventions (whether or not patentable), improvements, technology, business and technical information, databases, data compilations and collections, tools, methods, processes, technical and confidential and proprietary information and all rights therein (“**Trade Secrets**”); (h) computer programs, operating systems, applications, firmwares, and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other rights of use and distribution thereof; and (i) all other intellectual or industrial property and proprietary rights.

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“**Interim Balance Sheet**” has the meaning set forth in **Section 3.06**.

“**Interim Balance Sheet Date**” has the meaning set forth in **Section 3.06**.

“**Interim Financial Statements**” has the meaning set forth in **Section 3.06**.

“**JVK Restricted Stock Grant**” means the Restricted Stock Grant to be entered into as Closing by JVK and Buyer, pursuant to which JVK’s right to receive its respective portion of the 2021 Contingent Consideration, the 2022 Contingent Consideration and the 2023 Contingent Consideration shall be determined.

“**Key Employees**” means the individuals listed on **Exhibit “B”** attached hereto.

“**Knowledge of Seller Parties or Seller Parties’ Knowledge**” or any other similar knowledge qualification, means the actual knowledge of any manager, director or officer of the Company, after due inquiry.

“**Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement of any Governmental Authority.

“**Liabilities**” has the meaning set forth in **Section 3.07**.

“**Licensed Intellectual Property**” means all Intellectual Property in which the Company holds any rights or interests granted by other Person or Seller Party or any of their respective Affiliates.

“**Losses**” means losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers; provided that “**Losses**” shall not include punitive damages, except to the extent actually awarded to a Governmental Authority or other third party.

“**Material Adverse Effect**” means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Company, or (b) the ability of the Company to consummate the transactions contemplated hereby on a timely basis; provided, however, that “**Material Adverse Effect**” shall not include any occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions affecting the industries in which the Company operates; (iii) any changes in financial or securities markets in general; (iv) acts of war (whether or not in connection with armed hostilities or terrorism, or the escalation or worsening thereof); (v) any epidemic, pandemic or outbreak of disease (including, for the avoidance of doubt, the COVID-19), or any worsening of such conditions, or any Public Health Measures (as defined below) or changes therein or interpretations thereof required or permitted by this Agreement, except pursuant to **Section 3.05** and **Section 5.08**; (vii) any changes in applicable Laws or accounting principles or GAAP; or (viii) the public announcement, pendency or completion of the transactions contemplated by this Agreement; provided further, however, that an occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a material adverse effect on the Company compared to other participants in the industries in which the Company conducts its businesses.

“**Material Contracts**” has the meaning set forth in **Section 3.09(a)**.

“**Material Customers**” has the meaning set forth in **Section 3.15(a)**.

“**Material Suppliers**” has the meaning set forth in **Section 3.15(b)**.

“Minor Leases” means the Commercial Lease dated April 16, 2018, between the Company and Marshall Investments, LLC, the Lease Agreement dated January 1, 2020, between the Company and Myoby, LLC and the Use Agreement dated August 21, 2020, between the Company and Deschutes Courthouse Center, as amended by the Addendum to Contract dated May 4, 2021.

“Multiemployer Plan” has the meaning set forth in **Section 3.20(c)**.

“Organizational Documents” of a Person means its certificate of incorporation, certificate or articles of organization or formation, bylaws, operating agreements and/or other organizational documents.

“Pass-Through Tax Return” means any partnership income Tax Return filed by the Company with respect to a Tax period ending on or prior to the Closing Date to the extent that all Taxes reflected on such Tax Return are solely a liability of the Sellers.

“Permits” means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or to be obtained, from Governmental Authorities.

“Permitted Encumbrances” has the meaning set forth in **Section 3.10(a)**.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, association or other entity.

“Platform Agreements” has the meaning set forth in **Section 3.12(h)**.

“Post-Closing Adjustment” has the meaning set forth in **Section 2.04(b)(ii)**.

“Post-Closing Tax Period” means any taxable period beginning after the Closing Date and, with respect to any taxable period beginning before the Closing Date, the portion of such taxable period beginning after the Closing Date.

“Post-Closing Taxes” means Taxes of the Company for any Post-Closing Tax Period.

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date and, with respect to any taxable period beginning before the Closing Date, the portion of such taxable period ending on and including the Closing Date.

“Pre-Closing Taxes” means Taxes of the Company for any Pre-Closing Tax Period.

“Public Health Measures” means any closures, “shelter-in-place,” “stay at home,” workforce reduction, social distancing, shut down, closure, restrictions or any other Law, orders, guidelines or recommendations pertaining to COVID-19, in each case, issued by any Governmental Authority (including the Centers for Disease Control and Prevention) in connection with COVID-19 and that are applicable to the Company.

“Purchase Consideration” has the meaning set forth in **Section 2.02**.

“Purchased Real Property” means that certain real property located at 3500 SW 21st Place, Redmond, Oregon, and the improvements purchased by Buyer pursuant to the REPA.

“Qualified Benefit Plan” has the meaning set forth in **Section 3.20(c)**.

“Real Estate Owner” or **“BasX Properties, LLC”** means BASX Properties, LLC, an Oregon limited liability company.

“REPA” means the Real Estate Purchase Agreement to be entered into by and between Buyer and the Real Estate Owner, pursuant to which Buyer will acquire the Purchased Real Property within ten (10) Business Days of the date of issuance of a conditional certificate of occupancy (or local equivalent).

the City of Redmond and all other conditions to closing set forth in the REPA have been satisfied, but in no event later than March 31, 2022.

R&W Policy means the buyer-side representation and warranty insurance policy to be issued by RP Underwriting, Inc. d/b/a RPUW Insurance Company on terms and conditions satisfactory to Buyer and Sellers.

Real Property means the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located on the Real Property.

Release means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, abandoning, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

Representative means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and agents of such Person.

Resolution Period has the meaning set forth in **Section 2.04(c)(ii)**.

Restricted Business means the design and manufacture of HVAC systems for commercial, data room cooling and clean room and medical applications, and related integrated control solutions.

Restricted Period has the meaning set forth in **Section 5.07(a)**.

Restricted Stock Grants means the Brooks Restricted Stock Grant, the D-Velopment Restricted Stock Grant, the JVK Restricted Stock Grant and the Employee Restricted Stock Grants.

Review Period has the meaning set forth in **Section 2.04(c)(i)**.

SEC means the United States Securities and Exchange Commission.

Securities Act means the Securities Act of 1933, and the rules and regulations thereunder as in effect from time to time.

Sellers' Accountants means Pittman & Brooks.

Shortfall means the amount by which the Company's Adjusted EBITDA is less than the applicable EBITDA Target for such year.

Single Employer Plan has the meaning set forth in **Section 3.20(c)**.

Software means any and all: (a) computer programs, computer software, applications, utilities, development tools, application programming in diagnostics, and embedded systems, including any and all software implementations of algorithms, models and methodologies, in any form or medium, including source code, object code and executable code; (b) databases and compilations, including any and all data and collections of data, whether machine generated or otherwise; (c) descriptions, schematics, flow charts and other work product used to design, plan, organize and develop any of the foregoing, including documentation, including programmer documentation, user manuals, training materials and other documentation, relating to any of the foregoing.

Statement of Objections has the meaning set forth in **Section 2.04(c)(ii)**.

Straddle Period means any taxable period beginning on or prior to and ending after the Closing Date.

Subsidiary means, with respect to any Person: (a) any corporation, partnership, limited liability company or other business entity of which a majority of the equity interests entitled to vote under ordinary circumstances in the election of directors (or in the selection of any other similar governing body in the case of an entity other than a corporation) are at the time owned or Controlled by such Person or by one or more of the other direct or indirect Subsidiaries of such Person or by a combination thereof (regardless of whether, at the time, equity interests of any other class or classes shall have, or might have, voting power);

occurrence of any contingency); (b) a partnership in which such Person or any direct or indirect Subsidiary of such Person is a general partner; liability company in which such Person or any direct or indirect Subsidiary of such Person is a managing member or manager

“Target Working Capital” means zero dollars (\$0).

Taxes means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, regi license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occup property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whats with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

Tax Return means any return, declaration, report, claim for refund, information return or statement or other document relating to Taxes schedule or attachment thereto, and including any amendment thereof.

Territory means the North American continent.

TFT Restricted Stock Grant means the Restricted Stock Grant to be entered into as Closing by TFT and Buyer, pursuant to which TFT's right receive its respective portion of the 2021 Contingent Consideration, the 2022 Contingent Consideration and the 2023 Contingent Consideration sh

Transaction Expenses means all fees and expenses incurred by the Company at or prior to the Closing in connection with the preparation, execution of this Agreement and the Ancillary Documents, and the performance and consummation of the transactions contemplated hereunder including without limitation, legal, accounting, investment banker and other third party service provider fees, fees associated with obtaining approvals, consents or waivers, fees and expenses related to obtaining the release and termination of any Encumbrance on any asset of the Company, fees, and any severance, bonus or change of control payments related to the transactions contemplated by this Agreement.

Undisputed Amounts has the meaning set forth in **Section 2.04(c)(iii)**.

Union has the meaning set forth in **Section 3.21(b)**.

WARN Act means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign laws related to relocations, mass layoffs and employment losses.

ARTICLE II PURCHASE AND SALE OF MEMBERSHIP INTERESTS

Section 2.01 Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, at the Closing, Sellers shall sell to Buyer, purchase from Sellers, the Membership Interests, on a cash-free basis, free and clear of all Encumbrances, for the consideration specified in **Section 2.02 Purchase Consideration**.

Section 2.02 Purchase Consideration. The aggregate purchase consideration (the “**Purchase Consideration**”) to be delivered to the Membership Interests shall consist of the following:

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(a) The cumulative sum of One Hundred Million Dollars (\$100,000,000.00), which sum shall be the initial Closing Date Payment, subject to adjustment as provided in **Section 2.04** below;

(b) At the Closing, Buyer and each of the Sellers will enter into a restricted stock grant, pursuant to which the Sellers may receive, cumulatively, an additional Thirty-Six Million Five Hundred Sixty-Two Thousand Five Hundred Dollars (\$36,562,500.00) in shares of AAON Common Stock (the “**2021 Contingent Consideration**”), with the number of shares comprising the 2021 Contingent Consideration being equal to \$36,562,500.00 divided by the AAON EBITDA for the year 2021, with the Sellers' receipt of the 2021 Contingent Consideration subject to the following conditions:

(i) Shares of AAON Common Stock representing Twenty-Four Million Three Hundred Seventy-Five Thousand Dollars (\$24,375,000.00) of the 2021 Contingent Consideration shall be received, cumulatively, by the Sellers if the Company's Adjusted EBITDA for calendar year 2021 is Eleven Million

Thousand Dollars (\$11,100,000.00) or greater. Sellers' receipt of the remaining 2021 Contingent Consideration will be subject to the Company's Actual EBITDA for calendar year 2021 being equal to or in excess of \$12,600,000 (the "2021 EBITDA Target"). If there is a Shortfall in the Company's Adjusted EBITDA for 2021 (i.e., the Company's Adjusted EBITDA for 2021 is less than \$12,600,000), but the Company's Adjusted EBITDA for 2021 is in excess of \$11,100,000, the remaining 2021 Contingent Consideration to be received by Sellers shall be proportionate with respect to the incremental amount of the Company's Adjusted EBITDA in excess of \$11,100,000. If, for example, the Company's Adjusted EBITDA for 2021 is \$11,850,000, then the Sellers would be entitled to receive \$6,093,750 in 2021 Contingent Consideration, and the remaining \$6,093,750 in 2021 Contingent Consideration will be available for recapture in 2022 (and only if the Company's Actual EBITDA for 2022 is in excess of \$20,000,000, as described below). Any of the 2021 Contingent Consideration not earned and which is not recaptured based on the Company's Actual EBITDA for 2021, shall be forfeited.

(ii) The Sellers' receipt of the 2021 Contingent Consideration shall also be subject to the terms and conditions of the Restricted Stock Grant Agreement.

(c) At the Closing, Buyer and each of the Sellers will enter into a restricted stock grant pursuant to which the Sellers may receive, cumulatively, an additional Twenty-Nine Million Two Hundred Fifty Thousand Dollars (\$29,250,000) in shares of AAON Common Stock (the "2022 Contingent Consideration"), with the number of shares comprising the 2022 Contingent Consideration equal to \$29,250,000 divided by the AAON Signing VWAP, with the Seller's receipt of the 2022 Contingent Consideration subject to the following conditions:

(i) Shares of AAON Common Stock representing the 2022 Contingent Consideration shall be received, cumulatively, by the Sellers if the Company's Actual EBITDA for 2022 is equal to or in excess of \$20,000,000 (the "2022 EBITDA Target"). If the Company's Actual EBITDA for 2022 is less than the 2022 EBITDA Target, but is in excess of the 2021 EBITDA Target, the 2022 Contingent Consideration to be received by Sellers shall be proportionate with respect to the incremental increase in the Company's Actual EBITDA for 2022 over the 2021 EBITDA Target. For example, assume (i) the Company's Actual EBITDA for 2021 equals or exceeds \$12,600,000 (so there is no Shortfall for 2021), and (ii) the Company's Actual EBITDA for 2022 equals \$16,300,000, then the Sellers would be entitled to receive 50% of the 2022 Contingent Consideration, and the remaining \$14,625,000 in 2022 Contingent Consideration will be available for recapture in 2023 (and only in 2023) as described below. Any of the 2022 Contingent Consideration not earned and which is not recaptured based on the Company's Actual EBITDA for 2022, shall be forfeited.

(ii) The Sellers' receipt of the 2022 Contingent Consideration shall also be subject to the terms and conditions of the Restricted Stock Grant Agreement.

(d) At the Closing, Buyer and each of the Sellers will enter into a restricted stock grant pursuant to which the Sellers may receive, cumulatively, an additional Twelve Million One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$12,187,500) in shares of AAON Common Stock (the "2023 Contingent Consideration"), with the number of shares comprising the 2023 Contingent Consideration equal to \$12,187,500 divided by the AAON Signing VWAP, with the Seller's receipt of the 2023 Contingent Consideration subject to the following conditions:

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(i) Shares of AAON Common Stock representing the 2023 Contingent Consideration shall be received, cumulatively, by the Sellers if the Company's Actual EBITDA for 2023 is equal to or in excess of \$28,000,000 (the "2023 EBITDA Target"). If the Company's Actual EBITDA for 2023 is less than the 2023 EBITDA Target but is in excess of the 2022 EBITDA Target, the 2023 Contingent Consideration to be received by Sellers shall be proportionate with respect to the incremental increase in the Company's Actual EBITDA for 2023 over the 2022 EBITDA Target. Any 2023 Contingent Consideration which is not earned and which is not recaptured based on the Company's Actual EBITDA for 2023, shall be forfeited.

(ii) The Sellers' receipt of the 2023 Contingent Consideration shall also be subject to the terms and conditions of the Restricted Stock Grant Agreement.

(e) At the Closing, Buyer and each of the Key Employees will enter into a restricted stock grant (each, an "Employee Restricted Stock Grant"), pursuant to which the Key Employees may receive cumulatively (I) up to an additional \$937,500 in shares of AAON Common Stock (the "2021 Incentive Consideration"), with the number of shares comprising the 2021 Incentive Consideration being equal to \$937,500 divided by the AAON Signing VWAP, (II) up to an additional \$750,000 in shares of AAON Common Stock (the "2022 Incentive Consideration"), with the number of shares comprising the 2022 Incentive Consideration being equal to \$750,000 divided by the AAON Signing VWAP, and (III) up to an additional \$312,500 in shares of AAON Common Stock (the "2023 Incentive Consideration"), with the number of shares comprising the 2023 Incentive Consideration being equal to \$312,500 divided by the AAON Signing VWAP, for an aggregate total of \$2,000,000 (the "Incentive Consideration"). Employee Restricted Stock Agreements shall provide that Incentive Consideration will be paid annually but instead paid in a single lump sum as described in 2.02(h) below.

(i) The Key Employees' receipt of the 2021 Incentive Consideration shall be subject to the following conditions: Shares of AAON representing \$625,000.00 of the 2021 Incentive Consideration shall be earned, cumulatively, by the Key Employees if the Company's Adjusted EBITDA for calendar year 2021 is Eleven Million One Hundred Thousand Dollars (\$11,100,000.00) or greater. Key Employees' receipt of the remaining Consideration will be subject to the Company's Adjusted EBITDA for calendar year 2021 being equal to or in excess of the 2021 EBITDA Target. If the Company's Adjusted EBITDA for 2021 is less than the 2021 EBITDA Target, but the Company's Adjusted EBITDA for 2021 is in excess of \$11,100,000, the remaining 2021 Incentive Consideration to be received by Key Employees shall be proportionate with respect to the incremental amount of the Company's Adjusted EBITDA in excess of \$11,100,000. Any of the 2021 Incentive Consideration not earned shall be forfeited.

(ii) The Key Employees' receipt of the 2022 Incentive Consideration shall be subject to the following conditions: Shares of AAON representing \$625,000.00 of the 2022 Incentive Consideration shall be earned, cumulatively, by the Key Employees if the Company's Adjusted EBITDA for 2022 is in excess of the 2022 EBITDA Target. If the Company's Adjusted EBITDA for 2022 is less than the 2022 EBITDA Target, but is in excess of the 2021 EBITDA Target, the 2022 Incentive Consideration to be received by the Key Employees shall be proportionate with respect to the incremental increase in the Company's Adjusted EBITDA for 2022 over the 2021 EBITDA Target. Any of the 2022 Incentive Consideration not earned shall be forfeited.

(iii) The Key Employees' receipt of the 2023 Incentive Consideration shall be subject to the following conditions: Shares of AAON representing \$625,000.00 of the 2023 Incentive Consideration shall be earned, cumulatively, by the Key Employees if the Company's Adjusted EBITDA for 2023 is in excess of the 2023 EBITDA Target. If the Company's Adjusted EBITDA for 2023 is less than the 2023 EBITDA Target, but is in excess of the 2022 EBITDA Target, the 2023 Incentive Consideration to be received by the Key Employees shall be proportionate with respect to the incremental increase in the Company's Adjusted EBITDA for 2023 over the 2022 EBITDA Target. Any of the 2023 Incentive Consideration not earned shall be forfeited.

(iv) Each Employee Restricted Stock Grant with respect to Incentive Consideration shall provide that, if the full-time employment of the grantee named in such Employee Restricted Stock Grant should terminate for any reason other than involuntary termination without Cause, then any Incentive Consideration with respect to the terminated Key Employee shall be automatically forfeited. The cumulative amount of all such restricted stock payable to Key Employees shall be deemed automatically forfeited pursuant to

Section 2.02(e)(i), (ii), (iii) or (iv) hereof is referred to collectively as the "**Forfeited Incentive Consideration**". Each Employee Restricted Stock Grant with respect to Incentive Consideration shall further provide that, if the full-time employment of the grantee named in such Employee Restricted Stock Grant should terminate for any reason other than involuntary termination without Cause, then any Incentive Consideration with respect to the terminated Key Employee that has been earned prior to the termination date shall be deemed Forfeited Incentive Consideration, but instead shall be deemed earned and shall be paid as provided in the Employee Restricted Stock Grant below. The Restricted Stock Grants of each Seller for each of 2021, 2022 and/or 2023, as applicable, shall be amended automatically to increase the number of shares of AAON Common Stock available to the Sellers in their respective 2021 Contingent Consideration, 2022 Contingent Consideration and 2023 Contingent Consideration, with such increase to equal such Seller's Pro-Rata Share of the Forfeited Incentive Consideration otherwise earned pursuant to the Purchase Agreement, including without limitation any Forfeited Incentive Consideration that would have been recaptured by applying the criteria stated in Section 2.02(c). Any such increase shall be treated by the parties hereto in all respects as an increase in Purchase Price, and **Exhibit C** (allocating the Forfeited Incentive Consideration among the Sellers) shall be deemed automatically amended to proportionately increase the allocated Purchase Price.

(v) The Key Employees' receipt of the Incentive Consideration shall also be subject to the terms and conditions of their respective Employee Restricted Stock Grants.

(f) Any Shortfall in the Company's Adjusted EBITDA for 2021 may be recaptured (and the applicable portion of the 2021 Contingent Consideration above not forfeited) on a proportionate basis to the extent that the Company's Adjusted EBITDA for 2022 exceeds the 2022 EBITDA Target, as in the following example. Assume the Shortfall for 2021 equals \$1,300,000. If the Company's Adjusted EBITDA for 2022 exceeds the 2022 EBITDA Target by \$1,300,000 or more, Sellers would receive 100% of the 2021 Contingent Consideration available for recapture and not previously earned and received. If the Company's Adjusted EBITDA for 2022 only exceeds the 2022 EBITDA Target by \$650,000, Sellers would only receive 50% of the 2021 Contingent Consideration available for recapture and not previously earned and received.

(g) Any Shortfall in the Company's Adjusted EBITDA for 2022 may be recaptured (and the applicable portion of the 2022 Contingent Consideration above not forfeited) on a proportionate basis to the extent that the Company's Adjusted EBITDA for 2023 exceeds the 2023 EBITDA Target, as in the following example. Assume the Shortfall for 2022 equals \$4,600,000—if the Company's Adjusted EBITDA for 2023 exceeds the 2023 EBITDA Target by \$4,600,000 or more, Sellers would receive 100% of the 2022 Contingent Consideration available for recapture and not previously earned and received.

Company's Adjusted EBIT for 2023 only exceeds the 2023 EBITDA Target by \$2,300,000, Sellers would only receive 50% of the 2022 Contingent available for recapture and not previously earned and received.

(h) Within sixty (60) days after the end of each applicable calendar year, Buyer shall prepare and deliver to Sellers a statement setting forth the Company's Adjusted EBITDA for the year just ended, which statement shall contain audited financial statements of the Company as of the applicable year end. After receipt of such statement, Sellers shall have sixty (60) days to review the calculation. During each such review period, Sellers and Sellers' Accountants shall have full access to the books and records of the Company, the personnel of, and work papers prepared by, Buyer and/or Buyer's Accountants to the extent that they relate to the calculation of the Company's Adjusted EBITDA as Sellers may reasonably request for the purpose of reviewing the statement. Such access shall be in a manner that does not interfere with the normal business operations of Buyer or the Company. If Sellers notify Buyer of any disagreement with such statement, then the parties shall attempt to resolve such disagreement through good-faith negotiation and if, within the (15) days, the parties are unable to resolve their disagreement, then they shall submit such disagreement to the Independent Accountant for resolution in accordance with the procedures of Section 2.04, mutatis mutandis. The 2021 Contingent Consideration, 2022 Contingent Consideration and 2023 Contingent Consideration payable to the Sellers, if any, shall be issued and delivered annually, within ten (10) days following the date that the amount of such consideration is finally determined. The 2021 Incentive Consideration, 2022 Incentive Consideration and 2023 Incentive Consideration payable to the Employees, if any, shall be issued in a single delivery of shares of AAON Common Stock to each Key Employee entitled to receive same within ten (10) days following the date that 2023 Incentive Consideration is finally determined.

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(i) Interest shall accrue at a rate per annum equal to 8% per annum, compounded annually, on any 2021 Contingent Consideration, 2022 Contingent Consideration or 2023 Contingent Consideration, and on any 2021 Incentive Consideration, 2022 Incentive Consideration and 2023 Incentive Consideration in each case that is not issued when the same is due, and such interest shall be payable on Seller's or Key Employee's demand (as the case may be).

(j) Buyer acknowledges that the possibility of the Sellers receiving the 2021 Contingent Consideration, the 2022 Contingent Consideration and the 2023 Contingent Consideration constitutes a material inducement for the Sellers to enter into this Agreement. Therefore during the period of time from the Closing Date through December 31, 2023: (i) the business of the Company shall be operated as and accounted for as a separate business unit of the Buyer, (ii) after the Closing, the Company, shall not take, or fail to take, any action for the primary purpose or with the primary intent of avoiding or reducing the 2021 Contingent Consideration, 2022 Contingent Consideration or 2023 Contingent Consideration, and (iii) the Buyer shall not, without the prior written consent of the Sellers, make any material change in the accounting principles in place at the Company at the Closing Date that negatively effects the calculation of the 2021 Contingent Consideration, 2022 Contingent Consideration and 2023 Contingent Consideration other than any change required to be implemented by the Financial Accounting Standards Board.

(l) If prior to December 31, 2023 (i) the Company or Buyer effects a sale of all or substantially all of the assets of the Company to a third party, (ii) effects a transaction involving the Company which results in at least 50% of the equity interests of Buyer then outstanding being owned by a third party, (iii) Buyer or the Company makes a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against Buyer or the Company to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up or reorganization, arrangement, adjustment, protection, relief or composition under any applicable Law relating to bankruptcy, insolvency or reorganization, then, all conditions to earning any unpaid 2021 Contingent Consideration, 2022 Contingent Consideration and 2023 Contingent Consideration, and any unpaid 2021 Incentive Consideration, 2022 Incentive Consideration and 2023 Incentive Consideration shall be deemed satisfied and all such consideration shall be due and payable within ten (10) days of such event.

Section 2.03 Transactions to be Effected at the Closing.

(a) At the Closing, Buyer shall:

(i) deliver to Sellers:

(A) the Closing Date Payment, by wire transfer of immediately available funds to the accounts designated in writing by each Seller to Buyer five (5) Business Days prior to the Closing Date, with each Seller to receive their respective percentage of such Closing Date Payment as set forth in Section 2.03(a)(i)(A); and

(B) the Ancillary Documents and all other agreements, documents, instruments or certificates required to be delivered by Buyer at or prior to the Closing Date pursuant to Section 7.03 of this Agreement.

(ii) pay, on behalf of the Company or the Sellers, the following amounts:

(A) Indebtedness of the Company to be paid at Closing, by wire transfer of immediately available funds to the accounts and in the amounts set forth in the Closing Indebtedness Certificate; and

(B) any Transaction Expenses unpaid at Closing, by wire transfer of immediately available funds to the accounts and in the amounts set forth in the Closing Transaction Expenses Certificate.

(b) At the Closing, Sellers shall deliver or cause to be delivered to Buyer:

(i) duly executed assignments of the Membership Interests to Buyer, in form and content acceptable to Buyer and its counsel, free and clear of all Encumbrances; and

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(ii) the Ancillary Documents and all other agreements, documents, instruments or certificates required to be delivered by the Seller Parties at or prior to Closing pursuant to **Section 7.02** of this Agreement.

Section 2.04 Purchase Price Adjustment.

(a) Closing Adjustment.

(i) At the Closing, the Closing Date Payment shall be adjusted in the following manner:

(A) either (1) an increase by the amount, if any, by which the Estimated Closing Working Capital (as determined in accordance with **Section 2.04(a)(i)**) is greater than the Target Working Capital, or (2) a decrease by the amount, if any, by which the Estimated Closing Working Capital is less than the Target Working Capital;

(B) a decrease by the outstanding Indebtedness of the Company as of the close of business on the Closing Date; and

(C) a decrease by the amount of unpaid Transaction Expenses of the Company as of the close of business on the Closing Date.

The net amount after giving effect to the adjustments listed above shall be the "**Closing Date Payment**".

(ii) At least five (5) Business Days before the Closing, Sellers shall prepare and deliver to Buyer a statement setting forth its good faith estimate of the Closing Working Capital (the "**Estimated Closing Working Capital**"), which statement shall contain an estimated balance sheet of the Company as of the Closing Date (without giving effect to the transactions contemplated herein), a calculation of Estimated Closing Working Capital (the "**Estimated Closing Working Capital Statement**"), and a certificate of a Manager of the Company that the Estimated Closing Working Capital Statement was prepared in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, and in a manner consistent with the calculation example attached as **Exhibit 2.04(a)(ii)**.

(b) Post-Closing Adjustment.

(i) Within sixty (60) days after the Closing Date, Buyer shall prepare and deliver to Sellers a statement setting forth its calculation of Closing Working Capital, which statement shall contain an audited balance sheet of the Company as of the Closing Date (without giving effect to the transaction contemplated herein), a calculation of Closing Working Capital (the "**Closing Working Capital Statement**") and a certificate of the Chief Financial Officer of the Company that the Closing Working Capital Statement was prepared in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, and in a manner consistent with the calculation example attached as **Exhibit 2.04(a)(ii)**.

(ii) The post-closing adjustment shall be an amount equal to the Closing Working Capital minus the Estimated Closing Working Capital (the "**Adjustment**").

(c) Examination and Review.

(i) Examination. After receipt of the Closing Working Capital Statement, Sellers shall have thirty (30) days (the "**Review Period**") to review the Closing Working Capital Statement. During the Review Period, Sellers and Sellers' Accountants shall have full access to the books and records of the personnel of, and work papers prepared by, Buyer and/or Buyer's Accountants to the extent that they relate to the Closing Working Capital Statement. The parties shall have full access to all historical financial information (to the extent in Buyer's possession) relating to the Closing Working Capital Statement as Sellers may reasonably require for the purpose of reviewing the Closing Working Capital Statement.

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Statement and to prepare a Statement of Objections (defined below), *provided, that* such access shall be in a manner that does not interfere with the business operations of Buyer or the Company.

(ii) Objection. On or prior to the last day of the Review Period, Sellers may object to the Closing Working Capital Statement by delivering to Buyer a statement setting forth Sellers' objections in reasonable detail, indicating each disputed item or amount and the basis for Sellers' disagreement (the "**Statement of Objections**"). If Sellers fail to deliver the Statement of Objections before the expiration of the Review Period, the Closing Working Capital Statement and the Post-Closing Adjustment, as the case may be, reflected in the Closing Working Capital Statement shall be deemed to have been agreed to by the parties. If Sellers deliver the Statement of Objections before the expiration of the Review Period, Buyer and Sellers shall negotiate in good faith to resolve the disputed items and amounts within thirty (30) days after the delivery of the Statement of Objections (the "**Resolution Period**"), and, if the same are so resolved, the parties shall agree to the Resolution Period, the Post-Closing Adjustment and the Closing Working Capital Statement with such changes as may have been previously agreed to by Buyer and Sellers, shall be final and binding.

(iii) Resolution of Disputes. If Sellers and Buyer fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections, then any amounts remaining in dispute ("Disputed Amounts" and any amounts not so disputed, the "Non-Disputed Amounts") shall be submitted for resolution to the office of Clifton Larson Allen or, if Clifton Larson Allen is unable to serve, Buyer and Sellers shall agree to submit the Disputed Amounts to mutual agreement the office of an impartial nationally recognized firm of independent certified public accountants other than Sellers' Accountants (the "**Independent Accountant**") who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any necessary adjustments to the Closing Working Capital Statement. The parties hereto agree that all adjustments shall be made without regard to materiality. The Independent Accountant shall only decide the specific items under dispute by the parties and their decision for the Disputed Amount must be within the range of values assigned to each such item in the Closing Working Capital Statement and the Statement of Objections.

(iv) Fees of the Independent Accountant. The fees and expenses of the Independent Accountant shall be paid by Sellers, on the one hand, and Buyer, on the other hand, based upon the percentage that the amount actually contested but not awarded to Sellers or Buyer, respectively, bears to the amount actually contested by Sellers and Buyer.

(v) Determination by Independent Accountant. The Independent Accountant shall make a determination as soon as practicable within thirty (30) days (or such other time as the parties hereto shall agree in writing) after their engagement, and their resolution of the Disputed Amounts and their adjustment of the Closing Working Capital Statement and/or the Post-Closing Adjustment shall be conclusive and binding upon the parties hereto.

(d) Payments of Post-Closing Adjustment. Except as otherwise provided herein, any payment of the Post-Closing Adjustment, together with the amount of the Disputed Amounts, shall be paid by wire transfer to the account(s) of the party or parties entitled to receive such amount, as set forth below, shall (A) be due (x) within five (5) Business Days of acceptance of the applicable Closing Working Capital Statement, if the Disputed Amounts are Disputed Amounts, then within five (5) Business Days of the resolution described in clause (v) above; and (B) be paid by wire transfer to the account(s) of the party or parties entitled to receive such amount, as is directed by Buyer or Sellers, as the case may be.

(e) Adjustments for Tax Purposes. Any payments made pursuant to this **Section 2.04** shall be treated as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

Section 2.05 Closing. Subject to the terms and conditions of this Agreement, the purchase and sale of the Membership Interests contemplated by this Agreement shall take place at a closing (the "**Closing**") to be held at 10:00 a.m., Tulsa, Oklahoma time, no later than three (3) Business Days after the last of the conditions to be satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date) set forth in **Article VIII** have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date) or at such other time or on such other date or at such other place as the parties may agree in writing.

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place as Sellers and Buyer may mutually agree upon in writing (the day on which the Closing takes place being the "**Closing Date**".

Section 2.06. Withholding Tax. Buyer shall be entitled to deduct and withhold from the Purchase Consideration all Taxes that Buyer may deduct and withhold under any provision of applicable Tax Law. Neither Sellers nor Buyer is aware of any such tax required to be deducted or withheld amounts shall be treated as delivered to the Sellers hereunder.

ARTICLE III **REPRESENTATIONS AND WARRANTIES OF SELLERS WITH RESPECT TO THE COMPANY**

Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, each of the Sellers represents and warrants to Buyer, not jointly, that the statements contained in this **Article III** are true and correct as of the date hereof.

Section 3.01 [Reserved]

Section 3.02 Organization, Authority and Qualification of the Company. The Company is a limited liability company duly organized, valid in good standing under the Laws of the state of Oregon and has full corporate power and authority to own, operate or lease the properties and assets operated or leased by it and to carry on its business as it has been and is currently conducted. **Section 3.02** of the Disclosure Schedules jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing necessary.

Section 3.03 Capitalization of the Company.

(a) The authorized and outstanding equity securities of the Company are as set forth in **Section 3.03** of the Disclosure Schedules, and such Schedule accurately reflects the name of each Seller and the Membership Interests owned of record by such Seller as of the date hereof and at the Closing. The Membership Interests constitute the only equity interests of the Company, and such equity interests have been duly authorized, issued and fully paid, and are nonassessable.

(b) There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase agreements, arrangements or commitments of any character under which the Company is or may become obligated to issue or sell, or give any Person the right to subscribe for or acquire, or in any way dispose of, any shares of equity interests, or any securities or obligations exercisable or exchangeable for shares of equity interests, of the Company, and no securities or obligations evidencing such rights are authorized, issued or outstanding. Contracts relating to the registration or voting of any equity securities or other securities of the Company to which the Company is a party.

(c) All dividends or other distributions declared, made or paid by the Company prior to the date hereof have been declared, made or paid in accordance with the Company's Organizational Documents and all applicable Laws.

(d) True and correct copies of the Company's Organizational Documents have been provided to Buyer, and the same have not been modified or amended.

Section 3.04 No Subsidiaries. The Company does not own, or have any interest in any shares or have an ownership interest in any other Person.

Section 3.05 Consents; No Conflicts. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Authority or Person is required by or with respect to the Company in connection with the execution and delivery of this Agreement and the

Ancillary Documents and the consummation of the transactions contemplated hereby and thereby, except for such filings as may be required under applicable Law. The execution, delivery and performance by each Seller Party of this Agreement do not and will not: (a) conflict with or result in a violation of or give rise to a claim for injunction or other equitable relief under any provision of any Law or Governmental Order applicable to the Company; (b) except as set forth in **Section 3.05** of the Disclosure Schedules, constitute a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default and acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Material Contract to which the Company is a party or to which any of the Company's properties and assets are subject or any Permit affecting the properties, assets or business of the Company; or (c) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on any properties or assets of the Company.

Section 3.06 Financial Statements; Working Capital.

(a) Complete copies of the Company's audited financial statements consisting of the balance sheet of the Company as of December 31 in each of 2019 and 2020 and the related statements of income and retained earnings, and members' equity for the years then ended (the "**Audited Financial Statements**"), and unaudited financial statements consisting of the balance sheet of the Company as of September 30, 2021 and the related statements of income and retained earnings and members' equity for the nine-month period then ended (the "**Interim Financial Statements**") and together with the Audited Financial Statements, the "**Financial Statements**") are included in the Disclosure Schedules. The Financial Statements have been prepared in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, applied on a consistent basis throughout the periods presented. The Audited Financial Statements, the Interim Financial Statements and the Financial Statements are subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments (the effect of which will not be materially adverse to the Company). The Audited Financial Statements present fairly the financial position of the Company on the books and records of the Company, and fairly present in all material respects the financial condition of the Company as of the respective dates of the Audited Financial Statements and the results of the operations of the Company for the periods indicated. The balance sheet of the Company as of December 31, 2020 is referred to herein as the "**Balance Sheet**" and the date thereof as the "**Balance Sheet Date**" and the balance sheet of the Company as of September 30, 2021 is referred to herein as the "**Interim Balance Sheet**" and the date thereof as the "**Interim Balance Sheet Date**". The Company maintains a standard system of accounting and financial reporting established and administered in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements.

Section 3.07 Liabilities.

(a) The Company has no liabilities, obligations or commitments of any nature whatsoever (including without limitation, indebtedness for bonds, retention bonuses, deferred compensation, equity appreciation rights, equity options, special severance arrangements, pension or other long-term obligations asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise ("**Liabilities**"), except to the extent which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount. At the Closing, the Company will have no Liabilities other than trade payables and other liabilities and obligations of Company incurred in its ordinary course of business and specifically identified on **Section 3.07(a)** of the Disclosure Schedules.

(b) Except as set forth on **Section 3.07(b)** of the Disclosure Schedules, the Company has not received a loan provided or established under the CARES Act, including, but not limited to, a loan or other indebtedness by or through the Paycheck Protection Program administered by the U.S. Small Business Administration (a "**PPP Loan**"), and the Selling Parties hereby represent, warrant and covenant to Buyer as follows:

(i) in obtaining and applying for the PPP Loan, the Company and its Affiliates satisfied all eligibility and certification requirements at the time of the Company's initial application for such PPP Loan;

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(ii) all PPP-related certifications made and delivered by or on behalf of the Company were and are true, accurate and correct, and made in good faith;

(iii) the Company and its Affiliates have complied with all loan programs that the Company has participated in under the CARES Act (or any other similar legislation), including any and all restrictions on the usage of the proceeds of any such loans, including without limitation, the PPP Loan;

(iv) no directors, managers, officers or other employees of the Company or any of its Affiliates have been debarred or otherwise prohibited from participating in any government contracting activities;

(v) the Company and the Selling Parties have received and read the SBA Procedural Notice effective October 2, 2020 (the “**SBA Notice**”) other things, requires the recipient of a PPP Loan to either (A) repay such PPP Loan in full or (B) complete and file with the PPP Loan lender application and deposit in escrow with such lender an amount equal to the outstanding balance under such PPP Loan;

(vi) the Selling Parties will cause the Company comply with the terms of the SBA Notice and all other terms and conditions applicable to such effect from time to time; and

(vii) the Selling Parties acknowledge agree that as of the Closing Date any such PPP Loan shall have been repaid or forgiven such that a Date neither Buyer nor the Company will have any obligations or liabilities whatsoever related to such PPP Loan.

Section 3.08 Absence of Certain Changes, Events and Conditions. Since the Balance Sheet Date, and other than in the ordinary course consistent with past practice, except as set forth on **Section 3.08** of the Disclosure Schedules, there has not been, with respect to the Company, a

(a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse

(b) amendment of any of the Organizational Documents of the Company;

(c) split, combination or reclassification of any of its equity interests;

(d) issuance, sale or other disposition of any of its equity interests, or grant of any options, warrants or other rights to purchase or obtain conversion, exchange or exercise) any of its equity interests;

(e) declaration or payment of any dividends or distributions on or in respect of any of its equity interests or redemption, purchase or acquisition of equity interests;

(f) material change in any method of accounting or accounting practice of the Company, except as required by GAAP or as disclosed in the Financial Statements;

(g) material change in the Company's cash management practices and its policies, practices and procedures with respect to collection of receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;

(h) entry into any Contract that would constitute a Material Contract;

(i) incurrence, assumption or guarantee of any indebtedness for borrowed money except unsecured current obligations and Liabilities incurred in the course of business consistent with past practice;

(j) transfer, assignment, sale or other disposition of any of the assets shown or reflected in the Balance Sheet or cancellation of any debts or encumbrances;

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(k) transfer or assignment of or grant of any license or sublicense under or with respect to any Company Intellectual Property or Company IP /

(l) abandonment or lapse of or failure to maintain in full force and effect any Company IP Registration, or failure to take or maintain reasonable steps to protect the confidentiality or value of any Trade Secrets included in the Company Intellectual Property;

(m) material damage, destruction or loss (whether or not covered by insurance) to its property;

(n) any capital investment in, or any loan to, any other Person;

(o) acceleration, termination, material modification to or cancellation of any Material Contract to which the Company is a party or by which it is bound;

(p) any material capital expenditures;

- (q) imposition of any Encumbrance upon any of the Company properties, equity interests or assets, tangible or intangible;
- (r) (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation respect of its current or former employees, officers, directors, independent contractors or consultants, other than as provided for in any written required by applicable Law, (ii) change in the terms of employment for any employee or any termination of any employees for which the aggregate expenses exceed \$250,000.00, or (iii) action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, director, independent contractor or consultant;
- (s) adoption, modification or termination of any: (i) employment, severance, retention or other agreement with any current or former employee, director, independent contractor or consultant, (ii) Benefit Plan or (iii) collective bargaining or other agreement with a Union, in each case whether or not required by applicable Law;
- (t) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any of its members or current or former directors, managers or employees;
- (u) entry into a new line of business or abandonment or discontinuance of existing lines of business;
- (v) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provision or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;
- (w) purchase, lease or other acquisition of the right to own, use or lease any property or assets for an amount in excess of \$250,000.00, including in the case of a lease, per annum) or \$1,000,000.00 in the aggregate (in the case of a lease, for the entire term of the lease, not including any option to purchase or to renew the lease); or purchases of inventory or supplies in the ordinary course of business consistent with past practice;
- (x) acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock or other equity of, or by any other Person, of any business or any division thereof;
- (y) action by the Company to make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action to take any action or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Buyer in the Post-Closing Tax Period; or

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- (z) any Contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 3.09 Material Contracts.

- (a) **Section 3.09(a)** of the Disclosure Schedules lists each of the following Contracts of the Company (such Contracts, together with all Contracts of the Company relating to the occupancy, management or operation of any Real Property (including without limitation, brokerage contracts) listed or otherwise disclosed in **Section 3.12(b)** of the Disclosure Schedules and all Company IP Agreements set forth in **Section 3.12(b)** of the Disclosure Schedules, being "**Material Contracts**")
 - (i) each Contract of the Company involving aggregate consideration in excess of \$150,000 and which, in each case, cannot be cancelled by the Company without penalty or without more than ninety (90) days' notice;
 - (ii) all Contracts that require the Company to purchase its total requirements of any product or service from a third party or that contain provisions;
 - (iii) all Contracts that provide for the indemnification by the Company of any Person or the assumption of any Tax, environmental or other liability of any Person;
 - (iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock, other equity or assets of any other Person, or the lease or sale of real property (whether by merger, sale of stock, sale of assets or otherwise);

- (v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting Contracts to which the Company is a party;
- (vi) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) to which the Company which are not cancellable without material penalty or without more than ninety (90) days' notice;
- (vii) except for Contracts relating to trade payables, all Contracts relating to indebtedness (including, without limitation, guarantees) of the Company;
- (viii) all Contracts with any Governmental Authority to which the Company is a party ("**Government Contracts**");
- (ix) all Contracts that limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time;
- (x) any Contracts to which the Company is a party that provide for any joint venture, partnership or similar arrangement by the Company;
- (xi) all Contracts between or among the Company on the one hand and any Seller Party or any Affiliate of any Seller Party (other than the other hand);
- (xii) all collective bargaining agreements or Contracts with any Union to which the Company is a party; and
- (xiii) any other Contract that is material to the Company and not previously disclosed pursuant to this **Section 3.09**.

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or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all amendments and supplements thereto and waivers thereunder) have been made available to Buyer.

Section 3.10 Title to Assets; Real Property.

(a) The Company owns no Real Property. The Company has good and valid title to, or a valid leasehold interest in, all Real Property and personal and other assets reflected in the Audited Financial Statements or acquired after the Balance Sheet Date, other than properties and assets so disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date. All such properties and assets (including interests) are free and clear of Encumbrances except for the following (collectively referred to as "**Permitted Encumbrances**"):

- (i) those items set forth in **Section 3.10(a)** of the Disclosure Schedules;
- (ii) liens for Taxes not yet due and payable;
- (iii) mechanics, carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with amounts that are not delinquent and which are not, individually or in the aggregate, material to the business of the Company; or
- (iv) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property which are not, individually or in material to the business of the Company.

(b) **Section 3.10(b)** of the Disclosure Schedules lists (i) the street address of each parcel of Real Property; (ii) if such property is leased or subleased by the Company, the landlord under the lease, the rental amount currently being paid, and the expiration of the term of such lease or sublease for subleased property; and (iii) the current use of such property. With respect to leased Real Property, Sellers have delivered or made available complete and correct copies of any leases affecting the Real Property. The Company is not a sublessor or grantor under any sublease or option.

granting to any other Person any right to the possession, lease, occupancy or enjoyment of any leased Real Property. The use and operation of the Real Property in the conduct of the Company's business do not violate in any material respect any Law, covenant, condition, restriction, easement, license, permit or other right of any Person. No material improvements constituting a part of the Real Property encroach on real property owned or leased by a Person other than the Company. There are no Actions pending nor, to the Sellers' Knowledge, threatened against or affecting the Real Property or any portion thereof or interest therein in the Real Property, including any of condemnation or eminent domain proceedings.

(c) Except as otherwise stated on **Section 3.10(c)** of the Disclosure Schedules, on or before the Closing, the Company will have acquired good and marketable title to any and all leased equipment and/or assets used in the operation of the Business (other than leases for office equipment such as copiers, printers, fax machines, etc., and other than the Purchased Real Property).

Section 3.11 Condition and Sufficiency of Assets. Except as set forth in **Section 3.11** of the Disclosure Schedules, the buildings, plants, structures, fixtures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of the Company are structurally sound, are in good condition and repair (subject to ordinary wear and tear), and are adequate for the uses to which they are being put. The buildings, plants, structures, fixtures, machinery, equipment, vehicles and other items of tangible personal property currently owned or leased by the Company, together with the properties and assets of the Company, are sufficient for the continued conduct of the Company's business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the business of the Company as currently conducted.

Section 3.12 Intellectual Property.

(a) **Section 3.12(a)** of the Disclosure Schedules contains a correct, current, and complete list of: (i) all Company IP Registrations that are registered, issued, registered, or filed; (ii) all Company IP Registrations that are abandoned, specifying as to each, as applicable: the title, mark, or design; the record owner and inventor(s), if any; the jurisdiction by or in which issued, registered, or filed; the patent, registration, or application serial number; the issue, registration, or filing date; and the current status and classification of all registered and unregistered Trademarks included in the Company Intellectual Property; and (iii) all proprietary Software of the Company.

(b) **Section 3.12(b)** of the Disclosure Schedules contains a correct, current, and complete list of all Company IP Agreements that have not been terminated, specifying for each the date, title, and parties thereto, and separately identifying the Company IP Agreements: (i) under which the Company has granted or otherwise granted to any Person any right or interest relating to any Company Intellectual Property; (ii) under which the Company has otherwise granted any right or interest relating to the Intellectual Property of any Person; and (iii) which otherwise relate to the Company's ownership of Intellectual Property, in each case identifying the Intellectual Property covered by such Company IP Agreement. Sellers have provided Buyer with true and complete copies (or in the case of any oral agreements, a complete and correct written description) of all Company IP Agreements that have not been terminated, including all modifications, amendments and supplements thereto and waivers thereunder. Each Company IP Agreement that has not been terminated is valid and binding on the Company in accordance with its terms and is in full force and effect. Neither the Company nor, to the Sellers' Knowledge, any other party thereto is, or is alleged to be, in breach of or default under, or has provided or received any notice of breach of, default or intention to terminate (including by non-renewal), any Company IP Agreement.

(c) Except as set forth in **Section 3.12(c)** of the Disclosure Schedules, the Company is the sole and exclusive legal and beneficial, and will be the record owner, of all right, title, and interest in and to the Company Intellectual Property, and has the valid and enforceable title to all other Intellectual Property used or held for use in or necessary for the conduct of the Company's business as currently conducted, in each case free and clear of Encumbrances other than Permitted Encumbrances. The Company has entered into binding, valid and enforceable, written Contracts with each former employee and independent contractor [who is or was involved in or has contributed to the invention, creation, or development of any Intellectual Property during the course of employment or engagement with the Company] whereby such employee or independent contractor (i) acknowledges the Company's exclusive ownership of all Intellectual Property invented, created, or developed by such employee or independent contractor within the scope of employment or engagement with the Company; (ii) grants to the Company a present, irrevocable assignment of any ownership interest such independent contractor may have in or to such Intellectual Property, to the extent such Intellectual Property does not constitute a "work made for hire" under applicable Law; and (iii) irrevocably waives any right or interest, including any moral rights, regarding any such Intellectual Property, to the extent such Intellectual Property is not a "work made for hire" under applicable Law. Sellers have provided Buyer with true and complete copies of all such Contracts. All assignments and other instruments necessary to record, and perfect the Company's ownership interest in the Company IP Registrations have been validly executed, delivered, and filed with the appropriate Governmental Authorities and authorized registrars.

(d) Neither the execution, delivery or performance of this Agreement, nor the consummation of the transactions contemplated hereunder, will result in or material impairment of, or require the consent of any other Person in respect of, the Company's right to own or use any Company Intellectual Property or Licensed Intellectual Property.

(e) All of the Company Intellectual Property and Licensed Intellectual Property are valid and enforceable, and all Company IP Registrations are in full force and effect. The Company has taken all reasonable and necessary steps to maintain the Company Intellectual Property and Licensed Intellectual Property and to preserve the confidentiality of all Trade Secrets included in the Company Intellectual Property, including by requiring all Persons thereto to execute binding, written non-disclosure agreements. All required filings and fees related to the Company IP Registrations have been timely filed with and paid to the relevant Governmental Authorities and authorized registrars. Sellers have provided Buyer with true and complete copies of the documents, certificates,

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office actions, correspondence, assignments, and other instruments relating to the Company IP Registrations.

(f) The conduct of the Company's business as currently and formerly conducted, including the use of the Company Intellectual Property, Licensed Intellectual Property in connection therewith, and the products, processes and services of the Company have not infringed, misappropriated or otherwise violated the Intellectual Property or other rights of any Person. To any of the Sellers' Knowledge, no Person has infringed, misappropriated or otherwise violated the Company Intellectual Property or Licensed Intellectual Property.

(g) There are no Actions (including any opposition, cancellation, revocation, review, or other proceeding), whether settled, pending, or, to an Seller's Knowledge threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, or other violation by the Company of the Intellectual Property of any Person; (ii) challenging the validity, enforceability, registrability, patentability, or ownership of any Company Intellectual Property or the Company's right, title, or interest in or to any Company Intellectual Property or Licensed Intellectual Property; or (iii) challenging the validity, enforceability, registrability, patentability, or ownership of any Company Intellectual Property or such Licensed Intellectual Property. No Seller Party has Knowledge of any facts or circumstances that could reasonably give rise to any such Action. The Company is not subject to any outstanding or prospective Governmental Order (including any motion or petition) that does or could reasonably be expected to materially restrict or materially impair the use of any Company Intellectual Property or Licensed Intellectual Property.

(h) **Section 3.12(h)** of the Disclosure Schedules contains a correct, current, and complete list of all social media accounts used in the Company's business. The Company has complied with all terms of use, terms of service, and other Contracts and all associated policies and guidelines relating to its use of social media platforms, sites, or services (collectively, "**Platform Agreements**"). There are no Actions, whether settled, pending, or to the Seller's Knowledge threatened, alleging any (A) breach or other violation of any Platform Agreement by the Company; or (B) defamation, violation of publicity rights or any other violation by the Company in connection with its use of social media.

(i) All Company IT Systems are in good working condition and are sufficient for the operation of the Company's business as currently conducted. In the past twenty-four (24) months, there has been no malfunction, failure, continued substandard performance, denial-of-service, or other cyber incident, including a cyberattack, or other material impairment of the Company IT Systems that has resulted or is reasonably likely to result in disruption or damage to the Company. The Company has taken all commercially reasonable steps to safeguard the confidentiality, availability, security, and integrity of its IT Systems, including implementing and maintaining appropriate backup, disaster recovery, and Software and hardware support arrangements.

(j) The Company has complied with all applicable Laws and all publicly posted policies, notices, and statements concerning the collection, use, storage, transfer, and security of personal information in the conduct of the Company's business. In the past twenty-four (24) months, the Company has not experienced any actual, alleged, or suspected data breach or other security incident involving personal information in its possession or control or to or received any written notice of any audit, investigation, complaint, or other Action by any Governmental Authority or other Person concerning the collection, use, processing, storage, transfer, or protection of personal information or actual, alleged, or suspected violation of any applicable Law, including privacy, data security, or data breach notification, and to Sellers' Knowledge, there are no facts or circumstances that could reasonably be expected to give rise to any such Action.

Section 3.13 Inventory. All inventory of the Company, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective or slow-moving items that have been written down to fair market value or for which adequate reserves have been established. All such inventory is owned by the Company free and clear of all liens, encumbrances, and other claims.

Encumbrances, and no inventory is held on a consignment basis. Except for the Public Health Measures and other effects on the supply chain, materials as a result of COVID-19, to any of the Sellers' Knowledge there is no

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condition materially and adversely affecting the supply of products or materials available to the Company.

Section 3.14 Accounts Receivable. The accounts receivable reflected on the Interim Balance Sheet and the accounts receivable arising therefrom (a) have arisen from bona fide transactions entered into by the Company involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; and (b) constitute only valid, undisputed claims of the Company not subject to claims of set-off or other counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice. The reserve for bad debt on the Interim Balance Sheet or, with respect to accounts receivable arising after the Interim Balance Sheet Date, on the accounting records of the Company is determined in accordance with GAAP, except to the extent that BasX Properties, LLC is not included in the financial statements, consistently applying normal year-end adjustments and the absence of disclosures normally made in footnotes.

Section 3.15 Customers and Suppliers.

(a) **Section 3.15(a)** of the Disclosure Schedules sets forth (i) each customer who has paid aggregate consideration to the Company for goods or services rendered in an amount greater than or equal to \$[2,000,000.00] for each of the three (3) most recent fiscal years (collectively, the "**Material Customers**") and the amount of consideration paid by each Material Customer during such periods. Except as set forth in **Section 3.15(a)** of the Disclosure Schedules, the Company has not received any written, or to any of the Seller Parties' Knowledge oral, notice that any of the Company's Material Customers has ceased, or intends to cease after the Closing, to use its goods or services or to otherwise terminate or materially reduce its relationship with the Company.

(b) **Section 3.15(b)** of the Disclosure Schedules sets forth (i) each supplier to whom the Company has paid consideration for goods or services in an amount greater than or equal to \$[\$1,000,000.00] for each of the three (3) most recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) purchases from each Material Supplier during such periods. Except as set forth in **Section 3.15(b)** of the Disclosure Schedules, the Company has not received any written, or to any of the Seller Parties' Knowledge oral, notice that any of the Company's Material Suppliers has ceased, or intends to cease, to supply goods or services to the Company or to otherwise terminate or materially reduce its relationship with the Company.

Section 3.16 Insurance. **Section 3.16** of the Disclosure Schedules sets forth a true and complete list of all current policies or binders of fire, liability, umbrella liability, real and personal property, workers' compensation, vehicular, directors' and officers' liability, fiduciary liability and other property insurance maintained by the Company and relating to the assets, business, operations, employees, officers and directors of the Company ("the "**Insurance Policies**") and true and complete copies of such Insurance Policies have been made available to Buyer. Such Insurance Policies are in full force and effect and shall remain in full force and effect following the consummation of the transactions contemplated by this Agreement. Neither the Company nor any of the Sellers has received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. All premiums due on such Insurance Policies have either been paid or, if due and payable prior to Closing, will be paid prior to Closing in accordance with the payment terms of each Insurance Policy. The Insurance Policies do not provide for any retrospective premium adjustment or other experience-based rating of the Company. All such Insurance Policies (a) are valid and binding in accordance with their terms; (b) are provided by carriers who are solvent; and (c) have not been subject to any lapse in coverage. Except as set forth on **Section 3.16** of the Disclosure Schedules, there are no outstanding reservations of rights of the Company pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. The Company is not in default under, or has otherwise failed to comply with, in any material respect, any of the terms and conditions contained in any such Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Company and are sufficient for compliance with all applicable Laws and Contracts to which the Company is a party or by which it is bound.

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Section 3.17 Legal Proceedings; Governmental Orders.

(a) Except as set forth in **Section 3.17(a)** of the Disclosure Schedules, there are no Actions pending or, to Sellers' Knowledge, threatened (i) the Company affecting any of its properties or assets (or by or against any Seller Party or any Affiliate thereof and relating to the Company); or (ii) the Company, any Seller Party or any Affiliate of a Seller Party that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. To Sellers' Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action against any current or, to Sellers' Knowledge, former director or employee of the Company with respect to which the Company has, or is required to have, an indemnification obligation.

(b) Except as set forth in **Section 3.17(b)** of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied penalties or awards against or affecting the Company or any of its properties or assets. The Company is in compliance with the terms of each Order set forth in **Section 3.17(b)** of the Disclosure Schedules. To any of the Sellers' Knowledge, no event has occurred or circumstances exist that constitute or result in (with or without notice or lapse of time) a violation of any such Governmental Order.

Section 3.18 Compliance With Laws; Permits.

(a) Except as set forth in **Section 3.18(a)** of the Disclosure Schedules, the Company has complied, and is now complying, in all material respects with all Environmental Laws applicable to it or its business, properties or assets.

(b) All Permits required for the Company to conduct its business have been obtained by it and are valid and in full force and effect. All fees and expenses in respect to such Permits as of the date hereof have been paid in full. **Section 3.18(b)** of the Disclosure Schedules lists all current Permits issued to the Company, including the names of the Permits and their respective dates of issuance and expiration. To Sellers' Knowledge, no event has occurred that, with notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in **Section 3.18(b)** of the Disclosure Schedules.

Section 3.19 Environmental Matters.

(a) The Company is currently and has been in compliance in all material respects with all Environmental Laws and has not received from any Governmental Agency (i) written notice of a violation of Environmental Law; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains outstanding or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) The Company has obtained and is in material compliance with all Environmental Permits (each of which is disclosed in **Section 3.19(b)** of the Disclosure Schedules) necessary for the ownership, lease, operation or use of the business or assets of the Company and all such Environmental Permits are valid and in full force and effect and shall be maintained in full force and effect through the Closing Date in accordance with Environmental Law, and none of the Sellers' Knowledge of any condition, event or circumstance that might prevent or impede, after the Closing Date, the ownership, lease, operation or use of the assets of the Company as currently carried out.

(c) No real property currently or formerly owned, operated or leased by the Company is listed on, or has been proposed for listing on, the National Priority List (or CERCLIS) under CERCLA, or any similar state list.

(d) To any of the Sellers' Knowledge, there has been no Release of Hazardous Materials in contravention of Environmental Law with respect to any real property currently or formerly owned, operated or leased by the Company, and neither the Company nor any Affiliate thereof has received an Environmental Notice that any real property currently or formerly owned, operated or leased in connection with the business of the Company (including soils, groundwater, surface water, buildings and other structures located on any such real property) has been contaminated.

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with any Hazardous Material which could reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or an Environmental Permit by, the Company.

(e) **Section 3.19(e)** of the Disclosure Schedules contains a complete and accurate list of all active or abandoned aboveground or underground owned or operated by the Company.

(f) **Section 3.19(f)** of the Disclosure Schedules contains a complete and accurate list of all off-site Hazardous Materials treatment, storage facilities or locations used by the Company and any predecessors as to which the Company may retain liability, and none of these facilities or locations placed or proposed for placement on the National Priorities List (or CERCLIS) under CERCLA, or any similar state list, and neither any Seller nor the Company has received any Environmental Notice regarding potential liabilities with respect to such off-site Hazardous Materials treatment, storage facilities or locations used by the Company.

(g) The Company has not retained or assumed, by contract or operation of Law, any liabilities or obligations of third parties under Environmental

(h) Sellers have provided or otherwise made available to Buyer and listed in **Section 3.19(h)** of the Disclosure Schedules: (i) any and all reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents with respect to assets of the Company or any currently or formerly owned, operated or leased real property which are in the possession or control of any Company related to compliance with Environmental Laws, Environmental Claims or an Environmental Notice or the Release of Hazardous Materials and all material documents concerning planned or anticipated capital expenditures required to reduce, offset, limit or otherwise control pollution or manage waste or otherwise ensure compliance with current or future Environmental Laws (including, without limitation, costs of remediation, equipment and operational changes).

(i) Neither any Seller Party nor the Company has Knowledge of or reasonably anticipates, as of the Closing Date, any condition, event or circumstance concerning the Release or regulation of Hazardous Materials that might, after the Closing Date, prevent, impede or materially increase the costs of the ownership, lease, operation, performance or use of the business or assets of the Company as currently carried out.

(j) The Company owns and controls all Environmental Attributes (a complete and accurate list of which is set forth in **Section 3.19(j)** of the Disclosure Schedules) and has not entered into any contract or pledge to transfer, lease, license, guarantee, sell, mortgage, pledge or otherwise dispose of any Environmental Attributes as of the date hereof. Neither any Seller Party nor the Company has Knowledge of any condition, event or circumstance that prevent, impede or materially increase the costs associated with the transfer (if required) to Buyer of any Environmental Attributes after the Closing

3.20 Employee Benefit Matters.

(a) **Section 3.20(a)** of the Disclosure Schedules contains a true and complete list of each pension, benefit, retirement, compensation, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, severance, vacation, paid time off (PTO), medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe benefit and other similar attribute policy, program or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is maintained, sponsored, contributed to, or required to be contributed to by the Company for the benefit of any current or former employee, officer, independent contractor or consultant of the Company or any spouse or dependent of such individual, or under which the Company or any of its I has or may have any Liability, or with respect to which Buyer or any of its Affiliates would reasonably be expected to have any Liability, contingencies (as listed on **Section 3.20(a)** of the Disclosure Schedules, each, a "**Benefit Plan**"). The Company has separately identified in **Section 3.20(a)** of the Disclosure Schedules (i) each Benefit Plan that contains a change in control provision and

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(ii) each Benefit Plan that is maintained, sponsored, contributed to, or required to be contributed to by the Company primarily for the benefit of employees of the United States (a "**Non-U.S. Benefit Plan**").

(b) With respect to each Benefit Plan, Sellers have made available to Buyer accurate, current and complete copies of each of the following: (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Benefit Plan has not been reduced to writing, a summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance and contracts, administration agreements and similar agreements, and investment management or investment advisory agreements, now in effect or in the future as a result of the transactions contemplated by this Agreement or otherwise; (iv) copies of any summary plan descriptions, summaries of modifications, summaries of benefits and coverage, COBRA communications, employee handbooks and any other written communications (or any oral communications) relating to any Benefit Plan; (v) in the case of any Benefit Plan that is intended to be qualified under Section 401(a) of the Code

of the most recent determination, opinion or advisory letter from the Internal Revenue Service and any legal opinions issued thereafter with respect to the Benefit Plan's continued qualification; (vi) in the case of any Benefit Plan for which a Form 5500 must be filed, a copy of the two most recently filed Form 5500s with all corresponding schedules and financial statements attached; (vii) actuarial valuations and reports related to any Benefit Plans with respect to recently completed plan years; (viii) the most recent nondiscrimination tests performed under the Code; and (ix) copies of material notices, correspondence from the Internal Revenue Service, Department of Labor, Department of Health and Human Services, Pension Benefit Guaranty and other Governmental Authority relating to the Benefit Plan.

(c) Except as set forth in **Section 3.20(c)** of the Disclosure Schedules, each Benefit Plan and any related trust (other than any multiemployer plan) meaning of Section 3(37) of ERISA (each a "**Multiemployer Plan**") has been established, administered and maintained in accordance with its terms and in compliance in all material respects with all applicable Laws (including ERISA and the Code and any applicable local Laws). Each Benefit Plan that has been qualified within the meaning of Section 401(a) of the Code (a "**Qualified Benefit Plan**") is so qualified and received a favorable and current letter from the Internal Revenue Service with respect to the most recent five year filing cycle, or with respect to a prototype or volume submitter plan, an opinion letter from the Internal Revenue Service to the prototype plan or volume submitter plan sponsor, to the effect that such Qualified Benefit Plan is qualified and that the plan and the trust related thereto are exempt from federal income taxes under Sections 401(a) and 501(a), respectively, or that nothing has occurred that could reasonably be expected to adversely affect the qualified status of any Qualified Benefit Plan. Nothing has occurred to affect any Benefit Plan that has subjected or could reasonably be expected to subject the Company or any of its ERISA Affiliates or, with respect to a plan, after the Closing Date, Buyer or any of its Affiliates, to a penalty under Section 502 of ERISA or to tax or penalty under Sections 4975 or 4980H or any pension plan (other than a Multiemployer Plan) which is subject to minimum funding requirements, including any multiple employer plan, (an "**Employer Plan**") in which employees of the Company or any ERISA Affiliate participate or have participated has an "accumulated funding deficiency" not waived, or is subject to a lien for unpaid contributions under Section 303(k) of ERISA or Section 430(k) of the Code. No Single Employer Plan or any employees of the Company which is a defined benefit plan has an "adjusted funding target attainment percentage," as defined in Section 436 of the Code, of less than 80%. Except as set forth in **Section 3.20(c)** of the Disclosure Schedules, all benefits, contributions and premiums relating to each Benefit Plan have been timely paid in accordance with the terms of such Benefit Plan and all applicable Laws and accounting principles, and all benefits accrued under each Benefit Plan have been paid, accrued or otherwise adequately reserved to the extent required by, and in accordance with, GAAP. All Non-U.S. Benefits are intended to be funded and/or book-reserved are funded and/or book-reserved, as appropriate, based upon reasonable actuarial assumptions.

(d) Neither the Company nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material liability under Title I or Title IV of ERISA or related provisions of the Code or applicable local Law relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; (iii) withdrawn from any Benefit Plan;

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Plan; (iv) engaged in any transaction which would give rise to liability under Section 4069 or Section 4212(c) of ERISA; (v) incurred taxes under the Code with respect to any Single Employer Plan; or (vi) participated in a multiple employer welfare arrangements (MEWA).

(e) With respect to each Benefit Plan (i) no such plan is a Multiemployer Plan; and (ii) no such plan is a "multiple employer plan" within the meaning of Section 413(c) of the Code or a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA);

(f) Each Benefit Plan can be amended, terminated or otherwise discontinued after the Closing in accordance with its terms, without materially impacting the Buyer, the Company or any of their Affiliates other than ordinary administrative expenses typically incurred in a termination event. The Company has not made any representations to any employee, officer, director, independent contractor or consultant, whether binding, to adopt, amend, modify or terminate any Benefit Plan or any collective bargaining agreement, in connection with the consummation of the transaction contemplated by this Agreement or otherwise.

(g) Except as set forth in **Section 3.20(g)** of the Disclosure Schedules and other than as required under Sections 601 to 608 of ERISA or any other Law, no Benefit Plan provides post-termination or retiree health benefits to any individual for any reason, and neither the Company nor any of its Affiliates has any Liability to provide post-termination or retiree health benefits to any individual or ever represented, promised or contracted to any individual. Post-termination or retiree health benefits would be provided with post-termination or retiree health benefits.

(h) Except as set forth in **Section 3.20(h)** of the Disclosure Schedules, there is no pending or, to Sellers' Knowledge, threatened Action relating to any Benefit Plan (other than routine claims for benefits), and no Benefit Plan has within the three (3) years prior to the date hereof been the subject of an examination by a Governmental Authority or the subject of an application or filing under or is a participant in, an amnesty, voluntary compliance, self-correction or other program sponsored by any Governmental Authority.

(i) There has been no amendment to, announcement by any Seller Party, the Company or any of their Affiliates relating to, or changing participation or coverage under, any Benefit Plan or collective bargaining agreement that would increase the annual expense of maintaining such level of the expense incurred for the most recently completed fiscal year (other than on a de minimis basis) with respect to any director, officer, independent contractor or consultant, as applicable. None of Seller Parties, the Company, nor any of their Affiliates has any commitment or obligation made any representations to any director, officer, employee, independent contractor or consultant, whether or not legally binding, to adopt, amend or terminate any Benefit Plan or any collective bargaining agreement.

(j) Each Benefit Plan that is subject to Section 409A of the Code has been administered in compliance with its terms and the operational and administrative requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings and proposed and final regulations) to the extent that the Company does not have any obligation to gross up, indemnify or otherwise reimburse any individual for any excise taxes, interest or penalties imposed under Section 409A of the Code.

(k) Each individual who is classified by the Company as an independent contractor has been properly classified for purposes of participation and accrual under each Benefit Plan.

(l) Except as set forth in **Section 3.20(l)** of the Disclosure Schedules, neither the execution of this Agreement nor any of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, independent contractor or consultant of the Company to severance pay or any other payment; (ii) accelerate the time of payment, funding or vesting of the amount of compensation (including stock-based compensation) due to any such individual; (iii) limit or restrict the right of the Company to make any termination of any Benefit Plan; (iv) increase the amount payable under or result in any other material obligation pursuant to any Benefit Plan; (v) require "parachute payments" within

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the meaning of Section 280G(b) of the Code; or (vi) require a "gross-up" or other payment to any "disqualified individual" within the meaning of Section 4975 of the Code.

Section 3.21 Employment Matters

(a) **Section 3.21(a)** of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Company as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth with respect to each such individual the following: (i) name; (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current annual base compensation and contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the date hereof. Except as set forth in **Section 3.21(a)** of the Disclosure Schedules, as of the date hereof, all compensation, including wages, bonuses, fees and other compensation, payable to all employees, independent contractors or consultants of the Company for services performed prior to the date hereof have been paid in full (or accrued in full on the audited balance sheet contained in the Closing Working Capital Statement) and there are no outstanding agreements, understandings or commitments of the Company with respect to any compensation, commissions, bonuses or fees.

(b) Except as set forth in **Section 3.21(b)** of the Disclosure Schedules, the Company is not, and has not been for the past three (3) years, a party to, or negotiating any collective bargaining agreement or other contract with a union, works council or labor organization (collectively, "Union"), and has not been for the past three (3) years, any Union representing or purporting to represent any employee of the Company, and, to the knowledge of the Sellers' Union or group of employees is seeking or has sought to organize employees for the purpose of collective bargaining. Except as set forth in **Section 3.21(b)** of the Disclosure Schedules, there has never been, nor to any of the Sellers' knowledge has there been any threat of, any strike, slowdown, work stoppage or concerted refusal to work overtime or other similar labor disruption or dispute affecting the Company or any of its employees. The Company has not bargained with any Union.

(c) The Company is and has been in compliance in all material respects with all applicable Laws pertaining to employment and employment practices to the extent they relate to employees, volunteers, interns, consultants and independent contractors of the Company, including all Laws relating to labor and employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, periods of leave, privacy, health and safety, workers' compensation, leaves of absence, paid sick leave and unemployment insurance. All individuals classified by the Company as independent contractors or consultants are properly treated as independent contractors under all applicable Laws. A

the Company classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified in all material respects. The Company is in compliance with and has complied with all immigration laws, including Form I-9 requirements and any applicable mandatory E-Verify obligations. Except as set forth in **Section 3.21(c)** of the Disclosure Schedules, there are no Actions against the Company pending, or to the Sellers' Knowledge, to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicable consultant, volunteer, intern or independent contractor of the Company, including, without limitation, any charge, investigation or claim relating to employment practices, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation rights or benefits, immigration, wages, hours, overtime compensation, employee classification, child labor, hiring, promotion and termination, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence, paid sick leave, unemployment, and any other employment related matter arising under applicable Laws.

(d) During the past three (3) years, the Company has not effectuated: (i) a "plant closing" (as defined in the WARN Act or any similar state or local Law) or a "mass layoff" (as defined in the WARN Act, or any similar state or local Law). The Company has complied in all material respects with the WARN Act and has no plans to undertake any action in the future that would trigger the WARN Act.

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(e) With respect to each Government Contract, the Company is and has been in compliance in all material respects with Executive Order No. 13141 ("**E.O. 11246**"), Section 503 of the Rehabilitation Act of 1973 ("**Section 503**") and the Vietnam Era Veterans' Readjustment Assistance Act of 1984 ("VEVRAA"), including all implementing regulations. The Company maintains and complies with affirmative action plans in compliance with E.O. 11246, Section 503 and VEVRAA, including all implementing regulations. The Company is not, and has not been for the past three (3) years, the subject of any audit, investigation or enforcement action by any Governmental Authority in connection with any Government Contract or related compliance with E.O. 11246, Section 503 or VEVRAA. The Company has not been debarred, suspended or otherwise made ineligible from doing business with the United States government or a contractor. The Company is in compliance in all material respects with and has complied in all material respects with all applicable immigration law and applicable mandatory E-Verify obligations.

Section 3.22 Taxes.

(a) The Company has timely and duly filed all Tax Returns in connection with any federal, state or local Tax required to be filed by it, and all such Returns are true, correct and complete in all material respects. All Taxes of the Company that have become due and payable for all periods covered by such Returns (whether or not shown on such Tax Returns) have been fully and timely paid, except for such Taxes, if any, as are being contested in good faith and are shown as a liability on the Financial Statements. The Company is not currently the beneficiary of any extension of time within which to file any Tax Returns.

(b) The Company has delivered or made available to Buyer copies of all Tax Returns filed for the Company for taxable periods ending within six months prior to the Closing Date.

(c) The Company has not received a written notice from any Governmental Authority in a jurisdiction where the Company did not file Tax Returns claiming that the Company is or may be subject to taxation by that jurisdiction (including federal, state, local or foreign jurisdictions).

(d) The Company has withheld from its employees, independent contractors, creditors, members and third parties and timely paid the withheld amounts to the appropriate Governmental Authority proper and accurate amounts in all respects required to have been withheld or paid over for all periods ending on or before the Closing Date in compliance with all Tax withholding and remitting provisions of applicable Laws and has complied in all respects with all reporting provisions of all applicable Laws. The Company is not, nor has it received any written notice or, to Sellers' Knowledge, oral notice that it is required to withhold (with notice that it will be in violation) or pay any applicable Law relating to the withholding of Taxes and payment of such withholdings to the appropriate Governmental Authority.

(e) (i) No audit or other proceeding by any Governmental Authority is pending or threatened in writing with respect to any Taxes due from the Company. (ii) The Company has not received any written notification that such an audit or proceeding may be commenced, with respect to any Taxes due from the Company. (iii) to the Sellers' Knowledge, there is no proceeding referred to in (i) or (ii) above based upon personal contact with any agent of a Governmental Authority or any employee or representative of the Company, and (iv) all deficiencies for Taxes asserted or assessed against the Company by a Governmental Authority have been fully and timely paid, or otherwise settled with the relevant Governmental Authority, or are properly reflected in the Financial Statements.

(f) There are no outstanding agreements, waivers or arrangements extending the statutory period of limitations applicable to any claim for, or the collection or assessment of, Taxes due from or payable by the Company for any taxable period and no written or other request for any extension is currently pending.

(g) The Company has: (i) not been a member of an affiliated group filing a combined, consolidated, or unitary Tax Return and (ii) no liability for any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, sharing agreement, Tax indemnification agreement, Tax distribution agreement, or

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other similar arrangement, other than commercial Contracts entered into in the ordinary course of business that do not primarily relate to Taxes, or otherwise.

(h) The unpaid Taxes of the Company did not, as of the Interim Balance Sheet Date, exceed the reserve for Tax liability (rather than any reserve for Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Interim Financial Statements, and do not exceed the reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Company in filing its financial statements. Since the Interim Balance Sheet Date, the Company has not incurred any liability for Taxes arising from extraordinary gains or losses, as that term is defined under GAAP, outside the ordinary course of business.

(i) There are no Liens for Taxes upon the assets of the Company, except for statutory Liens for current Taxes not yet due and payable. To Seller's knowledge, there exists no pending claim relating to Taxes that, if adversely determined, would result in any Lien on any of the assets of the Company.

(j) None of the assets of the Company (i) directly or indirectly secures any debt the interest on which is tax-exempt under Section 103(a) of the Code or tax-exempt bond financed property under Section 168(g)(5) of the Code, (ii) is tax-exempt use property within the meaning of Section 470(c)(2) or (3) of the Code, (iii) is subject to a motor vehicle operating lease under Section 7701(h) of the Code or any predecessor provision, or (iv) is treated as an asset of another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended and in effect immediately before the date of the Tax Reform Act of 1986.

(k) The Company is not, nor ever has been, a party to a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code or Treasury Regulations Section 1.6011-4(b).

(l) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable year (or portion thereof) ending on or after the Closing Date as a result of any: (i) change in method of accounting made prior to the Closing; (ii) "closing transaction" described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law) executed prior to the Closing; (iii) installment sale or open transaction disposition made prior to the Closing; (iv) prepaid amount received prior to the Closing; or (v) election by the Company under Section 108(i) of the Code made prior to the Closing.

(m) There are no outstanding rulings of, or requests for rulings by, any Governmental Authority addressed to the Company that are, or if issued, would be binding on the Company or any of its members for any full or partial Tax period beginning on or after the Closing Date.

(n) For purposes of the Code, the Company is and has been classified as a partnership as described in Treasury Regulations Section 301.7701-3, during all periods prior to and including the Closing Date. The Company is not a party to or partner in any joint venture, partnership or other arrangement that could be treated as a partnership for federal income Tax purposes.

(o) Each Seller is a United States person within the meaning of Section 7701(a)(30) of the Code.

(p) The Company is not a partnership described in Treasury Regulations Section 1.1445-11T(d)(1).

Section 3.23 Books and Records. The minute books and stock record books of the Company, all of which have been made available to the Seller, are complete and correct and have been maintained in accordance with sound business practices. The minute books of the Company contain accurate records of all meetings, and actions taken by written consent of, the members, the board of directors or managers and any committees of the board of directors, managers or officers of the Company, and no meeting, or action taken by written consent, of any such members, board of directors, managers or committees for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of the Company.

Section 3.24. Bank Accounts. **Section 3.24** of the Disclosure Schedules sets forth the names and locations of all banks, trust companies, associations and other financial institutions at which the Company maintains accounts of any nature, and the names of all persons authorized to make withdrawals therefrom. Account numbers for each of such accounts will be provided to Buyer immediately prior to Closing.

Section 3.25. Anti-Corruption Matters. Neither the Company nor any of its officers, directors or employees in their capacities as such authorized, made, paid or received (whether previously or agreed to do so in the future), directly or indirectly, any bribes, kickbacks or other similar offers or transfers of value in connection with obtaining or retaining business or to secure an improper advantage to or from any Person in violation of the Company's Anti-Corruption and Anti-Bribery Law. Neither the Company nor any of its officers, directors or employees in their capacities as such has, directly or indirectly, committed any violation of any Anti-Corruption and Anti-Bribery Law.

Section 3.26 Brokers. Except for Wells Fargo Securities, LLC, no broker, finder or investment banker is entitled to any brokerage, finder's commission in connection with the transactions contemplated by this Agreement or any other Ancillary Document based upon arrangements on behalf of the Company or any Seller Party. Sellers shall be solely responsible for any such fees or commissions.

Section 3.27 Investment Representations. Each Seller hereby individually (solely with respect to itself) and not jointly or severally represents to the Buyer and each other Seller that the following statements are true and correct as of the date hereof and shall be true and correct at all times while such Seller holds, or has a right to hold at a later date pursuant to a Restricted Stock Grant, shares of AAON Common Stock which are "restricted securities" under applicable U.S. federal and state securities laws:

- (a) the AAON Common Stock which may be acquired by such Seller pursuant to the applicable Restricted Stock Grant will be acquired for such Seller's own account, not as a nominee or agent, not with a view to the resale or distribution of any part thereof, and not in violation of applicable securities laws;
- (b) such Seller is an experienced investor in securities and acknowledges that it can bear the economic risk of its investment in the AAON Common Stock acquired pursuant to this Agreement and has such knowledge and experience in financial or business matters that it is capable of evaluating the risks of the investment in the AAON Common Stock;
- (c) such Seller is an Accredited Investor;
- (d) such Seller has had an opportunity to discuss the Buyer's and its Subsidiaries' businesses, management, financial affairs and the conditions of the offering of AAON Common Stock with the Buyer's management;
- (e) such Seller understands that the AAON Common Stock issued under the applicable Restricted Stock Grant has not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act that depends upon, among other things, the *fiduciary* nature of the investment intent and the accuracy of such Seller's representations as expressed herein; such Seller further understands that the AAON Common Stock acquired by it under the applicable Restricted Stock Grant is "restricted securities" under applicable U.S. federal and state securities laws; that, pursuant to these laws, such Seller cannot sell, assign, transfer, pledge or otherwise dispose of, and must hold indefinitely, the AAON Common Stock acquired by it hereunder unless such AAON Common Stock is registered with the SEC and qualified by state authorities or an exemption from registration and qualification requirements is available; in particular, such Seller is aware that the AAON Common Stock may not be sold pursuant to Rule 144 under the Securities Act unless all of the conditions of Rule 144 are met (and, among the conditions for use of Rule 144 may be the availability of current information to the public about the Buyer, and such information may not be made available by the Buyer in the future);

(f) such Seller understands that the Buyer has made no assurances that a public market will continue to exist for the AAON Common Stock securities issued by the Buyer; and

(g) if such Seller (or the beneficiary of or any Person controlling such Seller) is employed by the Buyer, (A) he or she (or such Person) does not have any agreements with any current or prior employer or any other Person that will prohibit such Seller from, or that such Seller will breach as a result of providing services to the Buyer or any of its Affiliates, as applicable, or fulfilling such Seller's duties and obligations to the Buyer or its Affiliates prior to the termination of such Seller Party's Employment Agreement (if any), Restricted Stock Grant (if any), or otherwise, and (B) he or she (or such Person) has not breached any competition, non-solicitation or confidentiality duties imposed on him or her (or such Person) with respect to any current or prior employer or any other Person with respect that will adversely affect the Buyer or its Affiliates.

Section 3.28 Full Disclosure. No representation or warranty by any Seller in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, misleading.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller represents and warrants to the Buyer, individually, but neither jointly nor severally, as to itself and not as to any other Seller, that the representations and warranties contained in this **Article IV** are true and correct as of the date hereof.

Section 4.01 Authority of Sellers. Each Seller has all requisite power and authority to execute and deliver this Agreement and each of the Ancillary Documents to which such Seller is a party, and to perform such Seller's obligations hereunder and thereunder. This Agreement has been duly executed and delivered by such Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of such Seller enforceable against such Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of performance and other equitable remedies (the "**Enforceability Exceptions**"). When each other Ancillary Document to which such Seller is a party has been duly executed and delivered by such Seller (assuming due authorization, execution and delivery by each other party thereto), such Ancillary Documents will constitute a legal and binding obligation of such Seller enforceable against it, him or her in accordance with its terms, except as enforceability may be limited by the **Enforceability Exceptions**.

Section 4.02 Title. **Section 4.02** of the Disclosure Schedules accurately reflects the Membership Interests owned beneficially and of record by such Seller as of the date hereof and as of immediately prior to the Closing. All of the Membership interests owned by such Seller are free and clear of all Encumbrances, other than restrictions on transfer that may be imposed by state or federal securities laws. Upon delivery of conveyance documents requested by Buyer, such Seller at the Closing will transfer valid title to all of the issued and outstanding Membership Interests owned by such Seller, free and clear of all Encumbrances, other than restrictions on transfer that may be imposed by state or federal securities laws.

Section 4.03 No Conflicts; Consents. The execution, delivery and performance by such Seller of this Agreement and the Ancillary Documents to which such Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or violate or breach of, or default under, any provision of the Organizational Documents of such Seller, if applicable, (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to such Seller, (c) except as set forth in **Section 4.03** of the Disclosure Schedules, result in the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without the lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel the Contract to which such Seller is a party or by which such Seller is bound.

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No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to this Agreement or the Ancillary Documents in connection with the execution and delivery of this Agreement and the Ancillary Documents and the consummation of the transactions contemplated hereby, except for such filings as may be required under the HSR Act.

Section 4.04 Actions. Except as set forth in **Section 4.04** of the Disclosure Schedules, there are no Actions pending or, to such Seller threatened against or by such Seller or any Affiliate of such Seller that challenges or seeks to prevent, enjoin or otherwise delay the transactions c this Agreement. To such Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to the Seller Parties that the statements contained in this **Article V** are true and correct as of the date hereof.

Section 5.01 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of Nevada. Buyer has full corporate power and authority to enter into this Agreement and the Ancillary Documents to which Buyer is a party, obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and the Ancillary Documents to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by each of the Seller Parties) constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, subject to the Enforceability Exceptions. Each Ancillary Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution by each other party thereto), such Ancillary Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with the terms of such Ancillary Document, subject to the Enforceability Exceptions. The copies of the certificate of incorporation and bylaws of Buyer which are incorporated by reference in Buyer's Annual Report on Form 10-K for the year ended December 31, 2020 are complete and correct copies of such documents and contain all information thereto as in effect on the date of this Agreement.

Section 5.02 No Conflicts; Consents. The execution, delivery and performance by Buyer of this Agreement and the Ancillary Documents by Buyer, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or a default under, any provision of the Organizational Documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Governmental Order applicable to Buyer; or (c) except as set forth in **Section 5.02** of the Disclosure Schedules, require the consent, notice or other action of any Person under any Contract to which Buyer is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the Ancillary Documents or the consummation of the transactions contemplated hereby and thereby, except for such filings as may be required under the HSR Act and such consents, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Material Adverse Effect.

Section 5.03 Capitalization.

(a) As of the date of this Agreement, the authorized capital stock of Buyer consists of (i) 100,000,000 shares of AAON Common Stock, \$0.01 par value, of which 52,400,000 shares are issued and outstanding as of August 2, 2021, and (ii) 5,000,000 shares of preferred stock, \$0.001 par value, of which none are issued and outstanding. As of the date of this Agreement, there are 8,890,000 shares of AAON Common Stock reserved for issuance under the Buyer Employee Benefit Plans. All outstanding shares of AAON Common Stock have been, and all shares of AAON Common Stock which may be issued in connection with the Future Grants will be, duly authorized and validly issued, fully paid and

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nonassessable, and free of preemptive rights. There are no outstanding bonds, debentures, notes or other indebtedness or securities of Buyer having the right to vote (or, other than any outstanding awards under Buyer Employee Benefit Plans to purchase shares of AAON Common Stock, convertible into, or otherwise exercisable for, securities having the right to vote) on any matters on which stockholders of Buyer may vote.

(b) Except as set forth above in this **Section 5.03**, no shares of capital stock or other voting securities of Buyer are issued, reserved or outstanding, and there are no outstanding securities, options, warrants, calls, rights, commitments, agreements, arrangements or undertakings by which Buyer is a party or by which it is bound obligating Buyer to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of Buyer or obligating Buyer to issue, grant, extend or enter into any such security, option, warrant, call, right, commitment or arrangement or undertaking.

Section 5.04 Subsidiaries. The Buyer's Subsidiaries and their respective jurisdictions of organization are identified in **Section 5.04** of the Disclosure Schedules. Each Buyer Subsidiary is an entity duly organized, validly existing and (where applicable) in good standing under the laws of its jurisdiction.

formation and has all company powers and all governmental licenses, authorizations, permits, consents and approvals required to carry on its business as conducted, except for those licenses, authorizations, consents and approvals the absence of which would not have a Material Adverse Effect on the business of Buyer or its Subsidiaries. Each of Buyer's Subsidiaries has validly issued and outstanding shares of capital stock or other equity securities of, or other ownership interests in, each of Buyer's Subsidiaries are duly authorized and validly issued, fully paid and nonassessable, and such shares, securities or interests are owned by Buyer free and clear of any Liens or limitations on voting right subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character relating to the issuance, delivery, voting or redemption (including any rights of conversion or exchange under any outstanding security or other instrument) for any of the other equity interests of, or other ownership interests in, any of the Buyer's Subsidiaries.

Section 5.05 SEC Reports and Financial Statements.

(a) Since January 1, 2018, Buyer has filed with the SEC all forms, reports, schedules, registration statements, definitive proxy statements and documents (collectively, including all exhibits thereto, the "**Buyer SEC Reports**") required to be filed by Buyer with the SEC. As of their respective dates, giving effect to any amendments or supplements thereto filed prior to the date of this Agreement, the Buyer SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, and the respective rules and regulations of the SEC promulgated thereunder applicable to the Buyer SEC Reports, and none of the Buyer SEC Reports contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Buyer's Subsidiaries is required to file any forms, reports or other documents with the SEC pursuant to Section 13 or 15 of the Exchange Act or any outstanding comments from the Staff of the SEC with respect to any of the Buyer SEC Reports.

(b) The consolidated balance sheets and the related consolidated statements of operations, consolidated statements of changes in stockholders' equity, consolidated statements of cash flows (including, in each case, any related notes and schedules thereto) (collectively, the "**Buyer Financial Statements**") Buyer contained in the Buyer SEC Reports have been prepared from the books and records of Buyer and Buyer's Subsidiaries, comply as to form and content with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with GAAP (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (other than as otherwise noted therein) and present fairly the consolidated financial position and the consolidated results of operations and cash flows of Buyer and Buyer's Subsidiaries as of the dates or for the periods presented therein (subject, in the case of unaudited statements, to normal and recurring year-end audit adjustments and the ordinary course of business).

(c) With respect to each annual report on Form 10-K, each quarterly report on Form 10-Q and each amendment of any such report including the Buyer SEC Reports filed since January 1, 2018,

the chief executive officer and chief financial officer of Buyer have made all certifications required by the Sarbanes-Oxley Act and any related regulations promulgated by the SEC and the NASDAQ, and the statements contained in any such certifications are complete and correct. Buyer maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) or 15d-15(e) under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to Buyer required to be disclosed in Buyer's Exchange Act Report or consolidated Buyer Subsidiaries, is made known to Buyer's principal executive officer and its principal financial officer by others within those entities during the periods in which the periodic reports required under the Exchange Act are being prepared; and, to the knowledge of Buyer, such disclosure controls and procedures are effective in timely alerting Buyer's principal executive officer and its principal financial officer to material information required to be disclosed in Buyer's periodic reports required under the Exchange Act. Since January 1, 2018, based on their evaluation of the internal control over financial reporting, neither the Chief Executive Officer nor the Chief Financial Officer of Buyer have disclosed to the Buyer's auditors and/or the Audit Committee of the Board of Directors any (i) significant deficiencies or material weaknesses in the design or operation of internal controls which are or were reasonably likely to affect Buyer's ability to record, process, summarize and report financial information or (ii) fraud, whether or not material, that involved management or employees who have or had a significant role in Buyer's and the Buyer Subsidiaries' internal controls over financial reporting.

Section 5.06 Absence of Certain Changes, Events and Conditions. Since September 30, 2021, the business of Buyer and Buyer's Subsidiaries has been conducted in the ordinary course consistent with past practices and there has not been any event, occurrence, development or state of circumstances that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the operations of Buyer or its Subsidiaries.

Section 5.07 Undisclosed Liabilities. Except as set forth in **Section 5.07** of the Disclosure Schedules, there are no liabilities of Buyer or its Subsidiary of any kind, other than:

- (a) liabilities provided for in Buyer's most recent audited consolidated balance sheet included in Buyer SEC Documents prior to the date hereof; or
- (b) liabilities incurred in the ordinary course of business of Buyer and Buyer Subsidiaries consistent with past practices since the date of Buyer's audited consolidated balance sheet included in Buyer SEC Reports prior to the date hereof; or
- (c) other liabilities which, individually or in the aggregate, are not material to Buyer and Buyer Subsidiaries.

Section 5.08 Compliance with Laws. Except as set forth in Section 5.08 of the Disclosure Schedules, the Buyer, including Buyer's Subsidiaries, has not violated, and is not currently in violation of, any Laws applicable to it or its business, properties or assets.

Section 5.09 Taxes. All Tax Returns required to be filed by Buyer and Buyer's Subsidiaries have been duly and timely filed, and such Tax Returns are accurate in all material respects. To Buyer's knowledge, there is no action, suit, proceeding, investigation, audit or claim pending, or threatened, against Buyer and Buyer's Subsidiaries with respect to any Taxes.

Section 5.10 Investment Purpose. Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with the intent to offer or sell in connection with, any distribution thereof. Buyer acknowledges that the Membership Interests are not registered under the Securities Act of 1933, as amended, or any state securities laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration requirements of the Securities Act of 1933, as amended or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

Section 5.11 Brokers. Except for J.P. Morgan, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions.

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contemplated by this Agreement or Ancillary Documents based upon arrangements made by or on behalf of Buyer. Buyer shall be solely responsible for any fees or commissions.

Section 5.12 Legal Proceedings. Except as set forth in Section 5.12 of the Disclosure Schedules (none of which, either in the individual or aggregate, if determined adversely to the Buyer, are anticipated to result in a Material Adverse Effect on Buyer or its operations), there are no Actions, suits, proceedings, investigations, audits or claims pending, or threatened, by or against the Buyer or any Affiliate thereof affecting any of its properties or assets; or (b) against or by any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. To Buyer's Knowledge, set forth in Section 5.12 of the Disclosure Schedules, no event has occurred or circumstances exist that may give rise or serve as a basis for any of the foregoing.

ARTICLE VI COVENANTS

Section 6.01 Conduct of Business Prior to the Closing. From the date hereof until the Closing, except as otherwise provided in this Agreement, Sellers shall, and shall cause the Company to, (x) consent to in writing by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), conduct the business of the Company in the ordinary course of business consistent with past practice; and (y) use reasonable best efforts to preserve intact the current organization, business and franchise of the Company and to preserve the rights, franchises, goodwill and relationships of the Company with its employees, customers, lenders, suppliers, regulators and others having business relationships with the Company. Without limiting the foregoing, from the date hereof until the Closing Date, Sellers shall:

- (a) cause the Company to preserve and maintain all of its Permits;
- (b) cause the Company to pay its debts, Taxes and other obligations when due;
- (c) cause the Company to maintain the properties and assets owned, operated or used by the Company in the same condition as they were at the time of this Agreement, subject to reasonable wear and tear;
- (d) cause the Company to continue in full force and effect without modification all Insurance Policies, except as required by applicable Law;
- (e) cause the Company to defend and protect its properties and assets from infringement or usurpation;

- (f) cause the Company to perform all of its obligations under all Contracts relating to or affecting its properties, assets or business;
- (g) cause the Company to maintain its books and records in accordance with past practice;
- (h) cause the Company to comply in all material respects with all applicable Laws; and
- (i) cause the Company not to take or permit any action that would cause any of the changes, events or conditions described in **Section 3.08** to occur during normal business hours and

Any action taken, or omitted to be taken, in good faith by the Company or the Sellers in reasonable response to the COVID-19 pandemic (including with any applicable Law that is a Public Health Measure) shall in no event be deemed to constitute a breach of this **Section 6.01**; provided, that the Company shall use commercially reasonable efforts to provide notice to the Buyer prior to taking (or omitting to take) any such action.

Section 6.02 Access to Information. From the date hereof until the Closing, Sellers shall, and shall cause the Company to, (a) afford Representatives access to and the right to inspect all of the Real Property, properties, assets, premises, books and records, Contracts and other data related to the Company, provided that access to physical premises of the Company shall be permitted only with not less than 48 hours prior to the time of inspection and shall occur during normal business hours and

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accompanied by a representative of the Sellers; (b) furnish Buyer and its Representatives with such financial, operating and other data and information as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of Sellers and the Company to assist Buyer in its investigation of the Company. Any investigation pursuant to this **Section 6.02** shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of the Company. No investigation by Buyer or other information received by Buyer shall operate as a waiver or other representation, warranty or agreement given or made by any Seller Party in this Agreement.

Section 6.03 No Solicitation of Other Bids.

(a) Each Seller Party agrees it shall not, and shall not authorize or permit any of its respective Affiliates (including the Company) or any of its Representatives, directly or indirectly, (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (binding or otherwise) regarding an Acquisition Proposal. Each Seller Party shall immediately cease and cause to be terminated, and shall cause their respective Affiliates (including the Company) and all of its and their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, "**Acquisition Proposal**" means any inquiry, proposal or offer from any Person (other than Buyer or any of its Affiliates) concerning (x) a merger, consolidation, liquidation, recapitalization, exchange or other business combination transaction involving the Company; (y) the issuance or acquisition of equity securities of the Company; or (z) the lease, exchange or other disposition of any significant portion of the Company's properties or assets.

(b) In addition to the other obligations under this **Section 6.03**, Sellers shall promptly (and in any event within three (3) Business Days after receiving any inquiry from any Person) advise Buyer orally and in writing of any Acquisition Proposal, any request for information with respect to an Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an Acquisition Proposal same.

(c) Seller Parties agree that the rights and remedies for noncompliance with this **Section 6.03** shall include having such provision specifically enforced by a court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to the Company and that money damages would not provide an adequate remedy to Buyer.

Section 6.04 Notice of Certain Events.

(a) From the date hereof until the Closing, Sellers shall promptly notify Buyer in writing of:

- (i) any fact, circumstance, event or action the existence, occurrence or taking of which (A) has had, or could reasonably be expected to have had, or in the aggregate, a Material Adverse Effect, (B) has resulted in, or could reasonably be expected to result in, any representation or warranty made hereunder not being true and correct or (C) has resulted in, or could reasonably be expected to result in, the failure of any of the conditions set forth in **Section 8.02** to be satisfied;

- (ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the contemplated by this Agreement;
- (iii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement;
- (iv) any Actions commenced or, to Sellers' Knowledge, threatened against, relating to or involving or otherwise affecting Seller Party or the if pending on the date of this Agreement, would have been required to have been disclosed pursuant to **Section 3.17** or that relates to the cons transactions contemplated by this Agreement.

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- (b) Buyer's receipt of information pursuant to this **Section 6.04** shall not operate as a waiver or otherwise affect any representation, warrant given or made by any Seller Party in this Agreement (including without limitation **Section 9.02** and **Section 10.01(b)**) and shall not be deemed to supplement the Disclosure Schedules.

Section 6.05 Resignations. Sellers shall deliver or cause to be delivered to Buyer written resignations, effective as of the Closing Date, managers and directors of the Company set forth on **Section 6.05** of the Disclosure Schedules at least three (3) Business Days prior to the Closing, Buyer shall make the following appointments: Co-Founder and Chairman for Benson, and Co-Founder and President for Tobolski.

Section 6.06 Confidentiality. From and after the Closing, each Seller Party agrees it shall, and shall cause its, his or her respective Affiliates to use their reasonable best efforts to cause their respective Representatives to hold, in confidence any and all information, whether written or oral, of the Company, except to the extent that Seller Parties can show that such information (a) is generally available to and known by the public through the Seller Parties, any of their Affiliates or their respective Representatives; or (b) is lawfully acquired by Seller Parties, any of their Affiliates or Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If any Seller Party or any of its Affiliates or its respective Representatives are compelled to disclose any information by judicial or administrative process or requirements of Law, such Seller Party shall promptly notify Buyer in writing and shall disclose only that portion of such information which Seller Party is advised by their counsel in writing is legally required to be disclosed, provided that each Seller Party shall use reasonable best efforts to obtain a protective order or other reasonable assurance that confidential treatment will be accorded such information.

Section 6.07 Non-Competition; Non-Solicitation.

(a) For a period of five (5) years commencing on the Closing Date (the "**Restricted Period**"), each of the Seller Parties agrees it shall not permit any of its respective Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the Restricted Business in the Territory or interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, employee, principal, agent, trustee or consultant. Notwithstanding the foregoing, Kucera, JVK and their respective Affiliates shall not be limited from engaging in the Restricted Business in the Territory. Moreover, each of the Seller Parties may own, directly or indirectly, solely as an investment, securities of any Person on any national securities exchange if such Seller Party is not a controlling Person of, or a member of a group which controls, such Person and directly or indirectly, own five percent (5%) or more of any class of securities of such Person. Nothing in this Agreement shall limit Brooks from advising such Person in capacity as a certified public accountant, including clients engaging in the Restricted Business in the Territory. Nothing in this Agreement shall limit Brooks or its Affiliates from acting as a manufacturer's representative for HVAC equipment, and acting as such shall not be engaging in a Restricted Business.

(b) During the Restricted Period, each of the Seller Parties agrees it shall not, and shall not permit any of its respective Affiliates to, directly or indirectly solicit any employee of the Company or the Buyer or encourage any such employee to leave such employment or hire any such employee without employment, except pursuant to a general solicitation which is not directed specifically to any such employees; provided, that nothing in this **Section 6.07** shall prevent a Seller Party or any of their respective Affiliates from hiring (i) Dan Benson, (ii) any employee whose employment has been terminated by the Buyer or (iii) after 365 days from the date of termination of employment, any employee whose employment has been terminated by the employee.

(c) During the Restricted Period, each Seller Party agrees it shall not, and shall not permit any of its respective Affiliates to, directly or indirectly attempt to solicit, any clients or customers of the Company or potential clients or customers of the Company for purposes of diverting their business from the Company as conducted on the date of Closing. Nothing in this Agreement shall limit a D-Velopment, Brooks, TFT, Benson or Tobolski or their Affiliates from soliciting any business, other than Restricted Business, from current and future customers or

suppliers of the Company. Kucera, JVK and their respective Affiliates shall not be limited from soliciting any business, including Restricted Business and future customers or suppliers of the Company.

(d) Each Seller Party acknowledges that a breach or threatened breach of this **Section 6.07** would give rise to irreparable harm to the Company and Buyer, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach of any such obligations, Buyer shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

(e) Each Seller Party acknowledges that the restrictions applicable to such Seller Party contained in this **Section 6.07** are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated by this Agreement. In the event that any covenant contained in this **Section 6.07** should ever be adjudicated to exceed the time, geographic, product or service, or other limitations permitted by applicable Law in any jurisdiction, then any court is expressly empowered to reform such covenant so as to make it reasonable, in such jurisdiction to the maximum time, geographic, product or service, or other limitations permitted by applicable Law. The covenants contained in this **Section 6.07** and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such covenant or provision as written shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

Section 6.08 Governmental Approvals and Consents.

(a) Each party hereto shall, as promptly as possible, (i) make, or cause or be made, all filings and submissions (including those under the HS Code) under any Law applicable to such party or any of its Affiliates; and (ii) use reasonable best efforts to obtain, or cause to be obtained, all consents, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the Ancillary Documents. Each party shall cooperate fully with the other parties and their respective counsel in promptly seeking to obtain all such consents, authorizations, orders and approvals. The parties hereto shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

(b) Sellers and Buyer shall use reasonable best efforts to give all notices to, and obtain all consents from, all third parties that are described in **Section 5.02** of the Disclosure Schedules.

(c) Without limiting the generality of the parties' undertakings pursuant to subsections (a) and (b) above, each of the parties hereto shall use reasonable best efforts to:

(i) respond to any inquiries by any Governmental Authority regarding antitrust or other matters with respect to the transactions contemplated by this Agreement or any Ancillary Document;

(ii) avoid the imposition of any order or the taking of any action that would restrain, alter or enjoin the transactions contemplated by this Agreement or any Ancillary Document; and

(iii) in the event any Governmental Order adversely affecting the ability of the parties to consummate the transactions contemplated by this Agreement or any Ancillary Document has been issued, to have such Governmental Order vacated or lifted.

(d) If any consent, approval or authorization necessary to preserve any right or benefit under any Contract to which the Company is a party prior to the Closing, Sellers shall, subsequent to the Closing, cooperate with Buyer and the Company in attempting to obtain such consent, approval or authorization.

approval or authorization as promptly thereafter as practicable. If such consent, approval or authorization cannot be obtained, Sellers shall use their best efforts to provide the Company with the rights and benefits of the affected Contract for the term thereof, and, if Sellers provides such rights a Company shall assume all obligations and burdens thereunder.

(e) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of any party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the transactions contemplated (but, for the avoidance of doubt, not including any interactions between Seller Parties or the Company with Governmental Authorities in the ordinary course of business, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other party in advance of any filing, submission or attendance, it being the intent that the parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other parties with respect to any meeting, discussion, appearance or contact with any Governmental Authority, staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other parties with the opportunity to attend and participate in such meeting, discussion, appearance or contact.

(f) Notwithstanding the foregoing, nothing in this **Section 6.08** shall require, or be construed to require, Buyer or any of its Affiliates to agree to divest, discontinue or limit, before or after the Closing Date, any assets, businesses or interests of Buyer, the Company or any of their respective Affiliates, conditions relating to, or changes or restrictions in, the operations of any such assets, businesses or interests which, in either case, could reasonably be expected to result in a Material Adverse Effect or materially and adversely impact the economic or business benefits to Buyer of the transactions contemplated by this Agreement; or (iii) any material modification or waiver of the terms and conditions of this Agreement.

Section 6.09 R&W Policy. Prior to the Closing, Buyer shall use reasonable best efforts to obtain and bind the R&W Policy on the terms and conditions and policy limits reasonably satisfactory to Buyer and Seller Parties. The underwriter shall be satisfactory to Seller parties. Seller Parties shall cause their respective Affiliates including the Company to, cooperate with Buyer's efforts and provide assistance as reasonably requested by Buyer to obtain and bind the R&W Policy. Prior to the Closing, Buyer shall pay or cause to be paid, all costs and expenses related to the R&W Policy, including the underwriting costs, brokerage commissions, and other fees and expenses of such policy. Buyer shall maintain the R&W Policy in good standing subsequent to Closing for a minimum of six years following Closing.

Section 6.10 Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by Seller Parties prior to the Closing, or for any other reasonable purpose, for a period of three (3) years after the Closing, Buyer shall:

(i) retain the books and records (including personnel files) of the Company relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of the Buyer; and

(ii) upon reasonable notice, afford the Representatives of Seller Parties reasonable access (including the right to make, at Seller Parties' expense, photocopies), during normal business hours, to such books and records, including all books and records necessary or convenient for Sellers to prepare tax returns and amended tax returns and to apply for research and development tax credits; provided, however, that any books and records related to the Company shall be retained pursuant to the periods set forth in **Article VII.**

(b) In order to facilitate the resolution of any claims made by or against or incurred by Buyer or the Company after the Closing, or for any other reasonable purpose, for a period of three (3) years following the Closing, Seller Parties shall:

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(i) retain the books and records (including personnel files) of each Seller Party which relate to the Company and its operations for periods prior to the Closing; and

(ii) upon reasonable notice, afford the Representatives of Buyer or the Company reasonable access (including the right to make, at Bu photocopies), during normal business hours, to such books and records; provided, however, that any books and records related to Tax matters s pursuant to the periods set forth in **Article VII**.

(c) Neither Buyer nor Seller Parties shall be obligated to provide the other party with access to any books or records (including personnel fil this **Section 6.10** where such access would violate any Law.

Section 6.11 Closing Conditions. From the date hereof until the Closing, each party hereto shall, and Sellers shall cause the Company to, best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in **Article VIII** hereof.

Section 6.12 Public Announcements. Unless otherwise required by applicable Law or stock exchange requirements (based upon the reaso counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated here communicate with any news media without the prior written consent of the other party (which consent shall not be unreasonably withheld, delayed), and the parties shall cooperate as to the timing and contents of any such announcement.

Section 6.13 Sufficiency of Company Free Cash Flow. The Sellers and Buyer acknowledge and agree that in negotiating the terms of I including without limitation the EBITDA Targets, it was not contemplated that Buyer would be expected or required to inject additional cash or Company. Sellers hereby agree that Buyer's failure to inject additional cash or capital into the Company shall not provide the basis, in whole or claim by the Sellers against the Buyer should any failure to earn any of the (i) 2021 Contingent Consideration, (ii) the 2022 Contingent Consid 2023 Contingent Consideration, or (iv) the Incentive Consideration, occur.

Section 6.14 WARN Act. Buyer shall not undertake any action that would trigger the WARN Act, including any mass layoffs, or other employees of the Company in the six month period immediately following Closing that would create any obligations upon, or liabilities for, Sellers c under the WARN Act.

Section 6.15 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the intent hereof and give effect to the transactions contemplated by this Agreement.

ARTICLE VII TAX MATTERS

Section 7.01 Tax Matters.

(a) Buyer and each of the Sellers agree to treat the purchase and sale of the Membership Interests in accordance with Rev. Rul. 99-6, Situation 1, (i) as to Buyer, as the purchase by Buyer of "all of" the assets of the Company from the Sellers, and (ii) as to Sellers, as the sale by the Sellers of the Membership Interests. For purposes of Sections 743(b), 755 and 1060 of the Code and the Treasury Regulations promulgated pursuant thereto, the Purchase Price will be allocated in accordance with Section 1060 of the Code and the Treasury Regulations thereunder among the assets of the Company (or groups of assets) for all purposes (including all Tax and financial accounting purposes) in accordance with their respective fair market values. An allocation of the Purchase Price in accordance with the immediately preceding sentence is attached hereto as **Exhibit C**. Except as Buyer and the Sellers may otherwise agree, the parties will required otherwise pursuant to a final determination within the meaning of Section 1313(a) of the Code or a corresponding provision of state, local or foreign Law, the parties (A) will, and will cause each of their respective Affiliates to, prepare and file all Tax Returns (including IRS Form 8308) in a manner consistent with **Exhibit C**, and (B) will not, and will cause each of their respective Affiliates not to, take any position inconsistent with **Exhibit C**, unless required by a applicable Law (including the resolution of any dispute as to the Purchase Price allocation reflected in accordance with this **Section 7.01(a)** is disputed by any Governmental Authority, the parties will promptly notify the other parties in writing, and the parties agree to use their respective commercially reasonable efforts to resolve the Purchase Price allocation in any audit or similar Tax proceeding.

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of their respective Affiliates not to, take any position inconsistent with **Exhibit C**, unless required by a applicable Law (including the resolution of any dispute as to the Purchase Price allocation reflected in accordance with this **Section 7.01(a)** is disputed by any Governmental Authority, the parties will promptly notify the other parties in writing, and the parties agree to use their respective commercially reasonable efforts to resolve the Purchase Price allocation in any audit or similar Tax proceeding.

(b) At the sole expense of the Sellers, the Sellers shall cause to be prepared and filed all Tax Returns required to be filed by the Company for ending prior to or on the Closing Date which are to be filed after the Closing Date, which includes for the avoidance of doubt the final partnership the Company with respect to the period ending on the Closing Date (the "**Company Returns**"). Each such Company Return shall be prepared consistent with the Company's past practice except as otherwise required by Law, and in accordance with the provisions of this Agreement; and timely pay any Taxes reflected as due and payable on all such Tax Returns to the extent that such Taxes are not reflected as a liability in the calculation of Closing Working Capital, as finally determined.

(c) Buyer shall cause the Company, at the Company's sole expense, to cause to be prepared and filed all Tax Returns, other than the Company's Pre-Closing Tax Period (including a Straddle Period) which are to be filed by the Company after the Closing Date (the "**Buyer Returns**"). Each such Buyer Return shall be prepared in a manner consistent with the Company's past practice except as otherwise required by Law, and in accordance with the provisions of this Agreement; and the Company shall timely pay any Taxes reflected as due and payable on all such Tax Returns and the Sellers shall timely pay any Closing Taxes reflected as due and payable on all such Tax Returns to the extent that such Pre-Closing Taxes are not reflected as a liability in the calculation of Closing Working Capital, as finally determined.

(d) None of Buyer, the Company, or any Affiliate of Buyer (including, after the Closing, the Company) shall amend, re-file or otherwise modify or extend any statute of limitation with respect to any Tax Return relating in whole or in part to the Company with respect to any Pre-Closing Tax Period without the prior written consent of the Sellers (which consent shall not be unreasonably withheld, conditioned or delayed), other than amending such Tax Returns for the years 2018 through 2021 for the purpose of claiming research and development tax credits. So long as the Company does not accrue any Taxes or any other costs related thereto, the benefits of any such tax credits shall accrue solely to the Sellers.

(e) Any credits or refunds of Pre-Closing Taxes (to the extent that such credits or refunds are not reflected as an asset in the calculation of Closing Working Capital, as finally determined) shall belong to the Sellers and be paid to the Sellers upon actual receipt of such refund in cash or application of such credit to reduce other Taxes due and owing by Buyer, the Company or any of their Affiliates. If requested by the Sellers, Buyer shall, and shall cause the Company to reasonably cooperate with the Sellers in filing any Tax Return necessary to claim such Tax refunds (including filing amended Tax Returns) by providing such information. All determinations necessary to give effect to the foregoing allocations shall be made in a manner consistent with prior practice of the Company, notwithstanding the contrary provision of this **Section 7.01(e)** notwithstanding, the amount of any refund or credit which is required to be paid to the Sellers (i) shall be the amount of any Taxes on such refund or credit and any out-of-pocket expenses that Buyer, the Company or any of their respective Affiliates incur (or will incur) with respect to such refund or credit, and (ii) shall not include any refund or credit (which shall be for the benefit of Buyer, the Company or their respective Affiliates) that (A) results from the carryback of any net operating loss, capital loss or other Tax attribute incurred in any Tax period (or portion of any Tax period) beginning after the Closing Date or (B) is included in the computation of Closing Working Capital.

(f) After the Closing Date, Buyer, the Company and the Sellers, respectively, shall inform the other party in writing of the commencement of a Tax Contest, investigation, examination, or other proceeding or self-assessment relating in whole or in part to a Pre-Closing Tax Period ("Tax Contest") for which the Company will be entitled to indemnity from the Sellers under this Agreement. After the Closing Date, Buyer shall have the exclusive right to represent the Company in any and all Tax Contests; provided, however, that, to the extent that any such Tax Contest could reasonably be expected to result in a Tax indemnification liability of the Sellers pursuant to this Agreement, (i) Buyer shall keep the Sellers reasonably informed and consult in good faith with the Sellers with respect to any issue relating to such Tax Contest (and the Sellers, at the Sellers' expense, will be permitted to attend meetings with tax authorities and (ii) Buyer shall timely provide the Sellers with copies of all correspondence, notices and other written materials received from any taxing authority and otherwise keep the Sellers advised of significant developments in such Tax Contest and of significant communications involving representatives of tax authorities. Buyer shall not agree or consent to compromise or settle any Tax Contest on a basis that would result in a Pre-Closing Tax liability of the Seller Parties for indemnification unless the Sellers consent to such settlement, compromise or concession, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in this **Section 7.01(f)**, the Sellers shall, at the Sellers' expense, cooperate in any audit, investigation, examination, or other proceeding or self-assessments relating to a Pass-Through Tax Return of the Company, provided that Buyer has the right to participate at its own expense in any such action and the Sellers shall not settle, compromise or resolve such action without Buyer's consent to the extent such settlement could increase the Taxes of the Company, Buyer or any Affiliate in a taxable period after the Closing Date. The provision of this **Section 7.01** shall control over any contrary provisions of **Section 9.05**.

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a Tax indemnification liability of the Sellers pursuant to this Agreement, (i) Buyer shall keep the Sellers reasonably informed and consult in good faith with the Sellers with respect to any issue relating to such Tax Contest (and the Sellers, at the Sellers' expense, will be permitted to attend meetings with tax authorities and (ii) Buyer shall timely provide the Sellers with copies of all correspondence, notices and other written materials received from any taxing authority and otherwise keep the Sellers advised of significant developments in such Tax Contest and of significant communications involving representatives of tax authorities. Buyer shall not agree or consent to compromise or settle any Tax Contest on a basis that would result in a Pre-Closing Tax liability of the Seller Parties for indemnification unless the Sellers consent to such settlement, compromise or concession, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in this **Section 7.01(f)**, the Sellers shall, at the Sellers' expense, cooperate in any audit, investigation, examination, or other proceeding or self-assessments relating to a Pass-Through Tax Return of the Company, provided that Buyer has the right to participate at its own expense in any such action and the Sellers shall not settle, compromise or resolve such action without Buyer's consent to the extent such settlement could increase the Taxes of the Company, Buyer or any Affiliate in a taxable period after the Closing Date. The provision of this **Section 7.01** shall control over any contrary provisions of **Section 9.05**.

(g) The parties shall cooperate (and cause their respective Affiliates to cooperate) fully, as and to the extent reasonably requested by the Company in connection with the preparation and filing of Tax Returns pursuant to this **Section 7.01** and any Tax audit, litigation or other proceeding with respect to the Company.

payments in respect thereof. Such cooperation shall include the retention and (upon the other parties' request) the provision of records and information reasonably relevant to any such Tax audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide information and explanation of any material provided hereunder. Buyer and the Company shall retain all books and records with respect to Tax matters to the Company relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent of Seller, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Governmental Authority. Each of the parties shall furnish the other parties with copies of all relevant correspondence received from any Governmental Authority in connection with any audit or information request with respect to any Taxes for which any other party may have an indemnification obligation under this Agreement. Sellers agree, upon request, to provide the other party with all information that either party may be required to report pursuant to Sections 6043 and 6045 of the Code and all Treasury Regulations promulgated thereunder.

(h) All transfer, documentary, sales, use, stamp, registration and other such Taxes (including any penalties and interest) incurred in connection with the consummation of the transactions contemplated under this Agreement ("Transfer Taxes") shall be borne by the Sellers, when due, and the Company shall, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Taxes. Each of Buyer, the Company, and the Seller shall, at its own expense, cooperate with each other to obtain any certificate or other document from any Governmental Authority or any other Person as may be necessary to mitigate or eliminate any such Transfer Taxes.

Section 7.02 Survival. Notwithstanding anything in this Agreement to the contrary, the provisions of Section 3.22 and this Article VII shall survive the expiration of the period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus 60 days.

ARTICLE VIII CONDITIONS TO CLOSING

Section 8.01 Conditions to Obligations of All Parties. The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

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(a) The filings of Buyer and Sellers/the Company pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and review thereof shall have expired or been terminated.

(b) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and is likely to make the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions or causing the transactions contemplated hereunder to be rescinded following completion thereof.

(c) Sellers shall have received all requisite consents, authorizations, orders and approvals referred to in Section 3.05, in form and substance satisfactory to Buyer, and no such consent, authorization, order and approval shall have been revoked.

(d) Each of Buyer and the Real Estate Owner shall have executed and delivered the REPA.

(e) Buyer, the Company and the Real Estate Owner shall have entered into an Amendment to Facility Lease in form satisfactory to each party.

Section 8.02 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

(a) Other than the representations and warranties of Sellers contained in Section 3.02, Section 3.03, Section 3.26, Section 4.01 and Section 4.02, the representations and warranties of Sellers contained in this Agreement, the Ancillary Documents and any certificate or other writing delivered pursuant to this Agreement shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the date hereof and on and as of the date of the closing with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specific date, the accuracy of which shall be determined as of that specified date in all respects). The representations and warranties of Sellers contained in Section 3.02, Section 3.03, Section 3.26, Section 4.01 and Section 4.02 shall be true and correct in all respects on and as of the date of the closing with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specific date, the accuracy of which shall be determined as of that specified date in all respects).

3.03, Section 3.26 , Section 4.01 and Section 4.02 shall be true and correct in all respects on and as of the date hereof and on and as of the CI the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a spe accuracy of which shall be determined as of that specified date in all respects).

(b) Seller Parties shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by and each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date.

(c) No Action shall have been commenced against Buyer, any Seller Party or the Company, which would prevent the Closing. No injunctio order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any transaction contemplated hereby.

(d) All approvals, consents and waivers that are listed on **Section 3.05** of the Disclosure Schedules (including with respect to the Minor Lea shall have been received, and executed counterparts thereof shall have been delivered to Buyer at or prior to the Closing.

(e) From the date of this Agreement, there shall not have occurred any Material Adverse Effect with respect to the Company and/or its oper any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to resi Adverse Effect with respect to the Company and/or its operations.

(f) The Ancillary Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have be Buyer.

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(g) Buyer shall have received resignations of the directors and officers of the Company pursuant to **Section 6.05**.

(h) Buyer shall have obtained and bound the R&W Policy on the terms and conditions satisfactory to Buyer and Sellers.

(i) At least three (3) Business Days before Closing, Sellers shall have delivered to Buyer the Closing Indebtedness Certificate and the Clos Expenses Certificate.

(j) Sellers shall have delivered to Buyer the Estimated Closing Working Capital Statement contemplated in **Section 2.04(a)(ii)**.

(k) Sellers shall have delivered to Buyer a good standing certificate (or its equivalent) for the Company from the secretary of state or simila Authority of the jurisdiction under the Laws in which the Company is organized, dated no more than twenty-one (21) days prior to the Closing Date

(l) Sellers shall have delivered to Buyer a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that each Seller is not a foreign p meaning of Section 1445 of the Code.

(m) Sellers shall have delivered, or caused to be delivered, to Buyer duly executed assignments of securities conveying the Membership Int free and clear of Encumbrances.

(n) Buyer shall have received a certificate, dated the Closing Date and signed by Sellers, that each of the conditions set forth in **Section 8.02(a)** and **8.02(b)** have been satisfied.

(o) Sellers shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary the transactions contemplated by this Agreement.

Section 8.03 Conditions to Obligations of Seller Parties. The obligations of Seller Parties to consummate the transactions conter Agreement shall be subject to the fulfillment or Sellers' waiver, at or prior to the Closing, of each of the following conditions:

(a) Other than the representations and warranties of Buyer contained in **Section 5.01** and **Section 5.07**, the representations and war contained in this Agreement, the Ancillary Documents and any certificate or other writing delivered pursuant hereto shall be true and correct in all case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representa

not qualified by materiality or Material Adverse Effect) on and as of the date hereof and on and as of the Closing Date with the same effect as though of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of such date in all respects). The representations and warranties of Buyer contained in **Section 5.01** and **Section 5.07** shall be true and correct as of such date in all respects on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date.

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this each of the Ancillary Documents to be performed or complied with by it prior to or on the Closing Date.

(c) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits the transaction contemplated hereby.

(d) The Ancillary Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have been delivered to Sellers.

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(f) Buyer shall have delivered to Sellers cash in an amount equal to the Closing Date Payment by wire transfer of immediately available funds, to an account or accounts designated at least five (5) Business Days prior to the Closing Date, written notice to Buyer.

(g) Buyer shall have delivered to third parties by wire transfer of immediately available funds that amount of money due and owing from Seller parties as Transaction Expenses as set forth on the Closing Transaction Expenses Certificate.

(h) Buyer shall have delivered to holders of outstanding Indebtedness, if any, by wire transfer of immediately available funds that amount of money due and owing from the Company to such holder of outstanding Indebtedness as set forth on the Closing Indebtedness Certificate.

(i) Buyer shall have obtained and bound the R&W Policy on the terms and conditions satisfactory to Buyer and Sellers.

(j) Sellers shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, that each of the conditions set forth in **Section 8.03(a)** and **Section 8.03(b)** have been satisfied.

(k) Sellers shall have received a certificate of the Secretary of Buyer certifying that attached thereto are true and complete copies of all resolutions by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the Ancillary Documents and the conditions for the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in respect of the transactions contemplated hereby and thereby.

(l) Buyer shall have delivered to Sellers such other documents or instruments as Sellers reasonably request and are reasonably necessary for the transactions contemplated by this Agreement.

Section 8.04 Documentary Conditions. It is understood that, with respect to conditions in 8.01, 8.02 and 8.03 involving execution of documents, all such documents must be in form and substance satisfactory to the parties relying on such documents, in their sole discretion.

ARTICLE IX INDEMNIFICATION

Section 9.01 Exclusive Remedy. Other than in the case of (a) Claims based on Fraud or (b) matters subject to the resolution process set forth in **Section 2.02(g)** or **Section 2.04** hereof, from and after the Closing, the indemnification provisions in this **Article IX** shall be the sole and exclusive remedy of the Indemnified Parties and the Seller Indemnified Parties with respect to any breaches of any representation, warranty, covenant, agreement or condition contained in this Agreement; provided that nothing herein shall prevent a party from seeking or obtaining an injunction or other equitable remedy in accordance with **Section 6.07** or **Section 11.11** hereof. Notwithstanding anything to the contrary contained herein, no limitations (including the limitation on the amount of the indemnification in this **Article IX**), qualifications or procedures in this Agreement shall be deemed to limit or modify the ability of Buyer to make claims under or relating to the R&W Policy; it being understood that any matter for which there is coverage available under the R&W Policy shall be subject to the terms, conditions and limitations, if any, set forth in the R&W Policy.

Section 9.02 Sources of Recovery. Other than in the case of Claims based on Fraud, except as specifically provided below, the sole and exclusive remedy of each Buyer Indemnified Party in respect of any Claim arising under Sections 9.04 (a) or 9.05(a) shall be a claim for recovery pursuant to the terms of the R&W Policy, and the Buyer hereby waives on behalf of itself and each Buyer Indemnified Party any and all rights and remedies against the Seller Parties set forth in Article IX; provided, however:

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(a) with respect to any Losses resulting or arising from a breach of Section 3.22 such Buyer Indemnified Party shall be entitled to bring a Claim under the provisions of Article VII and Section 9.04(c) and seek to recover directly from the Sellers on several, not joint, basis, in an aggregate amount not to exceed the Indemnity Cap less the amount of such Losses recovered pursuant to the R&W Policy or any other applicable insurance policy or source of recovery in accordance with Section 9.07(f) hereof, but if and only to the extent that (i) recovery under the R&W Policy is not available following a claim being made under the R&W Policy or exhaustion of the policy limits under the R&W Policy, and (ii) such Claim is brought within the applicable survival period set forth in Section 9.12;

(b) with respect to any Losses resulting or arising from a breach of any Fundamental Representation contained in Article III hereof, such Buyer Indemnified Party shall be entitled to bring a Claim under the provisions of Section 9.04(a) and/or Section 9.05(a) and seek to recover directly from the Seller Parties on several, not joint, basis, subject to the limitations set forth in Section 9.03 below, less the amount, if any, of such Losses recovered pursuant to the R&W Policy or any other applicable insurance policy or source of recovery in accordance with Section 9.07(f) hereof, but if and only to the extent that recovery under the R&W Policy is not available following a claim being made under the R&W Policy or exhaustion of the policy limits under the R&W Policy;

(c) with respect to any Losses resulting or arising from a breach of any Fundamental Representation contained in Article IV hereof, such Buyer Indemnified Party shall be entitled to bring a Claim under the provisions of Section 9.04(a) and/or Section 9.05(a) and seek to recover directly from the breaching individual, but not several or joint, basis, subject to the limitations set forth in Section 9.03 below, less the amount, if any, of such Losses recovered pursuant to the R&W Policy or any other applicable insurance policy or source of recovery in accordance with Section 9.07(f) hereof, but if and only to the extent that recovery under the R&W Policy is not available following a claim being made under the R&W Policy or exhaustion of the policy limits under the R&W Policy;

(d) further provided, however, other than with respect to any Losses resulting or arising from a breach of any Fundamental Representation for which the Buyer Indemnified Party shall be entitled to seek recovery directly from the Sellers as set forth in Section 9.02(b) above, the Sellers shall have no liability to the Buyer Indemnified Party under Section 9.04(a) or Section 9.05(a) unless and until the aggregate amount of Losses that the Buyer Indemnified Parties are entitled to recover from the Sellers exceeds \$1,220,000.00 (the “Basket”) and, in such event, the Sellers shall be liable, subject to the limitations set forth in Section 9.03 below, for the amount of such Losses in excess of fifty percent (50%) of the Basket amount and only to the extent a Buyer Indemnified Party is unable to obtain such amount under the R&W Policy.

Section 9.03 Limitation of Losses. Notwithstanding any provision in this Agreement to the contrary, the aggregate Liability of each Seller Party under this Agreement shall not exceed an amount equal to such Seller's pro-rata portion of the Purchase Consideration (for Losses resulting from a breach of any Fundamental Representation) received by such Seller or pro rata portion of the Indemnity Cap (for all other Losses), less the amount of such Losses recovered pursuant to the R&W Policy or any other applicable insurance policy or source of recovery in accordance with Section 9.07(f) hereof, provided however that no Seller shall have any liability for a breach of representation or warranty made by another Seller in Article IV.

Section 9.04 Sellers Several Post-Closing Indemnification. Subject to the limitations and procedures set forth in this Article IX, from the date of Closing, the Sellers hereby agree, on a several, not joint, basis, to indemnify and hold the Buyer, the Company, and their respective directors, officers, employees, Affiliates, agents, successors and assigns (collectively, the “Buyer Indemnified Parties”) harmless from and against:

(a) any and all losses, liabilities, obligations, damages, claims of any kind, costs, interest, Taxes, fees and Expenses (collectively, “Losses”) based upon, attributable to or resulting from the breach or inaccuracy of any representation or warranty (not including a representation or warranty in Article IV) of, the Sellers or any of them under this Agreement, or any representation or warranty contained in any certificate delivered by or on behalf of a Seller Party pursuant to this Agreement;

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- (b) the Indebtedness of the Company and any Transaction Expenses of the Company, in each case to the extent not paid in full at Closing; and
- (c) any and all Taxes arising out of, based upon, attributable to or resulting from Pre-Closing Tax Periods.

Section 9.05 Sellers Individual Post-Closing Indemnification. Subject to the limitations set forth in this Article IX, from and after the Clos hereby agrees, individually and neither severally nor jointly, to indemnify and hold the Buyer Indemnified Parties harmless from and against:

- (a) any and all Losses arising out of, based upon, attributable to or resulting from a breach of any covenant by such Seller, or a breach or in representation or warranty of such Seller set forth in **Article IV**; and
- (b) any and all Losses arising out of, based upon, attributable to or resulting from the breach of any covenant by, or on the behalf of, such Seller, or a breach or in representation or warranty of such Seller set forth in **Article IV**; and
- (c) for avoidance of doubt, the breach by a Seller Party of a covenant applicable to it and contained in Article VI hereof shall be not give rise to liability on the part of any other Seller Party.

Section 9.06 Buyer Post-Closing Indemnification. Subject to the limitations and procedures set forth in this **Article IX**, from and after the Closing, the Buyer hereby agrees to indemnify and hold the Seller Parties and their respective Affiliates, owners, spouses, agents, successors and assigns (the “**Seller Indemnified Parties**”) harmless from and against:

(a) any and all Losses arising out of, based upon, attributable to, or resulting from a breach or inaccuracy of any representation or warranty contained in **Article V**, or any representation or warranty contained in any certificate delivered by or on behalf of the Buyer pursuant to this Agreement;

(b) any and all Losses arising out of, based upon, attributable to, or resulting from the breach of any covenant or other agreement by, or on behalf of, the Buyer under this Agreement.

Section 9.07 Indemnification Procedures.

(a) In the event that any legal proceedings shall be instituted or that any claim or demand shall be asserted by any Person or Losses suffered by the Indemnified Party or by a Seller Indemnified Party (any of the forgoing, a "Claim"), in respect of which payment may be sought under Section 9.01 or Section 9.06 (regardless of the Basket referred to above), the indemnified party shall reasonably and promptly cause written notice of the Claim of which it has knowledge which is covered by this indemnity to be forwarded to the indemnifying party. If the indemnifying party disputes respect to such Claim, the indemnifying party and the indemnified party shall proceed in good faith to negotiate a resolution of such dispute and through negotiations, such dispute shall be resolved by litigation in an appropriate court of competent jurisdiction as provided in Section 11.10. The indemnifying party shall have the right, at its sole option and expense, to be represented by counsel of its choice, which must be reasonably satisfactory to the indemnified party, and to defend against, negotiate, settle or otherwise deal with any Claim which relates to any Losses indemnified against hereunder; provided that the indemnifying party will not be entitled to assume the defense, negotiation, settlement or otherwise deal with any Claim if (a) the Claim primarily arises out of any criminal act or Taxes, (b) the Claim seeks an injunction or equity relief against the indemnified party or the Company as the primary element of the Claim, or (c) upon petition by the indemnified party, an applicable court rules that the indemnifying party failed or is failing to vigorously defend or prosecute the Claim. Notwithstanding the foregoing, the indemnifying party will not consent to the entry of any judgment or enter into any settlement with respect to the Claim without the written consent of the indemnified party unless the judgment or proposed settlement involves only the payment of money damages and does not require injunction or other equitable relief upon the indemnified party or the Company or require any indemnified party or the Company to admit fault, in which case the indemnifying party will not consent to the entry of any judgment or enter into any settlement with respect to the Claim without the written consent of the indemnified party.

will be required. If the indemnifying party elects to defend against, negotiate, settle or otherwise deal with any Claim which relates to any Loss against hereunder, it shall within ten (10) Business Days (or sooner, if the nature of the Claim so requires) notify the indemnified party of its intent. If the indemnifying party elects not to defend against, negotiate, settle or otherwise deal with any Claim which relates to any Losses indemnified against, it shall notify the indemnified party of its election as herein provided or contests its obligation to indemnify the indemnified party for such Losses under the indemnified party may defend against, negotiate, settle or otherwise deal with such Claim. If the indemnified party defends any Claim, then the indemnified party shall reimburse the indemnified party for the Expenses of defending such Claim upon submission of periodic bills. If the indemnifying party shall defend of any Claim, the indemnified party may participate, at its, his or her own expense, in the defense of such Claim; provided, however, that the indemnified party shall be entitled to participate in any such defense with separate counsel at the expense of the indemnifying party if (a) so required by the indemnifying party to participate or (b) in the reasonable opinion of counsel to the indemnified party, a conflict or potential conflict exists between the indemnified party and the indemnifying party that would make such separate representation advisable; and provided, further, that the indemnifying party shall not pay for more than one such counsel for all indemnified parties in connection with any Claim. The parties hereto agree to cooperate fully with connection with the defense, negotiation or settlement of any such Claim.

(b) After any final deductible judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction, the expiration of the time in which to appeal therefrom, or a settlement shall have been consummated, or the indemnified party and the indemnifying party have arrived at a mutually binding agreement with respect to a Claim hereunder, the indemnified party shall forward to the indemnifying party notice of the amount due and owing by the indemnifying party pursuant to this Agreement with respect to such matter.

(c) The failure of the indemnified party to give reasonably prompt notice of any Claim shall not release, waive or otherwise affect the indemnified party's obligations with respect thereto except to the extent that the indemnifying party can demonstrate actual loss or prejudice as a result of such failure.

(d) For the purposes of calculating Losses pursuant to this Article IX, the amount of any Losses for which indemnification is provided shall not include any matter addressed in the final Closing Working Capital Statement.

(e) In the event that any Claim asserted hereunder is, or may be, the subject of the R&W Policy, the Buyer agrees to promptly notify the applicable insurance carrier of any such Claim or Loss. The Buyer further agrees to pursue such Claims diligently and to reasonably cooperate with the insurance carrier under the R&W Policy with respect to such Claims. Buyer shall use its commercially reasonable and good faith efforts to seek recoveries under the R&W Policy.

(f) The amount of any Loss subject to indemnification hereunder shall be calculated net of any insurance proceeds of any kind (including the other recoveries (net of direct collection expenses and premium increases) actually received by Buyer (or its Affiliates) or the Company on account of such Loss (including amounts receivable from any third party for indemnification or contribution)); provided, however, that Buyer shall have no obligation to pursue any claim against any insurance policies (other than the R&W Policy) or third party indemnification or contribution agreements with respect to any such Loss that an insurance recovery is made by Buyer (or its Affiliates) or the Company with respect to any Loss for which any such Person has been indemnified hereunder, then a refund equal to the aggregate amount of the recovery (net of all direct collection expenses and premium increases) shall be returned to the Sellers.

Section 9.08 R&W Policy. The R&W Policy shall be at Purchaser's sole expense, and it shall provide that (a) other than in the case of Fraud, the insurance company writing such policy shall not have any claim, right, cause of action or recourse against any Seller Party or any of their respective Affiliates, officers, managers, employees, equity holders, agents or representatives with respect to this Agreement or any Ancillary Document (and such insurer shall not pursue any and all, subrogation rights against any Seller Party, or any of their respective Affiliates, officers, directors, managers, employees, equity holders, agents or representatives), (b) each Seller Party and each of their respective Affiliates, officers, directors, managers, employees, equity holders, agents or representatives are intended to be beneficiaries of the provisions contemplated by this sentence, and (c) the insured and the insurer cannot amend, alter or modify the R&W Policy with respect to the provisions contemplated by subsections (a) and (b) of this sentence without the express prior written consent of each Seller. Purchaser (and shall cause its Affiliates, officers, directors, managers, employees, equity holders, agents or representatives not to) grant any right of subrogation (in the case of Fraud) or otherwise amend, modify, terminate or waive any term or condition set forth in the R&W Policy in a manner inconsistent with Section 9.08.

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third-party beneficiaries of the provisions contemplated by this sentence, and (c) the insured and the insurer cannot amend, alter or modify the R&W Policy with respect to the provisions contemplated by subsections (a) and (b) of this sentence without the express prior written consent of each Seller. Purchaser (and shall cause its Affiliates, officers, directors, managers, employees, equity holders, agents or representatives not to) grant any right of subrogation (in the case of Fraud) or otherwise amend, modify, terminate or waive any term or condition set forth in the R&W Policy in a manner inconsistent with Section 9.08.

Section 9.09 Materiality. For purposes of this Article IX each representation and warranty in this Agreement shall be read without regard to giving effect to, the term "material" or "Material Adverse Effect" or "in all material respects" or other similar qualification contained in, or otherwise limiting, such representation or warranty.

Section 9.10 WAIVER. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE EXPRESSLY TO WAIVE AND FOREGO (ON BEHALF OF THEMSELVES AND EACH OF THE INDEMNIFIED PERSONS) ANY RECOVER CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR OTHER SPECIAL DAMAGES, IN EACH CASE IN ANY ARBITRATION, Lawsuit OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RESULTING FROM ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER OR NOT THE POSSIBILITY OF SUCH HAS BEEN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN, EXCEPT TO THE EXTENT SUCH DAMAGES ARE AWARDED IN A FINAL JUDGMENT A PARTY OTHER THAN ANY BUYER INDEMNIFIED PARTY OR THEIR RESPECTIVE AFFILIATES.

Section 9.11 Tax Treatment of Indemnity Payments. The Seller Parties and the Buyer agree to treat any indemnity payment made pursuant to **Article IX** as an adjustment to the Purchase Consideration for federal, state, local and foreign Income Tax purposes, unless otherwise required by Law.

Section 9.12 Survival. The representations and warranties contained in this Agreement and in any certificate, document or instrument connection herewith, shall survive the execution and delivery of this Agreement, and the Closing hereunder, and shall terminate and expire on twenty-four (24) months after the Closing Date; provided, that (a) the representations in **Section 3.19** (Environmental Matters) and **Section 3.22** (Benefit Matters) shall terminate and expire on the sixth (6th) anniversary of the Closing Date, (b) the representations in **Section 3.22** (Taxes) shall expire upon the date of termination of the applicable statute of limitations plus three months, and (c) each of the Fundamental Representations shall remain indefinitely. The covenants and obligations contained herein will remain operative and in full force and effect until the expiration of the applicable limitations following the date performance of such covenant was required, except as any such covenant may be limited in duration by the express terms of such covenant. Notwithstanding any provision of this Agreement to the contrary, the date or dates specified in the R&W Policy with respect to the time periods, including periods within which to make claims and/or regarding which any Buyer Indemnified Party may obtain recoveries under such policy, shall govern and/or recoveries under the R&W Policy, and shall not extend or otherwise change the foregoing survival periods or be limited thereby.

Section 9.13 Additional Indemnification Regarding Construction Loan Guaranty. In addition to the other indemnification obligations of the parties set forth in this **Article IX**, the Sellers hereby agree to indemnify, jointly and severally, Buyer for any amount(s) that may be paid by the Company and/or its Subsidiaries to the Lender under the Construction Loan Guaranty. For avoidance of doubt, with respect to any Claim made by Buyer pursuant to this **Section 9.13**: (i) the Cap shall not apply; (ii) the Basket shall not apply; and (iii) such Claim shall not be covered by the R&W Policy and Buyer shall have no obligation to make payment therefor under the R&W Policy.

ARTICLE X TERMINATION

Section 10.01 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Seller Parties and Buyer;

(b) by Buyer by written notice to Sellers if:

(i) Buyer is not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in or failure to disclose, representation, warranty, covenant or agreement made by any Seller Party pursuant to this Agreement that would give rise to the failure of any of the representations, warranties, covenants or agreements specified in **Article VIII** and such breach, inaccuracy or failure has not been cured by Sellers within ten (10) days of Sellers' receipt of written notice of such breach from Buyer; or

(ii) any of the conditions set forth in **Section 8.01** or **Section 8.02** shall not have been, or if it becomes apparent that any of such conditions will not be fulfilled by December 15, 2021, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing;

(c) by Seller Parties by written notice to Buyer if:

(i) Seller Parties are not then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in or failure representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions of **Article VIII** and such breach, inaccuracy or failure has not been cured by Buyer within ten (10) days of Buyer's receipt of written notice of such Sellers; or

(ii) any of the conditions set forth in **Section 8.01** or **Section 8.03** shall not have been, or if it becomes apparent that any of such conditions are fulfilled by December 15, 2021, unless such failure shall be solely due to the failure of any Seller Party to perform or comply with any of the agreements or conditions hereof to be performed or complied with by it prior to the Closing; or

(d) by Buyer or Seller Parties in the event that (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement otherwise prohibited or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

Section 10.02 Effect of Termination. In the event of the termination of this Agreement in accordance with this Article, this Agreement shall be void and there shall be no liability on the part of any party hereto except:

- (a) as set forth in this **Article X** and **Section 6.06** and **Article XI** hereof; and
- (b) that nothing herein shall relieve any party hereto from liability for any willful breach of any provision hereof.

ARTICLE XI MISCELLANEOUS

Section 11.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred; provided, however, Buyer, on the one hand, and Sellers on the other hand, shall each be responsible for

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fifty percent (50%) all filing and other similar fees payable in connection with any filings or submissions under the HSR Act.

Section 11.02 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third (3rd) day after mailing by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this **Section 10.02**):

If to Seller Parties: John N. Kucera, Dave Benson, Randa Brooks & Matt Tobolski

c/o Randa Brooks
15255 SW 72nd Avenue
Portland, OR 97224

With a copy to: Schwabe Williamson & Wyatt
Attn: Michael A. Herbst
U.S. Bank Centre
1420 Fifth Ave.
Suite 3400
Seattle, Washington 98101

If to Buyer: AAON, Inc.

Attn: Gary D. Fields, CEO & President
2425 S. Yukon Avenue
Tulsa, Oklahoma 74107

With a copy to: Johnson & Jones, P.C.
Attn: Luke A. Bomer & Randy R. Shorb
Two Warren Place
6120 S. Yale Avenue, Suite 500
Tulsa, Oklahoma 74136

Section 10.03 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute or regulation as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing an instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as they were set forth verbatim herein.

Section 11.04 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 11.05 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any jurisdiction.

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other jurisdiction. Except as provided in **Section 6.07(e)**, upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 11.06 Entire Agreement. This Agreement (including the Exhibits and Disclosure Schedules) and the Ancillary Documents constitute the entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements of this Agreement and those in the Ancillary Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 11.07 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its, his or her rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. No assignment shall relieve the assigning party of any of its obligations.

Section 11.08 No Third-party Beneficiaries. Except as provided in **Article IX**, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 11.09 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the waiving party. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by the waiving party, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, a remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of a remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 11.10 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Nevada without giving effect to conflict of law provision or rule (whether of the State of Nevada or any other jurisdiction).

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE ANCILLARY DOCUMENTS, TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OR THE COURTS OF THE STATE OF NEVADA IN EACH CASE LOCATED IN THE CITY OF LAS VEGAS AND COUNTY OF CLARK, AND IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE ENOUGH FOR PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURT. THE PARTIES IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

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(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR THIS AGREEMENT, THE ANCILLARY DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXCEPT OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) THE PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN Section 11.10(c).

Section 11.11 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy entitled at law or in equity.

Section 11.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature pages follow]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

SELLER PARTIES:

D-velopment, LLC, an Oregon limited liability company

By: /s/ Daniel D. Benson

Daniel D. Benson, Manager

JVK Holdings, LLC, an Arizona limited liability company

By: /s/ John N. Kucera

John N. Kucera, Manager

Tobolski Family Trust dated September 26, 2016, a Washington Trust

By: /s/ Matthew J. Tobolski

Matt Tobolski, Trustee

/s/ Dave Benson

Dave Benson, an individual, executing solely with respect to obligations in Sections 6.03, 6.06 and 6.07

/s/ John N. Kucera

John N. Kucera, an individual, executing solely with respect to obligations in Sections 6.03, 6.06 and 6.07

/s/ Randa K. Brooks

Randa Brooks, an individual

/s/ Matthew J. Tobolski

Matt Tobolski, an individual, executing solely with respect to obligations in Sections 6.03, 6.06 and 6.07

BUYER:

AAON, Inc., a Nevada corporation

By: /s/ Gary D. Fields

Gary D. Fields, CEO & President

[Signature Page to Membership Interest Purchase Agreement]

EXHIBIT A

Company's Adjusted EBITDA – Sample Calculation

[OMITTED]

EXHIBIT B

Key Employee Stock Grants

[OMITTED]

EXHIBIT C

Allocation of Purchase Consideration

[OMITTED]

EXHIBIT 2.04(a)(ii)

Working Capital Calculation Example

[OMITTED]

DISCLAIMER

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