
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K

(Mark One)

**Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
for the fiscal year ended December 31, 2020**

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 **0-18592**



MERIT MEDICAL SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Utah

(State or other jurisdiction of incorporation or organization)

87-0447695

(IRS Employer Identification No.)

1600 West Merit Parkway, South Jordan, Utah 84095

(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(801) 253-1600**

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

Title of each class	Trading Symbol	Name of exchange on which registered
Common Stock, no par value	MMSI	NASDAQ Global Select Market

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 Section 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 every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer Accelerated Filer Non-Accelerated Filer Smaller Reporting Company Emerging Growth Company

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.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant on June 30, 2020, based upon the closing price of the common stock as reported by the NASDAQ Global Select Market on such date, was approximately \$2.5 billion. As of February 24, 2021, the registrant had 55,690,669 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the following document are incorporated by reference in Part III of this Report: the registrant's definitive proxy statement relating to our 2021 Annual Meeting of Shareholders.

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PART I

Unless otherwise indicated in this report, “Merit,” “we,” “us,” “our,” and similar terms refer to Merit Medical Systems, Inc. and our consolidated subsidiaries.

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This report includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements in this report, other than statements of historical fact, are “forward-looking statements” for purposes of these provisions, including any projections of earnings, revenues or other financial items, any statements of the plans and objectives of our management for future operations, any statements concerning proposed new products or services, any statements regarding the integration, development or commercialization of the business or any assets acquired from other parties, any statements regarding future economic conditions or performance, and any statements of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as “may,” “will,” “expects,” “plans,” “anticipates,” “intends,” “seeks,” “believes,” “estimates,” “potential,” “forecasts,” “continue,” or other forms of these words or similar words or expressions, or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements contained herein are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct, and actual results will likely differ, and could differ materially, from those projected or assumed in the forward-looking statements. Investors are cautioned not to unduly rely on any such forward-looking statements.

All subsequent forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these cautionary statements. Our actual results will likely differ, and may differ materially, from anticipated results. Financial estimates are subject to change and are not intended to be relied upon as predictions of future operating results. All forward-looking statements included in this report are made as of the date hereof and are based on information available to us as of such date. We assume no obligation to update any forward-looking statement. If we do update or correct one or more forward-looking statements, investors and others should not conclude that we will make additional updates or corrections.

Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties. Please see Item 1A “Risk Factors” for a discussion of these risks and uncertainties.

DISCLOSURE REGARDING TRADEMARKS

This report includes trademarks, tradenames and service marks that are our property or the property of other third parties. Solely for convenience, such trademarks and tradenames sometimes appear without any “TM” or “®” symbol. However, failure to include such symbols is not intended to suggest, in any way, that we will not assert our rights or the rights of any applicable licensor, to these trademarks and tradenames.

Item 1. Business.

Our Company

Merit Medical Systems, Inc. is a leading manufacturer and marketer of proprietary medical devices used in interventional, diagnostic and therapeutic procedures, particularly in cardiology, radiology, oncology, critical care and endoscopy. We strive to be the most customer-focused company in healthcare. Each day we are determined to make a difference by understanding our customers’ needs and innovating and delivering a diverse range of products that improve the lives of people and communities throughout the world. We believe that long-term value is created for our customers, employees, shareholders, and communities when we focus outward and are determined to deliver an exceptional customer experience.

Merit Medical Systems, Inc. was founded in 1987 by Fred P. Lampropoulos, Kent W. Stanger, Darla Gill and William Padilla. Initially we focused our operations on injection and insert molding of plastics. Our first product was a specialized control syringe used to inject contrast solution into a patient’s arteries for a diagnostic cardiac procedure called an

angiogram. Since that time, our sales, products and product lines have expanded substantially, both through internal research and development projects and through strategic acquisitions.

Business Strategy

Our business strategy focuses on five target areas as follows:

- enhancing global growth and profitability through research and development, sales model optimization, cost discipline and operational focus;
- optimizing our operational capability through lean processes, cost effective environments and asset utilization;
- targeting high-growth, high-return opportunities by understanding, innovating and delivering in our core divisions;
- maintaining a highly disciplined, customer-focused enterprise guided by strong core values to globally address unmet or underserved healthcare needs; and
- creating sustainability of our business for our employees, shareholders and community.

We conduct our operations through a number of domestic and foreign subsidiaries and representative offices. Our principal offices are located at 1600 West Merit Parkway, South Jordan, Utah, 84095, and our telephone number is (801) 253-1600. We maintain an internet website at www.merit.com.

COVID-19 Pandemic

During the last year, the COVID-19 pandemic has had a pervasive impact on our business, suppliers, customers, employees, families and communities. Because of the global nature of the pandemic, authorities have implemented numerous measures designed to contain the virus, including travel bans and restrictions, border closures, quarantines, shelter-in-place orders, business limitations and shutdowns. Notwithstanding the challenges we faced during the past year, we responded to adjust to changes in demand for various products. We also responded to the needs of governmental and other entities to obtain swabs used in COVID-19 testing kits. In addition, we quickly implemented stringent safety protocols to promote the safety of our employees in the workplace while producing essential medical products. In March 2020, we put into place temperature screening stations, work-at-home policies for non-operations employees, restrictions to permit only “business critical” visitors in our facilities, social-distancing standards, face mask requirements and restrictions on business travel.

The COVID-19 response by hospitals and healthcare professionals has placed a severe strain on healthcare systems around the world. Many of our hospital customers have been prioritizing their efforts on their COVID-19 response and have diverted focus and resources away from their normal operations and restricted access to their sites in efforts to contain the spread of the virus. The prioritization of COVID-19 treatment and containment has presented us with unique operational challenges, including delays in purchasing decisions by customers, obstacles to our ability to market, deliver and service our products, and disruptions and delays in our logistics and supply chain. We refer you to “Management’s Discussion and Analysis of Financial Position and Results of Operations” for a more detailed discussion of the potential impact of the COVID-19 pandemic and associated economic disruptions, and the actual operational and financial impacts that we have experienced to date.

Products

We design, develop, market and manufacture, through our own operations and contract manufacturers, medical products that offer a high level of quality, value and safety to our customers, as well as the patients they serve. Our products are used in the following clinical areas: radiology; diagnostic and interventional cardiology; interventional radiology; neurointerventional radiology; vascular, general and thoracic surgery; electrophysiology; cardiac rhythm management; interventional pulmonology; interventional nephrology; orthopaedic spine surgery; interventional oncology; pain

management; outpatient access centers; intensive care; computed tomography; ultrasound; and interventional gastroenterology.

The success of our products is enhanced by the extensive experience of our management team in the healthcare industry, our experienced direct sales force and distributors, our ability to provide custom procedural solutions such as kits, trays and procedural packs at the request of our customers, and our dedication to offering facility-unique solutions in the markets we serve worldwide.

We conduct our business through two operating segments: cardiovascular (which includes peripheral intervention, cardiac intervention, custom procedural solutions, and original equipment manufacturer (“OEM”)) and endoscopy. For information relating to our operating segments and product categories, see Note 13 to our consolidated financial statements set forth in Item 8 of this report and Management’s Discussion and Analysis set forth in Item 7 of this report. We revised these product categories during 2020 and reported historical revenue under these revised product categories for the years ended December 31, 2019, 2018, and 2017 in a Current Report on Form 8-K, filed with the SEC on April 3, 2020.

The following sections describe our principal product offerings by reporting segment and product category.

Cardiovascular

We offer a broad line of medical devices used to gain and maintain vascular access. These products include our micropuncture kits, angiographic needles, our family of Prelude® sheath introducers and a wide range of guide wires and safety products. Our cardiovascular segment includes the following product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and OEM.

Peripheral Intervention

Our peripheral intervention products support the minimally invasive diagnosis and treatment of diseases in peripheral vessels and organs throughout the body, excluding the heart. Products in our peripheral intervention product category are organized into the following product groups: peripheral intervention, spine, and oncology.

Merit Vascular - Peripheral

Our peripheral intervention products include product offerings in the following product portfolios: access (peripheral), angiography, biopsy, drainage, delivery systems, embolotherapy, and intervention (peripheral). The principal product offerings in our access (peripheral) portfolio include our:

- HeRO® (Hemodialysis Reliable Outflow) Graft, a fully subcutaneous vascular access system, which is intended for use in maintaining long-term vascular access for chronic hemodialysis patients;
- CentrosFLO® Long-Term Hemodialysis Catheter and ProGuide® Chronic Dialysis Catheter;
- Broad offering of peritoneal dialysis catheters, accessories and implantation kits for home dialysis therapy; and
- Surfacor® Inside-Out® Access Catheter System, an innovative approach to restore access and to preserve treatment options for hemodialysis patients with occluded veins, sold through our distribution agreement with Bluegrass Vascular Technologies, Inc. (“Bluegrass Vascular”).

The products in our angiography portfolio are used to identify blockages and other disease states in the blood vessel. The principal product offerings in our angiography portfolio include our:

- Extensive line of Merit Laureate® Hydrophilic Guide Wires, a smooth-surface guide wire designed to minimize friction and promote rapid catheter exchanges;
- Performa® and Impress® Diagnostic Catheters, a catheter offering designed for traversing difficult to access peripheral blood vessels; and
- Performa Vessel Sizing Catheters for vessel measurement.

We offer an extensive line of soft tissue biopsy products and accessories. The principal product offerings in our biopsy portfolio include our soft tissue core needle biopsy and accessory products including our innovative CorVocet® Biopsy System for soft tissue biopsy procedures, designed to cut a full-core of tissue, providing large specimens for pathological examination.

We offer a broad line of drainage products. The principal product offerings in our drainage portfolio include our:

- Aspira® Pleural Effusion Drainage and Aspira® Peritoneal Drainage Systems, a compassionate treatment option for end-stage cancer, allowing patients to spend more time at home by reducing the need for frequent hospital visits to treat their drainage needs;
- Family of ReSolve® Drainage Catheters, including our ReSolve ConvertX® Stent System and ReSolve Mini™ Locking Drainage Catheter, and our related tubing sets and drainage bag;
- One-Step™ and Valved One-Step™ Drainage Catheters, sold individually and in kits, for quickly removing unwanted fluid accumulation; and
- Revolution™ Catheter Securement Device and StayFIX® Fixation Device, used to stop migration, movement and accidental removal of percutaneous catheters.

The principal product offerings in our delivery systems portfolio include our:

- SwiftNINJA® Steerable Microcatheter, an advanced microcatheter with a 180-degree articulating tip, sold through our exclusive worldwide distribution agreement (excluding Japan) with Sumitomo Bakelite Co., Ltd.;
- Merit Maestro® and Merit Pursue™ Microcatheters, small microcatheters designed for pushability and trackability through small and tortuous vessels; and
- True Form™ Reshapable Guide Wire, designed to be shaped and reshaped multiple times, reducing the need for multiple guide wires.

Our embolotherapy products treat disease by blocking or slowing the flow of blood into the arteries or delivering chemotherapy drugs in the treatment of primary and metastatic liver cancer. The principal product offerings in our embolotherapy portfolio include our:

- Embosphere® Microspheres, a highly studied, round embolic for consistent and predictable results; and
- Quadrasphere® Microspheres, soft embolics with a consistent cross-sectional diameter for predictable, flow-directed targeting.

The products in our intervention (peripheral) portfolio are chiefly used to remove blood clots, retrieve foreign bodies in blood vessels and assist with placing balloons and stents to treat arterial disease. The principal product offerings in our intervention (peripheral) portfolio include our:

- ClariVein® Specialty Infusion Catheter which is designed for controlled 360-degree dispersion of physician specified agents to the peripheral vasculature;
- Advocate™ Percutaneous Transluminal Angioplasty (“PTA”) Catheter and Dynamis AV™ PTA Dilatation Catheter, a line of catheters that treat failing or thrombosed dialysis fistulae;
- Q50X®, Q50® and Q50 Plus Stent Graft Balloon Catheters, a line of catheters that treat abdominal and thoracic endovascular aortic repair procedures and reinterventions;
- Fountain® Infusion System and Mistique® Infusion Catheters, a line of catheters that treat arterial and hemodialysis graft occlusions and deep vein thrombosis; and
- EN Snare® and One Snare® Endovascular Snare Systems, a complete line of snares designed to manipulate, capture and retrieve foreign material in the body.

Merit Spine

Our spine products are used in the treatment of vertebral compression fractures and metastatic spinal tumors and in musculoskeletal biopsy procedures. Our spine product line includes the following product portfolios: vertebral augmentation, radiofrequency ablation, and bone biopsy systems. Our primary product offerings in the vertebral augmentation and radiofrequency ablation portfolios include our:

- STAR™ Tumor Ablation System, designed to provide palliative treatment of painful metastatic spinal tumors in cancer patients by targeted radiofrequency ablation;
- Arcadia™ Steerable and straight balloons, designed to achieve controlled, precise, targeted cavity creation in vertebral augmentation procedures; and
- StabiliT® MX Vertebral Augmentation System, which uses our insufflation devices to deliver bone cement.

The bone biopsy systems portfolio contains a full offering of manual bone biopsy products, including our Madison™, Huntington™, Kensington™, Preston™ and Westbrook™ biopsy products.

Merit Oncology

Our oncology products are dedicated to the accurate diagnosis and localization of breast and soft tissue tumors and the innovative treatment of early-stage breast cancer. Our primary product offerings in our oncology portfolio include our:

- SCOUT® Radar Localization System, a nonradioactive, wire-free tumor localization system that facilitates successful surgical removal of marked lesions and lymph nodes, improving workflow and the patient experience;
- CorVocet® Biopsy System, one of our innovative soft tissue core needle biopsy and accessory products, designed to cut a full core of tissue and provide large specimens for pathological examination;
- Achieve®, Temno® and Tru-Cut® Soft Tissue Biopsy Devices; and
- SAVI® Brachytherapy, a precise, targeted approach to accelerated partial breast irradiation with lower toxicities and reduced treatment duration.

Cardiac Intervention

We manufacture and sell a variety of products designed to treat various heart conditions. Products in our cardiac intervention product category are organized into the following product portfolios: access (cardiac), angiography, electrophysiology and CRM, fluid management, hemodynamic monitoring, hemostasis, and intervention (cardiac).

Merit Vascular - Cardiac

The principal product offerings in our access portfolio (cardiac) include our family of Prelude® Introducer Sheaths, for both radial and femoral access, featuring our Prelude IDEal™ Hydrophilic Sheath Introducer, an ultra-thin wall introducer sheath that provides more room for the insertion of catheters and other devices in the radial artery.

The principal product offerings in our angiography portfolio include our InQwire® Guide Wires and Performa® Diagnostic and Ultimate™ catheters for femoral and radial procedures.

Electrophysiology is the study of diagnosing and treating abnormal electrical activities of the heart. Cardiac rhythm management (“CRM”) is the field of cardiac disease therapy that relates to the diagnosis and treatment of cardiac arrhythmias or the improper beating of the heart. The principal product offerings in our electrophysiology and CRM portfolio include our:

- Worley™ Advanced LV Delivery System, used to aid in the insertion and implantation of left ventricular pacing leads;
- HeartSpan® Transseptal Needle, for left-heart access procedures; and

- HeartSpan® Steerable and Fixed Curve Sheath Introducer, featuring a neutral position indicator and tactile click to help physicians identify curve orientation with an expanded product line that includes fixed curve shapes.

The product offerings in our fluid management portfolio include manifolds, control syringes and tubing.

The principal product offerings in our hemostasis portfolio include our Prelude SYNC EVO™ and PreludeSYNC Distal™ Radial Compression devices, designed to reduce and stop blood flow after radial access procedures, and the SafeGuard® Pressure Assisted Device which provides hemostasis after femoral procedures.

The principal product offerings in our intervention (cardiac) portfolio include a full line of inflation devices and hemostasis valves, including the BasixCompak™, basixTOUCH™, basixALPHA™ (added in late 2020), Blue Diamond™ and DiamondTouch™ inflation devices and the PhD™ Hemostasis Valve, the latest addition to our hemostasis valve portfolio.

Custom Procedural Solutions

Our custom procedural solutions product category is comprised of standard and custom kit and pack solutions that include items needed for peripheral procedures, safety and waste management products, and hemostasis accessories. Our kit and pack solutions can optimize efficiency and reduce cost and waste. The principal product offerings in this product category include:

- Critical care products;
- Dual Cap® Disinfection Protection System and Medallion® syringes;
- Cultura™ swab and collection system (including vials with viral transport media), introduced May 2020 in response to the COVID-19 pandemic;
- Manifold Kits; and
- Trays and Packs.

OEM

We provide coating services for medical tubes and wires under OEM brands in addition to many of the products identified above. We offer coated tubes and wires to customers on a spool or as further manufactured components including guide wire components, coated mandrels/stylets and coated needles.

We also manufacture and sell sensor components for microelectromechanical systems. These components consist of piezoresistive pressure sensors in various forms, including bare silicon die, die mounted on ceramic substrates, and fully calibrated components for numerous applications both inside and outside the healthcare industry.

Endoscopy

The products in our endoscopy operating segment, Merit Endotek™, are organized in two product portfolios: gastroenterology and pulmonary.

Our gastroenterology products include a complete range of innovative, gastrointestinal solutions. Our primary product offerings in our gastroenterology portfolio include our:

- Alimaxx-ES™ and EndoMAXX® Fully Covered Esophageal Stents, for maintaining esophageal luminal patency in certain esophageal strictures;
- BIG60® Inflation Device, a 60-mL syringe and gauge designed to inflate and deflate non-vascular balloon dilators while monitoring and displaying inflation pressures up to 12 atmospheres; and
- Elation® Fixed Wire, Wire Guided and new 5-stage Balloon Dilators, intended for use in the alimentary tract.

Our pulmonary products consist of laser-cut tracheobronchial stents, advanced over-the-wire and direct visualization delivery systems and dilation balloons to endoscopically dilate strictures. Our primary product offerings in our pulmonary portfolio include our:

- AERO®, AEROMini® and AERO DV® Fully Covered Tracheobronchial Stents, for the treatment of tracheobronchial strictures produced by malignant neoplasms; and
- Elation Pulmonary Balloon Dilator, for the dilation of strictures of the trachea and bronchi.

We also offer a variety of kits and accessories for endoscopy and bronchoscopy procedures.

Marketing and Sales

Target Market/Industry. Our principal target markets are peripheral intervention, cardiac intervention, interventional oncology, critical care and endoscopy. Within these markets our products are used in the following clinical areas: diagnostic and interventional cardiology; interventional radiology; neurointerventional radiology; vascular, general and thoracic surgery; electrophysiology; cardiac rhythm management; interventional pulmonology; interventional nephrology; orthopedic spine surgery; interventional oncology; pain management; breast cancer surgery; outpatient access centers; intensive care; computed tomography; ultrasound; and interventional gastroenterology.

According to statistics published by the National Center for Health Statistics, cardiovascular disease continues to be a leading cause of death and a significant health problem in the U.S. Treatment options range from dietary changes to surgery, depending on the nature of the specific disease or disorder. Endovascular techniques, including angioplasty, stenting and endoluminal stent grafts, continue to represent important therapeutic options for the treatment of vascular disease. Breast cancer is the most commonly diagnosed cancer in women and is the second leading cause of cancer death among women. We derive a large percentage of our revenues from sales of products used during percutaneous diagnostic and interventional procedures such as angiography, angioplasty and stent placement, and we intend to pursue additional sales growth by building on our existing market position in both core technology and accessory products.

Marketing Strategy. Traditionally, as part of our product sales and marketing efforts, we attend major medical conventions throughout the world pertaining to our target markets and invest in market development including physician training, peer-to-peer education, and patient outreach. Due to the various restrictions imposed in response to the COVID-19 pandemic, during 2020 most medical conventions in which we have participated transitioned to virtual meetings. Additionally, we work closely with major healthcare facilities and physicians involving our primary target markets in the areas of training, therapy awareness programs, clinical studies and ongoing product research and development.

In general, our target markets are characterized by rapid change resulting from technological advances and scientific discoveries. We plan to continue to develop and launch innovative products to support clinical trends and to address the increasing demands of these markets.

Product Development Strategy. Our product development is focused on identifying and introducing a regular flow of profitable products that meet customer needs. To stay abreast of customer needs, we frequently seek suggestions from health care professionals working in the fields of medicine in which we offer or develop products. Suggestions for new products and product improvements may also come from engineers, marketing and sales personnel, physicians and technicians who perform clinical procedures.

When we believe that a product suggestion demonstrates a sustainable competitive advantage, meets customer needs, fits strategically and technologically with our business and has a good potential financial return, we generally assemble a “project team” comprised of individuals from our sales, marketing, engineering, manufacturing, legal and quality assurance departments. This team works to identify the customer requirements, integrate the design, compile necessary documentation and testing, and prepare the product for market introduction. We believe that one of our competitive strengths is our capacity to conceive, design, develop and introduce new products.

U.S. and International Sales. Sales of our products in the U.S. accounted for approximately 57%, 58% and 56% of our net sales for the years ended December 31, 2020, 2019 and 2018, respectively. In the U.S., we have a dedicated, direct sales organization primarily focused on selling to end-user physicians, hospitals and alternate site facilities (e.g., office-based labs), major buying groups and integrated healthcare networks.

Internationally, we employ sales representatives and contract with independent dealer organizations and custom procedure tray manufacturers to distribute our products worldwide, including territories in Europe, the Middle East, Africa, Asia, Oceania, Central and South America, Mexico and Canada. In 2020, our international sales declined approximately 1.3% below our 2019 international sales and accounted for approximately 43% of our net sales.

Our largest non-U.S. market is China, which represented approximately 12% of our net sales in 2020 and reported net sales of approximately \$113.2 million, \$113.3 million, and \$92.7 million for the years ended December 31, 2020, 2019 and 2018, respectively. We maintain a distribution center and administrative office in Beijing. We also have small sales offices in Shanghai, Guangzhou, and Hong Kong. We sell our products through more than 500 distributors in mainland China, who are responsible for reselling our products, primarily to hospitals. We use the “modified direct” sales approach in China, employing sales personnel throughout China who work with our distributors to promote the clinical advantages of our products to clinicians and other decision makers at hospitals.

In 2020, we experienced a significant disruption of our business throughout the world as a result of the COVID-19 pandemic, and many medical procedures that use our products were delayed or canceled. While the full impact of the COVID-19 pandemic is still unknown at this time, if the reduction in medical procedures continues or declines, we will continue to see a material adverse impact on our global operations, as well as our overall financial condition. For further discussion of risks and uncertainties associated with the COVID-19 pandemic, please refer to disclosure under the heading “*The COVID-19 pandemic has negatively impacted our business and operations around the world and may continue to materially and adversely impact our business, operations and financial results.*” set forth in Item 1A “Risk Factors”.

In Europe, the Middle East and Africa (“EMEA”), we have both direct and modified direct sales operations. Such sales operations are active throughout the region, including the largest markets in Western, Southern, Central and Eastern Europe and the emerging markets within EMEA.

Our direct sales personnel are principally engaged in each of our divisions. Marketing teams responsible for each division operate clinical education programs, often directed by leading subject matter personnel, who provide technical instruction on techniques and therapies to physicians, nurses and technologists. We are currently conducting education programs specific to radial access, spinal intervention, surgical grafts, wire-free tumor localization and electrophysiology.

We require our international dealers to store products and sell directly to customers within defined sales territories. Each of our products must be approved for sale under the laws of the country in which it is sold. International dealers are responsible for compliance with applicable anti-corruption laws, such as the U.S. Foreign Corrupt Practices Act, as well as all applicable laws and regulations in their respective countries.

We consider training to be a critical factor in the success of our sales force. Members of our sales force are trained by our clinical marketers, our staff professionals, consulting physicians, and senior field trainers in their respective territories.

OEM Sales. Our global OEM Division sells components and finished devices, including molded components, sub-assembled goods, custom kits and bulk non-sterile goods, to medical device manufacturers. These products may be combined with other components and products from other companies and sold under a Merit or customer label. Products sold by our OEM Division can be customized and enhanced to customer specifications, including packaging, labeling and a variety of physical modifications. Our OEM Division serves customers with a staff of regional sales representatives based in the U.S., Europe and Asia, and a dedicated OEM Engineering and Customer Service Group.

Customers

We provide products to hospitals and alternate site-based physicians, technicians and nurses. Hospitals and acute care facilities in the U.S. purchase our products through our direct sales force, distributors, OEM partners, or custom procedure

tray manufacturers who assemble and combine our products in custom kits and packs. Outside the U.S., hospitals and acute care facilities generally purchase our products through our direct sales force, or, in the absence of a sales force, through independent distributors or OEM partners.

Research and Development

Our research and development operations have been central to our historical growth, and we believe they will be critical to our continued growth. In recent years, our commitment to innovation led to the introduction of several new products, improvements to our existing products and expansion of our product lines, as well as enhancements and new equipment in our research and development facilities.

We continue to develop new products and make improvements to our existing products utilizing many different sources. Our Chief Executive Officer and our Executive Vice President of Global Research & Development work closely with our sales and marketing teams to incorporate feedback from physicians and clinicians in the field, which can lead to innovative new products and improvements to our existing products.

Currently, we have research and development facilities in California, Texas, Utah, Ireland, France, and Singapore.

Manufacturing

We manufacture many of our products utilizing our proprietary technology and our expertise in plastic injection and insert molding. We generally contract with third parties for the tooling of our molds, but we design and own most of our molds. We utilize our experience in injection and insert molding technologies in the manufacture of most of the custom components used in our products. We have received International Standards Organization (“ISO”) 13485:2016 certification for our facilities in California, Virginia, Texas, Utah, Ireland, France, Mexico, The Netherlands and Singapore. We have also received ISO 9001:2015 certification for our coatings facility in Venlo, The Netherlands and our Merit Sensor Systems, Inc. (“Merit Sensors”) facility in South Jordan, Utah. Merit Sensors develops and markets silicon pressure sensors to a range of enterprises and presently supplies the sensors we utilize in our digital inflation devices and blood pressure sensors.

Given the specialization of our manufacturing personnel and processes in our Utah and Ireland facilities, we possess the capability to strategically shift the manufacture of more technologically advanced products to those facilities and utilize the manufacturing capacity of our other facilities for more commoditized products. The actual determination of manufacturing location will be based upon multiple factors, including technological capabilities, market demand, acquisition and integration activities and economic and competitive conditions.

We currently produce and package all of our embolic products. Manufacturing of our embolic products includes the synthesis and processing of raw materials and third-party manufactured compounds.

We have packaging and manufacturing facilities located in Texas, Virginia, Utah, Mexico, Brazil, Ireland, France, The Netherlands, and Singapore. See Item 2. “Properties.”

We have distribution centers located in Virginia, Utah, Canada, Brazil, The Netherlands, United Kingdom (“UK”), South Africa, Russia, South Korea, India, New Zealand, Japan, China and Australia.

Competition

The medical products industry is highly competitive. Many of our competitors are much larger than us and have access to greater resources. We also compete with smaller companies that sell single or limited numbers of products in specific product lines or geographies. We compete globally in several market areas, including radiology; diagnostic and interventional cardiology; interventional radiology; neurointerventional radiology; vascular, general and thoracic surgery; electrophysiology; cardiac rhythm management; interventional pulmonology; interventional nephrology; orthopedic spine surgery; interventional oncology; pain management; outpatient access centers; intensive care; computed tomography; ultrasound; and interventional gastroenterology.

The principal competitive factors in the markets in which our products are sold are quality, price, value, device features, customer service, breadth of line, and customer relationships. We believe our products have achieved market acceptance primarily due to the quality of materials and workmanship of our products, clinical outcomes, their innovative design, our willingness to customize our products to fit customer needs, and our prompt attention to customer requests. Some of our primary competitive strengths are our relative stability in the marketplace; a comprehensive, broad line of ancillary products; and our history of introducing a variety of new products and product line extensions to the market on a regular basis.

Our primary competitors in our peripheral intervention market are Teleflex Incorporated (“Teleflex”), Cook Medical Incorporated (“Cook Medical”), Medtronic plc (“Medtronic”), Boston Scientific Corporation (“Boston Scientific”), and Becton, Dickinson and Company (“BD”). Our primary competitors in our cardiac intervention market are BD, Teleflex, Medtronic, Abbott Laboratories, Terumo Corporation, Edwards Lifesciences Corporation, Cook Medical, and Boston Scientific. Our primary competitors in our spine market are Medtronic, Stryker Corporation, and Johnson & Johnson. Our primary competitors in our oncology market are BD, Hologic, Inc., Argon Medical Devices, Inc. and Cook Medical. Our primary competitors in our endoscopy market are Getinge AB, Boston Scientific, Cook Medical, and Olympus Corporation.

Based on available industry data, with respect to the number of procedures performed, we believe we are a leading provider of digital inflation technology in the world. In addition, we believe we are one of the market leaders in the U.S. for analog inflation devices. We believe we are a market leader in the U.S. for control syringes, waste-disposal systems, tubing and manifolds. Although we believe our recent and planned additions to these product lines will help us compete even more effectively in both the U.S. and international markets, we cannot give any assurance that we will be able to maintain our existing competitive advantages or compete successfully in the future.

Sources and Availability of Raw Materials

Raw materials essential to our business are generally purchased worldwide and are normally available in quantities adequate to meet the needs of our business. Where there are exceptions, the temporary unavailability of those raw materials would not likely have a material adverse effect on our financial results.

Proprietary Rights and Litigation

We rely on a combination of patents, trade secrets, trademarks, copyrights and confidentiality agreements to protect our intellectual property. We have a number of U.S. and foreign-issued patents and pending patent applications, including rights to patents and patent applications acquired through strategic transactions, which relate to various aspects of our products and technology. The duration of our patents is determined by the laws of the country of issuance and, for the U.S., is typically 20 years from the date of filing of the patent application. As of December 31, 2020, we owned approximately 1,700 U.S. and international patents and patent applications. Additionally, we hold exclusive and non-exclusive licenses to a variety of third-party technologies covered by patents and patent applications. In the aggregate, our intellectual property assets are critical to our business, but no single patent, trademark or other intellectual property asset is of material importance to our business.

The Merit® name and logo are trademarks in the U.S. and other countries. In addition to the Merit name and logo, we have used, registered or applied for registration of other specific trademarks and service marks to help distinguish our products, technologies and services from those of our competitors in the U.S. and foreign countries. See “Products” above. The duration of our trademark registrations varies from country to country; in the U.S. we can generally maintain our trademark rights and renew any trademark registrations for as long as the trademarks are in use. As of December 31, 2020, we owned approximately 500 U.S. and foreign trademark registrations and trademark applications.

There is substantial litigation regarding patents and other intellectual property rights in the medical device industry. At any given time, we may be involved as either a plaintiff or a defendant, as well as a counter-claimant or counter-defendant, in patent, trademark, and other intellectual property infringement actions. If a court rules against us in any intellectual property litigation we could be subject to significant liabilities, be forced to seek licenses from third parties, or be prevented

from marketing certain products. In addition, intellectual property litigation is costly and may consume significant time of employees and management.

Regulation

DOJ Settlement and Corporate Integrity Agreement. On October 13, 2020, we entered into a Settlement Agreement with the United States Department of Justice (“DOJ”) to fully resolve the DOJ’s investigation into past marketing transactions and practices. The DOJ asserted that we provided benefits, allegedly in the form of patient referrals advertising assistance, practice development, practice support, and educational grants to induce healthcare providers to purchase and use our products in medical procedures performed on federal healthcare program beneficiaries, in violation of the Anti-Kickback Statute, 42 U.S.C. §1320a-7b(b), and caused the submission of false claims under the False Claims Act, 31 U.S.C. §3729 (as further described in the Settlement Agreement, the “Covered Conduct”). We denied the allegations but determined that a settlement was in the best interests of our company moving forward.

Under the Settlement Agreement and related agreements, we agreed to make settlement payments in the aggregate amount of \$18.0 million plus interest. In total, we paid approximately \$18.7 million in settlement payments, interest and additional expenses associated with the Settlement Agreement, including fees paid to settle claims of the relator’s counsel. In exchange, the DOJ, the Office of the Inspector General of the U.S. Department of Health and Human Services (“OIG”), the Defense Health Agency (“DHA”), on behalf of the TRICARE Program, and the relator named therein agreed to release us from liability arising from the Covered Conduct.

The settlement was also conditioned upon our entering into a Corporate Integrity Agreement (“CIA”) with the OIG. Under the CIA, the OIG will not exclude us from participating in federal health care programs if we comply with the obligations set forth therein. The CIA imposes compliance, monitoring, reporting, certification, oversight and training obligations on the Company, certain of which have previously been implemented. The CIA requires, among other matters, that we (i) maintain a Compliance Officer, a Compliance Committee, board review and oversight of certain federal healthcare compliance matters, compliance programs, and disclosure programs; (ii) establish robust compliance policies and procedures to meet the requirements of all federal health care programs and the U.S. Food and Drug Administration (“FDA”); (iii) provide management certifications and compliance training and education; (iv) engage an independent review organization to conduct a thorough review of our systems, policies, processes and procedures related to promotional materials, product evaluations, consulting agreements, trainings provided to healthcare professionals, sponsorships, grants and charitable contributions; (v) implement a risk assessment and internal review process; (vi) establish a disclosure program for whistleblowers; (vii) increase oversight of the interactions between our sales personnel and healthcare providers; and (viii) report or disclose certain events and physician payments.

Our failure to comply with our obligations under the CIA could result in monetary penalties and the Company being excluded from participating in federal health care programs.

The foregoing descriptions of the Settlement Agreement and the CIA are qualified in their entirety by the full terms of the Settlement Agreement and the Corporate Integrity Agreement, which are attached as [Exhibit 10.47](#) and [Exhibit 10.48](#) hereto, respectively, and incorporated herein by reference.

Regulatory Approvals. Our products and operations are global and are subject to regulations by the U.S. Food and Drug Administration (“FDA”) and various other federal and state agencies, as well as by foreign governmental agencies. These agencies enforce laws and regulations that control the design, development, testing, clinical trials, manufacturing, labeling, storage advertising, marketing and distribution, and market surveillance of our medical products.

The time required to obtain approval by the FDA and other foreign governmental agencies can be lengthy and the requirements may differ. In particular, marketing of medical devices in the European Union (“EU”) is subject to compliance with Council Directive 93/92/EEC, as amended (“MDD”). In May 2017, the EU adopted Regulation (EU) 2017/745 (“MDR”), which will repeal and replace the MDD with effect from May 26, 2021. Under transitional provisions, medical devices with notified body certificates issued under the MDD prior to May 26, 2021 may continue to be placed on the market for the remaining validity of the certificate, until May 26, 2024 at the latest. After the expiry of any applicable transitional period, only devices that have been CE marked under the MDR may be placed on the market

in the EU. While we are preparing to comply with these new regulations, there may be some products that we will discontinue or postpone introduction in the EU or which may not be fully compliant at the time the transitional period expires because of a number of factors, including changing business strategies, cost of obtaining MDR certification, availability of necessary data and the capacity of Notified Bodies. The MDR includes increasingly stringent requirements in multiple areas, such as pre-market clinical evidence (some of which are now in effect), review of high-risk devices, labeling and post-market surveillance. Under the MDR, pre-market clinical data will now be required to obtain CE Mark approval for high-risk, new and modified medical devices.

U.S. and global counter-part regulatory approval processes for medical devices are expensive, uncertain and lengthy. There can be no assurance that we will be able to obtain necessary regulatory approvals for any product on a timely basis or at all. Delays in receipt of or failure to receive such approvals, the loss of previously received approvals, or the failure to comply with existing or future regulatory requirements could have a material adverse effect on our business, financial condition or results of operations.

In May 2020, we received the CE mark for the Merit Wrapsody™ Endovascular Stent Graft System, and we are pursuing regulatory approval in the U.S. and elsewhere. We are conducting a large, multinational pivotal human clinical trial of the Wrapsody™ Stent Graft which is required to obtain approval from the FDA and some international regulatory agencies. Human clinical trials of a medical device are often required for regulatory clearance or approval for devices and are expensive, time-consuming and uncertain.

Quality System Requirements. The Federal Food, Drug and Cosmetic Act (“FDCA”) and its counterpart non-U.S. laws require us to comply with quality system regulations (“QSR”) pertaining to all aspects of our product design and manufacturing processes, including requirements for packaging, labeling, record keeping, personnel training, supplier controls, design controls, complaint handling, corrective and preventive actions and internal quality system auditing. The FDA and foreign regulators enforce these requirements through periodic inspections of medical device manufacturers. These requirements are complex, technical and require substantial resources to remain compliant. Our failure or the failure of our suppliers to maintain compliance with these requirements could result in the shutdown of our manufacturing operations or the recall of our products, or could restrict our ability to obtain new product approvals or certificates from the FDA that are necessary for export of our products to foreign countries. Any of these results would have a material adverse effect on our business. If one of our suppliers fails to maintain compliance with our quality requirements, we may have to qualify a new supplier and could experience manufacturing delays as a result. We also could be subject to injunctions, product seizures, or civil or criminal penalties.

Labeling and Promotion. Our labeling and promotional activities are also subject to scrutiny by the FDA and foreign regulators. Labeling includes not only the label on a device, but also includes any descriptive or informational literature that accompanies or is used to promote the device. Among other things, labeling violates the law if it is false or misleading in any respect or it fails to contain adequate directions for use. Moreover, product claims that are outside the approved or cleared labeling violate the FDCA and other applicable laws. If the FDA determines that our promotional materials constitute promotion of an uncleared or unapproved use, or otherwise violate the FDCA, it could request that we modify our promotional materials or subject us to regulatory or enforcement actions, including the issuance of an untitled letter, a notice of violation, a warning letter, injunction, seizure, civil fines or criminal penalties. Allegations of off-label promotion can also result in enforcement action by federal, state, or foreign enforcement authorities and trigger significant civil or criminal penalties, including exclusion from the Medicare and Medicaid programs and liability under the False Claims Act, discussed further below.

Our product promotion is also subject to regulation by the Federal Trade Commission (the “FTC”), which has primary oversight of the advertising of unrestricted devices, including FDA cleared devices. The Federal Trade Commission Act prohibits unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce, as well as unfair or deceptive practices such as the dissemination of any false or misleading advertisement pertaining to medical devices. FTC enforcement can result in orders requiring, among other things, limits on advertising, corrective advertising, consumer redress, rescission of contracts and such other relief as the FTC may deem necessary.

In addition, under the federal Lanham Act and similar state laws, competitors and others can initiate litigation relating to advertising claims.

Import Requirements. To import a medical device into the U.S., the importer must file an entry notice and bond with the U.S. Bureau of Customs and Border Protection (“CBP”). All devices are subject to FDA examination before release from the CBP. Any article that appears to be in violation of the FDCA may be refused admission and a notice of detention and hearing may be issued. If the FDA ultimately refuses admission, the CBP may issue a notice for redelivery and assess liquidated damages for up to three times the value of the lot. Additionally, the laws of the U.S. require imported articles to have their labels accurately marked with the appropriate country of origin, the violation of which may result in confiscation, fines and penalties.

Export Requirements. Products for export are subject to foreign countries’ import requirements and the exporting requirements of the exporting countries’ regulating bodies, as applicable. International sales of medical devices manufactured in the U.S. that are not approved or cleared by the FDA for use in the U.S., or are banned or deviate from lawful performance standards, are subject to FDA export requirements and we may not be able to export such products.

Foreign countries often require, among other things, an FDA certificate for products for export, also called a Certificate to Foreign Government. To obtain this certificate from the FDA, the device manufacturer must apply to the FDA. The FDA certifies that the product has been granted clearance or approval in the U.S. and that the manufacturing facilities were in compliance with the QSR at the time of the last FDA inspection.

Additionally, the export of our products is subject to restrictions due to trade and economic sanctions imposed by the U.S., the EU and other governments and organizations. The U.S. Departments of Justice, Commerce, State and Treasury and other federal agencies and authorities have a broad range of civil and criminal penalties they may seek to impose against corporations and individuals for violations of economic sanctions laws, export control laws, and other federal statutes and regulations, including those established by the Office of Foreign Assets Control (“OFAC”). Under these laws and regulations, as well as other export control laws, customs laws, sanctions laws and other laws governing our operations, various government agencies may require export licenses and may seek to impose modifications to business practices, including cessation of business activities in sanctioned countries or with sanctioned persons or entities.

Additional Post-Market Requirements. Medical device manufacturers are also subject to other post-market requirements in multiple jurisdictions, including product listing, establishment registration, Unique Device Identification (“UDI”), reports of corrections and removals and other requirements. Medical Device Reporting required by the FDA, medical device vigilance reporting requirements under the MDD and MDR, and similar regulations in other foreign markets, require manufacturers to report to the FDA or an equivalent foreign regulatory body any incident in which their device may have caused or contributed to a death or serious injury, or has malfunctioned in a way that would likely cause or contribute to a death or serious injury if the malfunction of the device or a similar device were to recur. Our obligation to report a complaint is triggered on the date on which we become aware of an adverse event and the nature of the event. If we fail to comply with our reporting obligations or other post-market requirements, the FDA could issue warning letters or untitled letters, take administrative actions, commence criminal prosecution, impose civil monetary penalties, revoke our device approvals or clearances, seize our products, or delay the approval or clearance of our future products. Other regulatory authorities could take similar actions within their jurisdictions.

The FDA regularly inspects companies to determine compliance with the QSRs and other post-market requirements. Failure to comply with statutory requirements and the FDA’s regulations can result in an FDA Form 483 (which is issued by the FDA at the conclusion of an inspection when an investigator has observed any conditions that may constitute violations), public warning letters, monetary penalties against a company or its officers and employees, suspension or withdrawal of regulatory approvals, operating restrictions, total or partial suspension of production, injunctions, product recalls, product detentions, import refusals, refusal to provide export certificates, seizure of products and/or criminal prosecution. Other regulatory authorities, including EU Notified Bodies, regularly audit companies to determine compliance with ISO 13485 and their respective regulations. They may take similar actions as the FDA within their jurisdictions.

Reimbursement. Our products are generally used in medical procedures that are covered and reimbursed by governmental payers, such as Medicare, and/or private health plans. In general, these third-party payers cover a medical device and/or related procedure only when the payer determines that healthcare outcomes are supported by medical evidence and the device or procedure is medically necessary for the diagnosis or treatment of the patient’s illness or injury. Even if a device

has received clearance or approval for marketing by the FDA or a similar foreign regulatory agency, there is no certainty that third-party payers will cover and reimburse for the cost of the device and related procedures. Because of increasing cost-containment pressures, some private payers in the U.S. and government payers in foreign countries may also condition payment on the cost-effectiveness of the device or procedure. Even if coverage is available, third-party payers may place restrictions on the circumstances in which they provide coverage or may offer reimbursement that is not sufficient to cover the cost of our products. If healthcare providers such as hospitals and physicians cannot obtain adequate coverage and reimbursement for our products or the procedures in which they are used, this may affect demand for our products and our business, financial condition, results of operations, or cash flows could suffer a material adverse impact.

Anti-Corruption Laws. Anti-corruption laws are in place in the U.S. and in many jurisdictions throughout the world. In the U.S., the Foreign Corrupt Practices Act (the “FCPA”) prohibits offering, paying, or promising to pay anything of value to foreign officials for the purpose of obtaining or maintaining an improper business advantage. The FCPA also requires that we maintain fair and accurate books and records and devise and maintain an adequate system of internal accounting controls. Among other requirements to implement compliance, we train our U.S. and international employees, and to train and monitor foreign third parties with whom we contract, e.g., distributors, to ensure compliance with these anti-corruption laws. Failing to comply with the FCPA or any other anti-corruption law could result in fines, penalties or other adverse consequences.

As we expand our operations in China and other jurisdictions internationally, we are increasing the scope of our compliance programs to address the risks relating to the potential for violations of the FCPA and other anti-corruption laws. Our compliance programs will need to include policies addressing not only the FCPA, but also the provisions of a variety of anti-corruption laws in multiple foreign jurisdictions, including China, provisions relating to books and records that apply to us as a public company, and include effective training for our personnel and relevant third parties.

The U.S. Physician Payment Sunshine Act, and similar state laws, also include annual reporting and disclosure requirements for device manufacturers aimed at increasing the transparency of the interactions between device manufacturers and healthcare providers. Reports submitted under these new requirements are placed in a public database. Several other jurisdictions outside the U.S. have also adopted or begun adopting similar transparency laws. In addition to the burden of establishing processes for compliance, if we fail to provide these reports, or if the reports we provide are not accurate, we could be subject to significant penalties.

Anti-Kickback Statutes. The federal Anti-Kickback Statute prohibits persons and entities from, among other things, knowingly and willfully offering or paying remuneration, directly or indirectly, to induce the purchase, order, lease, or recommendation of a good or service for which payment may be made in whole or part under a federal healthcare program such as Medicare or Medicaid, unless the arrangement fits within one of several statutory exemptions or regulatory “safe harbors.” The definition of remuneration has been broadly interpreted to include anything of value, including, for example, gifts, discounts, the furnishing of supplies or equipment, credit arrangements, payments of cash and waivers of payments. Violations can result in significant penalties, imprisonment and exclusion from Medicare, Medicaid and other federal healthcare programs. Exclusion of a manufacturer would preclude any federal healthcare program from paying for the manufacturer’s products. Under the Affordable Care Act, a violation of the Anti-Kickback Statute is deemed to be a violation of the False Claims Act, which is discussed in more detail below. A party’s failure to fully satisfy the obligations of a regulatory “safe harbor” provision may result in increased scrutiny by government enforcement authorities.

Government officials continue their vigorous enforcement efforts on the sales and marketing activities of pharmaceutical, medical device and other healthcare companies, including the pursuit of cases against individuals or entities that allegedly offered unlawful inducements to potential or existing customers to procure their business. Settlements of these government cases have involved significant fines and penalties and, in some instances, criminal pleas.

In addition to the federal Anti-Kickback Statute, many states have their own anti-kickback laws. Often, these laws closely follow the language of the federal law, although they do not always have the same exceptions or safe harbors. In some states, these anti-kickback laws apply with respect to all payers, including commercial health insurance companies.

False Claims Laws. The False Claims Act prohibits any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, or causing to be made, a false statement to get a

false claim paid. Manufacturers can be held liable under false claims laws, even if they do not submit claims to the government, if they are found to have caused submission of false claims. The False Claims Act also includes whistleblower provisions that allow private citizens to bring suit against an entity or individual on behalf of the U.S. and to recover a portion of any monetary recovery. Many of the recent, highly publicized settlements in the healthcare industry relating to sales and marketing practices have been cases brought under the False Claims Act. Most states also have adopted statutes or regulations similar to the federal laws, which apply to items and services reimbursed under Medicaid and other state programs. Sanctions under the Federal Claims Act and state laws may include civil monetary penalties, exclusion of a manufacturer's products from reimbursement under government programs, criminal fines and imprisonment.

Patient Protection and Affordable Care Act. The Patient Protection and Affordable Care Act ("Affordable Care Act") has changed the way healthcare in the U.S. is financed by both governmental and private insurers and has significantly affected the medical device industry. This law contains a number of provisions, including provisions governing enrollment in federal healthcare programs, reimbursement, comparative effectiveness research, and enhancements to fraud and abuse requirements and enforcement. However, the long-term viability of the Affordable Care Act, and its impact on our business and results of operations, remains uncertain. Any legislative and executive initiatives may significantly change the scope and impact of the Affordable Care Act and, in turn, the medical device industry.

Labor Standards Laws. We are also subject to corporate social responsibility ("CSR") laws and regulations which require us to monitor the labor standards in our supply chain, including the California Transparency in Supply Chains Act, the UK Modern Slavery Act, and U.S. Federal Acquisition Regulations regarding Combating Trafficking in Persons. These CSR laws and regulations may impose additional processes and supplier management systems and have led certain key customers to impose additional requirements on medical device companies, including audits, as a prerequisite to selling products to such customers, which could result in increased costs for our products, the termination or suspension of certain suppliers, and reductions in our margins and profitability.

Privacy and Security. The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and accompanying rules, require certain entities, referred to as "covered entities" (including most healthcare providers and health plans), to comply with established standards, including standards regarding the privacy and security of protected health information ("PHI"). Many state laws also regulate the use and disclosure of health information and require notification in the event of breach of such information.

The EU has adopted a single EU privacy regulation, the General Data Protection Regulation ("GDPR"), which went into effect May 25, 2018. The GDPR extends the scope of the EU data protection law to all companies processing personal data in the context of the activities of an establishment of a controller or a processor in the EU, regardless of whether the processing takes place in the EU or not. In addition, it applies to the processing of personal data of data subjects who are in the EU by a controller or processor not established in the EU, where the processing activities are related to: (a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the EU; or (b) the monitoring of their behavior as far as their behavior takes place within the EU. The GDPR provides for a harmonization of the data protection regulations throughout the EU. It imposes a strict data protection compliance regime with severe penalties of up to the greater of 4% of worldwide sales or €20 million and includes new rights such as the "portability" of personal data. Although the GDPR applies across the EU without a need for local implementing legislation, it contains a number of opener clauses enabling the EU member states to provide for additional legislation. In addition, local data protection authorities still have the ability to interpret the GDPR, which has the potential to create inconsistencies on a country-by-country basis. We have implemented changes to our business practices to comply with the GDPR.

We post on our websites our privacy policies and practices regarding the collection, use and disclosure of user data. Any failure, or perceived failure, by us to comply with our posted privacy policies or with any applicable regulatory requirements or orders, or privacy, data protection, information security or consumer protection-related privacy laws and regulations in one or more jurisdictions, could result in proceedings or actions against us by governmental entities or others, including class action privacy litigation in certain jurisdictions, subject us to significant fines, penalties, judgments and negative publicity, require us to change our business practices, increase the costs and complexity of compliance, and adversely affect our business. Data protection, privacy and information security have become the subject of increasing public, media and legislative concern. For example, California's Consumer Protection Act went into effect on January 1,

2020, giving consumers the right to demand certain information and actions from companies who collect personal information. This enhanced scrutiny and legal requirements could result in costly compliance efforts and potentially result in fines, harm to reputation, or other consequences. If our customers were to reduce their use of our products and services as a result of these concerns, our business could be materially harmed. As noted above, we are also subject to the possibility of security and privacy breaches, which themselves may result in a violation of these privacy laws.

After the recent Brexit deal between the UK and the EU, the GDPR no longer directly applies in the UK. However, the UK Data Protection Act 2018 will remain in force, which incorporates the GDPR into UK legislation with some minor amendments to take account of the UK's departure from the EU. Thus, we have to continue to comply with the GDPR (including as it applies in the UK). Further, there is a four-month transition period beginning January 1, 2021 with regard to data transfers from the European Economic Area to the UK, which will be automatically extended by two months if neither the UK nor the EU objects. After this period, if the European Commission does not adapt an adequacy decision in respect of the UK, it will be necessary to implement appropriate safeguards such as standard contractual clauses or binding corporate rules in order to enable data transfers to the UK.

CARES Act. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was signed into law. The \$2.2 trillion economic stimulus bill contains numerous tax law changes. The CARES Act established a program with provisions to allow U.S. companies to defer the employer’s portion of social security taxes between March 27, 2020 and December 31, 2020 and pay such taxes in two installments in 2021 and 2022. As permitted by the CARES Act, we have deferred payment of the employer’s portion of social security payroll tax payments.

Seasonality

Our worldwide sales have not historically reflected a significant degree of seasonality; however, customer purchases have historically been lower during the third quarter of the year, as compared to other quarters. This reflects, among other factors, lower demand during summer months in countries in the northern hemisphere.

Sustainability

We take our responsibility to conduct our business in a sustainable manner seriously and have identified both risks and opportunities related to our sustainability program, as we strive for continued growth and profitability.

The majority of our products are disposable medical devices and are generally disposed of after a single use due primarily to the risks of exposing patients to bloodborne pathogens capable of transmitting disease or other potentially infectious materials. Additionally, repeated sterilization to address such risks is not possible because it may adversely affect the quality of the plastic used in many of our products and result in the failure of our product to function properly if used in multiple medical procedures. Consequently, many of our used products will likely end up in a medical waste disposal facility at the end of their usefulness. Despite this obstacle, we continue to look for opportunities to deliver sustainable, long-term growth of our business. Our sustainability practices are an integral component of our business strategy, and our sustainability activities are reviewed and approved by senior management and our Board of Directors.

By assessing our sustainability opportunities, we have developed areas of focus where we are positioned to make a positive impact. These include programs designed to reduce waste, improve efficiency, and protect the environment including our:

- ISO 14001 certification – we have achieved this certification at many of our facilities with a continued goal of achieving this certification at all our manufacturing facilities in 2021 (ISO 14001 is the international standard that specifies requirements for an effective environmental management system);
- ISO 45001 certification – our goal is to achieve this certification at all our manufacturing facilities within the next 12 to 18 months (ISO 45001 is the international standard that specifies requirements for an effective safety management system);
- ISO 50001 certification – we have achieved this certification at our Galway facility, and our goal is to achieve ISO 50001 certification at all our manufacturing facilities within the next 12 to 18 months (ISO 50001 is the international standard that specifies requirements for an effective energy management system);

- employee gardens that promote pollination and provide farm-to-table nutrition for our employees at our headquarters in South Jordan, Utah;
- transition to re-usable pallets and methods to move products in bulk containers, reducing intra-company shipping materials;
- reduction in packaging materials by reducing film thickness and using original product packaging where possible;
- transition from paper to electronic work orders in our manufacturing facilities worldwide, which we expect to reduce our paper usage by at least 2.8 million pieces and 20,000 plastic sleeves annually;
- expansion of recycling programs where our employees recycle materials, including food waste, paper, cardboard, food and beverage containers, scrap metal, and pallets, and re-use of our plastic scrap waste leftover from our manufacturing process of our molded parts;
- investment in a line of fully compostable “to-go” containers made from plant starch and sugarcane, and our program to transition to reusable dishes and cutlery at all our cafeterias;
- car charging stations and car-pooling preferential parking to incentivize employees to reduce their carbon footprint;
- efficient heating and cooling systems that operate on variable efficiency drives, increasing our energy efficiency at our headquarters in South Jordan, Utah and our transition to Light Emitting Diode (“LED”) lighting in our manufacturing facilities; and
- environmental tracking system at our world-wide facilities to facilitate monthly reporting and accountability for energy, water, waste, recycling, and other scope 1, 2, and 3 emissions metrics.

In 2020 we provided in-kind donations of our medical devices to support two medical or humanitarian missions, and we worked closely with a local Utah university to donate product for use in their educational and instructional programs. The COVID-19 pandemic caused disruptions to our operations and the operations of the non-profit organizations to which we typically donate, which hindered our ability to provide this type of support at the same levels we have in the past, but we plan on continuing and expanding this practice in 2021. To learn more about our sustainability programs and accomplishments, please visit www.merit.com/about/corporate-sustainability/.

Human Capital Management

As of December 31, 2020, we had 5,989 employees located in approximately 39 different countries in a variety of different roles. In the highly competitive medical device industry, we consider attracting, developing, and retaining talented people in technical, operational, marketing, sales, research, management, and other positions to be critical to our overall long-term growth strategy. Our ability to recruit and retain such talent depends on several factors, including compensation and benefits, talent development, career opportunities, and work environment. We invest in our people and cultivate a company culture committed to supporting a diverse and inclusive workforce.

Diversity and Inclusion. Our goal is to create a diverse and inclusive global culture that reflects the diversity of the customers we serve and encourages an environment where employees feel welcomed, respected, and valued. With this goal in mind, in late 2020 the Company hired its first Chief Human Resources Officer who, in part, has been charged with working with our leadership team to strengthen and enhance our diversity and inclusion efforts company wide. We are committed to providing equal opportunity in all aspects of employment. In the U.S., we are an equal opportunity/affirmative action employer committed to making employment decisions without regard to race, religion, ethnicity or national origin, gender, sexual orientation, gender identity or expression, age, disability, protected veteran status or any other characteristics protected by law. As a result, over 50% of our U.S. population identifies as non-white.

Employee Engagement. The engagement of our workforce is critical to delivering on our competitive strategy, and we place high importance on informed and engaged employees. We communicate frequently and transparently with our employees through a variety of communication methods, including video and written communications, town hall meetings, and our company intranet, and we acknowledge individual contributions to Merit by celebrating milestones of service in

five-year increments. As a result of the COVID-19 pandemic, we also further strengthened our communication platforms. Our employee communications during the pandemic have kept our employees informed on critical priorities, important actions being taken by management in response to the pandemic, and continued efforts to protect employee health, safety and well-being.

COVID-19 Response; Health and Safety. During the COVID-19 pandemic, the majority of our operations employees have continued to work from our facilities, where we have adopted health screening, implemented social distancing and personal protective equipment requirements, enhanced cleaning and sanitation procedures, and modified workspaces to reduce the potential for disease transmission. Most employees who do not require access to our facility to perform their work have been working from home during the pandemic, without a significant impact to productivity.

Information Security

We maintain strong cybersecurity systems to guard against unauthorized access, malicious software, corruption of data, disruption of our networks and systems and unauthorized release of confidential information. We employ an experienced and dedicated information security team, follow industry best practices, and work with our employees globally to create awareness and mitigate cyber risk. On an ongoing basis, we assess risks and implement procedures and practices designed to improve the security, confidentiality, integrity and availability of our systems. We voluntarily engage third-party security auditors to test our systems and controls at least annually against the most widely recognized security standards and regulations. We have developed and continue to implement a continuing cyber awareness training program which is designed to increase awareness of cybersecurity threats throughout our company and reduce the risk of human error. As part of that training, we conduct phishing testing on all our employees with e-mail access and emphasize information security through events held each year during our Cyber Awareness Month.

We have established controls and procedures to escalate enterprise level issues, including cybersecurity matters, to the appropriate management levels within our organization and our Board of Directors, or members or committees thereof, as appropriate. Our Board of Directors has delegated to its Audit Committee specific oversight responsibility for enterprise risk management, including our approach to managing cybersecurity risk. The Audit Committee regularly reviews information security risks and receives reports from our Chief Technology Officer and other members of the Company's management regarding those risks. Under our framework, cybersecurity issues are analyzed by subject matter experts for potential financial, operational, and reputational risks, based on, among other factors, the nature of the matter and breadth of impact. Matters determined to present potential material impacts to the Company's financial results, operations, and/or reputation are immediately reported by management to our Board of Directors or the Audit Committee, as appropriate, in accordance with our escalation framework. In addition, we have established procedures to ensure that management responsible for overseeing the effectiveness of disclosure controls is informed in a timely manner of known cybersecurity risks and incidents that may materially impact our operations and that timely public disclosure is made as appropriate. We maintain insurance coverage that may, subject to policy terms and conditions, cover certain aspects of cybersecurity risks; however, such insurance coverage may be unavailable or insufficient to cover all losses or all types of claims that may arise in the continually evolving area of cyber risk.

Recent Developments

None.

Available Information

We file annual, quarterly and current reports and other information with the SEC. The SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The address of the SEC's internet website is www.sec.gov.

Our internet address is www.merit.com. On our Investor Relations website, www.merit.com/investors, we make available, free of charge, a variety of information for investors. Our goal is to maintain the Investor Relations website as a portal through which investors can easily find or navigate to pertinent information about us, including:

- Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports, as soon as reasonably practicable after we electronically file that material with or furnish it to the SEC.
- Press releases on our quarterly earnings and other pertinent information, including product launches, corporate initiatives, and participation in upcoming investor conferences.
- Corporate governance information including our corporate governance guidelines, committee charters, and codes of business conduct and ethics.

Additionally, we provide electronic and paper copies of such filings free of charge upon request.

The information on www.merit.com is not, and will not be deemed, a part of this Report or incorporated into any other filings we make with the SEC.

Financial Information About Foreign and Domestic Sales

For financial information relating to our foreign and domestic sales see Note 2 and Note 13 to our consolidated financial statements set forth in Item 8 of this report.

Item 1A. Risk Factors.

Our business, operations and financial condition are subject to certain risks and uncertainties. Should one or more of these risks or uncertainties materialize, or should any underlying assumptions prove incorrect, our actual results will vary, and may vary materially, from those anticipated, estimated, projected or expected. Among the key factors that may have a direct bearing on our business, operations or financial condition are the factors identified below:

COVID-19 Pandemic Risks

The COVID-19 pandemic has negatively impacted our business and operations around the world and may continue to materially and adversely impact our business, operations and financial results.

The COVID-19 pandemic has created significant disruption and uncertainty in the global economy, has negatively impacted our business, results of operations and financial condition, and we anticipate that it may continue to negatively impact our business, results of operations and financial condition for the foreseeable future.

Numerous national, international, state and local jurisdictions have imposed, and others in the future may impose, a variety of government orders and restrictions for their residents to control the spread of COVID-19. Such orders or restrictions may cause significant alteration of our operations, work stoppages, slowdowns and delays, travel restrictions and event cancellations, among other effects, thereby significantly and negatively impacting our operations. Other disruptions or potential disruptions include (i) restrictions on our personnel and personnel of business partners to travel and access customers for training and case support; (ii) reductions in spending by our customers; (iii) delays in approvals by regulatory bodies; (iv) diversion of or limitations on employee resources that would otherwise be focused on the operations of our business, including because of sickness of employees or their families or the desire of employees to avoid contact with large groups of people; (v) reductions in our sales team, including through layoffs, furloughs or other losses of sales representatives; (vi) additional government requirements or other incremental mitigation efforts that may further impact our or our suppliers' capacity to manufacture our products; (vii) disruption of our research and development activities; and (viii) delays in ongoing studies and pre-clinical trials.

In addition, elective procedures that use our products significantly decreased in number during 2020 as health care organizations around the world prioritized the treatment of patients with COVID-19 and reduced spending in other areas. For example, in the United States, governmental authorities have recommended, and in certain cases required, that elective, deferrable, specialty and other procedures and appointments, be suspended or canceled to avoid non-essential patient exposure to medical environments and potential infection with COVID-19 and to focus limited resources and personnel capacity toward the treatment of COVID-19 patients. Specifically, many of these procedures that use our products have been suspended or postponed. While certain of these procedures have resumed in certain locations, it is unclear when or if all procedures in all locations will resume.

While we have seen increases in demand for certain product lines during the pandemic, including our Cultura™ nasopharyngeal swab and test kit, this increased demand has not been, and may not be, sufficient to offset the revenue declines in other areas. We also expect continued pressure on our margins due to decreased demand for products with gross margins that are higher than the company average.

In addition, most of the hospitals and clinics that purchase our products have instituted strict procedures at their facilities in an effort to prevent the spread of COVID-19, including restrictions on sales representatives entering these facilities. This has been, and currently remains, a major impediment to our sales efforts, as supporting existing customers and acquiring new customers is much more difficult in this environment. These restrictions have had a significant adverse effect on our sales and, until they are lifted, our business, operations and financial results will continue to be adversely impacted.

Further, once the pandemic subsides, we anticipate there will be substantial backlog of patients seeking appointments with physicians and surgeries to be performed at hospitals and ambulatory surgery centers relating to a variety of medical conditions, and as a result, patients seeking procedures that use our products will have to navigate limited provider capacity. On the other hand, we do not know if demand for these postponed, elective procedures will return to the levels we experienced prior to the pandemic. We believe this limited provider, hospital and ambulatory surgery center capacity,

and a decline in demand for the procedures that use our products, could have a significant adverse effect on our business, operations and financial results following the end of the pandemic.

These challenges and restrictions will likely continue for the duration of the pandemic, which is uncertain, and may even continue beyond the pandemic. Many areas are relaxing restrictions and resuming business operations, but a resurgence in infections or mutations of the coronavirus that causes COVID-19 could cause authorities to reinstate such restrictions or impose additional restrictions. All of these factors also may cause or contribute to disruptions and delays in our logistics and supply chain. The extent to which the COVID-19 pandemic impacts our business, operations and financial results will depend on future developments that are uncertain and cannot be predicted, including new information that may emerge concerning the severity and spread of the virus and the actions by government entities, our customers and other parties to contain the virus or treat its impact, among others. To the extent the COVID-19 pandemic adversely affects our business, operations and financial results, it may also have the effect of heightening other risks described herein, such as those relating to general economic conditions, demand for our products, relationships with suppliers and sales efforts.

Business, Economic, Industry and Operational Risks

Changes in general economic conditions, geopolitical conditions, domestic and foreign trade policies and other factors beyond our control may adversely impact our business and operating results.

Our operations and performance depend significantly on global, regional and U.S. economic and geopolitical conditions. In recent years, there has been discussion and dialogue regarding potential significant changes to U.S. trade policies, legislation, treaties and tariffs, including the replacement of the North American Free Trade Agreement (“NAFTA”) with the United States Mexico Canada Agreement (“USMCA”) which became effective on July 1, 2020. At this time, it is unknown whether the current administration will attempt to renegotiate the terms of the USMCA or implement its own policies and regulations to replace those established by the Trump Administration. In addition, with changes in the balance of power between the parties in the U.S. Congress, new legislation could be passed into law. It is unclear what the effect of any such action would have, either positively or negatively, on our industry or our Company. If any new legislation and/or regulations are implemented, or if existing trade agreements are renegotiated, it may be inefficient and expensive for us to alter our business operations in order to adapt to or comply with such changes.

In addition, any changes in U.S. trade policy could trigger retaliatory actions by affected countries, such as China, resulting in a “trade war.” A trade war could result in increased costs for raw materials we use in our manufacturing and could result in foreign governments imposing tariffs on products that we export outside the U.S. or otherwise limiting our ability to sell our products abroad. Furthermore, regulations and trade policies implemented by foreign governments to reduce the costs of healthcare or promote business in their countries could also cause our sales to decline in such countries. For example, China has implemented a volume-based procurement process designed to decrease prices for medical devices and other products. These events could result in increased costs, lower margins and lower sales than we would otherwise expect, which could have a material adverse effect on our business, financial condition, results of operations, or cash flows. Our customers and suppliers may also be affected by these events, so even if we are not directly impacted, we may still experience lower demand for our products and increases in our manufacturing costs because of the effects these events may have on our customers and suppliers.

The United Kingdom’s (“UK”) departure from the European Union (“EU”) (commonly known as “Brexit”) has created uncertainties affecting business operations in the UK, the EU and a number of other countries, including with respect to compliance with the regulatory regimes regarding the labeling and registration of the products we sell in these markets. While we have taken proactive steps to mitigate possible disruption to our operations, we could face increased costs, volatility in exchange rates, market instability and other risks, depending on the effects of existing and future agreements between the UK and EU regarding Brexit and the future EU/UK trading relationship.

The above factors, including a number of other economic and geopolitical factors both in the U.S. and abroad, could ultimately have material adverse effects on our business, financial condition, results of operations or cash flows, including the following :

- a global or regional economic slowdown in any of our market segments;
- postponement of spending, in response to tighter credit, financial market volatility and other factors;

- effects of significant changes in economic, monetary and fiscal policies in the U.S. and abroad including significant income tax changes, currency fluctuations and inflationary pressures;
- rapid material escalation of the cost of regulatory compliance and litigation;
- changes in government policies and regulations affecting the Company or its significant customers;
- industrial policies in various countries that favor domestic industries over multinationals or that restrict foreign companies altogether;
- difficulties protecting intellectual property;
- new or stricter trade policies and tariffs enacted by countries, such as China, in response to changes in U.S. trade policies and tariffs;
- longer payment cycles;
- credit risks and other challenges in collecting accounts receivable; and
- the impact of each of the foregoing on outsourcing and procurement arrangements.

Consolidation in the healthcare industry, group purchasing organizations and public procurement policies have led to demands for price concessions, which reduces our revenues and may harm our ability to sell our products at prices necessary to support our current business strategies.

Healthcare costs have risen significantly over the past decade, which has resulted in or led to numerous cost reform initiatives by legislators, regulators and third-party payers. Cost reform has triggered a consolidation trend in the healthcare industry to aggregate purchasing power, which has created more requests for pricing concessions and is expected to continue in the future. Additionally, many of our customers belong to group purchasing organizations or integrated delivery networks that use their market power to consolidate purchasing decisions for these hospitals and healthcare service providers. These customers are often able to obtain lower prices and more favorable terms because of the potential sales volume they represent, which has led to lower revenues and required us to take on additional liability. We expect that market demand, government regulation, third-party coverage and reimbursement policies and societal pressures will continue to change the healthcare industry worldwide, resulting in further business consolidations and alliances among our customers, which may exert further downward pressure on the prices of our products.

Termination or interruption of, or a failure to monitor, our supply relationships and increases in labor costs and the price of our component parts, finished products, third-party services or raw materials, particularly petroleum-based products, could have an adverse effect on our business, operations or financial condition.

We rely on raw materials, component parts, finished products and third-party services in connection with our business. For example, substantially all of our products are sterilized by only a few different entities. If any of these sterilizers goes out of business or fails to comply with quality or regulatory requirements, we may be unable to find a suitable supplier to replace them. This could significantly delay or stop production and cause sales of such products to materially decline. Additionally, many of our products have components that are manufactured using resins, plastics and other petroleum-based materials which are available from a limited number of suppliers. We are experiencing a growing trend among suppliers of polymer resins to refuse to supply resin to the medical device manufacturers or to require such manufacturers to assume additional risks due to the potential for product liability claims. Additionally, there is no assurance that crude oil supplies will be uninterrupted or that petroleum-based manufacturing materials will be available for purchase in the future. Any interruption to the supply of polymers or petroleum-based resins could have an adverse effect on our ability to produce, or on the cost to produce, our products.

The availability and price of these materials, parts, products and services are affected by a variety of factors beyond our control, including the willingness of suppliers to sell into the medical device industry, changes in supply and demand, general economic conditions, labor costs, fuel-related transportation costs, liability concerns, climate change (including new and existing laws and regulations to address climate change), competition, import duties, tariffs, currency exchange rates and political uncertainty around the world. Our suppliers often pass some of their cost increases on to us, and if such increased costs are sustained or increase further, our suppliers may pass further cost increases on to us. In addition to the effect on resin prices, transportation costs generally increase based on the effect of higher crude oil prices, and these increased transportation costs are often passed on to us. Our costs may also be impacted by laws to increase minimum wages, including the potential increase to the federal minimum wage in the United States that has been recently proposed by the current administration.

Our ability to recover such increased costs may depend upon our ability to raise prices on our products. Due to the highly competitive nature of the healthcare industry and the cost-containment efforts of our customers and third-party payers, we may be unable to pass along cost increases through higher prices. If we are unable to fully recover these costs through price increases or offset these increases through cost reductions, or we experience terminations or interruption of our relationships with our suppliers, we could experience lower margins and profitability, and our results of operations, financial condition and cash flows could be materially harmed.

Any damage or interruption to our facilities, infrastructure, manufacturing processes or information technology systems, or those of our suppliers, could result in lost revenues and our business could be seriously harmed.

Damage or interruption to our facilities or systems relating to manufacturing, distribution, research and development, or information technology because of fire, extreme weather conditions, natural disaster, power loss, communications failure, geopolitical disruption, labor strikes, riots, cyber-attack, health epidemics and pandemics, unauthorized entry or other events could significantly disrupt our operations, the operations of suppliers and critical infrastructure. These events may also delay or prevent product manufacturing and shipment during the time required to repair, rebuild or replace the damaged facilities or systems. We have recently closed certain facilities, and the resulting consolidation may further exacerbate the effects of these events or make it more difficult for us to respond to the effects of these events. Climate change may increase both the frequency and severity of natural disasters and, consequently, risks to our operations and growth. Although we maintain property damage and business interruption insurance coverage on our facilities, our insurance might not cover all losses under such circumstances, and we may not be able to renew or obtain such insurance in the future on acceptable terms with adequate coverage or at reasonable costs.

We may be unable to compete in our markets, particularly if there is a significant change in relevant practices or technology.

The markets in which our products compete are highly competitive. We face competition from many companies which are larger, better established, have greater financial, technical and other resources and possess a greater market presence than we do. Such resources and market presence may enable our competitors to more effectively market competing products or to market competing products at reduced prices in order to gain market share.

In addition, our ability to compete successfully is dependent, in part, upon our response to changes in technology and upon our efforts to develop and market new products which achieve significant market acceptance. Competing companies with substantially greater resources than us are actively engaged in research and development of new methods, treatments, drugs, and procedures to treat or prevent cardiovascular disease that could limit the market for our products and eventually make some of our products obsolete. A reduction in the demand for a significant number of our products, or a few key products, could have a material adverse effect on our business, operations or financial condition.

Strategic, Business Development and Employee Attraction and Retention Risks

We may be unable to successfully manage growth and maintain operational efficiencies.

Successful implementation and execution of our business strategy will require that we effectively manage our growth. As the Company grows, we are often faced with decisions to (i) expand certain product lines and discontinue others, (ii) open or expand new facilities and close others, (iii) allocate resources between new and established markets, or (iv) allocate resources between the expansion of organic business and the acquisition of new product lines. The outcome of each choice in these decisions is uncertain, and even with the exercise of excellent business judgment, results may not align with expectations because of the many factors listed in this section. In addition, our management will need to continue to implement changes in certain aspects of our business, improve our information systems, infrastructure and operations to respond to increased demand, attract and retain qualified personnel, and develop, train, and manage an increasing number of employees. We may not have the resources available to implement certain necessary changes, and as a result, growth may be delayed or we may not be able to take advantage of certain business opportunities. Growth has placed, and will likely continue to place, an increasing strain on our management, sales and other personnel, and on our financial, product design, marketing, distribution, technology and other resources. Any failure to manage growth effectively could have a material adverse effect on our business, operations or financial condition.

Substantial costs are incurred when identifying, evaluating, negotiating and closing acquisitions, and failure to integrate acquired businesses may adversely impact our business and financial results.

Over the past several years, we have completed a series of significant acquisitions and, in the future we may consider other potential acquisitions and strategic transactions, certain of which may also be significant. We have incurred, and will likely continue to incur, significant expenses in connection with negotiating and consummating various acquisition and other strategic transactions. As we grow through acquisitions, we face the additional challenges of integrating the operations, culture, information management systems and other characteristics of the acquired entity with our own, including sales models related to capital equipment. Our efforts to integrate acquisitions may be hampered by delays, the loss of certain employees, suppliers or customers, proceedings resulting from employment terminations, culture clashes, unbudgeted costs, and other issues, which may occur at levels that are more severe or prolonged than anticipated.

Additionally, past and future acquisitions may increase the risks of competition we face by, among other things, extending our operations into industry segments and product lines where we have few existing customers or qualified sales personnel and limited expertise. Further, as a result of certain acquisitions, we are selling capital equipment, in addition to our historical sales of disposable medical devices. The sale of capital equipment may create additional risks and potential liability, which may negatively affect our business, operations or financial condition.

In addition, we may not realize competitive advantages, synergies or other benefits anticipated in connection with any such acquisition or other transaction. If we do not adequately identify and value targets for, or manage issues related to, acquisitions and strategic transactions, such transactions may not produce the anticipated benefits and have an adverse effect on our business, operations or financial condition.

We will be required to expend significant resources for research, development, testing and regulatory approval or clearance of our products under development, and these products may not be developed successfully or approved for commercial use.

Most of our products under development will require significant additional research, development, engineering and, in some cases, preclinical and clinical testing, as well as regulatory approval or clearance and a commitment of significant additional resources prior to their commercialization. It is possible that our products may not:

- be developed successfully;
- be proven safe or effective in clinical trials;
- offer therapeutic or other improvements over current treatments and products;
- meet applicable regulatory standards or receive regulatory approvals or clearances;
- be capable of production in commercial quantities at acceptable costs and in compliance with regulatory requirements;
- be successfully marketed; or
- be covered by private or public insurers.

We may be unable to accurately forecast customer demand for our products and manage our inventory.

To ensure adequate supply, we must forecast our inventory needs and place orders with our suppliers based on estimates of future demand for particular products. Our ability to accurately forecast demand for our products could be negatively affected by many factors, including our failure to accurately manage our expansion strategy and customer acceptance of new products, product introductions by our competitors, an increase or decrease in customer demand for our products or for products of our competitors, unanticipated changes in general market conditions or regulatory matters and weakening of economic conditions, effects of the COVID-19 pandemic or consumer confidence in future economic conditions. Inventory levels in excess of customer demand may result in inventory write-downs or write-offs, which would impact our gross margin. Conversely, if we underestimate customer demand for our products, our manufacturing facilities may not be able to deliver products to meet our order requirements, which could damage our reputation and customer relationships.

Our forecasts of customer demand and related decisions that we make about production levels may take into account potential opportunities created by regulatory issues, supply disruptions or other challenges experienced by our competitors.

We generally do not know the extent and cannot predict the duration of these challenges experienced by our competitors. As a result, our estimates about related increased demand for our products are inherently uncertain and subject to change. If our estimates incorrectly forecast the extent or duration of this increased demand, or the product types to which it relates, our revenues, margins and earnings could be adversely affected.

We lack direct sales and marketing capabilities in many countries and are dependent on our distributors for the commercialization of our products in these countries. If we are unable to maintain or establish sales capabilities on our own or through third parties, we may not be able to commercialize any of our products in those countries.

We have no or limited direct sales or marketing capabilities in some of the regions and countries in which our products are sold, including, among others, China, Japan, Russia and India. We have entered into distribution agreements with third parties to market and sell our products in those countries in which we do not have a direct sales force and in those countries in which we utilize a “modified direct” sales approach. If we are unable to maintain or enter into such distribution arrangements on acceptable terms, or at all, we may not be able to successfully commercialize our products in certain countries. Moreover, to the extent that we enter into distribution arrangements with other companies, our revenues, if any, will depend on the terms of any such arrangements and the efforts of others. These efforts may turn out not to be sufficient and our third-party distributors may not effectively sell our products. In addition, although our contract terms require our distributors to comply with all applicable laws regarding the sale of our products, including anti-competition, anti-corruption, anti-money laundering and sanctions laws, we may not be able to ensure proper compliance. If our distributors fail to effectively market and sell our products in full compliance with applicable laws, our results of operations and business could be impacted.

Actions of activist shareholders, including a proxy contest, could be disruptive and potentially costly and the possibility that activist shareholders may contest, or seek changes that conflict with, our strategic direction could cause uncertainty about the strategic direction of our business.

On May 26, 2020, we entered into an agreement with Starboard Value and Opportunity Master Fund Ltd (“Starboard”). Starboard is a significant shareholder and had previously informed us that it intended to nominate up to seven individuals to stand for election as directors at our 2020 Annual Meeting of Shareholders. Pursuant to the agreement, Starboard agreed to withdraw its slate of directors and we agreed to nominate three new directors. These three directors were elected to our Board of Directors at the 2020 Annual Meeting of Shareholders. Additional terms of the agreement with Starboard can be found in our Current Report on Form 8-K, filed with the SEC on May 27, 2020.

While our Board of Directors and management team strive to maintain constructive, ongoing communications with all of our shareholders, including Starboard, and we welcome constructive input from all shareholders toward the shared goal of enhancing stakeholder value, activist campaigns that contest, or seek to change, our strategic direction could have an adverse effect on us because: (i) responding to actions by activist shareholders could disrupt our operations, be costly and time consuming, and divert the attention of our Board of Directors and senior management from the pursuit of business strategies, which could adversely affect our results of operations and financial condition; (ii) perceived uncertainties as to our future direction may lead to the perception of a change in the direction of the business, instability or lack of continuity which may be exploited by our competitors, cause concern to our current or potential customers, cause concern in the minds of our employees and lead to the departure of critical employees, result in the loss of potential business opportunities and make it more difficult to attract and retain qualified personnel and business partners; and (iii) these types of actions could cause significant fluctuations in our stock price based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

We are dependent upon key personnel.

Our success is dependent on key management personnel, including Fred P. Lampropoulos, our Chairman of the Board, President and Chief Executive Officer. Mr. Lampropoulos is not subject to any agreement prohibiting his departure, and we do not maintain key man life insurance on his life. The loss of Mr. Lampropoulos, or of certain other key management personnel, could have a materially adverse effect on our business and operations. Our success also depends on, among other factors, the successful recruitment and retention of key operating, manufacturing, sales and other personnel.

Intellectual Property

We may not be able to effectively protect our intellectual property, which could harm our business and financial condition.

Our ability to remain competitive is dependent, in part, upon our ability to protect our intellectual property rights and prevent other companies from using our intellectual property to produce competing products. We seek to protect our intellectual property rights through a combination of confidentiality and license agreements, and through registrations under patent, trademark, copyright and trade secret laws. However, these measures afford only limited protection and may be challenged, invalidated, or circumvented by third parties. Additionally, these measures may not prevent competitors from duplicating our products or gaining access to our proprietary information and technology. Third parties may copy all or portions of our products or otherwise use our intellectual property without authorization, and we may not be able to prevent the unauthorized disclosure or use of our intellectual property by consultants, vendors, former employees and current employees. Despite our efforts to restrict such unauthorized disclosure or use through nondisclosure agreements and other contractual restrictions, we may not be able to enforce these contractual provisions or we may incur substantial costs enforcing our legal rights.

Third parties may also develop similar or superior technology independently or by designing around our patents. In addition, the laws of some foreign countries do not offer the same level of protection for our intellectual property as the laws of the U.S. Further, no assurances can be given that any patent application we have filed or will file will result in a patent being issued, or that any existing or future patents will afford adequate or meaningful protection against competitors or against similar technologies. All of our patents will eventually expire and some of our patents, including patents protecting significant elements of our technology, will expire within the next several years.

Filing, prosecuting and defending our intellectual property in countries throughout the world may be impractical and prohibitively expensive. Litigation may be necessary in the future to enforce our intellectual property rights, protect our trade secrets or to determine the validity and scope of proprietary rights claimed by others. Any such lawsuits that we might initiate could be expensive, take significant time and divert management's attention from our business. Litigation also puts our patents at risk of being invalidated or interpreted narrowly. Additionally, we may provoke third parties to assert claims against us. Moreover, the legal systems of certain countries, particularly certain developing countries, do not favor the aggressive enforcement of patents and other intellectual property protections, which makes it difficult to stop infringement. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, if any, may not be commercially valuable.

Third parties claiming that we infringe their intellectual property rights could cause us to incur significant legal or licensing expenses and prevent us from selling our products.

Our commercial success will depend in part on not infringing or violating the intellectual property rights of others. From time to time, third parties may claim that we have infringed their intellectual property rights, including claims regarding patents, copyrights, trademarks, and trade secrets. We may not be aware of whether our products do or will infringe existing or future patents or the intellectual property rights of others. Because of constant technological change in the medical device industry in which we compete, the extensive patent coverage of existing technologies, and the rapid rate of issuance of new patents, it is possible that the number of these claims may grow. In addition, former employers of our former, current, or future employees may assert claims that such employees have improperly disclosed to us the confidential or proprietary information of such former employers. Any such claim, with or without merit, could result in costly litigation, distract management from day-to-day operations and harm our brand or reputation, which in turn could harm our business or results of operations. If we are not successful in defending such claims, we could be required to (i) stop selling our products, (ii) redesign our products, (iii) discontinue the use of related trademarks, technologies or designs, (iv) pay damages or indemnification obligations, or (v) enter into royalty or licensing arrangements. Royalty or licensing arrangements that we may seek in such circumstances may not be available to us on commercially reasonable terms or at all and we may not be able to redesign applicable products in a way to avoid infringing the intellectual property rights of others. We have made and expect to continue making significant expenditures to investigate, defend and settle claims related to the use of technology and intellectual property rights as part of our strategy to manage this risk.

Regulatory, Litigation, Tax and Legal Compliance Risks

The FDA regulatory clearance process is expensive, time-consuming and uncertain, and the failure to obtain and maintain required regulatory clearances and approvals could prevent us from commercializing our products.

Before we can introduce a new device or a new use of or a claim for a cleared device in the U.S., we must generally obtain clearance from the FDA, unless an exemption from premarket review or an alternative procedure, such as a *de novo* risk-based classification or a humanitarian device exemption, applies. The FDA clearance and approval processes for medical devices are expensive, uncertain and time-consuming.

We may make changes to our cleared products without seeking additional clearances or approvals if we determine such clearances or approvals are not necessary and document the basis for that conclusion. However, the FDA may disagree with our determination or may require additional information, including clinical data, to be submitted before a determination is made, in which case we may be required to delay the introduction and marketing of our modified products, redesign our products, conduct clinical trials to support any modifications and pay significant regulatory fines or penalties. In addition, the FDA may not approve or clear our products for the indications that are necessary or desirable for successful commercialization.

In particular, we are currently conducting a large, multinational pivotal human clinical trial of the Wrapsody™ Stent Graft. A successful outcome of this trial is required to obtain approval from the FDA and some international regulatory agencies. However, there is no assurance that we will be able to obtain the necessary regulatory clearances or approvals for the Wrapsody™ Stent Graft or any other products on a timely basis or at all. Further, the FDA may change its clearance and approval policies, adopt additional regulations or revise existing regulations, or take other actions which may prevent or delay approval or clearance of our products under development or impact our ability to modify our currently cleared products on a timely basis. Delays in receipt of, or failure to obtain, regulatory clearances for any product enhancements or new products we develop would result in delayed or no realization of revenue from such product enhancements or new products and in substantial additional costs, which could decrease our profitability.

In addition, we are required to continue to comply with applicable FDA and other regulatory requirements once we have obtained clearance or approval for a product. We cannot provide assurance that we will successfully maintain the clearances or approvals we have received or may receive in the future. The loss of previously received clearances or approvals, or the failure to comply with existing or future regulatory requirements, could also have a material adverse effect on our business.

Our products are generally subject to regulatory requirements in foreign countries in which we sell those products. We will be required to expend significant resources to obtain regulatory approvals or clearances of our products, and there may be delays and uncertainty in obtaining those approvals or clearances.

In order to sell our products in foreign countries, generally we must obtain regulatory approvals and comply with the regulations of those countries. These regulations, including the requirements for approvals or clearances and the time required for regulatory review, vary from country-to-country.

The EU requires that manufacturers of medical devices obtain the right to affix the CE mark, for compliance with the MDD, to medical devices before selling them in member countries of the EU. The CE mark is an international symbol of adherence to quality assurance standards and compliance with applicable European medical device directives. In order to obtain the authorization to affix the CE mark to products, a manufacturer must obtain certification that its processes and products meet certain European quality standards.

In May 2017, the EU adopted the MDR, which will repeal and replace the MDD with effect from May 26, 2021. Under transitional provisions, medical devices with notified body certificates issued under the MDD prior to May 26, 2021 may continue to be placed on the market for the remaining validity of the certificate, until May 26, 2024 at the latest. After the expiry of any applicable transitional period, only devices that have been CE marked under the MDR may be placed on the market in the EU. The MDR includes increasingly stringent requirements in multiple areas, such as pre-market clinical evidence (some of which are now in effect), review of high-risk devices, labeling and post-market surveillance. Under the MDR, pre-market clinical data will now be required to obtain CE Mark approval for high-risk, new and modified medical

devices. We plan to be fully compliant with the MDR ahead of expiry dates, however for multiple reasons, including but not limited to changing business strategies, costs of obtaining MDR certification, availability of necessary data and Notified Body capacity, there may be some products that we will discontinue in the EU or which may not be fully compliant at the time of expiry.

China and some of its provinces have also implemented policies and regulations to reduce prices for medical devices, such as a volume-based procurement process. China-based companies may also have certain competitive advantages because of these policies and regulations.

Complying with and obtaining regulatory approval in foreign countries, including compliance with the MDR when effective, have caused and will likely continue to cause us to experience more uncertainty, risk, expense and delay in commercializing products in certain foreign jurisdictions, which could have a material adverse impact our net sales, market share and operating profits from our international operations.

The medical device industry is subject to extensive scrutiny and regulation by governmental authorities and we are currently operating under a Corporate Integrity Agreement. If governmental authorities determine that we have violated laws, regulations or our Corporate Integrity Agreement, our company or our employees may be subject to various penalties, including civil or criminal penalties.

Our medical devices and business activities are subject to rigorous regulation by the FDA and other federal, state and foreign governmental authorities. These authorities and domestic and foreign legislators continue to scrutinize the medical device industry. In recent years, the U.S. Congress, DOJ, the OIG and the Department of Defense, as well as foreign counterparts, have issued subpoenas and other requests for information to medical device manufacturers, primarily related to financial arrangements with healthcare providers, regulatory compliance and product promotional practices.

In October 2020, we entered into a Settlement Agreement with the DOJ to resolve their investigation into our past marketing transactions and practices. Under the Settlement Agreement and related agreements, we paid approximately \$18.7 million (which includes interest and certain fees) in exchange for a release from liability for the alleged conduct. The settlement was also conditioned upon our entering into a CIA with the OIG, see “Regulation – DOJ Settlement and Corporate Integrity Agreement” in Item 1 of this report. Even if we fully comply with the CIA, we have incurred, and anticipate that we will continue to incur, substantial costs in connection with the settlement and compliance with the CIA. It is unclear what impact the settlement has had and may have on our reputation. This matter has consumed a significant amount of our resources and management’s attention.

We anticipate that government authorities will continue to scrutinize our industry closely, and that additional regulation by government authorities may increase compliance costs, exposure to litigation and other adverse effects on our operations. If we fail to comply with applicable regulatory requirements and the terms of the CIA, we may be subjected to a wide variety of sanctions and enforcement actions, including warning letters that require corrective action, injunctions, product seizures or recalls, suspension of product manufacturing, revocation of approvals, import or export prohibitions, exclusion from participation in government healthcare programs, civil fines and/or criminal penalties, which in turn may have a negative impact our business, results of operations, financial condition and ability to obtain financing on reasonable terms.

We are subject to laws targeting fraud and abuse in the healthcare industry, the violation of which could adversely affect our business or financial results.

Our operations are subject to various state and federal laws targeting fraud and abuse in the healthcare industry, including the federal Anti-Kickback Statute and other anti-kickback laws, which prohibit any person from knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, to induce or reward either the referral of an individual, or the furnishing or arranging for an item or service, for which payment may be made under federal healthcare programs, such as the Medicare and Medicaid programs. Violations of these fraud and abuse-related laws are punishable by criminal or civil sanctions, including substantial fines, imprisonment and exclusion from participation in healthcare programs such as Medicare and Medicaid, any of which could harm our business or financial results. Allegations of such violations could lead to expensive and time-consuming investigations by government authorities and result in conviction

of these violations or settlement costs and additional restrictions, like a CIA, as was the outcome of our DOJ investigation discussed above.

We are also subject to the FCPA, the U.K. Bribery Act, and similar anti-corruption laws in non-U.S. jurisdictions. These laws generally prohibit companies and their intermediaries from illegally offering things of value to any individual for the purpose of obtaining or retaining business. As we continue to expand our business activities internationally, compliance with the FCPA and other anti-corruption laws presents greater challenges to our operations. If our employees or agents violate the provisions of the FCPA or other anti-corruption laws, we may incur fines or penalties, which could have a material adverse effect on our operating results or financial condition.

Limits on reimbursement imposed by governmental and other programs may adversely affect our business and results of operation.

We sell our products to hospitals and other healthcare providers around the world that typically receive reimbursement for the services provided to patients from third-party payers such as government programs (e.g., Medicare and Medicaid in the U.S.) and private insurance programs. The ability of our customers to obtain appropriate reimbursement for the cost of our products from governmental and private third-party payers is critical to our business. Limits on reimbursement imposed by such programs may adversely affect the ability of hospitals and others to purchase our products, which could adversely affect our business and results of operations.

Third-party payers, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs. In general, a third-party payer covers a medical procedure only when the plan administrator is satisfied that the product or procedure is reasonable and necessary to the patient's treatment; however, the cost-effectiveness of the treatment may also be a condition. In addition, in the U.S., no uniform policy of coverage and reimbursement for procedures using our products exists among third-party payers. Therefore, coverage and reimbursement for procedures using our products can differ significantly from payer to payer. In addition, payers continually review new and existing technologies for possible coverage and can, without notice, deny or reverse coverage or alter pre-authorization requirements for new or existing products and procedures. We cannot provide assurance that we will be successful in any efforts we may potentially undertake to reverse such non-coverage decisions. If we are not successful in reversing non-coverage policies, or if third-party payers that currently cover or reimburse certain procedures reverse or limit their coverage of such procedures in the future, or if other third-party payers issue similar policies, our business could be adversely impacted.

Further, we believe that future coverage and reimbursement may be subject to increased restrictions, such as additional preauthorization requirements, both in the U.S. and in international markets. Third-party coverage and reimbursement for procedures using our products or any of our products in development for which we may receive regulatory approval may not be available or adequate in either the U.S. or international markets, which could have an adverse impact on our business.

Our business is subject to complex and evolving U.S., state and international laws and regulations regarding privacy and data protection. Many of these laws and regulations are subject to change and uncertain interpretation and could result in claims, changes to our business practices, penalties, increased cost of operations, or declines in user growth or engagement, or otherwise harm our business.

The U.S. and many other countries in which we conduct our operations have adopted laws and regulations protecting certain data, including medical and personal data (including HIPAA, the HITECH Act and the rules issued thereunder), and requiring data holders and controllers to implement administrative, logical and technical controls and procedures in order to protect the privacy of such data. Individual states have also begun to enact data privacy laws. For example, California's Consumer Protection Act went into effect on January 1, 2020, giving consumers the right to demand certain information and actions from companies who collect personal information. Internationally, some countries have also passed laws and regulations that require individually identifiable data on their citizens to be maintained on local servers and that may restrict transfer or processing of that data. In addition, regulatory authorities around the world are considering a number of additional proposals concerning data protection. These laws and regulations have been, and may continue to be, inconsistent with each other, requiring different approaches in different jurisdictions. In addition, the interpretation and application of medical and personal data protection laws and regulations in the U.S., Europe, China and elsewhere are

often uncertain and in flux. Further, we have incurred, and will likely continue to incur, significant expense in connection with our efforts to comply with those applicable laws and regulations. It is possible that these laws and regulations may be interpreted and applied in a manner that is inconsistent with our data practices, possibly resulting in fines or orders requiring that we change our data practices, which could have an adverse effect on our business and results of operations. Complying with these various laws could cause us to incur substantial costs or require us to change our business practices in a manner adverse to our business.

Legal developments in Europe have created compliance uncertainty regarding certain transfers of personal data from the EU to the U.S. and other non-EU jurisdictions (in particular taking into account the recent decision of the European Court of Justice in Case C-311/18 (Schrems II)). For example, the GDPR, which came into application in the EU on May 25, 2018, applies to our activities conducted from an establishment in the EU or related to products and services that we offer to EU users. The GDPR created a range of new compliance obligations, which could cause us to change our business practices, and significantly increases financial penalties for noncompliance (including possible fines of up to 4% of global annual turnover for the preceding financial year or €20 million (whichever is higher) for the most serious infringements).

Our failure to comply with applicable environmental, health and safety laws and regulations could affect our business, operations or financial condition.

We manufacture and assemble certain products that require the use of hazardous materials that are subject to various national, federal, state and local laws and regulations governing the protection of the environment, health and safety. Moreover, climate change and sustainability efforts and potential climate change regulations could lead to business interruption, significantly increased costs and other adverse consequences to our business. While the cost of compliance with such laws and regulations has not had a material adverse effect on our results of operations historically, compliance with future regulations may require additional capital investments. Additionally, because we use a limited amount of hazardous and other regulated materials in our manufacturing processes, we are subject to certain risks of future liabilities, lawsuits and claims resulting from any substances we manufacture, dispose of or release. Certain environmental laws and regulations may impose “strict liability” for the conduct of, or conditions caused by, others, or for acts that were in non-compliance with all applicable laws at the time the acts were performed, rendering us liable without regard to our negligence or fault. Because of these laws, any accidental release may have an adverse effect on our business, operations or financial condition.

Our operations are also subject to various laws and regulations relating to occupational health and safety. We maintain safety, training and maintenance programs as part of our ongoing efforts to ensure compliance with applicable laws and regulations. Compliance with applicable health and safety laws and regulations has required and continues to require significant expenditures.

We are also subject to corporate social responsibility, or CSR, laws and regulations which require us to monitor the labor standards in our supply chain, including the California Transparency in Supply Chains Act, the UK Modern Slavery Act, and U.S. Federal Acquisition Regulations regarding Combating Trafficking in Persons. These CSR labor laws and regulations may impose additional processes and supplier management systems and have led certain key customers to impose additional requirements on medical device companies, including audits, as a prerequisite to selling products to such customers, which could result in increased costs for our products, the termination or suspension of certain suppliers, and reductions in our margins and profitability.

Use of our products in unapproved circumstances could expose us to liabilities.

The marketing clearances and approvals from the FDA and other regulators of certain of our products are, or are expected to be, limited to specific uses. We are prohibited from marketing or promoting any uncleared or unapproved use of our product. However, physicians may use these products in ways or circumstances other than those strictly within the scope of the regulatory approval or clearance. The use of our products for unauthorized purposes could arise from our sales personnel or distributors violating our policies by providing information or recommendations about such unauthorized uses. Consequently, claims may be asserted by the FDA or other enforcement agencies that we are not in compliance with applicable laws or regulations or have improperly promoted our products for uncleared or unapproved uses. The FDA or such other agencies could require a recall of products or allege that our promotional activities misbrand or adulterate our

products or violate other legal requirements, which could result in investigations, prosecutions, fines or other civil or criminal actions.

Our products may be subject to product liability claims and warranty claims.

Our products are used in connection with invasive procedures and in other medical contexts that entail an inherent risk of product liability claims. If medical personnel or their patients suffer injury or death in connection with the use of our products, whether as a result of a failure of our products to function as designed, an inappropriate design, inadequate disclosure of product-related risks or information, improper use, or for any other reason, we could be subject to lawsuits seeking significant compensatory and punitive damages. Product liability claims may be brought by individuals or by groups seeking to represent a class. We have previously faced claims by patients claiming injuries from our products. To date, these claims have not resulted in material harm to our operations or financial condition. The outcome of this type of personal injury litigation is difficult to assess or quantify. We maintain product liability insurance; however, there is no assurance that this coverage will be sufficient to satisfy any claim made against us. Moreover, any product liability claim brought against us could result in significant costs, divert our management's attention from other business matters or operations, increase our product liability insurance rates, or prevent us from securing insurance coverage in the future. As a result, any lawsuit seeking significant monetary damages may have a material adverse effect on our business, operations or financial condition.

We generally offer a limited warranty for the return of product due to defects in quality and workmanship. We attempt to estimate our potential liability for future product returns and establish reserves on our financial statements in amounts that we believe will be sufficient to address our warranty obligations; however, our actual liability for product returns may significantly exceed the amount of our reserves. If we underestimate our potential liability for future product returns, or if unanticipated events result in returns that exceed our historical experience, our financial condition and operating results could be materially harmed.

In addition, the occurrence of such an event or claim could result in a recall of products from the market or a safety alert relating to such products. Such a recall could result in significant costs, reduce our revenue, divert management's attention from our business, and harm our reputation.

Our products may cause or contribute to adverse medical events that we are required to report to the FDA or other governmental authorities, and if we fail to do so, we may be subject to sanctions that may materially harm our business.

Our products are subject to medical device reporting regulations, which require us to report to the FDA information that reasonably suggests one of our products may have caused or contributed to a death or serious injury, or one of our products malfunctioned and, if the malfunction were to recur, this device or a similar device that we market would be likely to cause or contribute to a death or serious injury. Our obligation to report under the medical device reporting regulations is triggered on the date on which we become aware of information that reasonably suggests a reportable adverse event occurred. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or if the product characteristic that caused the adverse event is removed in time from our products. If we fail to comply with our medical device reporting obligations, the FDA could issue warning letters or untitled letters, take administrative actions, commence criminal prosecution, impose civil monetary penalties, demand or initiate a product recall, seize our products, or delay the clearance of our future products.

Our employees, independent contractors, consultants, manufacturers and distributors may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements.

We are exposed to the risk that our employees, independent contractors, consultants, manufacturers and distributors may engage in fraudulent conduct or other illegal activity. Misconduct by these parties could include intentional, reckless or negligent conduct or disclosure of unauthorized activities to us that violates healthcare laws and regulations of the FDA and other federal, state and international authorities, manufacturing standards, and laws that require the true, complete and accurate reporting of financial information or data. We have adopted a code of business conduct and ethics, and a global anti-corruption policy, but it is not always possible to identify and deter misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from

governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant civil, criminal and administrative penalties.

We may be a party to litigation in the course of our business or otherwise, which could affect our financial condition and results of operations.

We may become party to or otherwise involved in legal proceedings, claims or other legal matters, arising in the course of our business. In particular, our company, our Chief Executive Officer and our Chief Financial Officer have been named in a complaint filed in the Central District of California, which alleges violations of certain federal securities laws. Legal proceedings can be complex and take many months, or even years, to reach resolution, with the final outcome depending on a number of variables, some of which are not within our control. Litigation is subject to significant uncertainty and may be expensive, time-consuming, and disruptive to our operations. Although it is our intention to vigorously defend ourselves in such legal proceedings, their ultimate resolution and potential financial and other impacts on us are uncertain. If a legal proceeding is resolved against us, it could result in significant compensatory damages or injunctive relief that could materially adversely affect our financial condition, results of operations and cash flows.

Information Technology and Cybersecurity Risks

We rely on the proper function, availability and security of information technology systems to operate our business, and a material disruption of critical information systems or a material breach in the security of our systems may adversely affect our business and customer relationships.

We rely on information technology systems (including technology from third-party providers) to process, transmit, and store electronic information in our day-to-day operations, including sensitive personal information and proprietary or confidential information. We also rely on our technology infrastructure, among other functions, to interact with customers and suppliers, fulfill orders and bill, collect and make payments, ship products, provide support to customers, fulfill contractual obligations and otherwise conduct business. Our internal information technology systems, as well as those systems maintained by third-party providers, may be subjected to computer viruses or other malicious code, unauthorized access attempts, and cyber-attacks, any of which could result in data leaks or otherwise compromise our confidential or proprietary information and disrupt our operations. Cyber-attacks are becoming more sophisticated and frequent, and there can be no assurance that our protective measures have prevented or will prevent security breaches, any of which could have a significant impact on our business, reputation and financial condition, particularly attacks that result in our intellectual property and other confidential information being accessed or stolen.

We rely on third-party vendors to supply and support certain aspects of our information technology systems. These third-party systems could also become vulnerable to cyber-attacks, malicious intrusions, breakdowns, interference or other significant disruptions, and may contain defects in design or manufacture or other problems that could result in system disruption or compromise the information security of our own systems. In addition, we continue to grow in part through business and product acquisitions and, as a result, may face risks associated with defects and vulnerabilities in the systems operated by the other parties to those transactions, or difficulties or other breakdowns or disruptions in connection with the integration of the acquired businesses and products into our information technology systems.

Cyber-attacks could also result in unauthorized access to our systems and products, including personal information of individuals, which could trigger notification requirements, encourage actions by regulatory bodies, result in adverse publicity, prompt us to offer credit support products or services to affected individuals and lead to class action or other civil litigation. If we fail to monitor, maintain or protect our information technology systems and data integrity effectively or fail to anticipate, plan for or manage significant disruptions to these systems, we could (i) lose customers, (ii) be subject to fraud, (iii) breach our agreements with or duties toward customers, physicians, other health care professionals and employees, (iv) be subject to regulatory sanctions or penalties, (v) incur expenses or lose revenues, (vi) sustain damage to our reputation, or (vii) suffer other adverse consequences. Unauthorized tampering, adulteration or interference with our products may also create issues with product functionality that could result in a loss of data, risk to patient safety, and product recalls or field actions. Any of these events could have a material adverse effect on our business, operations or financial condition.

Market, Liquidity and Credit Risks

The agreements and instruments governing our debt contain restrictions and limitations that could significantly affect our ability to operate our business, as well as significantly affect our liquidity.

On July 31, 2019 we entered into a Third Amended and Restated Credit Agreement (“Third Amended Credit Agreement”), with Wells Fargo Bank, National Association, as administrative agent and a lender, and Wells Fargo Securities, LLC, BOFA Securities, Inc., HSBC Bank USA, National Association, and U.S. Bank National Association as joint lead arrangers and joint bookrunners, and Bank of America, N.A., HSBC Bank USA, National Association and U.S. Bank National Association as co-syndication agents. In addition, Bank of America, N.A., HSBC Bank USA, National Association, U.S. Bank, National Association, BMO Harris Bank, N.A., and MUFG Union Bank, Ltd. are parties to the Third Amended Credit Agreement as lenders. The Third Amended Credit Agreement amends and restates in its entirety our previously outstanding Second Amended and Restated Credit Agreement and all amendments thereto (the “Second Amended Credit Agreement”). The Third Amended Credit Agreement contains a number of significant covenants that could adversely affect our ability to operate our business, our liquidity or our results of operations. These covenants restrict, among other things, our incurrence of indebtedness, creation of liens or pledges on our assets, mergers or similar combinations or liquidations, asset dispositions, repurchases or redemptions of equity interests or debt, issuances of equity, payment of dividends and certain distributions and entry into related party transactions.

We have pledged substantially all of our assets as collateral for the Third Amended Credit Agreement. Our breach of any covenant in the Third Amended Credit Agreement, not otherwise cured, waived or amended, could result in a default under that agreement and could trigger acceleration of the underlying obligations. Any default under the Third Amended Credit Agreement could adversely affect our ability to service our debt and to fund our planned capital expenditures and ongoing operations. The administrative agent, joint lead arrangers, joint bookrunners and lenders under the Third Amended Credit Agreement have available to them the remedies typically available to lenders and secured parties, including the ability to foreclose on the collateral we have pledged. It could lead to an acceleration of indebtedness and foreclosure on our assets.

As currently amended, the Third Amended Credit Agreement provides for potential borrowings of up to \$750 million. Such increased borrowing limits may make it more difficult for us to comply with leverage ratios and other restrictive covenants in the Third Amended Credit Agreement. We may also have less cash available for operations and investments in our business, as we will be required to use additional cash to satisfy the minimum payment obligations associated with this increased indebtedness.

We depend on generating sufficient cash flow to fund our debt obligations, capital expenditures, and ongoing operations.

We are dependent on our cash on hand and free cash flow to fund our debt obligations, capital expenditures and ongoing operations. Our ability to service our debt and to fund our planned capital expenditures and ongoing operations will depend on our ability to continue to generate cash flow. If we are unable to generate sufficient cash flow or we are unable to access additional liquidity sources, we may not be able to service or repay our debt, operate our business, respond to competitive challenges, or fund our other liquidity and capital needs.

The market price of our common stock has been, and may continue to be, volatile.

The market price of our common stock has recently been, and may in the future be, volatile for various reasons, including those discussed in these risk factors. Other events that could cause volatility in our stock, include without limitation, variances in our financial results; analysts’ and other projections or recommendations regarding our common stock specifically or medical technology stocks generally; any restatement of our financial statements or any investigation of us by the SEC, DOJ, OIG, FDA, or another regulatory authority; significant litigation or a decline, or rise, of stock prices in capital markets generally.

Fluctuations in foreign currency exchange rates may negatively impact our financial results.

As our operations have grown outside the U.S., we have also become increasingly subject to market risk relating to foreign currency. Those fluctuations could have a negative impact on our margins and financial results. During 2020, 2019 and 2018, the exchange rate between all applicable foreign currencies and the U.S. Dollar resulted in a decrease in net sales of

approximately \$1.3 million, a decrease of approximately \$13.5 million and an increase of approximately \$5.2 million, respectively.

For the year ended December 31, 2020, approximately \$323.8 million, or 33.6%, of our net sales were denominated in foreign currencies, with our CNY- and Euro-denominated sales representing our largest currency risks to net sales. If the rate of exchange between foreign currencies declines against the U.S. Dollar, we may not be able to increase the prices we charge our customers for products whose prices are denominated in those respective foreign currencies. Furthermore, we may be unable or elect not to enter into hedging transactions which could mitigate the effect of declining exchange rates. As a result, if the rate of exchange between foreign currencies declines against the U.S. Dollar, our financial results may be negatively impacted.

Fluctuations in our effective tax rate may adversely affect our business, financial condition or results of operation.

We are subject to taxation in numerous countries, states and other jurisdictions. Our effective tax rate is derived from a combination of applicable tax rates in the various countries, states and other jurisdictions in which we operate. In preparing our financial statements, we estimate the amount of tax that will become payable in each of these jurisdictions. Our effective tax rate may, however, differ from the estimated amount due to numerous factors, including a change in the mix of our profitability from country to country and changes in tax laws. Any of these factors could cause us to experience an effective tax rate significantly different from previous periods or our current expectations, which could have an adverse effect on our business, financial condition or results of operation.

Uncertainty relating to the LIBOR calculation method and potential phasing out of LIBOR after 2021 may adversely affect the interest rates under our Third Amended Credit Agreement.

Certain of the interest rates applicable to our Third Amended Credit Agreement, and applicable to hedging instruments we have purchased to offset interest rate risk under our Third Amended Credit Agreement, are LIBOR-based. On July 27, 2017, the U.K. Financial Conduct Authority (the “FCA”) announced that it will no longer persuade or compel banks to submit rates for the calculation of LIBOR rates after 2021. Actions by the FCA, other regulators or law enforcement agencies may result in changes to the method by which LIBOR is calculated. At this time, it is not possible to predict the effect of any such changes or any other reforms to LIBOR that may be enacted in the UK or elsewhere. Uncertainty as to the nature of such potential changes may adversely affect the trading market for LIBOR-based securities, including the floating rates applicable to our Third Amended Credit Agreement and related hedges. It is possible that the changes in how LIBOR is calculated, changes in the trading market for LIBOR-based securities or actions of the FCA and other government entities may cause unexpected increases in LIBOR rates or a breakdown in the LIBOR systems. If these issues arise, we could experience increased interest rates or uncertainty with respect to the calculation of interest on our Third Amended Credit Agreement and other instruments, which could harm our operations.

Item 1B. Unresolved Staff Comments.

None.

Item 2. Properties.

Our world headquarters is located in South Jordan, Utah, with our principal office for European operations located in Galway, Ireland and our principal office for Asian distribution located in Beijing, China. We also support our European operations from a distribution and customer service facility located in Maastricht, The Netherlands. In addition, we lease commercial space in India, Hong Kong, Italy, Dubai, Australia, Russia, Canada, Brazil, Malaysia, South Korea, Japan, South Africa, Singapore, Great Britain, Vietnam, Taiwan, New Zealand, Indonesia, and France, as well as in Massachusetts, California and Texas. Our principal manufacturing and packaging facilities are located in Utah, Virginia, Texas, Ireland, Brazil, France, Singapore, Mexico, and The Netherlands. Our research and development activities are conducted principally at facilities located in Utah, California, Texas, Ireland, France, and Singapore.

Our total manufacturing, commercial, distribution, and research space is approximately 2.0 million square feet, of which approximately 1.0 million square feet is owned, and 1.0 million square feet is leased.

The following is a summary of the approximate square footage of our key facilities as of December 31, 2020:

Location	Main Purpose	Area (sq. ft.)
Utah	HQ, Manufacturing, Distribution, Research	724,170
Mexico	Manufacturing	196,690
Virginia	Manufacturing, Distribution	187,659
Ireland	Manufacturing, Research	139,680
The Netherlands	Distribution	136,501
Texas	Manufacturing, Research	94,000
Singapore	Manufacturing, Research	68,000
China	Distribution	37,100

Operations associated with our cardiovascular segment utilize all of our facilities, while operations associated with our endoscopy segment are conducted primarily from our facilities located in Utah and Texas.

In February 2020, we completed construction of a manufacturing and research and development facility, which we own, near our South Jordan, Utah, headquarters, totaling approximately 90,000 square feet.

We believe our existing and proposed facilities will generally be adequate for our present and future anticipated levels of operations.

Item 3. Legal Proceedings.

See Note 10 “Commitments and Contingencies” to our consolidated financial statements set forth in Item 8 of this report and incorporated herein by reference.

Item 4. Mine Safety Disclosures.

The disclosure required by this item is not applicable.

PART II

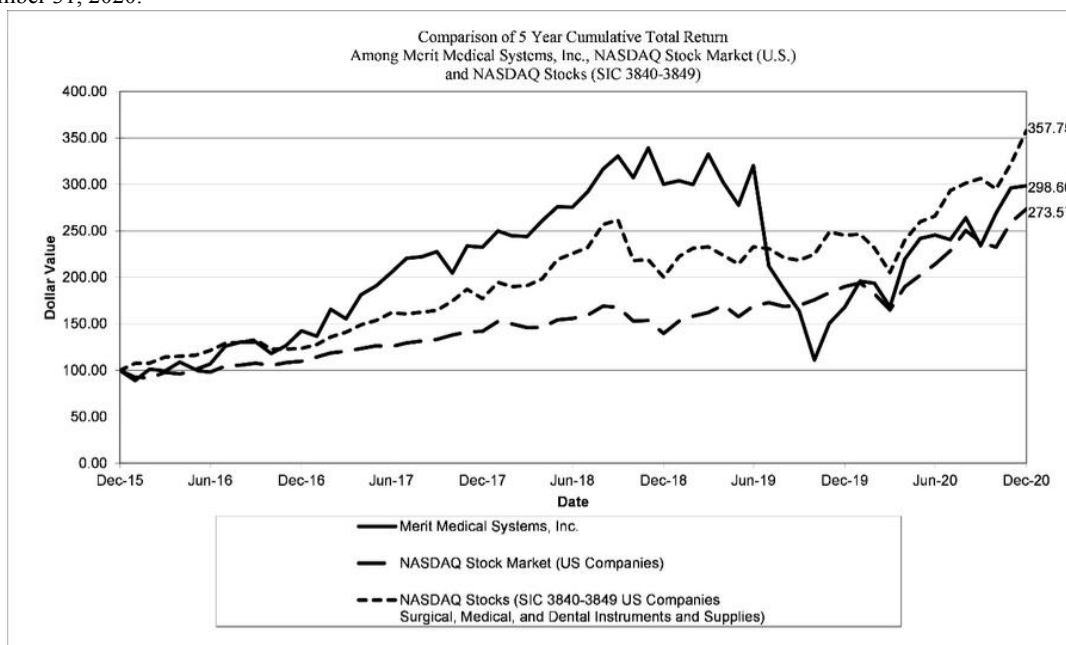
Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Price for the Common Stock

Our common stock is traded on the NASDAQ Global Select Market under the symbol “MMSI.” As of February 24, 2021, the number of shares of our common stock outstanding was 55,690,669 held by approximately 101 shareholders of record, not including shareholders whose shares are held in securities position listings. We did not repurchase any shares during the years ended December 31, 2020, 2019, or 2018.

Performance

The following graph compares the performance of our common stock with the performance of the NASDAQ Stock Market (U.S. Companies) and NASDAQ Stocks (SIC 3840-3849 U.S. Companies - Surgical, Medical and Dental Instruments and Supplies) for a five-year period by measuring the changes in common stock prices from December 31, 2015 to December 31, 2020.



	12/2015	12/2016	12/2017	12/2018	12/2019	12/2020
Merit Medical Systems, Inc.	\$ 100.00	\$ 142.55	\$ 232.38	\$ 300.22	\$ 167.94	\$ 298.60
NASDAQ Stock Market (U.S. Companies)	100.00	109.80	141.97	139.65	190.06	273.57
NASDAQ Stocks (SIC 3840-3849 U.S. Companies)	100.00	123.58	177.27	200.31	245.40	357.75

The stock performance graph assumes for comparison that the value of our common stock and of each index was \$100 on December 31, 2015 and that all dividends were reinvested. Past performance is not necessarily an indicator of future results.

NOTE: Performance graph data is complete through last fiscal year. Performance graph with peer group uses peer group only performance (excludes only Merit). Peer group indices use beginning of period market capitalization weighting. Index Data: Calculated (or Derived) based from CRSP NASDAQ Stock Market (US Companies), Center for Research in Security Prices (CRSP®), Graduate School of Business, The University of Chicago. Copyright 2021. Used with permission. All rights reserved.

Item 6. Selected Financial Data (in thousands, except per share amounts).

	2020	2019	2018	2017	2016
Operating Data:					
Net sales	\$ 963,875	\$ 994,852	\$ 882,753	\$ 727,852	\$ 603,838
Gross profit	401,177	432,366	394,770	326,253	265,025
Income (loss) from operations	(1,562)	15,434	58,617	33,069	34,876
Income (loss) before income taxes	(13,231)	2,193	49,519	35,881	25,386
Net income (loss)	(9,843)	5,451	42,017	27,523	20,121
Diluted earnings (loss) per common share	\$ (0.18)	\$ 0.10	\$ 0.78	\$ 0.55	\$ 0.45
Balance Sheet Data:					
Working capital	\$ 244,703	\$ 272,882	\$ 254,491	\$ 200,501	\$ 155,092
Total assets	1,664,396	1,757,321	1,620,012	1,111,811	942,803
Long-term debt, less current portion	343,722	431,984	373,152	259,013	314,373
Stockholders' equity	958,575	949,944	932,775	676,334	498,189
Cash Flow Data:					
Net cash provided by operating activities	\$ 165,270	\$ 77,813	\$ 86,533	\$ 62,727	\$ 53,599
Capital expenditures for property and equipment	(45,988)	(78,173)	(63,324)	(38,623)	(32,837)

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the Consolidated Financial Statements and related Notes thereto set forth in Item 8 of this report.

Overview

We design, develop, manufacture and market medical products for interventional and diagnostic procedures. For financial reporting purposes, we report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of cardiology and radiology devices, which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases and includes embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors. Within those two operating segments, we offer products focused in five core product categories: peripheral intervention, cardiac intervention, custom procedural solutions, OEM and endoscopy.

For the year ended December 31, 2020, we reported sales of approximately \$963.9 million, down approximately (\$31.0) million or (3.1)%, compared to 2019 sales of approximately \$994.9 million.

Gross profit as a percentage of sales was 41.6% for the year ended December 31, 2020 as compared to 43.5% for the year ended December 31, 2019.

Net loss for the year ended December 31, 2020 was approximately (\$9.8) million, or (\$0.18) per share, as compared to net income of approximately \$5.5 million, or \$0.10 per share, for the year ended December 31, 2019.

During the year ended December 31, 2020, the global COVID-19 pandemic impacted our business in various ways. The most significant impact to sales occurred in the second quarter, with sales for the three-month period ended June 30, 2020 down approximately (14.5)% over the comparative quarter of 2019. In the second half of the year, total sales were approximately equal to the prior year comparative period; however, sales fluctuated by product category due, in part, to

the extent various products are used in deferrable procedures. In response to the COVID-19 pandemic, we implemented certain cost reduction and operating efficiency initiatives, including decreasing discretionary spending, delaying product launches, deferring or rationalizing capital spending and reducing the number of research and development projects, among other initiatives. In April 2020, due to the significant impact of the COVID-19 pandemic on our business, results of operations and financial condition, and uncertainty regarding the scope and duration of that impact, we reduced headcount, implemented targeted furloughs and temporarily reduced salaries for a number of groups, including all executive positions. These temporary salary reductions were eliminated by December 31, 2020.

We continue to focus our efforts to expand our presence in foreign markets, particularly Europe, Middle East and Africa (“EMEA”), China, Southeast Asia, Japan, Australia and Brazil, with the objective of capitalizing on additional market opportunities. These efforts have increased certain of our selling, general and administrative expenses and lengthened our average collection period as certain geographic markets have customary payment terms which are, on average, longer than payment terms in the United States; however, we believe over time this expansion will help improve our profitability. Due in part to restrictions regarding deferrable and elective procedures, our international sales declined for the year ended December 31, 2020. In 2020, international sales were approximately \$413.8 million, or 42.9% of our net sales, down (1.3)% from international sales of \$419.1 million in 2019.

On November 10, 2020, we introduced a corporate transformation initiative known as “Foundations for Growth” with multi-year financial targets for growth and improved profitability. As part of this initiative, we continue review the need to consolidate facilities, strategically reduce operating expenses and incentivize our sales force to focus on products that will improve our financial performance. During 2020, we moved production of 23 products to our facilities in Mexico or Texas, and we closed manufacturing operations in Temecula, California; Malvern, Pennsylvania; West Jordan, Utah; and Melbourne, Australia.

Results of Operations

The following table sets forth certain operational data as a percentage of sales for the years indicated:

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Net sales	100 %	100 %	100 %
Gross profit	41.6	43.5	44.7
Selling, general and administrative expenses	30.9	32.9	31.3
Research and development expenses	6.0	6.6	6.7
Legal settlement	1.9	—	—
Impairment charges	3.8	2.4	0.1
Contingent consideration (benefit)	(0.8)	(0.0)	(0.1)
Acquired in-process research and development expense	0.0	0.1	0.1
Income (loss) from operations	(0.2)	1.6	6.6
Income (loss) before income taxes	(1.4)	0.2	5.6
Net income (loss)	(1.0)	0.5	4.8

Sales

Listed below are the sales by product category within each operating segment for the years ended December 31, 2020, 2019 and 2018 (in thousands):

	<u>% Change</u>	<u>2020</u>	<u>% Change</u>	<u>2019</u>	<u>% Change</u>	<u>2018</u>
Cardiovascular						
Peripheral Intervention	(2.7)%	\$ 341,568	27.1 %	\$ 350,936	35.4 %	\$ 276,113
Cardiac Intervention	(8.2)%	279,671	9.4 %	304,797	18.5 %	278,496
Custom Procedural Solutions	8.5 %	203,196	3.9 %	187,359	8.3 %	180,332
OEM	(6.9)%	109,767	2.9 %	117,889	20.4 %	114,536
Total	(2.8)%	934,202	13.1 %	960,981	21.2 %	849,477
Endoscopy						
Endoscopy devices	(12.4)%	29,673	1.8 %	33,871	22.2 %	33,276
Total	(3.1)%	\$ 963,875	12.7 %	\$ 994,852	21.3 %	\$ 882,753

Cardiovascular Sales. Our cardiovascular sales for the year ended December 31, 2020 were approximately \$934.2 million, down (2.8)%, when compared to the year ended December 31, 2019 of approximately \$961.0 million. Sales for the year ended December 31, 2020 were unfavorably affected by decreased sales of (a) our cardiac intervention products (particularly our intervention, angiography and access products) of \$279.7 million, down (8.2%); (b) our OEM products (particularly our cardiac rhythm management/electrophysiology (“CRM/EP”) products and coatings) of \$109.8 million, down (6.9%); and (c) our peripheral intervention products (particularly our radar localization, vertebral compression fracture, biopsy, angiography and intervention products, offset partially by increased sales of drainage products) of \$341.6 million, down (2.7%). These decreases were partially offset by increased sales of our custom procedural solutions products (particularly our critical care products, which saw increased demand due to the COVID-19 pandemic, including \$19.1 million in sales of our new Cultura nasopharyngeal swab and test kits used to collect and transport samples for COVID-19 testing, partially offset by decreased sales of kits) of \$203.2 million, up 8.5%.

Our cardiovascular sales for the year ended December 31, 2019 were approximately \$961.0 million, up 13.1%, when compared to the corresponding period for 2018 of approximately \$849.5 million. Sales for the year ended December 31, 2019 were primarily affected by increased sales of (a) our peripheral intervention products (particularly our radar localization, intervention, and drainage products) of approximately \$350.9 million, up 27.1%, including a full year of sales of Cianna Medical, Inc. (“Cianna Medical”) products and product lines acquired from BD; (b) our cardiac intervention products (particularly our intervention, angiography and CRM/EP products) of approximately \$304.8 million, up 9.4%; (c) our custom procedural solutions product (particularly our kits and critical care products, offset partially by trays) of approximately \$187.4 million, up 3.9%.

Sales by our international direct sales forces are subject to foreign currency exchange rate fluctuations between the natural currency of a foreign country and the U.S. Dollar. Foreign currency exchange rate fluctuations decreased sales (0.1)% for the year ended December 31, 2020 compared to sales calculated using the applicable average foreign exchange rates for 2019 and decreased sales (1.3)% for the year ended December 31, 2019 compared to sales calculated using the applicable foreign exchange rates for 2018.

Endoscopy Sales. Our endoscopy sales for the year ended December 31, 2020 were approximately \$29.7 million, down (12.4)%, when compared to sales for the year ended December 31, 2019 of approximately \$33.9 million. Sales for the year ended December 31, 2020 were unfavorably affected by decreased sales of the NvisionVLE® Imaging System as a result of the suspension of our distribution agreement with NinePoint Medical, Inc. (“NinePoint”), as well as decreased sales of probes and certain stents. Our endoscopy sales for the year ended December 31, 2019 were approximately \$33.9 million, up 1.8%, when compared to sales for the same period in 2018 of approximately \$33.3 million. Sales for the year ended December 31, 2019 were favorably affected by increased sales of our EndoMAXX™ fully covered esophageal stent, our Elation® balloon dilator, and our AEROMini® fully covered esophageal stent, partially offset by decreased sales of other stents.

International Sales. International sales for the year ended December 31, 2020 were approximately \$413.8 million, or 42.9% of net sales, down (1.3)% from the same period of 2019. International sales for the year ended December 31, 2019 were approximately \$419.1 million, or 42.1% of net sales, up 8.5% from the year ended December 31, 2018. The decrease in our international sales during 2020 was primarily a result of lower sales in EMEA, which decreased approximately (1.6%) or \$(2.9) million and lower rest of world sales which decreased approximately (8.7%) or \$(2.6) million, compared to the same period of 2019. Our sales in APAC were essentially flat year over year. The increase in our international sales during 2019 was primarily related to year-over-year increased sales in APAC (particularly China and Southeast Asia), which increased \$28.6 million or 16.5% compared to the same period of 2018.

Gross Profit

Our gross profit as a percentage of sales was 41.6%, 43.5%, and 44.7% for the years ended December 31, 2020, 2019 and 2018, respectively. The decrease in gross profit as a percentage of sales for 2020, as compared to 2019, was primarily due to changes in product mix and increased obsolescence expense associated with lower forecasted demand for certain of our products as a result of the COVID-19 pandemic, partially offset by improvements in manufacturing variances from operational efficiencies, among other factors. The decrease in gross profit as a percentage of sales for 2019, as compared to 2018, was primarily related to increased amortization expense associated with acquisitions (\$49.7 million in 2019 compared to \$31.8 million in 2018), increased costs associated with new distribution sites, and adverse impacts from tariffs and foreign currency fluctuations, which were partially offset by improvements associated with changes in product mix.

Operating Expenses

Selling, General and Administrative Expenses. Our selling, general and administrative (“SG&A”) expenses decreased approximately (\$29.5) million, or (9.0)%, for the year ended December 31, 2020 compared to 2019 and increased \$51.3 million, or 18.6%, for the year ended December 31, 2019 compared to 2018. SG&A expenses as a percentage of sales were 30.9%, 32.9% and 31.3% for the years ended December 31, 2020, 2019 and 2018, respectively.

The decrease in SG&A expenses for the year ended December 31, 2020 compared to the year ended December 31, 2019 was primarily related to lower compensation expenses associated with headcount reductions and temporary salary reductions as a result of our expense reduction initiatives, lower commission expense associated with decreased sales, lower travel, entertainment and promotional expenses due to travel restrictions during the COVID-19 pandemic, and decreased acquisition and integration-related costs (\$1.3 million in 2020 compared to \$3.5 million in 2019), partially offset by increased idle capacity costs related to lower demand for certain products due to the COVID-19 pandemic and increased bad debt expense.

The increase in SG&A expenses for the year ended December 31, 2019 compared to the year ended December 31, 2018 was primarily related to higher compensation expenses associated with an increase in headcount during 2019 to support acquisitions and the growth in operations in that period, higher commission expense associated with increased sales, higher severance costs (\$5.0 million compared to \$0.9 million in 2018) related to restructuring, and legal costs associated with the investigation by the U.S. Department of Justice (\$6.5 million in 2019 compared to \$5.6 million in 2018), partially offset by decreased acquisition and integration-related costs (\$3.5 million in 2019 compared to \$7.6 million in 2018).

Research and Development Expenses. Research and development (“R&D”) expenses decreased by (\$8.1) million or (12.3)% to approximately \$57.5 million for the year ended December 31, 2020, compared to approximately \$65.6 million in 2019. The decrease in R&D expenses for the year ended December 31, 2020 was largely due to lower discretionary expenses (such as travel) and lower compensation expenses associated with headcount reductions and temporary salary reductions as a result of our expense reduction initiatives, as well as lower expenses as a result of a reduced number of research and development projects.

Research and development expenses increased by approximately \$6.1 million or 10.2% to approximately \$65.6 million for the year ended December 31, 2019, compared to approximately \$59.5 million in 2018. The increase in R&D expenses for the year ended December 31, 2019 was largely due to hiring additional research and development personnel to support various core and acquired product developments, as well as higher clinical and regulatory costs.

Our research and development expenses as a percentage of sales were 6.0%, 6.6% and 6.7% for 2020, 2019, and 2018, respectively. We have a pipeline of new products, and we believe that we have an effective level of capabilities and expertise to continue the flow of new, internally developed products into the foreseeable future.

Legal Settlement. We recorded \$18.7 million of expense during the year ended December 31, 2020 in connection with a settlement agreement with the DOJ to fully resolve the DOJ's investigation of certain marketing and promotional practices.

Impairment Charges. For the year ended December 31, 2020 we recorded impairment charges of \$36.5 million, which included approximately \$1.8 million related to certain right-of-use operating lease assets and property and equipment, \$6.0 million related to equity investments and purchase options, and \$28.7 million related to certain acquired intangible assets, which included a partial impairment charge of \$8.2 million of intangible assets from our acquisition of STD Pharmaceutical Products Limited ("STD Pharmaceutical"), a partial impairment charge of \$8.0 million of intangible assets from our acquisition of certain assets from Laurane Medical S.A.S, a partial impairment charge of \$4.8 million related to our license agreements with ArraVasc Limited, and other intangible asset impairments charges of \$7.7 million related to intangible assets from our acquisition of certain assets from DirectACCESS Medical, LLC, in-process technology intangible assets of Sontina Medical LLC acquired in connection with our acquisition of certain divested assets from BD, and a customer list intangible asset from our acquisition of ITL Healthcare Pty Ltd ("ITL").

For the year ended December 31, 2019 we recorded impairment charges of \$23.8 million, including a \$20.5 million write-off of our NinePoint note receivable and purchase option due to our assessment of the collectability of the note receivable and management's decision not to exercise our option to purchase the business, and \$3.3 million of impairment charges of certain intangible assets based on changes in revenue expectations and restructuring. For the year ended December 31, 2018 we recorded impairment charges of certain intangible assets of \$0.7 million.

Contingent Consideration (Benefit). For the years ended December 31, 2020, 2019 and 2018, we recorded (\$8.0) million, (\$0.2) million and (\$0.7) million, respectively, of net contingent consideration (benefit) from changes in the estimated fair value of our contingent consideration obligations stemming from our previously disclosed business acquisitions. The (benefit) in each fiscal year relates to changes in revenue estimates, changes in the probability of achieving relevant milestones and changes in the discount rate or expected period of payment, partially offset by expense for the passage of time.

Acquired In-process Research and Development. During the years ended December 31, 2020, 2019 and 2018, we incurred in-process research and development charges of approximately \$0.3 million, \$0.5 million and \$0.6 million, respectively associated with various asset acquisitions.

Operating Income (Loss)

Our operating profit by operating segment for the years ended December 31, 2020, 2019 and 2018 was as follows (in thousands):

Operating Income (Loss)	2020	2019	2018
Cardiovascular	\$ (7,042)	\$ 25,780	\$ 49,289
Endoscopy	5,480	(10,346)	9,328
Total operating income (loss)	\$ (1,562)	\$ 15,434	\$ 58,617

Cardiovascular Operating Income (Loss). Our cardiovascular operating loss for the year ended December 31, 2020 was approximately (\$7.0) million, compared to cardiovascular operating income of approximately \$25.8 million for the year ended December 31, 2019. This decrease in cardiovascular operating income was primarily related to lower sales and decreased gross margin percentage during the COVID-19 pandemic, expenses of \$18.7 million associated with our settlement with the DOJ, impairment charges within our cardiovascular operating segment (\$36.5 million in 2020 compared to \$3.3 million in 2019), partially offset by lower compensation and discretionary expenses resulting from cost cutting initiatives and our response to the COVID-19 pandemic and an increase in contingent consideration benefit from changes in the estimated fair value of contingent consideration liabilities associated with prior acquisitions.

Our cardiovascular operating income for the year ended December 31, 2019 was approximately \$25.8 million, compared to operating income of approximately \$49.3 million for the year ended December 31, 2018. This decrease in cardiovascular operating income was primarily related to decreased gross margin percentage, higher compensation expenses, higher severance costs (\$5.0 million compared to \$0.9 million in 2018), and legal costs associated with the investigation by the DOJ (\$6.5 million in 2019 compared to \$5.6 million in 2018), partially offset by decreased acquisition and integration-related costs (\$3.5 million in 2019 compared to \$7.6 million in 2018) and increased sales.

Endoscopy Operating Income (Loss). Our endoscopy operating income for the year ended December 31, 2020 was approximately \$5.5 million, compared to an operating loss of approximately (\$10.3) million for the year ended December 31, 2019. This increase in endoscopy operating income relative to 2019 was primarily due to lower impairment expense in our endoscopy operating segment (none in 2020 compared to \$20.5 million in 2019) and lower compensation and discretionary expenses related to cost-cutting initiatives from our response to the COVID-19 pandemic, offset partially by lower sales and lower gross margins, due in part to changes in product demand during the COVID-19 pandemic.

Our endoscopy operating income for the year ended December 31, 2019 was a loss of approximately (\$10.3) million, compared to operating income of approximately \$9.3 million for the year ended December 31, 2018. This decrease was primarily the result of the impairment of a note receivable and a purchase option for NinePoint of approximately \$20.5 million.

Other Income (Expense)

Our other expense for the years ended December 31, 2020, 2019 and 2018 was approximately (\$11.7) million, (\$13.2) million, and (\$9.1) million, respectively. The decrease in other expense for 2020 compared to 2019 was principally the result of decreased interest expense due to lower average debt balances and a lower average interest rate during 2020, a gain on the sale of our Hypotube product line in 2020, and increased interest income from notes receivable, partially offset by increased expense related to foreign currency remeasurement.

The change in other expense for 2019 over 2018 was principally the result of increased interest expense due to higher average debt balances during 2019, the write-off of \$1.6 million of accrued interest related to the NinePoint note receivable, and increased expense related to foreign currency remeasurement.

Effective Tax Rate

Our provision for income taxes for the years ended December 31, 2020, 2019 and 2018 was a tax expense (benefit) of \$(3.4) million, \$(3.3) million and \$7.5 million, respectively, which resulted in an effective income tax rate of 25.6%, (148.6%), and 15.2%, respectively. The increase in the effective income tax rate for 2020 compared to 2019 was primarily the result of a pre-tax loss during the 2020 period, as well as a change in the jurisdictional mix of earnings. The decrease in the effective income tax rate for 2019 compared to 2018 was primarily the result of book to tax differences related to stock options and deferred compensation as well as uncertain tax positions lapsing that generated a greater benefit due to lower pre-tax book income.

Net Income (Loss)

Our net income (loss) for the years ended December 31, 2020, 2019 and 2018 was approximately (\$9.8) million, \$5.5 million, and \$42.0 million, respectively. The decrease in net income for 2020, when compared to 2019, was primarily related to lower sales and decreased gross margin percentage during the COVID-19 pandemic, expenses of \$18.7 million associated with our settlement with the DOJ, impairment charges (\$36.5 million in 2020 compared to \$23.8 million in 2019), partially offset by lower compensation and discretionary expenses resulting from cost cutting initiatives and our response to the COVID-19 pandemic and an increase in the benefit from changes in contingent consideration liabilities associated with prior acquisitions.

The decrease in net income for the year ended December 31, 2019, when compared to 2018, was primarily due to total charges of \$22.1 million related to NinePoint (including the entire carrying value of the purchase option and note

receivable, along with \$1.6 million of accrued interest), increased selling, general, and administrative expenses as a percentage of sales, lower gross profit as a percentage of sales, and increased interest expense compared to 2018.

Total Assets

Total assets utilized in our cardiovascular operating segment were approximately \$1.7 billion as of December 31, 2020, compared to approximately \$1.7 billion as of December 31, 2019 and approximately \$1.6 billion as of December 31, 2018. Total assets utilized in our endoscopy operating segment were approximately \$9.5 million as of December 31, 2020, compared to approximately \$12.3 million as of December 31, 2019 and approximately \$31.0 million as of December 31, 2018.

The decrease in endoscopy total assets from December 31, 2019 to December 31, 2020 was primarily related to lower inventory levels and lower intangible asset balances (due to amortization). The decrease in endoscopy segment total assets from December 31, 2018 to December 31, 2019 was primarily related to the impairment of the purchase option and note receivable with NinePoint.

Off-Balance Sheet Arrangements. We have committed to provide loans of up to an additional €2 million at the discretion of Selio Medical Limited at a rate of 5% per annum until one year and 45 days have passed from the date Selio receives FDA Section 510(k) approval of a medical device it is currently developing. The current note receivable balance from Selio is \$250,000. If exercised these loans would be securitized by all the present and future assets and property of the borrower. Aside from this arrangement, we do not have any off-balance sheet arrangements that have had, or are reasonably likely in the future to have, an effect on our financial condition, results of operations, liquidity, capital expenditures or capital resources.

Liquidity and Capital Resources

Capital Commitments and Contractual Obligations

The following table summarizes our capital commitments and contractual obligations as of December 31, 2020, as well as the future periods in which such payments are currently anticipated to become due:

Contractual Obligations	Payment due by period (in thousands)				
	Total	Less than 1 Year	1-3 Years	4-5 Years	After 5 Years
Long-term debt	\$ 351,625	\$ 7,500	\$ 19,688	\$ 324,437	\$ —
Interest on long-term debt ⁽¹⁾	23,331	6,392	12,708	4,231	—
Operating leases	102,140	14,947	21,493	15,792	49,908
Royalty obligations	4,958	931	1,935	1,771	321
Total contractual cash	\$ 482,054	\$ 29,770	\$ 55,824	\$ 346,231	\$ 50,229

(1) Interest payments on our variable long-term debt were forecasted using the LIBOR forward curves plus a base of 1.25% based on the terms of our Third Amended Credit Agreement. Interest payments on a portion of our long-term debt were forecasted using a fixed rate of 2.37% through July 2021 and a fixed rate of 2.96% from July 2021 through July 2024, as a result of our interest rate swaps (see Note 9 to our consolidated financial statements set forth in Item 8 of this report).

As of December 31, 2020, we had approximately \$55.7 million of contingent consideration liabilities, \$1.7 million of unrecognized tax positions, and \$16.8 million of deferred compensation payable that have been recognized as liabilities that have not been included in the contractual obligations table due to uncertainty as to when such amounts may be settled.

Additional information regarding our capital commitments and contractual obligations, including royalty payments and operating leases, is contained in Notes 8, 10, and 18 to our consolidated financial statements set forth in Item 8 of this report.

Cash Flows

At December 31, 2020 and 2019, we had cash and cash equivalents of approximately \$56.9 million and \$44.3 million respectively, of which approximately \$42.3 million and \$31.7 million, respectively, were held by foreign subsidiaries. We do not consider our foreign earnings to be permanently reinvested. Cash held by our subsidiary in China is subject to local laws and regulations that require government approval for the transfer of such funds to entities located outside of China. As of December 31, 2020 and 2019, we had cash and cash equivalents of approximately \$15.5 million and \$11.3 million, respectively, held by our subsidiary in China.

Cash flows provided by operating activities. We generated cash from operating activities of approximately \$165.3 million, \$77.8 million and \$86.5 million during the years ended December 31, 2020, 2019 and 2018, respectively. Net cash provided by operating activities increased approximately \$87.5 million for the year ended December 31, 2020 compared to the year ended December 31, 2019. Significant changes in operating assets and liabilities affecting cash flows during these years included:

- Cash provided by (used for) accounts receivable was approximately \$10.4 million and \$(17.9) million for the years ended December 31, 2020 and 2019, respectively, due primarily to decreases in sales volume and increased allowance due to economic uncertainty, and
- Cash provided by (used for) inventories was \$29.4 million and \$(27.0) million for the years ended December 31, 2020 and 2019, respectively, due primarily to reduced production during the economic downturns related to the pandemic and efforts to manage inventory levels.

Net cash provided by operating activities decreased \$8.7 million for the year ended December 31, 2019 compared to the year ended December 31, 2018. Significant changes in operating assets and liabilities affecting cash flows during these years included:

- Cash (used for) accounts receivable was approximately \$(17.9) million and \$(27.5) million for the years ended December 31, 2019 and 2018, respectively, due primarily to increases in sales volume, and
- Cash (used for) provided by accounts payable was \$(2.3) million and \$15.7 million for the years ended December 31, 2019 and 2018, respectively, due primarily to growth in operations and timing of payments.

Cash flows used in investing activities. We used cash in investing activities of approximately \$58.6 million, \$134.5 million, and \$378.8 million for the years ended December 31, 2020, 2019 and 2018, respectively. We invested in capital expenditures for property and equipment of approximately \$46.0 million, \$78.2 million, and \$63.3 million for the years ended December 31, 2020, 2019 and 2018, respectively. Capital expenditures in each fiscal year were primarily related to investment in buildings, property and equipment to support development and production of new and expanded product lines and to facilitate growth in our distribution markets. These investments include construction of a new manufacturing and research and development facility in South Jordan, Utah completed in early 2020 and expansion of our manufacturing facility in Tijuana, Mexico to incorporate production of our biopsy and drainage products acquired from BD and other products. Historically, we have incurred significant expenses in connection with facility construction, production automation, product development and the introduction of new products. We anticipate that we will spend approximately \$45 to \$50 million in 2021 for buildings, property and equipment.

Cash outflows invested in acquisitions for the year ended December 31, 2020 were approximately \$11.0 million and were primarily related to our acquisition of KA Medical. Cash outflows for acquisitions in 2019 were approximately \$53.9 million and were primarily related to our acquisition of Brightwater Medical, Inc. (“Brightwater”) and STD Pharmaceutical. Cash outflows for acquisitions in 2018 were approximately \$301.8 million and primarily related to our acquisition of BD product lines and Cianna Medical. For further discussion, refer to Note 3 to our consolidated financial statements set forth in Item 8 of this report.

Cash flows provided by (used in) financing activities. Cash provided by (used in) financing activities for the years ended December 31, 2020, 2019 and 2018 was approximately (\$95.7) million, \$33.5 million, and \$328.3 million, respectively. In 2020 we decreased our net borrowings by approximately \$88.4 million and paid contingent consideration of approximately \$13.1 million, which is classified as a financing activity, principally related to our Cianna Medical acquisition. In 2019 we increased our net borrowings by approximately \$44.5 million to partially finance our current period acquisitions and pay contingent consideration of \$15.7 million, principally related to our Cianna Medical acquisition. In 2018, our primary financing activities included a public equity offering of 4,025,000 shares of common stock (from which we received net proceeds of approximately \$205.0 million, which is net of approximately \$12.0 million in underwriting discounts and commissions incurred and paid by us in connection with this equity offering) and additional net borrowings under our credit agreement of approximately \$116.5 million to fund our acquisition activity. This was partially offset by approximately \$2.6 million used to purchase common stock to pay employee taxes resulting from the exercise of stock options.

As of December 31, 2020, we had outstanding borrowings of approximately \$351.6 million under the Third Amended Credit Agreement, with additional available borrowings of approximately \$389 million, based on the leverage ratio required pursuant to the Third Amended Credit Agreement. Our interest rate as of December 31, 2020 was a fixed rate of 2.37% on \$175 million as a result of an interest rate swap (see Note 9) and a variable floating rate of 1.40% on approximately \$176.6 million. Our interest rate as of December 31, 2019 was a fixed rate of 2.62% on \$175 million as a result of an interest rate swap and a variable floating rate of 3.30% on \$265 million. The foregoing fixed rates are exclusive of changes in the notional amount and fixed rate associated with our interest rate swaps beginning July 6, 2021 and potential future changes in the applicable margin. See Note 8 and Note 9 to our consolidated financial statements set forth in Item 8 of this report for additional details regarding the Third Amended Credit Agreement, our long-term debt and our interest rate swaps.

We currently believe that our existing cash balances, anticipated future cash flows from operations and borrowings under the Third Amended Credit Agreement will be adequate to fund our current and currently planned future operations for the next twelve months and the foreseeable future. In the event we pursue and complete significant transactions or acquisitions in the future, additional funds will likely be required to meet our strategic needs, which may require us to raise additional funds in the debt or equity markets.

Critical Accounting Policies and Estimates

Our significant accounting policies are summarized in Note 1 to our consolidated financial statements set forth in Item 8 of this report. While all of these significant accounting policies affect the reporting of our financial condition and results of operations, the SEC has requested that all registrants address their most critical accounting policies. The SEC has indicated that a “critical accounting policy” is one which is both important to the representation of the registrant’s financial condition and results and requires management’s most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. We base our estimates on past experience and on various other assumptions our management believes to be reasonable under the circumstances, the results of which form the basis for making judgments about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results will differ and may differ materially from these estimates under different assumptions or conditions. Additionally, changes in accounting estimates could occur in the future from period to period. The following paragraphs identify our most critical accounting policies:

Valuation of Goodwill and Intangible Assets. We allocate any excess purchase price over the fair value of the net tangible and identifiable intangible assets acquired in a business combination to goodwill. We base the fair value of identifiable intangible assets acquired in a business combination on valuations that use information and assumptions that a market participant would use, including assumptions for estimated revenue projections, growth rates, cash flows, discount rates, useful life, and other relevant assumptions.

We test our goodwill balances for impairment annually as of July 1, or whenever impairment indicators arise. When impairment indicators are identified, we may elect to perform an optional qualitative assessment to determine whether it is more likely than not that the fair value of our reporting units has fallen below their carrying value. This assessment involves significant judgment, especially in the current environment due to uncertainties about the duration and impact of

the COVID-19 pandemic. During our annual impairment test performed as of July 1 we utilized four reporting units in evaluating goodwill for impairment using a quantitative assessment, which uses a combination of a guideline public company market-based approach and a discounted cash flow income-based approach. The quantitative assessment considers whether the carrying amount of a reporting unit exceeds its fair value, in which case an impairment charge is recorded to the extent the reporting unit's carrying value exceeds its fair value. This analysis requires significant judgment, including estimation of the amount, timing and duration of future cash flows, which is based on internal forecasts, and a determination of a discount rate based on our weighted average cost of capital. During our annual test of goodwill balances in 2020, which was completed during the third quarter of 2020, we determined that the fair value of each reporting unit with goodwill exceeded the carrying amount by a significant amount.

We evaluate the recoverability of intangible assets subject to amortization whenever events or changes in circumstances indicate that an asset's carrying amount may not be recoverable. This analysis requires similar significant judgments as those discussed above regarding goodwill, except that undiscounted cash flows are compared to the carrying amount of intangible assets to determine if impairment exists. In-process technology intangible assets, which are not subject to amortization until projects reach commercialization, are assessed for impairment at least annually and more frequently if events occur that would indicate a potential reduction in the fair value of the assets below their carrying value.

During the years ended December 31, 2020, 2019 and 2018, we compared the carrying value of the amortizing intangible assets acquired in acquisitions of certain assets to the undiscounted cash flows expected to result from these asset groups and determined that the carrying amounts were not recoverable. We then determined the fair value of the amortizing assets based on estimated future cash flows discounted back to their present value using discount rates that reflect the risk profile of the underlying activities. During the years ended December 31, 2020, 2019 and 2018 we recorded total impairment charges associated with intangible assets in our cardiovascular segment of approximately \$28.7 million, \$3.3 million, and \$0.7 million, respectively. These expenses are reflected within impairment charges in our consolidated statements of income (loss). The primary factors driving impairment of certain intangible assets were slower-than-anticipated sales growth in the acquired products, planned closure and restructuring activities, uncertainty about future product development and commercialization associated with the acquired technologies, and in 2020 economic uncertainties associated with the COVID-19 pandemic. See Note 5 to our consolidated financial statements set forth in Item 8 of this report for additional details regarding impairments of intangible assets.

Contingent Consideration. Contingent consideration is an obligation by the buyer to transfer additional assets or equity interests to the former owner upon reaching certain performance targets. Certain of our business combinations involve the potential for the payment of future contingent consideration, generally based on a percentage of future product sales or upon attaining specified future revenue or other relevant milestones. In connection with a business combination, any contingent consideration is recorded at fair value on the acquisition date based upon the consideration expected to be transferred in the future. We base the fair value of contingent consideration obligations acquired in a business combination on valuations that use information and assumptions that a market participant would use, including assumptions for estimated revenue growth rates, discount rates, probabilities of achieving regulatory approval, performance, or revenue-based milestones and other relevant factors. These assumptions are impacted by our best estimates of the timing and duration of the current COVID-19 pandemic.

We re-measure the estimated liability each quarter and record changes in the estimated fair value through operating expense in our consolidated statements of income. Significant increases or decreases in our estimates and developments related to the COVID-19 pandemic could result in changes to the estimated fair value of our contingent consideration liability, as the result of changes in the timing and amount of revenue estimates, as well as changes in the discount rate or periods. Our revenue milestone contingent liability associated with the November 2018 acquisition of Cianna Medical includes a sales growth multiplier, and our revenue milestones for the acquisition of Brightwater and Vascular Insights, LLC include payment thresholds. These and other similar contract features of our contingent consideration liabilities create sensitivity regarding the occurrence, timing, and amount of future payments.

For the years ended December 31, 2020, 2019 and 2018, we recognized contingent consideration benefit of approximately \$8.0 million, \$0.2 million and \$0.7 million, respectively, from changes in the estimated fair value of our contingent consideration obligations stemming from our previously disclosed business acquisitions. Changes in the fair value of our contingent consideration liabilities were primarily attributable to slower-than-anticipated sales growth in the acquired

products, the anticipated timing of milestone payments, and in 2020 economic uncertainties associated with the COVID-19 pandemic. See Note 16 to our consolidated financial statements set forth in Item 8 of this report for additional details regarding our contingent liabilities.

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

Currency Exchange Rate Risk

Our consolidated financial statements are denominated in, and our principal currency is, the U.S. Dollar. For the year ended December 31, 2020, a portion of our net sales (approximately \$323.8 million, representing approximately 33.6% of our aggregate net sales), was attributable to sales that were denominated in foreign currencies. All other international sales were denominated in U.S. Dollars. Our principal market risk relates to changes in the value of the Chinese Yuan Renminbi (CNY) and Euro (EUR) relative U.S. Dollar (USD), with limited market risk relating to various other currencies. In general, a strengthening of the U.S. Dollar against CNY has a negative effect on our operating income. Our Euro-denominated expenses associated with our European operations (manufacturing sites, a distribution facility and sales representatives) provide a natural hedge for Euro-denominated revenues. Accordingly, a strengthening of the U.S. Dollar against the Euro will generally have a positive effect on our operating income.

We forecast our net exposure related to sales and expenses denominated in foreign currencies. As of December 31, 2020 and 2019, we had entered into foreign currency forward contracts, which qualified as cash flow hedges, with aggregate notional amounts of approximately \$168.2 million and \$212.5 million, respectively. We also forecast our net exposure in various receivables and payables to fluctuations in the value of various currencies, and we enter into foreign currency forward contracts to mitigate that exposure. As of December 31, 2020 and 2019, we had entered into foreign currency forward contracts, which were not designated as hedging instruments, related to those balance sheet accounts with aggregate notional amounts of approximately \$74.8 million and \$65.0 million, respectively.

A sensitivity analysis of changes in the fair value of all currency exchange rate derivative contracts at December 31, 2020 and 2019 indicates that, if the U.S. Dollar strengthened or weakened by 10 percent against all currencies, it would have the following impact on the fair value of these contracts (in thousands):

	2020	2019
10% Strengthening	\$ 2,768	\$ 1,517
10% Weakening	\$ (2,768)	\$ (1,517)

Gains or losses on the fair value of derivative contracts would generally be offset by gains and losses on the underlying hedged transaction or net exposure. These offsetting gains and losses are not reflected above. See Note 9 to our consolidated financial statements set forth in Item 8 of this report for additional discussion of our foreign currency forward contracts.

Interest Rate Risk

As discussed in Note 8 to our consolidated financial statements set forth in Item 8 of this report, as of December 31, 2020, we had outstanding borrowings of approximately \$351.6 million under the Third Amended Credit Agreement. Accordingly, our earnings and after-tax cash flow are affected by changes in interest rates. On August 5, 2016, we entered into a pay-fixed, receive-variable interest rate swap with Wells Fargo Bank, which as of December 31, 2020 had a notional amount of \$175 million, to fix the one-month LIBOR rate at 1.12%. The interest rate swap is scheduled to expire on July 6, 2021. On December 23, 2019, we entered into a pay-fixed, receive-variable interest rate swap with Wells Fargo Bank, with a notional amount of \$75 million, to fix the one-month LIBOR rate at 1.71% for the period from July 6, 2021 to July 31, 2024. These instruments are intended to reduce our exposure to interest rate fluctuations and were not entered into for speculative purposes. Excluding the amount that is subject to a fixed rate under the interest rate swaps and assuming the current level of borrowings remained the same, it is estimated that our interest expense and income before income taxes would change by approximately \$2.3 million annually for each one percentage point change in the average interest rate under these borrowings.

Item 8. Financial Statements and Supplementary Data.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Merit Medical Systems, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Merit Medical Systems, Inc. and subsidiaries (the "Company") as of December 31, 2020 and 2019, the related consolidated statements of income (loss), comprehensive income (loss), stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2020, and the related notes and the schedule listed in the Index at Item 15 (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

We have also 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, 2020, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 1, 2021, expressed an unqualified opinion on the Company's internal control over financial reporting.

Change in Accounting Principle

As discussed in Note 1 to the financial statements, the Company changed its method of accounting for leases in 2019 due to the adoption of Accounting Standards Update No. 2016-02, *Leases (Topic 842)*, using the modified retrospective approach.

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 based on our audits. 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. federal securities 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 about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates 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

The critical audit matters communicated below are matters arising from the current-period audit of the financial statements that were communicated or required to be communicated to the audit committee and that (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Intangible Assets – Impairment Charges – Refer to Notes 1 and 5 to the financial statements

Critical Audit Matter Description

The Company has recorded finite-lived intangible assets with carrying values of \$367.9 million at December 31, 2020. The Company evaluates amortizing intangible assets for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable and compares the carrying value of the amortizing intangible assets to the undiscounted cash flows expected to result from the asset group and determines whether the carrying amount is recoverable. If the carrying amount is not recoverable, an impairment charge is recorded based on the difference between the carrying amount and the fair value. The Company estimates the fair value of intangible assets using a discounted cash flow model which includes estimates of future projections of revenues and cash flows. During the year ended December 31, 2020, the Company recorded total impairment charges related to intangible assets of approximately \$28.7 million.

We identified the intangible asset impairment charges as a critical audit matter because of the significant estimates and assumptions management makes to determine the fair value of intangible assets to record the impairment charge. This required a high degree of auditor judgment and an increased extent of effort when performing audit procedures to evaluate the reasonableness of management's estimates of future projections of revenues and cash flows.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to management's estimates of future projections of revenues and cash flows used for the intangible asset impairment tests included the following, among others:

- We tested the effectiveness of controls over the impairment tests of intangible assets, including management's controls over estimates of future projections of revenues and cash flows.
- We assessed the reasonableness of management's estimates of future projections of revenues and cash flows through comparison to historical results and the Company's strategic plans and initiatives.
- We evaluated whether the estimates of future projections of revenues and cash flows were consistent with evidence obtained in other areas of the audit.

Other Long-term Obligations - Contingent Consideration Liability– Refer to Notes 1, 3, and 16 to the financial statements

Critical Audit Matter Description

Certain of the Company's past business combinations involve the potential for payment of future contingent consideration, generally based on a percentage of future product revenues or upon attaining specified future revenue milestones. As of December 31, 2020, the Company has recorded \$55.7 million of contingent consideration liabilities of which \$46.3 million are based on revenue milestones. Contingent consideration liabilities are re-measured at the estimated fair value at each reporting period with the change in fair value recognized within operating expenses in the accompanying consolidated statements of income (loss). During the year ended December 31, 2020, the Company recorded a benefit of \$8.0 million for the estimated change in fair value of contingent consideration liabilities. Included within contingent consideration liabilities is a liability for the estimated earn-out payment based on a revenue growth multiplier specified in the agreement from the November 2018 acquisition of Cianna Medical, Inc. The fair value of this revenue milestone contingent consideration liability was estimated using a Monte Carlo simulation model, which is a complex valuation methodology with inputs that include revenue projections and a discount rate.

We identified the Cianna Medical, Inc. revenue milestone contingent consideration liability as a critical audit matter because of management's estimates of revenue projections and the complex valuation methodology and discount rate used to determine the fair value of the contingent consideration liability. This required a high degree of auditor judgment and an increased extent of effort, including the involvement of our fair value specialists, when performing audit procedures to

evaluate the reasonableness of management's estimates of revenue projections and to evaluate the appropriateness of the valuation methodology and discount rate.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to management's estimates of revenue projections and the valuation methodology and discount rate used to determine the fair value of the Cianna Medical, Inc. revenue milestone contingent consideration liability included the following, among others:

- We tested the effectiveness of controls over management's valuation of contingent consideration liabilities, including those related to estimates of revenue projections and the valuation methodology and discount rate.
- We evaluated management's ability to accurately estimate revenue projections and the reasonableness of revenue projections by comparing management's historical revenue estimates to subsequent results, taking into account changes in market conditions.
- With the assistance of our fair value specialists, we evaluated the reasonableness of the valuation methodology and the discount rate by:
 - Evaluating whether the valuation methodology is appropriate in accordance with generally accepted valuation principles in the circumstances and whether the methodology used for determining fair value is applied consistently with the preceding periods.
 - Testing the source information underlying the determination of the discount rate and testing the mathematical accuracy of the calculation
 - Developing a range of independent estimates for the discount rate and comparing those to the discount rate selected by management.
- We evaluated whether the estimates of revenue projections were consistent with evidence obtained in other areas of the audit.

/s/ DELOITTE & TOUCHE LLP

Salt Lake City, Utah

March 1, 2021

We have served as the Company's auditor since 1988.

MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 2020 AND 2019
(In thousands)

	December 31, 2020	December 31, 2019
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 56,916	\$ 44,320
Trade receivables — net of allowance for credit losses — 2020 — \$5,313 and 2019 — \$3,108	146,641	155,365
Other receivables	7,774	10,016
Inventories	198,019	225,698
Prepaid expenses and other current assets	13,120	12,497
Prepaid income taxes	3,688	3,491
Income tax refund receivables	3,549	3,151
Total current assets	<u>429,707</u>	<u>454,538</u>
PROPERTY AND EQUIPMENT:		
Land and land improvements	28,400	27,554
Buildings	188,878	153,863
Manufacturing equipment	268,894	244,368
Furniture and fixtures	61,586	57,623
Leasehold improvements	48,800	43,311
Construction-in-progress	46,889	83,685
Total property and equipment	<u>643,447</u>	<u>610,404</u>
Less accumulated depreciation	<u>(260,719)</u>	<u>(231,619)</u>
Property and equipment — net	382,728	378,785
OTHER ASSETS:		
Intangible assets:		
Developed technology — net of accumulated amortization — 2020 — \$193,164 and 2019 — \$149,947	318,059	379,529
Other — net of accumulated amortization — 2020 — \$56,943 and 2019 — \$65,607	49,856	65,783
Goodwill	363,533	353,193
Deferred income tax assets	4,597	3,788
Right-of-use operating lease assets	78,240	80,244
Other assets	37,676	41,461
Total other assets	<u>851,961</u>	<u>923,998</u>
TOTAL ASSETS	<u>\$ 1,664,396</u>	<u>\$ 1,757,321</u>

See notes to consolidated financial statements.

(continued)

LIABILITIES AND STOCKHOLDERS' EQUITY	December 31, 2020	December 31, 2019
CURRENT LIABILITIES:		
Trade payables	\$ 49,837	\$ 54,623
Accrued expenses	111,944	105,184
Current portion of long-term debt	7,500	7,500
Short-term operating lease liabilities	12,903	11,550
Income taxes payable	2,820	2,799
Total current liabilities	<u>185,004</u>	<u>181,656</u>
Long-term debt	343,722	431,984
Deferred income tax liabilities	33,312	45,236
Long-term income taxes payable	347	347
Liabilities related to unrecognized tax benefits	1,016	1,990
Deferred compensation payable	16,808	14,855
Deferred credits	1,923	2,122
Long-term operating lease liabilities	70,941	72,714
Other long-term obligations	52,748	56,473
Total liabilities	<u>705,821</u>	<u>807,377</u>
Commitments and contingencies		
STOCKHOLDERS' EQUITY:		
Preferred stock — 5,000 shares authorized as of December 31, 2020 and December 31, 2019; no shares issued	—	—
Common stock, no par value; shares authorized — 2020 and 2019 - 100,000; issued and outstanding as of December 31, 2020 - 55,623 and December 31, 2019 - 55,213	606,224	587,017
Retained earnings	357,803	368,221
Accumulated other comprehensive loss	(5,452)	(5,294)
Total stockholders' equity	<u>958,575</u>	<u>949,944</u>
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	<u>\$ 1,664,396</u>	<u>\$ 1,757,321</u>

See notes to consolidated financial statements.

(concluded)

MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME (LOSS)
YEARS ENDED DECEMBER 31, 2020, 2019 AND 2018
(In thousands, except per share amounts)

	<u>2020</u>	<u>2019</u>	<u>2018</u>
NET SALES	\$ 963,875	\$ 994,852	\$ 882,753
COST OF SALES	<u>562,698</u>	<u>562,486</u>	<u>487,983</u>
GROSS PROFIT	<u>401,177</u>	<u>432,366</u>	<u>394,770</u>
OPERATING EXPENSES:			
Selling, general and administrative	297,724	327,274	276,018
Research and development	57,537	65,615	59,532
Legal settlement	18,684	—	—
Impairment charges	36,504	23,750	657
Contingent consideration (benefit)	(7,960)	(232)	(698)
Acquired in-process research and development	<u>250</u>	<u>525</u>	<u>644</u>
Total operating expenses	<u>402,739</u>	<u>416,932</u>	<u>336,153</u>
INCOME (LOSS) FROM OPERATIONS	<u>(1,562)</u>	<u>15,434</u>	<u>58,617</u>
OTHER INCOME (EXPENSE):			
Interest income	604	(291)	1,199
Interest expense	(9,994)	(12,413)	(10,360)
Other income (expense) - net	<u>(2,279)</u>	<u>(537)</u>	<u>63</u>
Total other expense — net	<u>(11,669)</u>	<u>(13,241)</u>	<u>(9,098)</u>
INCOME (LOSS) BEFORE INCOME TAXES	<u>(13,231)</u>	<u>2,193</u>	<u>49,519</u>
INCOME TAX (BENEFIT) EXPENSE	<u>(3,388)</u>	<u>(3,258)</u>	<u>7,502</u>
NET INCOME (LOSS)	<u>\$ (9,843)</u>	<u>\$ 5,451</u>	<u>\$ 42,017</u>
EARNINGS (LOSS) PER COMMON SHARE:			
Basic	<u>\$ (0.18)</u>	<u>\$ 0.10</u>	<u>\$ 0.80</u>
Diluted	<u>\$ (0.18)</u>	<u>\$ 0.10</u>	<u>\$ 0.78</u>
WEIGHTED AVERAGE SHARES OUTSTANDING:			
Basic	<u>55,434</u>	<u>55,075</u>	<u>52,268</u>
Diluted	<u>55,434</u>	<u>56,235</u>	<u>53,931</u>

See notes to consolidated financial statements.

MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
YEARS ENDED DECEMBER 31, 2020, 2019 AND 2018
(In thousands)

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Net income (loss)	\$ (9,843)	\$ 5,451	\$ 42,017
Other comprehensive income (loss):			
Cash flow hedges	(9,523)	(5,456)	64
Income tax benefit (expense)	2,365	1,404	(16)
Foreign currency translation adjustment	7,786	(18)	(3,606)
Income tax benefit (expense)	(786)	61	(9)
Total other comprehensive loss	<u>(158)</u>	<u>(4,009)</u>	<u>(3,567)</u>
Total comprehensive income (loss)	<u>\$ (10,001)</u>	<u>\$ 1,442</u>	<u>\$ 38,450</u>

See notes to consolidated financial statements.

MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
YEARS ENDED DECEMBER 31, 2020, 2019 AND 2018
(In thousands)

	<u>Total</u>	<u>Common Stock</u>		<u>Retained</u>	<u>Accumulated Other</u>
		<u>Shares</u>	<u>Amount</u>	<u>Earnings</u>	<u>Comprehensive Income (Loss)</u>
BALANCE — January 1, 2018	\$ 676,334	50,248	\$ 353,392	\$ 321,408	\$ 1,534
Net income	42,017			42,017	
Other comprehensive loss	(3,567)				(3,567)
Stock-based compensation expense	6,117		6,117		
Options exercised	10,634	690	10,634		
Issuance of common stock under Employee Stock Purchase Plans	1,087	22	1,087		
Issuance of common stock, net of offering costs	205,030	4,025	205,030		
Shares surrendered in exchange for payment of payroll tax liabilities	(2,616)	(49)	(2,616)		
Shares surrendered in exchange for exercise of stock options	(2,261)	(43)	(2,261)		
BALANCE — December 31, 2018	<u>932,775</u>	<u>54,893</u>	<u>571,383</u>	<u>363,425</u>	<u>(2,033)</u>
Net income	5,451			5,451	
Reclassify deferred gain on sale-leaseback upon adoption of ASC 842	93			93	
Reclassify stranded tax effects upon adoption of ASU 2018-02				(748)	748
Other comprehensive loss	(4,009)				(4,009)
Stock-based compensation expense	9,382		9,382		
Options exercised	4,930	288	4,930		
Issuance of common stock under Employee Stock Purchase Plans	1,415	35	1,415		
Shares surrendered in exchange for exercise of stock options	(93)	(3)	(93)		
BALANCE — December 31, 2019	<u>949,944</u>	<u>55,213</u>	<u>587,017</u>	<u>368,221</u>	<u>(5,294)</u>
Net loss	(9,843)			(9,843)	
Cumulative effect adjustment upon adoption of ASU 2016-13, <i>Credit Losses</i>	(575)			(575)	
Other comprehensive loss	(158)				(158)
Stock-based compensation expense	13,433		13,433		
Options exercised	6,948	442	6,948		
Issuance of common stock under Employee Stock Purchase Plans	1,159	30	1,159		
Shares surrendered in exchange for payment of payroll tax liabilities	(866)	(23)	(866)		
Shares surrendered in exchange for exercise of stock options	(1,467)	(39)	(1,467)		
BALANCE — December 31, 2020	<u>\$ 958,575</u>	<u>55,623</u>	<u>\$ 606,224</u>	<u>\$ 357,803</u>	<u>\$ (5,452)</u>

See notes to consolidated financial statements.

MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
YEARS ENDED DECEMBER 31, 2020, 2019 AND 2018
(In thousands)

	2020	2019	2018
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income (loss)	\$ (9,843)	\$ 5,451	\$ 42,017
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	94,070	92,100	69,546
Gain on sale of business	(517)	—	—
Loss on sales and/or abandonment of property and equipment	2,159	115	625
Write-off of certain intangible assets and other long-term assets	36,609	25,563	814
Acquired in-process research and development	250	525	644
Amortization of right-of-use operating lease assets	12,746	12,256	—
Fair value adjustments to contingent consideration	(7,960)	(232)	(698)
Amortization of deferred credits	(130)	(139)	(142)
Amortization of long-term debt issuance costs	604	721	804
Deferred income taxes	(11,295)	(12,436)	2,052
Stock-based compensation expense	14,339	9,382	6,117
Changes in operating assets and liabilities, net of acquisitions and divestitures:			
Trade receivables	10,425	(17,900)	(27,522)
Other receivables	1,668	1,787	(2,588)
Inventories	29,429	(27,044)	(28,172)
Prepaid expenses and other current assets	(446)	(1,239)	(2,000)
Prepaid income taxes	(162)	128	(444)
Income tax refund receivables	(339)	(2,247)	232
Other assets	(3,511)	(5,141)	149
Trade payables	333	(2,295)	15,726
Accrued expenses	4,603	4,719	12,623
Income taxes payable	(86)	(351)	918
Long-term income taxes payable	—	(45)	(4,454)
Liabilities related to unrecognized tax benefits	(576)	(794)	267
Deferred compensation payable	1,953	3,635	39
Operating lease liabilities	(12,659)	(11,970)	—
Other long-term obligations	3,606	3,264	(20)
Total adjustments	175,113	72,362	44,516
Net cash provided by operating activities	165,270	77,813	86,533
CASH FLOWS FROM INVESTING ACTIVITIES:			
Capital expenditures for:			
Property and equipment	(45,988)	(78,173)	(63,324)
Intangible assets	(3,288)	(3,324)	(3,012)
Proceeds from the sale of property and equipment	42	920	55
Proceeds from sale of business	1,285	—	—
Cash received for settlement of current note receivable	250	—	—
Issuance of note receivable	—	—	(10,750)
Cash paid in acquisitions, net of cash acquired	(10,953)	(53,904)	(301,789)
Net cash used in investing activities	\$ (58,652)	\$ (134,481)	\$ (378,820)

See notes to consolidated financial statements.

(continued)

	2020	2019	2018
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from issuance of common stock	\$ 6,635	\$ 6,252	\$ 214,993
Offering costs	—	—	(366)
Proceeds from issuance of long-term debt	68,625	246,659	639,108
Payments on long-term debt	(157,000)	(202,159)	(522,608)
Long-term debt issuance costs	—	(1,479)	—
Contingent payments related to acquisitions	(13,100)	(15,740)	(231)
Payment of taxes related to an exchange of common stock	(866)	—	(2,616)
Net cash provided by (used in) financing activities	<u>(95,706)</u>	<u>33,533</u>	<u>328,280</u>
EFFECT OF EXCHANGE RATES ON CASH	<u>1,684</u>	<u>96</u>	<u>(970)</u>
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	<u>12,596</u>	<u>(23,039)</u>	<u>35,023</u>
CASH AND CASH EQUIVALENTS:			
Beginning of period	44,320	67,359	32,336
End of period	<u>\$ 56,916</u>	<u>\$ 44,320</u>	<u>\$ 67,359</u>
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION			
Cash paid during the period for:			
Interest (net of capitalized interest of \$813, \$1,290 and \$647, respectively)	<u>\$ 10,077</u>	<u>\$ 12,434</u>	<u>\$ 10,324</u>
Income taxes	<u>\$ 8,918</u>	<u>\$ 12,069</u>	<u>\$ 8,692</u>
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING ACTIVITIES			
Property and equipment purchases in accounts payable	<u>\$ 2,180</u>	<u>\$ 7,952</u>	<u>\$ 4,989</u>
Current note receivable converted to equity investment	<u>\$ 899</u>	<u>\$ —</u>	<u>\$ —</u>
Proceeds from sale of business in other receivables	<u>\$ 321</u>	<u>\$ —</u>	<u>\$ —</u>
Acquisition purchases in accrued expenses and other long-term obligations	<u>\$ 4,358</u>	<u>\$ 10,541</u>	<u>\$ 72,209</u>
Merit common stock surrendered (39, 3 and 43 shares, respectively) in exchange for exercise of stock options	<u>\$ 1,467</u>	<u>\$ 93</u>	<u>\$ 2,261</u>
Right-of-use operating lease assets obtained in exchange for operating lease liabilities	<u>\$ 10,938</u>	<u>\$ 10,637</u>	<u>\$ —</u>

See notes to consolidated financial statements.

(concluded)

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
YEARS ENDED DECEMBER 31, 2020, 2019 AND 2018**

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization. Merit Medical Systems, Inc. (“Merit,” “we,” or “us”) designs, develops, manufactures and markets single-use medical products for interventional and diagnostic procedures. For financial reporting purposes, we report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of cardiology and radiology medical device products which assist in diagnosing and treating coronary artery disease, peripheral vascular disease and other non-vascular diseases and includes embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors. Within those two operating segments, we offer products focused in five product categories: peripheral intervention, cardiac intervention, custom procedural solutions, original equipment manufacturer (“OEM”) and endoscopy.

We manufacture our products in plants located in the U.S., Mexico, The Netherlands, Ireland, France, Brazil and Singapore. We export sales to dealers and have direct or modified direct sales forces in the U.S., Canada, Western Europe, Australia, Brazil, Russia, Japan, China, Malaysia, South Korea, UAE, India, New Zealand and South Africa (see Note 13). Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States. The following is a summary of the more significant of such policies.

Reclassifications. Certain reclassifications have been made to the 2019 and 2018 periods to conform to the 2020 presentation. In the consolidated statements of cash flows for the year ended December 31, 2020, the fair value adjustment to contingent consideration is presented as a reconciling item between net income (loss) and cash flows from operating activities. A corresponding reclassification for the years ended December 31, 2019 and 2018 of approximately \$0.2 million and \$0.7 million, respectively, has been made for comparability, along with corresponding reclassifications to the change in certain operating assets and liabilities.

Use of Estimates in Preparing Financial Statements. The preparation of financial statements in conformity with accounting principles generally accepted in the United States (“U.S. GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Principles of Consolidation. The consolidated financial statements include our wholly owned subsidiaries. Intercompany balances and transactions have been eliminated.

Cash and Cash Equivalents. For purposes of the statements of cash flows, we consider interest bearing deposits with an original maturity date of three months or less to be cash equivalents.

Receivables. Trade accounts receivable are recorded at the net invoice value and are not interest bearing. An allowance for credit losses on trade receivables is recorded based on our expectation of credit losses and is based upon our historical bad debt experience, current economic conditions, expectations of future economic conditions and management’s evaluation of our ability to collect individual outstanding balances. Once collection efforts have been exhausted and a receivable is deemed to be uncollectible, such balance is charged against the allowance for credit losses.

Inventories. We value our inventories at the lower of cost, at approximate costs determined on a first-in, first-out method, or net realizable value. Net realizable value is the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. Inventory costs include material, labor and manufacturing overhead. We review inventories on hand at least quarterly and record provisions for estimated excess, slow moving and obsolete inventory, as well as inventory with a carrying value in excess of net realizable value. The regular and systematic

inventory valuation reviews include a current assessment of future product demand, historical experience and product expiration.

Goodwill and Intangible Assets. We test goodwill balances for impairment on an annual basis as of July 1 or whenever impairment indicators arise. When impairment indicators are identified, we may elect to perform an optional qualitative assessment to determine whether it is more likely than not that the fair value of our reporting units has fallen below their carrying value. During our annual impairment test we utilize four reporting units in evaluating goodwill for impairment using a quantitative assessment, which uses a combination of a guideline public company market-based approach and a discounted cash flow income-based approach. The quantitative assessment considers whether the carrying amount of a reporting unit exceeds its fair value, in which case an impairment charge is recorded to the extent the reporting unit's carrying value exceeds its fair value.

Finite-lived intangible assets including developed technology, customer lists, distribution agreements, license agreements, trademarks, covenants not to compete and patents are subject to amortization. Intangible assets are amortized over their estimated useful life on a straight-line basis, except for customer lists, which are generally amortized on an accelerated basis. Estimated useful lives are determined considering the period the assets are expected to contribute to future cash flows. We evaluate long-lived assets, including amortizing intangible assets, for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. We perform the impairment analysis at the asset group for which the lowest level of identifiable cash flows are largely independent of the cash flows of other assets and liabilities. We compare the carrying value of the amortizing intangible assets acquired to the undiscounted cash flows expected to result from the asset group and determine whether the carrying amount is recoverable. We determine the fair value of our amortizing assets based on estimated future cash flows discounted back to their present value using a discount rate that reflects the risk profiles of the underlying activities.

In-process technology intangible assets, which are not subject to amortization until projects reach commercialization, are assessed for impairment at least annually and more frequently if events occur that would indicate a potential reduction in the fair value of the assets below their carrying value. An impairment charge would be recognized to the extent the carrying amount of the in-process technology exceeded its fair value.

Long-Lived Assets. We periodically review the carrying amount of our depreciable long-lived assets for impairment. An asset is considered impaired when estimated future cash flows are less than the carrying amount of the asset. In the event the carrying amount of such asset is not considered recoverable, the asset is adjusted to its fair value. Fair value is generally determined based on discounted future cash flow.

Property and Equipment. Property and equipment is stated at the historical cost of construction or purchase. Construction costs include interest costs capitalized during construction. Maintenance and repairs of property and equipment are charged to operations as incurred. Leasehold improvements are amortized over the lesser of the base term of the lease or estimated life of the leasehold improvements. Construction-in-process consists of new buildings and various production equipment being constructed internally and externally. Assets in construction-in-process will commence depreciating once the asset has been placed in service. Depreciation is computed using the straight-line method over estimated useful lives as follows:

Buildings	40 years
Manufacturing equipment	4 - 20 years
Furniture and fixtures	3 - 20 years
Land improvements	10 - 20 years
Leasehold improvements	4 - 25 years

Depreciation expense related to property and equipment for the years ended December 31, 2020, 2019 and 2018 was approximately \$35.4 million, \$31.4 million, and \$28.3 million, respectively.

Deferred Compensation. We have a deferred compensation plan that permits certain management employees to defer a portion of their salary until the future. We established a Rabbi trust to finance obligations under the plan with corporate-owned variable life insurance contracts. The cash surrender value totaled approximately \$17.1 million and \$15.1 million at December 31, 2020 and 2019, respectively, which is included in other assets in our consolidated balance sheets. We

have recorded a deferred compensation payable of approximately \$16.8 million and \$14.9 million at December 31, 2020 and 2019, respectively, to reflect the liability to our employees under this plan.

Other Assets. Other assets as of December 31, 2020 and 2019 consisted of the following (in thousands):

	2020	2019
Deferred compensation plan assets	\$ 17,074	\$ 15,053
Investments in privately held companies	12,043	17,129
Long-term notes receivable	2,196	2,722
Other	6,363	6,557
Total	<u>\$ 37,676</u>	<u>\$ 41,461</u>

We analyze our investments in privately held companies to determine if they should be accounted for using the equity method based on our ability to exercise significant influence over operating and financial policies of the investment. Our share of earnings associated with equity method investments is reported within other income (expense) in our consolidated statements of income (loss). Investments not accounted for under the equity method of accounting are accounted for at cost minus impairment, if applicable, plus or minus changes in valuation resulting from observable transactions for identical or similar investments.

Other Long-term Obligations. Other long-term obligations as of December 31, 2020 and 2019 consisted of the following (in thousands):

	2020	2019
Contingent consideration liabilities	\$ 36,917	\$ 48,088
Other long-term obligations	15,831	8,385
Total	<u>\$ 52,748</u>	<u>\$ 56,473</u>

In connection with a business combination, any contingent consideration is recorded at fair value on the acquisition date based upon the consideration expected to be transferred in the future. We re-measure the estimated liability each quarter based upon changes in revenue estimates, changes in the probability of achieving relevant milestones and changes in the discount rate or expected period of payment. Changes in the estimated fair value are recorded through operating expense in our consolidated statements of income (loss).

Revenue Recognition. We sell our medical products through a direct sales force in the U.S. and through OEM relationships, custom procedure tray manufacturers and a combination of direct sales force and independent distributors in international markets. Revenue is recognized when a customer obtains control of promised goods based on the consideration we expect to receive in exchange for these goods. This core principle is achieved through the following steps:

Identify the contract with the customer. A contract with a customer exists when (i) we enter into an enforceable contract with a customer that defines each party's rights regarding the goods to be transferred and identifies the payment terms related to these goods, (ii) the contract has commercial substance and (iii) we determine that collection of substantially all consideration for services that are transferred is probable based on the customer's intent and ability to pay the promised consideration. We do not have significant costs to obtain contracts with customers. For commissions on product sales, we have elected the practical expedient to expense the costs as incurred if the amortization period would have been one year or less.

Identify the performance obligations in the contract. Generally, our contracts with customers do not include multiple performance obligations to be completed over a period of time. Our performance obligations generally relate to delivering single-use medical products to a customer, subject to the shipping terms of the contract. Limited warranties are provided, under which we typically accept returns and provide either replacement parts or refunds. We do not have significant returns. We do not typically offer extended warranty or service plans, except in limited cases which are not material.

Determine the transaction price. Payment by the customer is due under customary fixed payment terms, and we evaluate if collectability is reasonably assured. Our contracts do not typically contain a financing component. Revenue is recorded

at the net sales price, which includes estimates of variable consideration such as product returns, rebates, discounts, and other adjustments. The estimates of variable consideration are based on historical payment experience, historical and projected sales data, and current contract terms. Variable consideration is included in revenue only to the extent that it is probable that a significant reversal of the revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. Taxes collected from customers relating to product sales and remitted to governmental authorities are excluded from revenues.

Allocate the transaction price to performance obligations in the contract. We typically do not have multiple performance obligations in our contracts with customers. As such, we generally recognize revenue upon transfer of the product to the customer's control at contractually stated pricing.

Recognize revenue when or as we satisfy a performance obligation. We generally satisfy performance obligations at a point in time upon either shipment or delivery of goods, in accordance with the terms of each contract with the customer. We do not have significant service revenue. Contract assets are recognized for the future right to invoice customers, and contract liabilities are recognized for unearned revenue if payment is received prior to our fulfillment of performance obligations. We do not have material contract assets or contract liabilities.

Reserves are recorded as a reduction in net sales and are not considered material to our consolidated statements of income (loss) for the years ended December 31, 2020, 2019 and 2018. In addition, we invoice our customers for taxes assessed by governmental authorities such as sales tax and value added taxes. We present these taxes on a net basis.

Shipping and Handling. When billed to our customers, shipping and handling charges are included in net sales for the applicable period, and the corresponding shipping and handling expense is reported in cost of sales.

Cost of Sales. We include product costs (i.e. material, direct labor and overhead costs), shipping and handling expense, product royalty expense, developed technology amortization expense, production-related depreciation expense and product license agreement expense in cost of sales.

Research and Development. Research and development costs, including new product development, clinical trials, and regulatory compliance, are expensed as incurred.

Income Taxes. Under our accounting policies, we initially recognize a tax position in our financial statements when it becomes more likely than not that the position will be sustained upon examination by the tax authorities. Such tax positions are initially and subsequently measured as the largest amount of tax positions that has a greater than 50% likelihood of being realized upon ultimate settlement with the tax authorities assuming full knowledge of the position and all relevant facts. Although we believe our provisions for unrecognized tax positions are reasonable, we can make no assurance that the final tax outcome of these matters will not be different from that which we have reflected in our income tax provisions and accruals. The tax law is subject to varied interpretations, and we have taken positions related to certain matters where the law is subject to interpretation. Such differences could have a material impact on our income tax provisions and operating results in the period(s) in which we make such determination.

Earnings per Common Share. Net income (loss) per common share is computed by both the basic method, which uses the weighted average number of our common shares outstanding, and the diluted method, which includes the dilutive common shares from stock options and restricted stock units as calculated using the treasury stock method. Performance stock units are considered contingently issuable awards and are excluded from the weighted average basic share calculation. These awards are included in the weighted average dilutive share calculation, to the extent they are dilutive, based on the number of shares, if any, that would be issuable as of the end of the reporting period assuming the end of the reporting period is also the end of the performance period.

Fair Value Measurements. The fair value of a financial instrument is the amount that could be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Financial assets are marked to bid prices and financial liabilities are marked to offer prices. Fair value measurements do not include transaction costs. A fair value hierarchy is used to prioritize the quality and reliability of the information

used to determine fair values. Categorization within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The fair value hierarchy is defined in the following three categories:

Level 1: Quoted market prices in active markets for identical assets or liabilities.

Level 2: Observable market-based inputs or inputs that are corroborated by market data.

Level 3: Unobservable inputs that are not corroborated by market data.

Stock-Based Compensation. We recognize the fair value compensation cost relating to stock-based payment transactions in accordance with Accounting Standards Codification (“ASC”) 718, *Compensation — Stock Compensation*. Under the provisions of ASC 718, stock-based compensation cost is measured at the grant date, based on the fair value of the award, and is recognized over the employee’s requisite service period, which is generally the vesting period. The fair value of our stock options is estimated using a Black-Scholes option valuation model. The fair value of our performance stock units linked to total shareholder return is estimated using Monte-Carlo simulations. Compensation expense is adjusted each period based on the grant-date fair value and the number of shares that are probable of being awarded based on the performance conditions of the awards. Restricted stock units are valued based on the closing stock price on the date of grant. Cash-settled share-based awards, or liability awards, are remeasured at fair value each reporting period until the awards are settled. Stock-based compensation expense for the years ended December 31, 2020, 2019 and 2018 was approximately \$14.3 million, \$9.4 million and \$6.1 million, respectively (see Note 12).

Concentration of Credit Risk. Financial instruments that potentially subject us to concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. We provide credit, in the normal course of business, primarily to hospitals and independent third-party custom procedure tray manufacturers and distributors. We perform ongoing credit evaluations of our customers and maintain allowances for potential credit losses. Due to the diversified nature and number of our customers, concentrations of credit risk with respect to accounts receivable are limited.

Foreign Currency. The financial statements of our foreign subsidiaries are measured using local currencies as the functional currency, with the exception of our manufacturing subsidiaries in Ireland and Mexico, which each use the U.S. Dollar as its functional currency. Assets and liabilities are translated into U.S. Dollars at year-end rates of exchange and results of operations are translated at average rates for the year. Gains and losses resulting from these translations are included in accumulated other comprehensive income (loss) as a separate component of stockholders’ equity. Transactional exchange gains or losses are included in other income (expense) in determining net income (loss) for the period.

Derivatives. We use forward contracts to mitigate our exposure to volatility in foreign exchange rates, and we use interest rate swaps to hedge changes in the benchmark interest rate related to our Third Amended Credit Agreement described in Note 8. All derivatives are recognized in the consolidated balance sheets at fair value. Classification of each hedging instrument is based upon whether the maturity of the instrument is less than or greater than 12 months. We do not purchase or hold derivative financial instruments for speculative or trading purposes (see Note 9).

New Financial Accounting Standards

Recently Adopted

In August 2018, the Financial Accounting Standards Board (“FASB”) issued Accounting Standard Update (“ASU”) 2018-15, *Intangibles – Goodwill and Other – Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*, which aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software (and hosting arrangements that include an internal-use software license). ASU 2018-15 became effective for us on January 1, 2020. The adoption of this standard did not have a material impact on our consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820)*, which removes, modifies and adds various disclosure requirements related to fair value disclosures. ASU 2018-13 became effective for us beginning on January 1, 2020. We have modified our disclosures to conform with this guidance (see Note 16).

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which replaced the incurred loss impairment methodology for financial assets with a methodology that reflects expected credit losses. The new credit loss model must be applied to loans, accounts receivable, and other financial assets. ASU 2016-13 became effective for us beginning on January 1, 2020. We adopted this standard using a modified retrospective approach with a cumulative-effect adjustment to retained earnings of \$575,000 as of the beginning of 2020. See Note 16 for additional disclosures related to our allowance for current expected credit losses. The adoption of this guidance did not have a material impact on our statements of income (loss) or cash flows.

Not Yet Adopted

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides temporary optional expedients and exceptions in accounting for modifications of contracts that reference the London interbank offered rate (“LIBOR”) or another reference rate expected to be discontinued as a result of reference rate reform. In January 2021 the FASB issued ASU 2021-01, *Reference Rate Reform (Topic 848): Scope*, which amends the scope of ASU 2020-04. ASU 2020-04 and ASU 2021-01 are effective as of March 12, 2020 and may be applied prospectively to transactions through December 31, 2022. We are currently assessing the anticipated impact of these standards on our consolidated financial statements.

We currently believe that all other issued and not yet effective accounting standards are not relevant to our financial statements.

2. REVENUES

Disaggregation of Revenue. Our revenue is disaggregated based on reporting segment, product category and geographical region. Beginning in the first quarter of 2020, we revised our product categories to more clearly reflect how we sell our products to our customers. We presented historical information under the new revised product categories in a Current Report on Form 8-K, filed with the SEC on April 3, 2020.

We design, develop, manufacture and market medical products for interventional and diagnostic procedures. For financial reporting purposes, we report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of four product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and OEM. Within these product categories, we sell a variety of products, including cardiology and radiology devices (which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases), as well as embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors.

The following table presents sales by operating segment disaggregated based on product category and geographic region for the years ended December 31, 2020, 2019 and 2018 (in thousands).

	Year Ended December 31, 2020			Year Ended December 31, 2019			Year Ended December 31, 2018		
	United States	International	Total	United States	International	Total	United States	International	Total
Cardiovascular									
Peripheral Intervention	\$ 211,999	\$ 129,569	\$341,568	\$ 226,788	\$ 124,148	\$350,936	\$ 171,277	\$ 104,836	\$276,113
Cardiac Intervention	108,109	171,562	279,671	115,604	189,193	304,797	104,263	174,233	278,496
Custom Procedural Solutions	110,269	92,927	203,196	99,659	87,700	187,359	96,730	83,602	180,332
OEM	91,826	17,941	109,767	101,065	16,824	117,889	91,954	22,582	114,536
Total	522,203	411,999	934,202	543,116	417,865	960,981	464,224	385,253	849,477
Endoscopy									
Endoscopy devices	27,858	1,815	29,673	32,595	1,276	33,871	32,189	1,087	33,276
Total	\$ 550,061	\$ 413,814	\$963,875	\$ 575,711	\$ 419,141	\$994,852	\$ 496,413	\$ 386,340	\$882,753

3. ACQUISITIONS AND OTHER STRATEGIC TRANSACTIONS

2020 Acquisitions

On November 6, 2020, we entered into a unit purchase agreement to acquire KA Medical, LLC (“KA Medical”). Subject to the terms and conditions of the unit purchase agreement, we paid \$10.4 million in cash at closing, net of cash acquired, subject to adjustments for working capital and other matters, with an additional \$4 million payable no later than 12 months following the agreement. KA Medical developed the Micro Plug Set, a self-expanding nitinol vascular occlusion device, which is FDA-cleared and CE marked. We accounted for this acquisition as a business combination. The sales and results of operations related to the acquisition have been included in our cardiovascular segment since the acquisition date and were not material. Acquisition-related costs associated with the KA Medical acquisition, which were included in selling,

general and administrative expenses, were not material. The purchase price was preliminarily allocated as follows (in thousands):

Assets Acquired	
Trade receivables	\$ 24
Other receivables	13
Inventories	216
Property and equipment	298
Other long-term assets	147
Intangible assets	
Developed technology	6,000
Goodwill	8,283
Total assets acquired	14,981
Liabilities Assumed	
Trade payables	(31)
Accrued expenses	(507)
Total liabilities assumed	(538)
Total net assets acquired	\$ 14,443

We are amortizing the developed technology intangible asset acquired from KA Medical over 17 years. The goodwill consists largely of the synergies expected from combining operations and is expected to be deductible for income tax purposes.

2019 Acquisitions

On October 11, 2019, we entered into a subscription and shareholders' agreement to acquire 3,900 ordinary shares and 1,365 C ordinary shares of Selio Medical Limited ("Selio"), an option to purchase all ordinary shares in Selio throughout a 45 day period commencing from the date Selio receives FDA Section 510(k) approval of a medical device it is currently developing, and an option to purchase all remaining shares on the third anniversary date of the agreement if we elect to purchase all ordinary shares. The shares of stock we acquired, which represent an ownership interest of approximately 19.5%, have been recorded as an equity investment accounted for at cost because we are not able to exercise significant influence over the operations of Selio. The investment and purchase option of approximately \$2.6 million are reflected within other assets in the accompanying consolidated balance sheets. In addition, we have a loan to Selio of \$250,000, reflected within other assets, and have committed to provide a loan up to an additional €2 million at the discretion of the borrower. Amounts outstanding under the loan accrue interest at a rate of 5% per annum. All amounts outstanding under the loan agreement become due and payable at the first anniversary of the expiration of our option to purchase all ordinary shares.

On August 1, 2019, we entered into a share purchase agreement to acquire Fibro vein Holdings Limited, which is the owner of 100% of the capital stock of STD Pharmaceutical Products Limited, a UK private company engaged in the manufacture, distribution and sale of pharmaceutical sclerotherapy products ("STD Pharmaceutical"). The purchase consideration consisted of an upfront payment of approximately \$13.7 million, net of cash acquired. We also recorded a contingent consideration liability of \$934,000 related to royalties potentially payable pursuant to the terms of the share purchase agreement. We accounted for this acquisition as a business combination.

On June 14, 2019, we consummated an acquisition transaction contemplated by a merger agreement to acquire Brightwater Medical, Inc. ("Brightwater"). The purchase consideration consisted of an upfront payment of \$35 million plus an immaterial working capital adjustment, net of cash acquired, with potential earn-out payments of up to an additional \$5 million for achievement of CE certification with respect to the ConvertX®, a single-use device used to replace a series of devices and procedures used to treat severe obstructions of the ureter, and up to an additional \$10 million for the achievement of sales milestones specified in the merger agreement. The ConvertX device is designed to be implanted once and converted from a nephroureteral catheter to a nephroureteral stent without requiring sedation or local anesthesia.

Brightwater recently received FDA clearance for the ConvertX biliary stent device. We accounted for this acquisition as a business combination.

On March 28, 2019, we paid \$2 million to acquire convertible participating preferred shares of Fluidx Medical Technology, LLC ("Fluidx"), owner of certain technology proposed to be used in the development of embolic and adhesive agents for use in arterial, venous, vascular graft and cardiovascular applications inside and outside the heart and related appendages. Our investment in Fluidx has been recorded as an equity investment accounted for at cost and reflected within other assets in our accompanying consolidated balance sheet because we are not able to exercise significant influence over the operations of Fluidx. Our total current investment in Fluidx represents an ownership of approximately 11.6% of the outstanding equity interests of Fluidx.

The following table summarizes the purchase price allocation and other disclosures for acquisitions accounted for as business combinations during the year ended December 31, 2019 (in thousands). During the year ended December 31, 2020, certain non-significant measurement period adjustments were recorded to our purchase price allocation for the assets acquired from Brightwater, including reassessment of tax assets and liabilities.

	STD Pharmaceutical	Brightwater
Assets Acquired		
Trade receivables	\$ 277	\$ 55
Inventories	843	349
Prepaid expenses and other current assets	49	—
Property and equipment	—	409
Other long-term assets	—	30
Intangible assets		
Developed technology	10,428	31,960
Customer lists	—	83
Trademarks	—	250
Goodwill	4,975	17,607
Total assets acquired	<u>16,572</u>	<u>50,743</u>
Liabilities Assumed		
Trade payables	(53)	(58)
Accrued expenses	(29)	(261)
Other long-term obligations	—	(1,522)
Deferred income tax liabilities	(1,890)	(4,263)
Total liabilities assumed	<u>(1,972)</u>	<u>(6,104)</u>
Total net assets acquired	<u>\$ 14,600</u>	<u>\$ 44,639</u>
Amortization Period of Intangible Assets		
Developed technology	12 years	13 years
Customer lists (on an accelerated basis)	—	1 year
Trademarks	—	5 years
Weighted Average	12 years	12.9 years

The sales and results of operations related to the STD Pharmaceutical and Brightwater acquisitions have been included in our cardiovascular segment and were not material. It is not practical to separately report earnings related to these acquisitions, as we cannot split out sales costs related solely to the products acquired, principally because our sales representatives sell multiple products within our cardiovascular business segment. Acquisition costs related to the STD Pharmaceutical and Brightwater acquisitions, which were included in selling, general and administrative expenses, were not material. Goodwill related to these acquisitions arises principally from synergies and economies of scale anticipated upon consolidation of operations and is not expected to be deductible for income tax purposes.

2018 Acquisitions

On December 14, 2018, we consummated an acquisition transaction contemplated by an asset purchase agreement with Vascular Insights, LLC and VI Management, Inc. (combined "Vascular Insights") and acquired Vascular Insights' intellectual property rights, inventory and certain other assets, including, the ClariVein® IC system and the ClariVein OC system. The ClariVein systems are specialty infusion and occlusion catheter systems with rotating wire tips designed for the controlled 360-degree dispersion of physician-specified agents to a targeted treatment area. We accounted for this acquisition as a business combination. The purchase consideration included an upfront payment of \$40 million and an immaterial working capital adjustment. We are also obligated to pay up to an additional \$20 million based on achieving certain revenue milestones specified in the asset purchase agreement.

On November 13, 2018, we consummated an acquisition transaction contemplated by a merger agreement to acquire Cianna Medical, Inc. ("Cianna Medical"). The purchase consideration consisted of an upfront payment of \$135 million plus a final working capital adjustment of approximately \$1.2 million in cash, with earn-out payments of \$15 million for achievement of supply chain and scalability metrics paid in the third quarter of 2019 and potential payments up to an additional \$50 million for the achievement of sales milestones specified in the merger agreement. Cianna Medical developed the first non-radioactive, wire-free breast cancer localization system. Its SCOUT® and SAVI® Brachy technologies are FDA-cleared and address unmet needs in the delivery of radiation therapy, tumor localization and surgical guidance. We accounted for this acquisition as a business combination.

During July 2018, we purchased 1,786,000 preferred limited liability company units of Cagent Vascular, LLC, a medical device company ("Cagent"), for approximately \$2.2 million. We had previously purchased 3,000,000 preferred limited liability company units of Cagent for approximately \$3.0 million during 2016 and 2017. Our investment has been recorded as an equity investment accounted for at cost and reflected within other assets in the accompanying consolidated balance sheets because we are not able to exercise significant influence over the operations of Cagent. Our total current investment in Cagent represents an ownership of approximately 19.5% of the outstanding stock.

On May 23, 2018, we entered into an asset purchase agreement with DirectACCESS Medical, LLC ("DirectACCESS") to acquire its assets, including, certain product distribution agreements for the FirstChoice™ Ultra High-Pressure PTA Balloon Catheter. We accounted for this acquisition as a business combination. The purchase price for the assets was approximately \$7.3 million.

On May 18, 2018, we paid \$750,000 for a distribution agreement with QXMédical, LLC ("QXMédical") for the Q50® PLUS Stent Graft Balloon Catheter. We accounted for this acquisition as an asset purchase. We are amortizing the distribution agreement intangible asset over a period of ten years.

On April 6, 2018, we entered into long-term agreements with NinePoint, pursuant to which we (a) became the exclusive worldwide distributor for the NvisionVLE® Imaging System with Real-time Targeting™ using Optical Coherence Tomography (OCT) and (b) acquired an option to purchase up to 100% of the outstanding equity in NinePoint throughout a three-month period commencing 18 months subsequent to the agreement date, both in exchange for total consideration of \$10 million. In addition, we made a loan to NinePoint for \$10.5 million with a maturity date of April 6, 2023, at which time the loan, together with accrued interest thereon, will be due and payable. The loan bears interest at a rate of 9.0% and is collateralized by NinePoint's rights, interest and title to the NvisionVLE® Imaging System and any other product owned or licensed by NinePoint utilizing OCT. This loan has been recorded as a note receivable within other long-term assets in our consolidated balance sheets. We utilized the consolidation of variable interest entities guidance to determine whether or not NinePoint was a variable interest entity ("VIE"), and if so, whether we are the primary beneficiary of NinePoint. As of December 31, 2018, we concluded that NinePoint is a VIE based on the fact that the equity investment at risk in NinePoint is not sufficient to finance its activities. We have also determined that Merit is not the primary beneficiary of NinePoint as we do not have the power to direct NinePoint's most significant activities. The results of operations related to NinePoint have been included in our endoscopy segment since the acquisition date. During the years ended December 31, 2019 and 2018 our net sales of NinePoint products were approximately \$2.9 million and \$3.0 million, respectively. Our exposure to loss related to our transaction with NinePoint was the carrying value of the amounts paid to and due from NinePoint. In 2019, we determined our investments in NinePoint were impaired, and we recorded impairment charges of \$20.5 million for the NinePoint note receivable and purchase option and \$1.6 million related to interest accrued on the note receivable. In January 2020, our option to purchase the outstanding equity of NinePoint expired.

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On February 14, 2018, we acquired certain divested assets from Becton, Dickinson and Company ("BD"), for an aggregate purchase price of \$100.3 million. We also recorded a contingent consideration liability of \$1.6 million related to milestone payments payable pursuant to the terms of the acquired contract with Sontina Medical LLC. The assets acquired include the soft tissue core needle biopsy products sold under the tradenames of Achieve® Programmable Automatic Biopsy System, Temno® Biopsy System and TruCut® Biopsy Needles as well as the Aspira® Pleural Effusion Drainage Kits, and the Aspira® Peritoneal Drainage System. We accounted for this acquisition as a business combination.

The following table summarizes the purchase price allocation and other required disclosures for acquisitions accounted for as business combinations during the year ended December 31, 2018 (in thousands).

	<u>Vascular Insights</u>	<u>Cianna Medical</u>	<u>DirectACCESS</u>	<u>BD</u>
Assets Acquired				
Trade receivables	\$ —	\$ 6,151	\$ —	\$ —
Inventories	1,353	5,803	971	5,804
Prepaid expenses and other current assets	—	315	—	—
Property and equipment	—	1,047	—	748
Other long-term assets	—	14	—	—
Intangibles				
Developed technology	32,750	134,510	4,840	74,000
Customer list	840	3,330	120	4,200
Trademarks	1,410	7,080	400	4,900
In-process technology	—	—	—	2,500
Goodwill	21,832	61,379	938	9,728
Total assets acquired	58,185	219,629	7,269	101,880
Liabilities Assumed				
Trade payables	—	(1,497)	—	—
Accrued expenses	—	(2,384)	—	—
Other long-term liabilities	—	(1,527)	—	—
Deferred income tax liabilities	—	(25,940)	—	—
Total liabilities assumed	—	(31,348)	—	—
Total net assets acquired	\$ 58,185	\$ 188,281	\$ 7,269	\$ 101,880
Amortization Period of Intangible Assets				
Developed technology	12 years	11 years	10 years	8 years
Customer lists (on an accelerated basis)	8 years	8 years	5 years	7 years
Trademarks	9 years	10 years	10 years	9 years
Weighted Average	11.8 years	10.7 years	9.9 years	8.0 years
Sales for the years ended				
December 31, 2020	\$5.5 million	\$45.3 million	Not Material	\$42.6 million
December 31, 2019	\$7.5 million	\$49.5 million	Not Material	\$46.8 million
December 31, 2018	Not Material	\$6.3 million	Not Material	\$42.1 million

The sales and results of operations related to these acquisitions have been included in our cardiovascular segment. It is not practical to separately report earnings related to these acquisitions, as we cannot split out sales costs related solely to the products acquired, principally because our sales representatives sell multiple products within our cardiovascular business segment. Acquisition costs related to these acquisitions were included in selling, general and administrative expenses. Acquisition costs related to the Vascular Insights and DirectAccess acquisitions were not material, and acquisition costs related to the Cianna Medical and BD acquisitions were \$3.5 million and \$1.8 million, respectively. Goodwill related to these acquisitions arises principally from synergies and economies of scale anticipated upon consolidation of operations. Goodwill related to the Cianna Medical acquisition is not expected to be deductible for income tax purposes, while

goodwill related to the Vascular Insights, DirectAccess, and BD acquisitions is expected to be deductible for income tax purposes.

Pro Forma

The following table summarizes our consolidated results of operations for the year ended December 31, 2018, as well as unaudited pro forma consolidated results of operations as though the 2018 acquisitions of Cianna Medical and Vascular Insights had occurred on January 1, 2017 (in thousands, except per common share amounts):

	2018	
	As Reported	Pro Forma
Net sales	\$ 882,753	\$ 928,336
Net income	42,017	20,699
Earnings per common share:		
Basic	\$ 0.80	\$ 0.40
Diluted	\$ 0.78	\$ 0.38

Note: The pro forma results for the years ended December 31, 2020 and 2019 are not included in the table above because the operating results of the Cianna Medical, and Vascular Insights acquisitions were included in our consolidated statements of income (loss) for these periods.

The unaudited pro forma information set forth above is for informational purposes only and includes adjustments related to the step-up of acquired inventories, amortization expense of acquired intangible assets, stock-based compensation for cancelled or forfeited options, and interest expense on long-term debt. The pro forma information should not be considered indicative of actual results that would have been achieved if the acquisition of Cianna Medical and Vascular Insights had occurred on January 1, 2017, or results that may be obtained in any future period. The pro forma consolidated results of operations do not include the 2018 acquisition of assets from BD because it was deemed impracticable to obtain information to determine net income associated with the acquired product lines which represent a small product line of a large, consolidated company without standalone financial information. We do not deem the pro forma effects to our consolidated results of operations of the KA Medical, STD Pharmaceutical, Brightwater and DirectACCESS acquisitions to be material.

4. INVENTORIES

Inventories at December 31, 2020 and 2019, consisted of the following (in thousands):

	2020	2019
Finished goods	\$ 110,933	\$ 134,467
Work-in-process	19,308	17,602
Raw materials	67,778	73,629
Total inventories	\$ 198,019	\$ 225,698

5. GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill for the years ended December 31, 2020 and 2019, are as follows (in thousands):

	2020	2019
Goodwill balance at January 1	\$ 353,193	\$ 335,433
Effect of foreign exchange	1,941	(199)
Additions and adjustments as the result of acquisitions	8,399	17,959
Goodwill balance at December 31	\$ 363,533	\$ 353,193

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Total accumulated goodwill impairment losses aggregated to \$8.3 million as of December 31, 2020 and 2019. We did not have any goodwill impairments for the years ended December 31, 2020, 2019 and 2018. The total goodwill balance as of December 31, 2020 and 2019 is related to our cardiovascular segment.

Other intangible assets at December 31, 2020 and 2019, consisted of the following (in thousands):

	December 31, 2020		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Patents	\$ 23,669	\$ (6,460)	\$ 17,209
Distribution agreements	3,250	(2,319)	931
License agreements	14,453	(6,647)	7,806
Trademarks	30,273	(12,414)	17,859
Customer lists	35,154	(29,103)	6,051
Total	<u>\$ 106,799</u>	<u>\$ (56,943)</u>	<u>\$ 49,856</u>

	December 31, 2019		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Patents	\$ 22,703	\$ (6,863)	\$ 15,840
Distribution agreements	8,012	(6,794)	1,218
License agreements	26,987	(12,746)	14,241
Trademarks	30,240	(9,477)	20,763
Covenants not to compete	964	(964)	—
Customer lists	39,984	(28,763)	11,221
In-process technology	2,500	—	2,500
Total	<u>\$ 131,390</u>	<u>\$ (65,607)</u>	<u>\$ 65,783</u>

Aggregate amortization expense for the years ended December 31, 2020, 2019 and 2018 was approximately \$58.6 million, \$60.7 million and \$41.2 million, respectively.

Estimated amortization expense for the developed technology and other intangible assets for the next five years consists of the following as of December 31, 2020 (in thousands):

Year Ending December 31,	Estimated Amortization Expense
2021	\$ 49,701
2022	48,496
2023	47,323
2024	44,313
2025	42,503

During the years ended December 31, 2020, 2019, and 2018, we identified indicators of impairment associated with certain acquired intangible assets based on our qualitative assessment, which required us to then complete a quantitative impairment assessment. The primary indicators of impairment were slower-than-anticipated sales growth in the acquired products, planned closure and restructuring activities, uncertainty about future product development and commercialization associated with certain acquired technologies, and in 2020 economic uncertainties associated with the COVID-19 pandemic.

During the year ended December 31, 2020, we recorded total impairment charges related to our intangible assets of approximately \$28.7 million which included a partial impairment charge of \$8.2 million of intangible assets from our acquisition of STD Pharmaceutical, a partial impairment charge of \$8.0 million of intangible assets from our acquisition of certain assets from Laurane Medical S.A.S, a partial impairment charge of \$4.8 million related to our license agreements with ArraVasc Limited, and other intangible asset impairments charges of \$7.7 million related to intangible assets from our acquisition of certain assets from DirectACCESS Medical, LLC, in-process technology intangible assets of Sontina Medical LLC acquired in connection with our acquisition of certain divested assets from Becton, Dickinson and Company,

and a customer list intangible asset from our acquisition of ITL Healthcare Pty Ltd (“ITL”). During the year ended December 31, 2019, we recorded impairment charges related to our amortizing intangible assets from our acquisitions of certain assets from Distal Access, LLC, Lazarus Medical Technologies, LLC, and Pleuratech ApS for a total of approximately \$3.3 million. During the year ended December 31, 2018, we recorded impairment charges of \$657,000 related to our acquisition of certain assets from Quellent, LLC. The impairment charges recorded in 2020, 2019, and 2018 all pertained to our cardiovascular segment and are reflected within impairment charges in our consolidated statements of income (loss).

6. INCOME TAXES

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was signed into law. The \$2.2 trillion economic stimulus bill contains numerous tax law changes. We evaluated the tax changes to determine what provisions would apply to us. As permitted by the CARES Act we have deferred payment of the employer’s portion of social security payroll tax payments.

For the years ended December 31, 2020, 2019 and 2018, income (loss) before income taxes is broken out between U.S. and foreign-sourced operations and consisted of the following (in thousands):

	2020	2019	2018
Domestic	\$ (32,216)	\$ (37,277)	\$ 21,084
Foreign	18,985	39,470	28,435
Total	<u>\$ (13,231)</u>	<u>\$ 2,193</u>	<u>\$ 49,519</u>

The components of the provision for income taxes for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
Current expense (benefit):			
Federal	\$ (937)	\$ 479	\$ (1,132)
State	437	662	582
Foreign	8,407	8,037	6,000
Total current expense (benefit)	<u>7,907</u>	<u>9,178</u>	<u>5,450</u>
Deferred expense (benefit):			
Federal	(2,688)	(8,111)	4,400
State	(4,524)	(3,523)	(667)
Foreign	(4,083)	(802)	(1,681)
Total deferred expense (benefit)	<u>(11,295)</u>	<u>(12,436)</u>	<u>2,052</u>
Total income tax expense (benefit)	<u>\$ (3,388)</u>	<u>\$ (3,258)</u>	<u>\$ 7,502</u>

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The difference between the income tax expense (benefit) reported and amounts computed by applying the statutory federal rate of 21.0% to pretax income (loss) for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Computed federal income tax expense (benefit) at applicable statutory rate of 21%	\$ (2,778)	\$ 461	\$ 10,399
State income tax expense (benefit)	(1,448)	(2,241)	(59)
Tax credits	(2,098)	(1,567)	(1,734)
Foreign tax rate differential	(1,230)	(1,536)	(1,361)
Uncertain tax positions	(576)	(794)	267
Deferred compensation insurance assets	(299)	(503)	186
Transaction-related expenses	—	154	223
U.S. transition tax	—	—	(3,271)
TCJA remeasurement of deferred taxes	—	—	(71)
Stock-based payments	(1,815)	(1,654)	(4,278)
Net GILTI	3,960	1,861	347
Foreign withholding tax	228	638	5,590
Foreign permanent differences ⁽¹⁾	1,728	937	96
Valuation allowance ⁽¹⁾	1,879	131	21
DOJ settlement	1,890	—	—
Remeasurement of state deferred taxes	(1,765)	—	—
Other — including the effect of graduated rates ⁽¹⁾	(1,064)	855	1,147
Total income tax expense (benefit)	<u>\$ (3,388)</u>	<u>\$ (3,258)</u>	<u>\$ 7,502</u>

(1) Amounts for the years ended December 31, 2019 and 2018 in the table above have been updated for presentation and comparative purposes.

Deferred income tax assets and liabilities at December 31, 2020 and 2019, consisted of the following temporary differences and carry-forward items (in thousands):

	2020	2019
Deferred income tax assets:		
Allowance for credit losses on trade receivables	\$ 1,198	\$ 693
Accrued compensation expense	9,694	9,244
Inventory differences	3,161	2,207
Net operating loss carryforwards	18,622	21,187
Deferred revenue	617	552
Stock-based compensation expense	7,360	4,672
Operating lease assets	15,182	16,838
Federal R&D tax credit	3,607	1,376
Other	13,993	6,189
Total deferred income tax assets	<u>73,434</u>	<u>62,958</u>
Deferred income tax liabilities:		
Prepaid expenses	(1,078)	(1,128)
Property and equipment	(20,671)	(21,242)
Intangible assets	(47,178)	(53,933)
Foreign withholding tax	(5,358)	(5,240)
Operating lease liabilities	(13,855)	(15,847)
Other	(3,796)	(2,372)
Total deferred income tax liabilities	<u>(91,936)</u>	<u>(99,762)</u>
Valuation allowance	<u>(10,213)</u>	<u>(4,644)</u>
Net deferred income tax liabilities	<u>\$ (28,715)</u>	<u>\$ (41,448)</u>
Reported as:		
Deferred income tax assets	\$ 4,597	\$ 3,788
Deferred income tax liabilities	(33,312)	(45,236)
Net deferred income tax liabilities	<u>\$ (28,715)</u>	<u>\$ (41,448)</u>

The deferred income tax balances are not netted as they represent deferred amounts applicable to different taxing jurisdictions. Deferred income tax balances reflect the temporary differences between the carrying amounts of assets and liabilities and their tax basis and are stated at enacted tax rates expected to be in effect when taxes are actually paid or recovered. The valuation allowance is primarily related to state credit carryforwards, non-US net operating loss carryforwards, and capital loss carryforwards for which we believe it is more likely than not that the deferred tax assets will not be realized. The valuation allowance increased by approximately \$5.6 million during the year ended December 31, 2020, decreased by approximately \$345,000 during the year ended December 31, 2019, and increased by approximately \$567,000 during the year ended December 31, 2018.

As of December 31, 2020, we had U.S. federal net operating loss carryforwards of approximately \$66.9 million, which were generated by Cianna Medical, Vascular Access Technologies, Inc., DFINE Inc., Biosphere Medical, Inc., and Brightwater prior to our acquisition of these companies. These net operating loss carryforwards are subject to annual limitations under Internal Revenue Code Section 382. If unused, \$41.7 million of the NOLs will expire between 2025 and 2037. Approximately \$25.2 million of the NOLs incurred after December 31, 2017 can be carried forward indefinitely. We anticipate that we will utilize all current net operating loss carryforwards prior to their expiration dates over the next 15 years. We utilized a total of approximately \$23.7 million in U.S. federal net operating loss carryforwards during the year ended December 31, 2020.

As of December 31, 2020, we had approximately \$27 million of non-U.S. net operating loss carryforwards, of which approximately \$25.8 million have no expiration date and approximately \$1.2 million expire at various dates through 2030. Non-U.S. net operating loss carryforwards utilized during the year ended December 31, 2020 were not material.

We do not consider our foreign earnings to be permanently reinvested. Consequently, we have recorded tax expense of approximately \$228,000, \$638,000 and \$5.6 million for foreign withholding taxes on unremitted foreign earnings during the years ended December 31, 2020, 2019 and 2018, respectively.

We are subject to income taxes in the U.S. and numerous foreign jurisdictions. Significant judgment is required in determining our worldwide provision for income taxes and recording the related assets and liabilities. In the ordinary course of our business, there are many transactions and calculations where the ultimate tax determination is uncertain. In our opinion, we have made adequate provisions for income taxes for all years subject to audit. We are no longer subject to U.S. federal, state, and local income tax examinations by tax authorities for years before 2017. In foreign jurisdictions, we are no longer subject to income tax examinations for years before 2014.

Although we believe our estimates are reasonable, the final outcomes of these matters may be different from those which we have reflected in our historical income tax provisions and accruals. Such differences could have a material effect on our income tax provision and operating results in the period in which we make such determination.

The total liability for unrecognized tax benefits at December 31, 2020, including interest and penalties, was approximately \$2 million, of which approximately \$1.6 million would favorably impact our effective tax rate if recognized. Approximately \$627,000 of the total liability at December 31, 2020 was presented as a reduction to non-current deferred income tax assets on our consolidated balance sheet. The total liability for unrecognized tax benefits at December 31, 2019, including interest and penalties, was approximately \$2.5 million, of which approximately \$2.2 million would favorably impact our effective tax rate if recognized. Approximately \$230,000 of the total liability at December 31, 2019 was presented as a reduction to non-current deferred income tax assets on our consolidated balance sheet. As of December 31, 2020 and 2019, the total liability for uncertain tax benefits, as presented on our consolidated balance sheets, has been reduced by approximately \$307,000 related to certain liabilities for unrecognized tax benefits, which, if realized, would reduce the transition tax under the TCJA by approximately \$307,000. As of December 31, 2020 and 2019, we had accrued approximately \$276,000 and \$366,000 respectively, in total interest and penalties related to unrecognized tax benefits. We account for interest and penalties for unrecognized tax benefits as part of our income tax provision. During the years ended December 31, 2020, 2019 and 2018, our liability for unrecognized tax benefit was increased (decreased) for interest and penalties by approximately (\$90,000), (\$7,000) and \$69,000, respectively. It is reasonably possible that within the next 12 months the total liability for unrecognized tax benefits may change, net of potential decreases due to the expiration of statutes of limitation, up to \$250,000.

A reconciliation of the beginning and ending amount of liabilities associated with uncertain tax benefits for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
Unrecognized tax benefits, opening balance	\$ 2,161	\$ 2,947	\$ 2,749
Gross increases (decreases) in tax positions taken in a prior year	115	(244)	35
Gross increases in tax positions taken in the current year	283	229	586
Lapse of applicable statute of limitations	(885)	(771)	(423)
Unrecognized tax benefits, ending balance	<u>\$ 1,674</u>	<u>\$ 2,161</u>	<u>\$ 2,947</u>

The tabular roll-forward ending balance does not include interest and penalties related to unrecognized tax benefits.

7. ACCRUED EXPENSES

Accrued expenses at December 31, 2020 and 2019, consisted of the following (in thousands):

	<u>2020</u>	<u>2019</u>
Payroll and related liabilities	\$ 41,023	\$ 39,781
Current portion of contingent liabilities	18,833	28,621
Advances from employees	259	286
Accrued rebates payable	9,532	9,202
Other accrued expenses	42,297	27,294
Total	<u>\$ 111,944</u>	<u>\$ 105,184</u>

8. REVOLVING CREDIT FACILITY AND LONG-TERM DEBT

Principal balances outstanding under our long-term debt obligations as of December 31, 2020 and 2019, consisted of the following (in thousands):

	<u>2020</u>	<u>2019</u>
Term loans	\$ 140,625	\$ 148,125
Revolving credit loans	211,000	291,875
Less unamortized debt issuance costs	(403)	(516)
Total long-term debt	351,222	439,484
Less current portion	7,500	7,500
Long-term portion	<u>\$ 343,722</u>	<u>\$ 431,984</u>

Third Amended and Restated Credit Agreement

On July 31, 2019, we entered into a Third Amended and Restated Credit Agreement (the "Third Amended Credit Agreement"). The Third Amended Credit Agreement is a syndicated loan agreement with Wells Fargo Bank, National Association and other parties. The Third Amended Credit Agreement amends and restates in its entirety our previously outstanding Second Amended and Restated Credit Agreement and all amendments thereto. The Third Amended Credit Agreement provides for a term loan of \$150 million and a revolving credit commitment up to an aggregate amount of \$600 million, inclusive of sub-facilities for multicurrency borrowings, standby letters of credit and swingline loans. On July 31, 2024, all principal, interest and other amounts outstanding under the Third Amended Credit Agreement are payable in full. At any time prior to the maturity date, we may repay any amounts owing under all term loans and revolving credit loans in whole or in part, without premium or penalty, other than breakage fees (as defined in the Third Amended Credit Agreement).

Revolving credit loans denominated in dollars and term loans made under the Third Amended Credit Agreement bear interest, at our election, at either the Base Rate or the Eurocurrency Rate (as such terms are defined in the Third Amended Credit Agreement) plus the Applicable Margin (as defined in the Third Amended Credit Agreement). Revolving credit loans denominated in an Alternative Currency (as defined in the Third Amended Credit Agreement) bear interest at the Eurocurrency Rate plus the Applicable Margin. Swingline loans bear interest at the Base Rate plus the Applicable Margin (as defined in the Third Amended Credit Agreement). Interest on each loan featuring the Base Rate is due and payable on the last business day of each calendar quarter; interest on each loan featuring the Eurocurrency Rate is due and payable on the last day of each interest period applicable thereto, and if such interest period extends over three months, at the end of each three-month interval during such interest period.

The Third Amended Credit Agreement is collateralized by substantially all of our assets. The Third Amended Credit Agreement contains affirmative and negative covenants, representations and warranties, events of default and other terms

customary for loans of this nature. In particular, the Third Amended Credit Agreement requires that we maintain certain financial covenants, as follows:

	<u>Covenant Requirement</u>
Consolidated Total Leverage Ratio ⁽¹⁾	4.0 to 1.0
Consolidated Interest Coverage Ratio ⁽²⁾	3.0 to 1.0
Facility Capital Expenditures ⁽³⁾	\$50 million

- (1) Maximum Consolidated Total Net Leverage Ratio (as defined in the Third Amended Credit Agreement) as of any fiscal quarter end.
- (2) Minimum ratio of Consolidated EBITDA (as defined in the Third Amended Credit Agreement and adjusted for certain expenditures) to Consolidated interest expense (as defined in the Third Amended Credit Agreement) for any period of four consecutive fiscal quarters.
- (3) Maximum level of the aggregate amount of all Facility Capital Expenditures (as defined in the Third Amended Credit Agreement) in any fiscal year.

As of December 31, 2020, we believe we were in compliance with all covenants set forth in the Third Amended Credit Agreement.

As of December 31, 2020, we had outstanding borrowings of approximately \$351.6 million under the Third Amended Credit Agreement, with additional available borrowings of approximately \$389 million, based on the leverage ratio required pursuant to the Third Amended Credit Agreement. Our interest rate as of December 31, 2020 was a fixed rate of 2.37% on \$175 million as a result of an interest rate swap (see Note 9) and a variable floating rate of 1.40% on approximately \$176.6 million. Our interest rate as of December 31, 2019 was a fixed rate of 2.62% on \$175 million as a result of an interest rate swap and a variable floating rate of 3.30% on \$265 million. The foregoing fixed rates are exclusive of changes in the notional amount and fixed rate associated with our interest rate swaps beginning July 6, 2021 as described in Note 9 and potential future changes in the applicable margin.

Future Payments

Future minimum principal payments on our long-term debt as of December 31, 2020, are as follows (in thousands):

<u>Years Ending December 31,</u>	<u>Future Minimum Principal Payments</u>
2021	\$ 7,500
2022	8,438
2023	11,250
2024	324,437
Total future minimum principal payments	<u>\$ 351,625</u>

9. DERIVATIVES

General. Our earnings and cash flows are subject to fluctuations due to changes in interest rates and foreign currency exchange rates, and we seek to mitigate a portion of these risks by entering into derivative contracts. The derivatives we use are interest rate swaps and foreign currency forward contracts. We recognize derivatives as either assets or liabilities at fair value in the accompanying consolidated balance sheets, regardless of whether or not hedge accounting is applied. We report cash flows arising from our hedging instruments consistent with the classification of cash flows from the underlying hedged items. Accordingly, cash flows associated with our derivative programs are classified as operating activities in the accompanying consolidated statements of cash flows.

We formally document, designate and assess the effectiveness of transactions that receive hedge accounting initially and on an ongoing basis. For qualifying hedges, the change in fair value is deferred in accumulated other comprehensive income (loss) ("AOCI"), a component of stockholders' equity in the accompanying consolidated balance sheets, and

recognized in earnings at the same time the hedged item affects earnings. Changes in the fair value of derivatives not designated as hedging instruments are recorded in earnings throughout the term of the derivative.

Interest Rate Risk. Our debt bears interest at variable interest rates and, therefore, we are subject to variability in the cash paid for interest expense. In order to mitigate a portion of this risk, we use a hedging strategy to reduce the variability of cash flows in the interest payments associated with a portion of the variable-rate debt outstanding under our Third Amended Credit Agreement that is solely due to changes in the benchmark interest rate.

Derivatives Designated as Cash Flow Hedges

On August 5, 2016, we entered into a pay-fixed, receive-variable interest rate swap with a current notional amount of \$175 million with Wells Fargo Bank to fix the one-month LIBOR rate at 1.12%. The variable portion of the interest rate swap is tied to the one-month LIBOR rate (the benchmark interest rate). On a monthly basis, the interest rates under both the interest rate swap and the underlying debt reset, the swap is settled with the counterparty, and interest is paid. The interest rate swap is scheduled to expire on July 6, 2021.

On December 23, 2019, we entered into a pay-fixed, receive-variable interest rate swap with a notional amount of \$75 million with Wells Fargo Bank to fix the one-month LIBOR rate at 1.71% for the period from July 6, 2021 to July 31, 2024. The variable portion of the interest rate swap is tied to the one-month LIBOR rate (the benchmark interest rate). On a monthly basis, the interest rates under both the interest rate swap and the underlying debt will reset, the swap will be settled with the counterparty, and interest will be paid.

At December 31, 2020 and 2019, our interest rate swaps qualified as cash flow hedges. The fair value of our interest rate swaps at December 31, 2020 was a liability of (\$4.4) million, partially offset by approximately (\$1.1) million in deferred taxes. The fair value of our interest rate swap at December 31, 2019 was an asset of approximately \$1.2 million (partially offset by approximately \$307,000 in deferred taxes) and a liability of (\$290,000), partially offset by approximately (\$75,000) in deferred taxes.

Foreign Currency Risk. We operate on a global basis and are exposed to the risk that our financial condition, results of operations, and cash flows could be adversely affected by changes in foreign currency exchange rates. To reduce the potential effects of foreign currency exchange rate movements on net earnings, we enter into derivative financial instruments in the form of foreign currency exchange forward contracts with major financial institutions. Our policy is to enter into foreign currency derivative contracts with maturities of up to two years. We are primarily exposed to foreign currency exchange rate risk with respect to transactions and balances denominated in Chinese Renminbi, Euros, British Pounds, Mexican Pesos, Brazilian Reals, Australian Dollars, Hong Kong Dollars, Swiss Francs, Swedish Krona, Canadian Dollars, Danish Krone, Japanese Yen, and South Korean Won, among others. We do not use derivative financial instruments for trading or speculative purposes. We are not subject to any credit risk contingent features related to our derivative contracts, and counterparty risk is managed by allocating derivative contracts among several major financial institutions.

Derivatives Designated as Cash Flow Hedges

For derivative instruments that are designated and qualify as cash flow hedges, the gain or loss on the derivative instrument is temporarily reported as a component of other comprehensive income (loss) and then reclassified into earnings in the same line item associated with the forecasted transaction and in the same period or periods during which the hedged transaction affects earnings. We entered into forward contracts on various foreign currencies to manage the risk associated with forecasted exchange rates which impact revenues, cost of sales, and operating expenses in various international markets. The objective of the hedges is to reduce the variability of cash flows associated with the forecasted purchase or sale of the associated foreign currencies.

We enter into approximately 150 cash flow foreign currency hedges every month. As of December 31, 2020 and 2019, we had entered into foreign currency forward contracts, which qualified as cash flow hedges, with aggregate notional amounts of approximately \$168.2 million and \$212.5 million, respectively.

Derivatives Not Designated as Cash Flow Hedges

We forecast our net exposure in various receivables and payables to fluctuations in the value of various currencies, and we enter into foreign currency forward contracts to mitigate that exposure. We enter into approximately 20 foreign currency fair value hedges every month. As of December 31, 2020 and 2019, we had entered into foreign currency forward contracts related to those balance sheet accounts with aggregate notional amounts of approximately \$74.8 million and \$65.0 million, respectively.

Balance Sheet Presentation of Derivatives. As of December 31, 2020 and 2019, all derivatives, both those designated as hedging instruments and those that were not designated as hedging instruments, were recorded gross at fair value on our consolidated balance sheets. We are not subject to any master netting agreements.

The fair value of derivative instruments on a gross basis is as follows (in thousands):

Fair Value of Derivative Instruments Designated as Hedging Instruments

	<u>Balance Sheet Location</u>	<u>December 31, 2020</u>	<u>December 31, 2019</u>
<i>Assets</i>			
Interest rate swaps	Other assets (long-term)	\$ —	\$ 1,192
Foreign currency forward contracts	Prepaid expenses and other assets	1,777	1,663
Foreign currency forward contracts	Other assets (long-term)	424	466
<i>(Liabilities)</i>			
Interest rate swaps	Accrued expenses	(896)	—
Interest rate swaps	Other long-term obligations	(3,462)	(290)
Foreign currency forward contracts	Accrued expenses	(5,281)	(1,813)
Foreign currency forward contracts	Other long-term obligations	(866)	(764)

Fair Value of Derivative Instruments Not Designated as Hedging Instruments

	<u>Balance Sheet Location</u>	<u>December 31, 2020</u>	<u>December 31, 2019</u>
<i>Assets</i>			
Foreign currency forward contracts	Prepaid expenses and other assets	\$ 877	\$ 318
<i>(Liabilities)</i>			
Foreign currency forward contracts	Accrued expenses	(2,120)	(1,678)

Income Statement Presentation of Derivatives

Derivatives Designated as Cash Flow Hedges

Derivative instruments designated as cash flow hedges had the following effects, before income taxes, on other comprehensive income ("OCI") in our consolidated statements of comprehensive income (loss) and consolidated balance sheets (in thousands):

<u>Derivative instrument</u>	<u>Amount of Gain/(Loss) Recognized in OCI Year Ended December 31,</u>		
	<u>2020</u>	<u>2019</u>	<u>2018</u>
<i>Interest rate swaps</i>	\$ (6,131)	\$ (2,830)	\$ 1,559
<i>Foreign currency forward contracts</i>	(5,516)	(587)	539

Derivative instruments designated as cash flow hedges had the following effects, before income taxes, on AOCI and net earnings in our consolidated statements of income (loss), consolidated statements of comprehensive income (loss) and consolidated balance sheets (in thousands):

Location in statements of income	Consolidated Statements of Income (Loss) Year Ended December 31,			Amount of Gain/(Loss) reclassified from AOCI Year ended December 31,		
	2020	2019	2018	2020	2019	2018
Interest expense	\$ (9,994)	\$ (12,413)	\$ (10,360)	\$ (872)	\$ 2,040	\$ 1,537
Revenue	963,875	994,852	882,753	36	577	136
Cost of sales	(562,698)	(562,486)	(487,983)	(1,288)	(578)	361

All other amounts included in earnings related to designated cash flow hedges are immaterial.

As of December 31, 2020, approximately (\$4.3) million or (\$3.2) million after taxes, was expected to be reclassified from AOCI to earnings in revenue and cost of sales over the succeeding twelve months. As of December 31, 2020, approximately \$(1.5) million, or \$(1.1) million after taxes, was expected to be reclassified from AOCI to earnings in interest expense over the succeeding twelve months.

Derivatives Not Designated as Hedging Instruments

The following gains/(losses) from these derivative instruments were recognized in our consolidated statements of income (loss) for the years presented (in thousands):

Derivative Instrument	Location in statements of income (loss)	Year ended December 31,		
		2020	2019	2018
Foreign currency forward contracts	Other income (expense)	\$ (2,190)	\$ (307)	\$ 4,147

See Note 16 for more information about our derivatives.

10. COMMITMENTS AND CONTINGENCIES

We are obligated under non-terminable operating leases for manufacturing facilities, finished good distribution centers, office space, equipment, vehicles, and land. See Note 18 for disclosures regarding these operating leases.

Loan Commitment. We have committed to provide loans of up to an additional €2 million at the discretion of Selio at a rate of 5% per annum until one year and 45 days have passed from the date Selio receives FDA Section 510(k) approval of a medical device it is currently developing. The current note receivable balance from Selio is \$250,000. If exercised, these loans would be securitized by all the present and future assets and property of the borrower.

Royalties. As of December 31, 2020, we had entered into a number of agreements to license or acquire rights to certain intellectual property which require us to make royalty payments during the term of the agreements generally based on a percentage of sales. During the years ended December 31, 2020, 2019 and 2018, total royalty expense approximated \$7.1 million, \$6.7 million and \$5.3 million, respectively. Minimum contractual commitments under royalty agreements to be paid within twelve months of December 31, 2020 were not significant. See Note 16 for discussion of future royalty commitments related to acquisitions.

Litigation. In the ordinary course of business, we are involved in various claims and litigation matters. These claims and litigation matters may include actions involving product liability, intellectual property, contract disputes, and employment or other matters that are significant to our business. For example, in December 2019 our company, our Chief Executive Officer and our Chief Financial Officer were named in a complaint filed in the Central District of California, which alleges violations of certain federal securities laws. Based upon our review of currently available information, we do not believe that any such actions are likely to be, individually or in the aggregate, materially adverse to our business, financial condition, results of operations or liquidity. We have filed a Motion to Dismiss and are awaiting the Court's ruling on the motion.

In addition to the foregoing matters, on October 13, 2020, we entered into a Settlement Agreement with the United States Department of Justice (“DOJ”) to fully resolve the DOJ’s investigation into past marketing and promotional transactions practices of the Company. Under the Settlement Agreement, we agreed to pay settlement payments in the aggregate of \$18 million plus interest and enter into a Corporate Integrity Agreement with the U.S. Office of Inspector General. In total, we paid approximately \$18.7 million in settlement payments, interest and additional expenses associated with the Settlement Agreement, including fees paid to settle claims of the relator’s counsel. Our failure to comply with the obligations of the Settlement Agreement or Corporate Integrity Agreement could result in monetary penalties and our exclusion from federal health care programs. In the event of unexpected further developments, it is possible that the ultimate outcome of any of the foregoing matters, or other similar matters, if resolved in a manner unfavorable to us, may be materially adverse to our business, financial condition, results of operations or liquidity. Legal costs for these matters, such as outside counsel fees and expenses, are charged to expense in the period incurred.

11. EARNINGS PER COMMON SHARE (EPS)

The computation of weighted average shares outstanding and the basic and diluted earnings (loss) per common share for the following periods consisted of the following (in thousands, except per share amounts):

	2020	2019	2018
Net income (loss)	\$ (9,843)	\$ 5,451	\$ 42,017
Average common shares outstanding	55,434	55,075	52,268
Basic EPS	\$ (0.18)	\$ 0.10	\$ 0.80
Average common shares outstanding	55,434	55,075	52,268
Effect of dilutive stock options	—	1,160	1,663
Total potential shares outstanding	55,434	56,235	53,931
Diluted EPS	\$ (0.18)	\$ 0.10	\$ 0.78
Equity awards excluded as the impact was anti-dilutive ⁽¹⁾	4,216	1,750	396

(1) Does not reflect the impact of incremental repurchases under the treasury stock method.

12. EMPLOYEE STOCK PURCHASE PLAN, STOCK OPTIONS AND WARRANTS.

Our stock-based compensation primarily consists of the following plans:

2018 Long-Term Incentive Plan. In June 2018, our Board of Directors adopted and our shareholders approved, the Merit Medical Systems, Inc. 2018 Long-Term Incentive Plan, which was subsequently amended effective December 14, 2018 (the “2018 Incentive Plan”) to supplement the Merit Medical Systems, Inc. 2006 Long-Term Incentive plan (the “2006 Incentive Plan”). The 2018 Incentive Plan provides for the granting of stock options, stock appreciation rights, restricted stock, stock units (including restricted stock units) and performance awards (including performance stock units). Options may be granted to directors, officers, outside consultants and key employees and may be granted upon such terms and such conditions as the Compensation Committee of our Board of Directors determines. Options will typically vest on an annual basis over a three to five-year life with a contractual life of seven years. As of December 31, 2020, a total of 1,297,062 shares remained available to be issued under the 2018 Incentive Plan.

2006 Long-Term Incentive Plan. In May 2006, our Board of Directors adopted, and our shareholders approved, the 2006 Incentive Plan. As of December 31, 2020, the 2006 Incentive Plan was no longer being used for the granting of equity awards. However, as of December 31, 2020, options granted under this plan were still outstanding, vesting, and being exercised and will continue to be outstanding until the vesting periods end and the terms of the equity awards expire.

Employee Stock Purchase Plan. We have a non-qualified Employee Stock Purchase Plan (“ESPP”), which has an expiration date of June 30, 2026. As of December 31, 2020, the total number of shares of common stock that remained available to be issued under our non-qualified plan was 40,073 shares. ESPP participants purchase shares on a quarterly basis at a price equal to 95% of the market price of the common stock at the end of the applicable offering period.

Stock-Based Compensation Expense. The stock-based compensation expense before income tax expense for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Cost of sales			
Nonqualified stock options	\$ 1,357	\$ 1,289	\$ 870
Research and development			
Nonqualified stock options	1,157	961	553
Selling, general and administrative			
Nonqualified stock options	7,332	7,132	4,694
Performance-based restricted stock units	2,829	—	—
Restricted stock units	758	—	—
Cash-settled share-based awards	906	—	—
Total selling, general and administrative	<u>11,825</u>	<u>7,132</u>	<u>4,694</u>
Stock-based compensation expense before taxes	<u>\$ 14,339</u>	<u>\$ 9,382</u>	<u>\$ 6,117</u>

Nonqualified Stock Options

We recognize stock-based compensation expense (net of a forfeiture rate) for those awards which are expected to vest on a straight-line basis over the requisite service period. We estimate the forfeiture rate based on our historical experience and expectations about future forfeitures. As of December 31, 2020, the total remaining unrecognized compensation cost related to non-vested stock options, net of expected forfeitures, was approximately \$25.4 million and is expected to be recognized over a weighted average period of 2.5 years.

In applying the Black-Scholes methodology to the option grants, the fair value of our stock-based awards granted were estimated using the following assumptions for the years ended December 31, 2020, 2019 and 2018:

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Risk-free interest rate	0.29% - 1.67%	1.38% - 2.56%	2.63% - 2.77%
Expected option term	4.0 - 5.0 years	3.0 - 5.0 years	5.0 years
Expected dividend yield	—	—	—
Expected price volatility	38.65% - 45.12%	28.66% - 39.38%	34.06% - 34.32%

The average risk-free interest rate is determined using the U.S. Treasury rate in effect as of the date of grant, based on the expected term of the stock option. We determine the expected term of the stock options using the historical exercise behavior of employees. The expected price volatility was determined based upon historical volatility for our stock and other factors. For options with a vesting period, compensation expense is recognized on a straight-line basis over the service period, which corresponds to the vesting period. During the years ended December 31, 2020, 2019 and 2018, approximately 329,000, 1.2 million and 692,000 nonqualified stock option grants were made, respectively, for a total fair value of approximately \$4.5 million, \$20.9 million and \$11.1 million, net of estimated forfeitures, respectively.

The table below presents information related to stock option activity for the years ended December 31, 2020, 2019 and 2018 (in thousands):

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Total intrinsic value of stock options exercised	\$ 11,733	\$ 9,910	\$ 25,692
Cash received from stock option exercises	5,481	4,837	8,510
Excess tax benefit from the exercise of stock options	1,815	1,654	4,278

Changes in stock options for the year ended December 31, 2020, consisted of the following (shares and intrinsic value in thousands):

	<u>Number of Shares</u>	<u>Weighted Average Exercise Price</u>	<u>Remaining Contractual Term (in years)</u>	<u>Intrinsic Value</u>
Beginning balance	4,319	\$ 34.10		
Granted	329	39.21		
Exercised	(442)	16.17		
Forfeited/expired	(264)	42.37		
Outstanding at December 31	<u>3,942</u>	<u>35.98</u>	<u>3.97</u>	<u>\$ 77,350</u>
Exercisable	1,936	29.38	2.95	50,678
Ending vested and expected to vest	3,860	35.79	3.94	76,482

The weighted average grant-date fair value of options granted during the years ended December 31, 2020, 2019 and 2018 was \$13.70, \$16.78 and \$16.05, respectively.

Stock-Settled Performance-Based Restricted Stock Units (“PSUs”) and Time-Vested Restricted Stock Units (“RSUs”)

We grant PSUs to certain of our executive officers. Conversion of PSUs occurs at the end of one, two and three-year performance periods, or one year after the agreement date, whichever is later. The conversion ratio is based upon attaining targeted levels of free cash flow (“FCF”) and relative shareholder return as compared to the Russell 2000 Index (“rTSR”), as defined in the award agreements. After reviewing the anticipated impact of the COVID-19 pandemic on our ongoing and forecasted operations and financial performance, during the three-month period ended June 30, 2020, our Board of Directors amended the PSUs with a one-year performance period in an effort to more closely align our executive management compensation with the interests of our shareholders. This amendment reduced the targeted levels of FCF and reduced the maximum FCF multiplier to 100% for the one-year awards, which lowered the potential shares of our common stock to be granted pursuant to the one-year awards by 25,415 shares. We have accounted for this amendment in accordance with ASC 718 as a “Type I” modification. The two and three-year PSUs were not amended.

The payout for each PSU is equal to one share of common stock multiplied by a FCF multiplier (between 0% and 100% in the case of the one-year awards, as amended, or 0% and 200% in the case of the two and three-year awards) and a rTSR multiplier (between 75% and 125%). PSUs convey no shareholder rights unless and until shares are issued in settlement of the award. We use Monte-Carlo simulations to estimate the grant-date fair value of the PSUs linked to total shareholder return. Compensation expense is recognized using the grant-date fair value for the number of shares that are probable of being awarded based on the performance conditions. Each reporting period, this probability assessment is updated, and cumulative catchups are recorded based on the level of FCF that is expected to be achieved. At the end of the performance period, cumulative expense is calculated based on the actual level of FCF achieved.

We grant RSUs to our non-employee directors, which are subject to continued service through the vesting date, which is one year from the date of grant. The expense recognized for RSUs is equal to the closing stock price on the date of grant, which is recognized over the vesting period.

Changes in PSUs and RSUs for the year ended December 31, 2020, consisted of the following:

	PSUs		RSUs	
	Stock Units (In Thousands)	Weighted Average Grant Date Fair Value	Stock Units (In Thousands)	Weighted Average Grant Date Fair Value
Beginning nonvested balance	—	\$ —	—	\$ —
Granted	122	43.60	34	42.98
Vested	—	—	—	—
Impact of amendments	(20)	43.43	—	—
Nonvested balance at December 31	102	43.63	34	42.98
Expected to vest at December 31, 2020	102 ⁽¹⁾	43.63	34	42.98

(1) Based on the maximum target payout of 100% for one-year awards, as amended, and 200% for two and three-year awards. Each unit will convert to between .75 and 1.25 shares of common stock based upon the rTSR performance of our common stock.

The weighted average grant-date fair value of PSUs and RSUs for the year December 31, 2020 was \$43.60 and \$42.98, respectively. There were no PSUs or RSUs granted for the years ended December 31, 2019 and 2018, and there were no PSUs or RSUs that vested in the years ended December 31, 2020, 2019 and 2018.

The fair value of each PSU was estimated as of the grant date using the following assumptions for awards granted in the year ended December 31, 2020:

	2020
Risk-free interest rate	1.1% - 1.3%
Performance period	0.8 - 2.8 years
Expected dividend yield	—
Expected price volatility	40.2% - 56.1%

The risk-free interest rate of return was determined using the U.S. Treasury rate at the time of grant with a remaining term equal to the expected term of the award. The expected volatility was based on a weighted average volatility of our stock price and the average volatility of our compensation peer group's volatilities. The expected dividend yield was assumed to be zero because, at the time of the grant, we had no plans to declare a dividend.

As of December 31, 2020, the total remaining unrecognized compensation cost related to stock-settled performance stock units and restricted stock units was approximately \$2.5 million and \$0.7 million, respectively, which is expected to be recognized over a weighted average period of 1.4 years and 0.5 years, respectively.

Cash-Settled Performance-Based Share-Based Awards ("Liability Awards")

During the year ended December 31, 2020, we granted liability awards to our Chief Executive Officer. These awards entitle him to a cash payment equal to a total target cash incentive of \$1.0 million multiplied by rTSR and FCF multipliers, as defined in the award agreements. During the three-month period ended June 30, 2020, after reviewing the anticipated impact of the COVID-19 pandemic on our ongoing and forecasted operations and financial performance, our Board of Directors amended the liability awards with a one-year performance period in an effort to more closely align our Chief Executive Officer's compensation with the interests of our shareholders. The two and three-year liability awards were not amended. As amended, the potential maximum payout of these awards is 125% of the target cash incentive for one-year awards, and 250% of the target cash incentive for two and three-year awards, for a total maximum potential payment of approximately \$2.1 million. Settlement generally occurs at the end of one, two and three-year performance periods based upon the same performance metrics and vesting period as our performance stock units. These awards are classified as liabilities and reported in accrued expenses and other long-term liabilities within our consolidated balance sheet. The fair value of these awards is remeasured at each reporting period until the awards are settled. As of December 31, 2020, the total remaining unrecognized compensation cost related to cash-settled performance-based share-based awards was

approximately \$1.0 million, which is expected to be recognized over a weighted average period of 1.5 years. There were no liability awards vested or forfeited in the years ended December 31, 2020, 2019 and 2018.

13. SEGMENT REPORTING AND FOREIGN OPERATIONS

We report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of four product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and OEM. Within these product categories, we sell a variety of products, including cardiology and radiology devices (which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases), as well as embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors. We evaluate the performance of our operating segments based on net sales and operating income (loss). See Note 2 for a detailed breakout of our sales by operating segment and product category, disaggregated between domestic and international sales.

During the years ended December 31, 2020, 2019 and 2018, we had international sales of approximately \$413.8 million, \$419.1 million and \$386.3 million, respectively, or approximately 43%, 42% and 44%, respectively, of net sales, primarily in China, Japan, Germany, France, the United Kingdom, Australia, and Russia. China represents our most significant international sales market with sales of approximately \$113.2 million, \$113.3 million, and \$92.7 million for the years ended December 31, 2020, 2019 and 2018, respectively. International sales are attributed based on location of the customer receiving the product.

Our long-lived assets (which are comprised of our net property and equipment) by geographic area at December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
United States	\$ 277,643	\$ 273,816	\$ 231,864
Ireland	42,951	44,912	45,283
Other foreign countries	62,134	60,057	54,305
Total	<u>\$ 382,728</u>	<u>\$ 378,785</u>	<u>\$ 331,452</u>

Financial information relating to our reportable operating segments and reconciliations to the consolidated totals for the years ended December 31, 2020, 2019 and 2018, are as follows (in thousands):

	2020	2019	2018
Net Sales			
Cardiovascular	\$ 934,202	\$ 960,981	\$ 849,477
Endoscopy	29,673	33,871	33,276
Total net sales	<u>963,875</u>	<u>994,852</u>	<u>882,753</u>
Operating Income (Loss)			
Cardiovascular	(7,042)	25,780	49,289
Endoscopy	5,480	(10,346)	9,328
Total operating income (loss)	<u>(1,562)</u>	<u>15,434</u>	<u>58,617</u>
Total other expense - net	(11,669)	(13,241)	(9,098)
Income tax (benefit) expense	<u>(3,388)</u>	<u>(3,258)</u>	<u>7,502</u>
Net income (loss)	<u>\$ (9,843)</u>	<u>\$ 5,451</u>	<u>\$ 42,017</u>

Total assets by operating segment at December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
Cardiovascular	\$ 1,654,866	\$ 1,745,057	\$ 1,588,970
Endoscopy	9,530	12,264	31,042
Total	\$ 1,664,396	\$ 1,757,321	\$ 1,620,012

Total depreciation and amortization by operating segment for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
Cardiovascular	\$ 93,160	\$ 91,151	\$ 68,722
Endoscopy	910	949	824
Total	\$ 94,070	\$ 92,100	\$ 69,546

Total capital expenditures for property and equipment by operating segment for the years ended December 31, 2020, 2019 and 2018, consisted of the following (in thousands):

	2020	2019	2018
Cardiovascular	\$ 45,803	\$ 77,631	\$ 63,032
Endoscopy	185	542	292
Total	\$ 45,988	\$ 78,173	\$ 63,324

14. EMPLOYEE BENEFIT PLANS

We have defined contribution plans covering all U.S. full-time adult employees and certain of our foreign employees. Our contributions to these plans are discretionary in certain countries, including the U.S. Beginning in September 2019, we ceased discretionary contributions to certain of our defined contribution plans. Total expense for contributions made to these plans for the years ended December 31, 2020, 2019 and 2018 was approximately \$3.9 million, \$6.6 million and \$6.5 million, respectively.

15. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

Quarterly data for the years ended December 31, 2020 and 2019 consisted of the following (in thousands, except per share amounts):

	Quarter Ended			
	March 31	June 30	September 30	December 31
2020				
Net sales	\$ 243,525	\$ 218,371	\$ 243,975	\$ 258,004
Gross profit	103,784	84,216	102,014	111,163
Income (loss) from operations	1,362	(18,995)	64	16,007
Income tax expense (benefit)	1,162	(3,242)	825	(2,133)
Net income (loss)	(3,154)	(19,058)	(3,009)	15,378
Earnings (loss) per common share - basic	(0.06)	(0.34)	(0.05)	0.28
Earnings (loss) per common share - diluted	(0.06)	(0.34)	(0.05)	0.27
2019				
Net sales	\$ 238,349	\$ 255,532	\$ 243,049	\$ 257,922
Gross profit	104,636	111,964	104,136	111,630
Income (loss) from operations	9,523	12,201	(2,881)	(3,409)
Income tax expense (benefit)	651	2,140	(2,292)	(3,757)
Net income (loss)	6,195	6,859	(3,398)	(4,205)
Earnings (loss) per common share - basic	0.11	0.12	(0.06)	(0.08)
Earnings (loss) per common share - diluted	0.11	0.12	(0.06)	(0.08)

During the three months ended December 31, 2020, we recorded a partial impairment charge of \$8.2 million of intangible assets from our August 2019 acquisition of STD Pharmaceutical (see Note 5). During the three months ended December 31, 2019, we recorded impairment charges of \$20.5 million due to our write-off of our NinePoint note receivable and purchase option, along with a write-off of \$1.6 million of accrued interest (see Note 16). Basic and diluted earnings (loss) per share are computed independently for each of the quarters presented. Therefore, the sum of the quarterly amounts may not equal the total computed for the year.

16. FAIR VALUE MEASUREMENTS

Assets (Liabilities) Measured at Fair Value on a Recurring Basis

Our financial assets and (liabilities) carried at fair value measured on a recurring basis as of December 31, 2020 and 2019, consisted of the following (in thousands):

	Total Fair Value at December 31, 2020	Fair Value Measurements Using		
		Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Interest rate contract liabilities, current and long-term ⁽¹⁾	\$ (4,358)	\$ —	\$ (4,358)	\$ —
Foreign currency contract assets, current and long-term ⁽²⁾	\$ 3,078	\$ —	\$ 3,078	\$ —
Foreign currency contract liabilities, current and long-term ⁽³⁾	\$ (8,267)	\$ —	\$ (8,267)	\$ —
Contingent consideration liabilities	\$ (55,750)	\$ —	\$ —	\$ (55,750)

	Total Fair Value at December 31, 2019	Fair Value Measurements Using		
		Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Interest rate contract asset, long-term ⁽¹⁾	\$ 1,192	\$ —	\$ 1,192	\$ —
Interest rate contract liability, long-term ⁽¹⁾	\$ (290)	\$ —	\$ (290)	\$ —
Foreign currency contract assets, current and long-term ⁽²⁾	\$ 2,447	\$ —	\$ 2,447	\$ —
Foreign currency contract liabilities, current and long-term ⁽³⁾	\$ (4,255)	\$ —	\$ (4,255)	\$ —
Contingent consideration liabilities	\$ (76,709)	\$ —	\$ —	\$ (76,709)

- (1) The fair value of the interest rate contracts is determined using Level 2 fair value inputs and is recorded as other long-term assets, accrued expenses or other long-term obligations in the consolidated balance sheets.
- (2) The fair value of the foreign currency contract assets (including those designated as hedging instruments and those not designated as hedging instruments) is determined using Level 2 fair value inputs and is recorded as prepaid and other assets or other long-term assets in the consolidated balance sheets.
- (3) The fair value of the foreign currency contract liabilities (including those designated as hedging instruments and those not designated as hedging instruments) is determined using Level 2 fair value inputs and is recorded as accrued expenses or other long-term obligations in the consolidated balance sheets.

Certain of our business combinations involve the potential for the payment of future contingent consideration, generally based on a percentage of future product sales or upon attaining specified future revenue or other milestones. See Note 3 for further information regarding these acquisitions. Contingent consideration liabilities are re-measured to fair value at each reporting period, with the change in fair value recognized within operating expenses in the accompanying consolidated statements of income (loss). We measure the initial liability and re-measure the liability on a recurring basis using Level 3 inputs as defined under authoritative guidance for fair value measurements. Changes in the fair value of our

contingent consideration liabilities during the years ended December 31, 2020 and 2019, consisted of the following (in thousands):

	<u>2020</u>	<u>2019</u>
Beginning balance	\$ 76,709	\$ 82,236
Contingent consideration liability recorded as the result of acquisitions	—	10,517
Contingent consideration (benefit)	(7,960)	(304)
Contingent payments made	(13,100)	(15,740)
Effect of foreign exchange	101	—
Ending balance	<u>\$ 55,750</u>	<u>\$ 76,709</u>

As of December 31, 2020, approximately \$36.9 million was included in other long-term obligations and approximately \$18.8 million was included in accrued expenses in our consolidated balance sheet related to contingent liabilities. As of December 31, 2019, approximately \$48.1 million was included in other long-term obligations and \$28.6 was included in accrued expenses in our consolidated balance sheet related to contingent liabilities. Cash paid to settle contingent consideration liabilities recognized at fair value as of the acquisition date (including measurement-period adjustments) has been reflected as a cash outflow from financing activities in the accompanying consolidated statements of cash flows.

During the year ended December 31, 2016, we sold an equity investment for cash and for the right to receive additional payments based on various contingent milestones. During the year ended December 31, 2019, we collected payments of approximately \$535,000 to settle the receivable in full.

The recurring Level 3 measurement of our contingent consideration liabilities includes the following significant unobservable inputs at December 31, 2020 and 2019 (amounts in thousands):

<u>Contingent consideration liability</u>	<u>Fair value at December 31, 2020</u>	<u>Valuation technique</u>	<u>Unobservable inputs</u>	<u>Range</u>	<u>Weighted Average⁽¹⁾</u>
Revenue-based royalty payments contingent liability	\$ 4,545	Discounted cash flow	Discount rate	12% - 15%	13.5%
			Projected year of payments	2021-2034	2026
Revenue milestones contingent liability	\$ 46,305	Monte Carlo simulation	Discount rate	7.5% - 12%	9.0%
			Projected year of payments	2021-2030	2022
Regulatory approval contingent liability	\$ 4,900	Scenario-based method	Discount rate	1%	
			Probability of milestone payment	100%	
			Projected year of payment	2021-2024	2022

(1) Unobservable inputs were weighted by the relative fair value of the instruments. No weighted average is reported for contingent consideration liabilities without a range of unobservable inputs.

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Contingent consideration liability	Fair value at December 31, 2019	Valuation technique	Unobservable inputs	Range
Revenue-based royalty payments contingent liability	\$ 7,710	Discounted cash flow	Discount rate Projected year of payments	13% - 24% 2020-2034
Revenue milestones contingent liability	\$ 66,114	Monte Carlo simulation	Discount rate Projected year of payments	9% - 13.5% 2020-2023
Regulatory approval contingent liability	\$ 2,885	Scenario-based method	Discount rate Probability of milestone payment Projected year of payment	2.4% 65% 2022

The contingent consideration liabilities are re-measured to fair value each reporting period using projected revenues, discount rates, probabilities of payment, and projected payment dates. Projected contingent payment amounts are discounted back to the current period using a discounted cash flow model. Projected revenues are based on our most recent internal operational budgets and long-range strategic plans. An increase (decrease) in either the discount rate or the time to payment, in isolation, may result in a significantly lower (higher) fair value measurement. A decrease in the probability of any milestone payment may result in lower fair value measurements. Our determination of the fair value of contingent consideration liabilities could change in future periods based upon our ongoing evaluation of these significant unobservable inputs. We intend to record any such change in fair value to operating expenses in our consolidated statements of income (loss).

Contingent Payments to Related Parties. During the years ended December 31, 2020 and 2019, we made contingent payments of approximately \$800,000 and \$1.0 million to a current director of Merit and former shareholder of Cianna Medical which we acquired in 2018. The terms of the acquisition, including contingent consideration payments, were determined prior to the appointment of the former Cianna Medical shareholder as a director of Merit. As a former shareholder of Cianna Medical, the Merit director may be eligible for additional payments for the achievement of sales milestones specified in our merger agreement with Cianna Medical.

Fair Value of Other Financial Instruments

The carrying amount of cash and cash equivalents, receivables, and trade payables approximate fair value because of the immediate, short-term maturity of these financial instruments. Our long-term debt re-prices frequently due to variable rates and entails no significant changes in credit risk and, as a result, we believe the fair value of long-term debt approximates carrying value. The fair value of assets and liabilities whose carrying value approximates fair value is determined using Level 2 inputs, with the exception of cash and cash equivalents, which are Level 1 inputs.

Impairment Charges

We recognize or disclose the fair value of certain assets, such as non-financial assets, primarily property and equipment, intangible assets and goodwill in connection with impairment evaluations. All of our nonrecurring valuations use significant unobservable inputs and therefore fall under Level 3 of the fair value hierarchy.

Intangible Assets. During the years ended December 31, 2020, 2019 and 2018, we had losses of approximately \$28.7 million, \$3.3 million and \$657,000, respectively, related to certain acquired intangible assets (see Note 5).

Right of Use Operating Lease Assets. During the year ended December 31, 2020, we identified changes in events and circumstances relating to a certain right-of-use (“ROU”) operating lease asset. We compared the anticipated undiscounted cash flows generated by a sublease to the carrying value of the ROU operating lease and related long-lived assets and determined that the carrying value was not recoverable. Consequently, we recorded an impairment loss of approximately

\$1.5 million, which is equal to the excess of the carrying value of the assets over their estimated fair value. The impairment loss was driven by site consolidation decisions and changes in our projected cash flows for the ROU operating lease asset and related long-lived assets, due to changes in the real estate market as a result of the COVID-19 pandemic. These changes include an increase in the anticipated time to identify a lessee, an increase in anticipated lease concessions, and a decrease in the expected lease rates for the property.

Property and Equipment. During the year ended December 31, 2020, we had losses of approximately \$359,000 related to the measurement of certain property and equipment measured at fair value based on restructuring activities associated with the suspension of our distribution agreement with NinePoint.

Equity Investments, Purchase Options, and Notes Receivable. During the year ended December 31, 2020, we recognized \$2.5 million of impairment expense related to our equity method investment in the 19.5 percent ownership in preferred shares of Fusion Medical, Inc. (“Fusion”) due to uncertainty about future product development and commercialization associated with the technologies and a charge of \$3.5 million related to Bluegrass Vascular due to our decision not to exercise our option to purchase the company. Our equity investments in privately held companies, including options to acquire these companies, were \$12.0 million and \$17.1 million at December 31, 2020 and 2019, respectively, which are included within other long-term assets in our consolidated balance sheets. We analyze our investments in privately held companies to determine if they should be accounted for using the equity method based on our ability to exercise significant influence over operating and financial policies of the investment. Investments not accounted for under the equity method of accounting are accounted for at cost minus impairment, if applicable, plus or minus changes in valuation resulting from observable transactions for identical or similar investments.

Prior to the adoption of ASU 2016-13 on January 1, 2020, we assessed the credit support available for notes receivable and the value of any underlying collateral to determine if there were any other-than temporary impairments. Credit losses represent the difference between the present value of cash flows expected to be collected on these notes receivable and the amortized cost basis. For the year ended December 31, 2019 we recorded impairment charges of \$20.5 million due to our write-off of our NinePoint note receivable and purchase option due to our assessment of the collectability of the note receivable and management’s decision not to exercise our option to purchase this business. We also wrote off \$1.6 million of accrued interest related to the note receivable reported in interest income in the consolidated statements of income (loss) for the year ended December 31, 2019. These valuations used significant unobservable inputs and therefore fall under Level 3 of the fair value hierarchy.

Current Expected Credit Loss

Our outstanding long-term notes receivable, including accrued interest and our allowance for current expected credit losses, were approximately \$2.2 million and \$2.7 million, as of December 31, 2020 and 2019, respectively. As of December 31, 2020, we had an allowance for current expected credit losses of \$730,000 associated with these notes receivable and our contractual obligation to extend credit to Selio. We assess the allowance for current expected credit losses on an individual security basis, due to the limited number of securities, using a probability of default model, which is based on relevant information about past events, including historical experience, current conditions and reasonable and supportable forecasts that affect the expected collectability of securities. During the year ended December 31, 2020, we adjusted the probability of default for all notes receivable for certain periods during the loan term due to changes in macroeconomic conditions and our expectations of collectability as a result of the COVID-19 pandemic. The table below presents a rollforward of the allowance for current expected credit losses on our notes receivable for the year ended December 31, 2020 (in thousands):

	<u>2020</u>
Beginning balance	\$ —
Cumulative effect adjustment upon adoption of ASU 2016-13, <i>Credit Losses</i>	575
Provision for credit loss expense	155
Ending balance	<u>\$ 730</u>

17. COMMON STOCK AND ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

On July 30, 2018, we closed a public offering of 4,025,000 shares of common stock and received proceeds of approximately \$205.0 million, which is net of approximately \$12.0 million in underwriting discounts and commissions and approximately \$366,000 in other direct cost incurred in connection with this equity offering. The net proceeds from the offering were used primarily to repay outstanding borrowings (principally revolving credit loans) under our Second Amended Credit Agreement.

The changes in each component of Accumulated Other Comprehensive Income (Loss) for the years ended December 31, 2020, 2019 and 2018 were as follows (in thousands):

	Cash Flow Hedges	Foreign Currency Translation	Total
December 31, 2017	\$ 3,474	\$ (1,940)	\$ 1,534
Other comprehensive income (loss)	2,098	(3,606)	(1,508)
Income taxes	(16)	(9)	(25)
Reclassifications to:			
Revenue	(136)		(136)
Cost of sales	(361)		(361)
Interest expense	(1,537)		(1,537)
Net other comprehensive income (loss)	48	(3,615)	(3,567)
December 31, 2018	3,522	(5,555)	(2,033)
Other comprehensive income (loss)	(3,417)	(18)	(3,435)
Income taxes	1,404	61	1,465
Reclassifications to:			
Revenue	(577)		(577)
Cost of sales	578		578
Interest expense	(2,040)		(2,040)
Net other comprehensive income (loss)	(4,052)	43	(4,009)
Reclassification of stranded tax effects ¹	748		748
December 31, 2019	218	(5,512)	(5,294)
Other comprehensive income (loss)	(11,647)	7,786	(3,861)
Income taxes	2,365	(786)	1,579
Reclassifications to:			
Revenue	(36)		(36)
Cost of sales	1,288		1,288
Interest expense	872		872
Net other comprehensive income (loss)	(7,158)	7,000	(158)
December 31, 2020	\$ (6,940)	\$ 1,488	\$ (5,452)

(1) Amounts reclassified to retained earnings as a result of the adoption of ASU 2018-02.

18. LEASES

We have operating leases for facilities used for manufacturing, research and development, sales and distribution, and office space, as well as leases for manufacturing and office equipment, vehicles, and land. Our leases have remaining terms of less than one year to approximately 29 years. A number of our lease agreements contain options to renew at our discretion for periods of up to 15 years and options to terminate the leases within one year. The lease term used to calculate ROU assets and lease liabilities includes renewal and termination options that are deemed reasonably certain to be exercised. Lease agreements with lease and non-lease components are generally accounted for as a single lease component. We do not have any bargain purchase options in our leases. For leases with an initial term of one year or less, we do not record a ROU asset or lease liability on our consolidated balance sheet. Substantially all of the ROU assets and lease liabilities as of December 31, 2020 recorded on our consolidated balance sheet are related to our cardiovascular segment.

From time to time we enter into agreements to sublease a portion of our facilities to third-parties. Such sublease income is not material. We also lease certain hardware consoles to customers and record rental revenue as a component of net sales. Rental revenue under such console leasing arrangements for the years ended December 31, 2020 and 2019 was not significant.

The following was included in our consolidated balance sheet as of December 31, 2020 and 2019 (in thousands):

	2020	2019
<i>Assets</i>		
ROU operating lease assets	\$ 78,240	\$ 80,244
<i>Liabilities</i>		
Short-term operating lease liabilities	\$ 12,903	\$ 11,550
Long-term operating lease liabilities	70,941	72,714
Total operating lease liabilities	\$ 83,844	\$ 84,264

During the year ended December 31, 2015, we entered into sale and leaseback transactions to finance certain production equipment for approximately \$2.0 million. At that time, we deferred the gain from the sale and leaseback transaction, of which approximately \$93,000 remained as of December 31, 2018. As part of the adoption of ASC 842, we wrote-off the deferred gain as an adjustment to equity through retained earnings as of January 1, 2019.

We recognize lease expense for operating leases on a straight-line basis over the term of the lease. Net lease cost for the years ended December 31, 2020, 2019 and 2018 was approximately \$16.7 million, \$16.5 million, and \$14.5 million, respectively. The components of lease costs for the years ended December 31, 2020 and 2019 were as follows, in thousands:

Lease Cost	Classification	2020	2019
Operating lease cost (a)	Selling, general and administrative expenses	\$ 16,735	\$ 16,828
Sublease (income) (b)	Selling, general and administrative expenses	(15)	(361)
Net lease cost		\$ 16,720	\$ 16,467

(a) Includes expense related to short-term leases and variable payments, which were not significant.

(b) Does not include rental revenue from leases of hardware consoles to customers, which was not significant.

Supplemental cash flow information for the years ended December 31, 2020 and 2019 was as follows, in thousands:

	Year Ended 2020	Year Ended 2019
Cash paid for amounts included in the measurement of lease liabilities	\$ 15,059	14,646
Right-of-use assets obtained in exchange for lease obligations	\$ 10,938	10,637

Generally, our lease agreements do not specify an implicit rate. Therefore, we estimate our incremental borrowing rate, which is defined as the interest rate we would pay to borrow on a collateralized basis, considering such factors as length of lease term and the risks of the economic environment in which the leased asset operates. As of December 31, 2020 and 2019, the following disclosures for remaining lease term and discount rates were applicable:

	2020	2019
Weighted average remaining lease term	11.5 years	12.3 years
Weighted average discount rate	3.3%	3.2%

As of December 31, 2020, maturities of operating lease liabilities were as follows, in thousands:

Year ended December 31,	<u>Amounts due under operating leases</u>	
2021	\$	14,947
2022		12,198
2023		9,295
2024		8,669
2025		7,123
Thereafter		49,908
Total lease payments		<u>102,140</u>
Less: Imputed interest		<u>(18,296)</u>
Total	\$	<u>83,844</u>

As of December 31, 2020, we had additional operating leases for office space that had not yet commenced. These leases will commence during 2021 and are not deemed material.

Supplementary Financial Data

The supplementary financial information required by Item 302 of Regulation S-K is contained in Note 15 to our consolidated financial statements set forth above.

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

None.

Item 9A. Controls and Procedures.

EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the design and operation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934 ("Exchange Act"), as of December 31, 2020. Based on this evaluation, our principal executive officer and principal financial officer concluded that as of December 31, 2020, our disclosure controls and procedures were effective, at a reasonable assurance level, to ensure that information we are required to disclose in the reports we file or submit under the Exchange Act is (a) recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms and is (b) accumulated

and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended. Our 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 accounting principles generally accepted in the U.S. of America.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2020. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in *Internal Control-Integrated Framework (2013)*. Based on the criteria discussed above and our management's assessment, our management concluded that, as of December 31, 2020, our internal control over financial reporting was effective.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

During the quarter ended December 31, 2020, there were no changes in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934).

Our independent registered public accountants have also issued an audit report on our internal control over financial reporting. Their report appears below.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Merit Medical Systems, Inc.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Merit Medical Systems, Inc. and subsidiaries (the “Company”) as of December 31, 2020, based on criteria established in *Internal Control — Integrated Framework (2013)* 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, 2020, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2020, of the Company and our report dated March 1, 2021, expressed an unqualified opinion on those financial statements and included an explanatory paragraph regarding the Company’s adoption of the FASB ASC Topic 842, *Leases*.

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 Report on Internal Control over Financial Reporting. Our responsibility is to express 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 required to be 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 those 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 to 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/ DELOITTE & TOUCHE LLP
Salt Lake City, Utah
March 1, 2021

Item 9B. Other Information.

None.

PART III

Items 10, 11, 12, 13 and 14.

The information required by these items is incorporated by reference to our definitive proxy statement relating to our 2021 Annual Meeting of Shareholders. We currently anticipate that our definitive proxy statement will be filed with the SEC not later than 120 days after December 31, 2020, pursuant to Regulation 14A of the Securities Exchange Act of 1934, as amended.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

(a) Documents filed as part of this Report:

- (1) Financial Statements. The following consolidated financial statements and the notes thereto, and the Reports of Independent Registered Public Accounting Firm are incorporated by reference as provided in Item 8 and Item 9A of this report:

[Report of Independent Registered Public Accounting Firm — Internal Control](#)

[Report of Independent Registered Public Accounting Firm — Financial Statements](#)

[Consolidated Balance Sheets as of December 31, 2020 and 2019](#)

[Consolidated Statements of Income \(Loss\) for the Years Ended December 31, 2020, 2019 and 2018](#)

[Consolidated Statements of Comprehensive Income \(Loss\) for the Years Ended December 31, 2020, 2019 and 2018](#)

[Consolidated Statements of Stockholders' Equity for the Years Ended December 31, 2020, 2019 and 2018](#)

[Consolidated Statements of Cash Flows for the Years Ended December 31, 2020, 2019 and 2018](#)

[Notes to Consolidated Financial Statements](#)

- (2) Financial Statement Schedules.

— Schedule II - Valuation and qualifying accounts

Years Ended December 31, 2020, 2019 and 2018
(In thousands)

Allowance for Uncollectible Accounts:	Balance at Beginning of Year	Additions Charged to Costs and Expenses (a)	Deduction (b)	Balance at End of Year
2018	\$ (1,769)	\$ (1,055)	\$ 469	\$ (2,355)
2019	\$ (2,355)	\$ (1,163)	\$ 410	\$ (3,108)
2020(c)	\$ (3,108)	\$ (3,115)	\$ 910	\$ (5,313)

- (a) We record a bad debt provision based upon historical bad debt experience, current economic conditions, expectations of future economic conditions, and management's evaluation of our ability to collect individual outstanding balances.
- (b) When an individual customer balance becomes impaired and is deemed uncollectible, a deduction is made against the allowance for uncollectible accounts.
- (c) Beginning in 2020, the "Allowance for Uncollectible Accounts" is referred to as "Trade Receivables - Allowance for Credit Losses" in our consolidated balances sheet.

Years Ended December 31, 2020, 2019 and 2018
(In thousands)

Tax Valuation Allowance:	Balance at Beginning of Year	Additions Charged to Costs and Expenses (a)	Deduction	Balance at End of Year
2018	\$ (4,422)	\$ (567)	\$ -	\$ (4,989)
2019	\$ (4,989)	\$ -	\$ 345	\$ (4,644)
2020	\$ (4,644)	\$ (5,569)	\$ -	\$ (10,213)

(a) We record a valuation allowance against a deferred tax asset when it is determined that it is more likely than not that the deferred tax asset will not be realized.

(b) Exhibits:

The following exhibits required by Item 601 of Regulation S-K are filed herewith or have been filed previously with the SEC as indicated below:

Exhibit No.	Index to Exhibits
1.1	Underwriting Agreement, dated July 25, 2018, by and among Merit Medical Systems, Inc., Wells Fargo Securities, LLC and Piper Jaffray & Co.*
2.1	Agreement and Plan of Merger, dated October 1, 2018, by and among Merit Medical Systems, Inc., CMI Transaction Co., Cianna Medical, Inc. and Fortis Advisors LLC, as the Securityholder's Representative *
2.2	Asset Purchase Agreement, dated December 14, 2018, by and among Merit Medical Systems, Inc., Vascular Insights, LLC and VI Management, Inc.*
3.1	Amended and Restated Articles of Incorporation dated May 31, 2018*
3.2	Third Amended and Restated Bylaws dated May 31, 2018*
4.1	Specimen Certificate of the Common Stock*
4.2	Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934
10.1	Merit Medical Systems, Inc. Long Term Incentive Plan (as amended and restated) dated March 25, 1996*†
10.2	Lease Agreement dated as of June 8, 1993 for office and manufacturing facility*
10.3	Amended and Restated Deferred Compensation Plan, dated January 1, 2004*†
10.4	Merit Medical Systems, Inc. Amended and Restated Deferred Compensation Plan, effective January 1, 2008*†
10.5	Second Amendment to the Merit Medical Systems, Inc. 2006 Long-Term Incentive Plan*†
10.6	Second Restatement of the Merit Medical Systems, Inc. 401(k) Profit Sharing Plan*†
10.7	First Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401(k) Profit Sharing Plan, effective September 19, 2010*†

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- 10.8 [Second Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated November 29, 2010 *†](#)
- 10.9 [Third Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, effective October 1, 2010*†](#)
- 10.10 [Fourth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated December 31, 2011*†](#)
- 10.11 [Fifth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated December 28, 2012*†](#)
- 10.12 [Sixth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated December 31, 2013.*†](#)
- 10.13 [Seventh Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated June 10, 2014*†](#)
- 10.14 [Eighth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated December 29, 2014*†](#)
- 10.15 [Second Amended and Restated Credit Agreement dated as of July 6, 2016 by and among Merit Medical Systems, Inc., Wells Fargo Bank, National Association, Well Fargo Securities, LLC and the lenders named therein*](#)
- 10.16 [Form of Employment Agreement, dated May 26, 2016 between the Company and each of the following individuals: Ronald A. Frost, Joseph C. Wright, Justin J. Lampropoulos, and Brian G. Lloyd*†](#)
- 10.17 [Employment Agreement, dated May 26, 2016 between the Company and Fred P. Lampropoulos*†](#)
- 10.18 [Third Amendment to the Merit Medical Systems, Inc. 2006 Long-Term Incentive Plan dated February 13, 2015*†](#)
- 10.19 [Merit Medical Systems, Inc., Restatement of the 1996 Employee Stock Purchase Plan dated July 1, 2000*†](#)
- 10.20 [First Amendment to the Merit Medical Systems, Inc., 1996 Employee Stock Purchase Plan dated April 1, 2001*†](#)
- 10.21 [Second Amendment to the Merit Medical Systems, Inc., 1996 Employee Stock Purchase Plan dated January 1, 2006*†](#)
- 10.22 [Third Amendment to the Merit Medical Systems, Inc., 1996 Employee Stock Purchase Plan dated April 7, 2006*†](#)
- 10.23 [Fourth Amendment to the Merit Medical Systems, Inc., 1996 Employee Stock Purchase Plan dated February 13, 2015*†](#)
- 10.24 [First Amendment to Employment Agreement made and entered into by and between Merit Medical Systems, Inc. and Fred P. Lampropoulos as of the 11th day of December, 2017*†](#)
- 10.25 [Form of First Amendment to Employment Agreement for each of Ronald A. Frost, Justin J. Lampropoulos, Joseph C. Wright, and Brian G. Lloyd*†](#)
- 10.26 [First Amendment to Lease Agreement dated May 22, 2017 for office and manufacturing facility*](#)

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- 10.27 [Merit Medical Systems, Inc. 2018 Long-Term Incentive Plan effective May 24, 2018*†](#)
- 10.28 [Employment Agreement made and entered into by and between Merit Medical Systems, Inc. and Raul Parra as of the 1st day of August, 2018.*†](#)
- 10.29 [First Amendment to the Merit Medical Systems, Inc. 2018 Long-Term Incentive Plan effective December 14, 2018*†](#)
- 10.30 [Merit Medical Systems, Inc. 2019 Executive Bonus Plan, dated January 1, 2019*†](#)
- 10.31 [Ninth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated August 1, 2016*†](#)
- 10.32 [Tenth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated January 1, 2017*†](#)
- 10.33 [Eleventh Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated January 1, 2019*†](#)
- 10.34 [Twelfth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, dated June 1, 2018*†](#)
- 10.35 [Third Amended and Restated Credit Agreement entered into by and among Merit Medical Systems, Inc., Wells Fargo Bank National Association and the lenders and subsidiary guarantors named therein, dated July 9, 2019*](#)
- 10.36 [Thirteenth Amendment to the Second Restatement of the Merit Medical Systems, Inc. 401\(k\) Profit Sharing Plan, effective January 1, 2019*†](#)
- 10.37 [Performance Stock Unit Award Agreement \(One Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and Fred Lampropoulos. *†](#)
- 10.38 [Performance Stock Unit Award Agreement \(Two Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and Fred Lampropoulos. * †](#)
- 10.39 [Performance Stock Unit Award Agreement \(Three Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and Fred Lampropoulos.*†](#)
- 10.40 [Form of Performance Stock Unit Award Agreement \(One Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and each of the following individuals: Raul Parra, Ronald A. Frost, Joseph C. Wright, Justin J. Lampropoulos, and Brian G. Lloyd. *†](#)
- 10.41 [Form of Performance Stock Unit Award Agreement \(Two Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and each of the following individuals: Raul Parra, Ronald A. Frost, Joseph C. Wright, Justin J. Lampropoulos, and Brian G. Lloyd. *†](#)
- 10.42 [Form of Performance Stock Unit Award Agreement \(Three Year Performance Period\), dated February 26, 2020, by and between Merit Medical Systems, Inc. and each of the following individuals: Raul Parra, Ronald A. Frost, Joseph C. Wright, Justin J. Lampropoulos, and Brian G. Lloyd. *†](#)
- 10.43 [Agreement by and among Merit, Starboard Value LP and certain of its affiliates, dated May 26, 2020*](#)

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10.44	Amendment to Performance Stock Unit Award Agreement, dated June 22, 2020, by and between Merit Medical Systems, Inc. and Fred Lampropoulos *†
10.45	Form of Amendment to Performance Stock Unit Award Agreement, dated June 22, 2020, by and between Merit Medical Systems, Inc. and each of the following individuals: Raul Parra, Ronald A. Frost, Joseph C. Wright, Justin J. Lampropoulos and Brian G. Lloyd *†
10.46	First Amendment to the Merit Medical Systems, Inc. 2019 Executive Bonus Plan, effective June 22, 2020 *†
10.47	Settlement Agreement, dated October 13, 2020, by and among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (“OIG-HHS”) of the Department of Health and Human Services (“HHS”), and the Defense Health Agency (“DHA”), acting on behalf of the TRICARE Program (collectively, the “United States”); the Company; and Charles J. Wolf, M.D. (“Relator”), through their authorized representatives.*
10.48	Corporate Integrity Agreement, dated October 13, 2020, by and between the OIG-HHS and the Company.*
10.49	Form of Indemnification Agreement, dated October 24, 2020, between the Company and each of the following individuals: A. Scott Anderson, F. Ann Millner, Ed. D., Lynne N. Ward, and Thomas J. Gunderson †
10.50	Form of Indemnification Agreement, dated October 24, 2020, between the Company and each of the following individuals: Lonny J. Carpenter, David K. Floyd, and James T. Hogan †
10.51	Form of Indemnification Agreement, dated October 24, 2020, between the Company and each of the following individuals: Fred Lampropoulos, Raul Parra, Brian G. Lloyd, Joseph Wright, Ron Frost, Justin J. Lampropoulos, Brent Bowen, John Knorpp, and Michel J. Voigt (dated January 1, 2021)†
10.52	Employment Agreement between the Company and Justin J. Lampropoulos, dated November 19, 2020†
10.53	Employment Agreement between the Company and Michel J. Voigt, dated December 11, 2020†
21	Subsidiaries of Merit Medical Systems, Inc.
23.1	Consent of Independent Registered Public Accounting Firm
31.1	Certification of Chief Executive Officer
31.2	Certification of Chief Financial Officer
32.1	Certification of Chief Executive Officer
32.2	Certification of Chief Financial Officer
101	The following materials from the Merit Medical Systems, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 2020, formatted in iXBRL (Inline eXtensible Business Reporting Language): (i) Consolidated Statements of Earnings (Loss), (ii) Consolidated Statements of Comprehensive Income (Loss), (iii) Consolidated Balance Sheets, (iv) Consolidated Statements of Cash Flows, (v) Consolidated Statements of Equity, and (vi) Notes to Consolidated Financial Statements
104	Cover Page Interactive Data File (the cover page XBRL tags are embedded within the Inline XBRL document).

* These exhibits are incorporated herein by reference.

† Indicates management contract or compensatory plan or arrangement.

(c) Schedules:

None

Item 16. Form 10-K Summary.

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on March 1, 2021.

MERIT MEDICAL SYSTEMS, INC.

By: /s/ FRED P. LAMPROPOULOS
Fred P. Lampropoulos, President and
Chief Executive Officer

ADDITIONAL SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this Annual Report on form 10-K has been signed below by the following persons in the capacities indicated on March 1, 2021.

<u>Signature</u>	<u>Capacity in Which Signed</u>
<u>/s/: FRED P. LAMPROPOULOS</u> Fred P. Lampropoulos	President, Chief Executive Officer and Director (Principal executive officer)
<u>/s/: RAUL PARRA</u> Raul Parra	Chief Financial Officer and Treasurer (Principal financial and accounting officer)
<u>/s/: A. SCOTT ANDERSON</u> A. Scott Anderson	Director
<u>/s/: JILL D. ANDERSON</u> Jill D. Anderson	Director
<u>/s/: LONNY J. CARPENTER</u> Lonny J. Carpenter	Director
<u>/s/: DAVID K. FLOYD</u> David K. Floyd	Director
<u>/s/: THOMAS J. GUNDERSON</u> Thomas J. Gunderson	Director
<u>/s/: JAMES T. HOGAN</u> James T. Hogan	Director
<u>/s/: F. ANN MILLNER</u> F. Ann Millner	Director
<u>/s/: LYNNE N. WARD</u> Lynne N. Ward	Director

**DESCRIPTION OF THE REGISTRANT'S SECURITIES
REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES
EXCHANGE ACT OF 1934**

Merit Medical Systems, Inc. ("Merit" "we" "us" or "our") has one class of securities, our common stock, registered under Section 12 of the Securities Exchange Act of 1934, as amended.

The general terms and provisions of our common stock are summarized below. The below summary does not purport to be complete, and is subject to and qualified in its entirety by reference to our Amended and Restated Articles of Incorporation, as amended, referred to herein as our "Articles," and our Second Amended and Restated Bylaws, referred to herein as our "Bylaws," each of which have been filed as exhibits to our most recent Annual Report on Form 10-K, of which this exhibit is a part, and the applicable provisions of the Utah Code. We encourage you to review complete copies of our Articles and Bylaws and the applicable provisions of the Utah Code for additional information.

Authorized Capital Stock

We are authorized to issue 100,000,000 shares of common stock, no par value per share. We are also authorized to issue 5,000,000 shares of preferred stock, no par value per share. As of February 24, 2021, approximately 55,690,669 shares of common stock, and no shares of preferred stock, were issued and outstanding.

Description of Common Stock

Voting Rights. Holders of outstanding shares of common stock are entitled to one vote for each share held of record on all matters submitted to a vote of our shareholders. Our common stock does not have cumulative voting rights.

Dividend Rights. Subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of common stock are entitled to receive ratably such dividends, if any, as may be declared from time to time by our Board of Directors out of funds legally available for dividend payments. We have never issued a cash dividend on our common stock and do not anticipate doing so in the foreseeable future.

Liquidation Rights. In the event of any liquidation, dissolution or winding-up of our affairs, holders of outstanding common stock at such time will be entitled to share ratably in our assets that are legally available for such purpose after payment or provision for payment of all of our debts and obligations, and after liquidation payments to holders of outstanding shares of preferred stock, if any.

Other Rights and Preferences. The holders of common stock have no preferences or rights of conversion, exchange, pre-emption or other subscription rights. There are no redemption or sinking fund provisions applicable to the common stock.

Listing

Our common stock is listed on the NASDAQ Global Select Market under the symbol "MMSI."

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is ZB, National Association, dba Zions Bank.

Description of Preferred Stock

We are authorized to issue 5,000,000 shares of preferred stock, in one or more series, from time to time, with such rights and preferences as determined by our Board of Directors with respect to such series.

Anti-Takeover Effects of Provisions of Utah Law and Our Charter Documents

Director Liability. Our Articles limit the personal liability of our directors to our company and our shareholders to the fullest extent permitted by applicable law. The inclusion of this provision in our Articles may reduce the likelihood of derivative litigation against our directors and may discourage or deter shareholders or management from bringing a lawsuit against our directors for breach of their duty of care.

Shareholder Action and Meetings of Shareholders. Our Bylaws provide that shareholders wishing to propose business to be brought before a meeting of shareholders will be required to comply with various advance notice requirements. The inclusion of this provision in our Bylaws may deter our shareholders from submitting proposals for consideration at a meeting of shareholders.

Classified Board of Directors. Our Articles provide for our Board of Directors to be divided into three classes of directors, with each class as nearly equal in number as possible, serving staggered three-year terms. As a result, approximately one-third of the Board of Directors will be elected each year. We believe the classified board provision will help to assure the continuity and stability of our Board of Directors and the business strategies and policies of our company as determined by the Board of Directors. The classified board provision could also have the effect of discouraging a third party from making a tender offer or attempting to obtain control of our company. In addition, the classified board provision could delay shareholders who do not agree with the policies of the Board of Directors from removing a majority of the directors for two years.

Authorized but Unissued Shares. Our authorized capital stock consists of 100,000,000 shares of common stock and 5,000,000 shares of preferred stock. As of February 24, 2021, we had approximately 55,690,669 shares of common stock outstanding and no shares of preferred stock outstanding. Accordingly, our Articles would permit us to issue up to 38,937,751 additional shares of common stock (after taking into account 5,371,580 shares reserved for issuance under existing employee benefit plans or existing equity awards), and up to 5,000,000 shares of preferred stock. However, such issuances would be subject to the rules of the NASDAQ Global Select Market, which in some cases may require shareholder approval or impose other limitations. These additional shares may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions, and employee benefit plans. The existence of authorized but unissued shares of common stock and preferred stock could make it more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Utah Control Shares Acquisitions Act. We are subject to the Control Shares Acquisitions Act, or Control Shares Act, as set forth in Section 61-6-1 to 61-6-12 of the Utah Code.

The Control Shares Act provides that any person or entity that acquires control shares of an issuing public corporation in a control share acquisition is denied voting rights with respect to the acquired shares, unless a majority of the disinterested shareholders of the issuing public corporation elects to restore such voting rights.

For purposes of the Control Shares Act:

- person or entity acquires "control shares" whenever it acquires shares that, not considering application of the Control Shares Act, would bring its voting power after the acquisition within any of the following ranges of voting power of the issuing public corporation: (i) 1/5 to (but less than) 1/3 of all voting power, (ii) 1/3 to (but less than) a majority of all voting power; or (iii) a majority or more of all voting power;
 - an "issuing public corporation" is any Utah corporation, other than a depository institution, that has (a) 100 or more shareholders, (b) a principal place of business, principal office or substantial assets within Utah, and (c) more than 10% of its shareholders resident in Utah, more than 10% of its shares owned by Utah residents or 10,000 shareholders resident in Utah; and
 - "control share acquisition" is generally defined as the direct or indirect acquisition (including through a series of acquisitions) of either ownership or voting power associated with issued and outstanding control shares (excluding voting power pursuant to a revocable proxy solicited by the issuing public corporation or its board of directors in connection with meetings of its shareholders).
-

Under the Control Shares Act, any person or entity that acquires control shares pursuant to a control share acquisition acquires voting rights with respect to those shares only to the extent consent is granted by a majority of the disinterested shareholders of each class of capital stock outstanding prior to the acquisition. To obtain such consent, the acquiring person may file an "acquiring person statement" with the issuing public corporation setting forth the number of shares acquired and certain other specified information. Upon delivering the statement, an acquiring person or entity may request a special meeting of shareholders if it undertakes to pay the issuing public corporation's expenses of a special shareholders' meeting. Following receipt of such a request and undertaking, the directors of an issuing public corporation must call a special meeting (generally within 50 days) to consider the voting rights to be given to the shares acquired or to be acquired in the control shares acquisition. If no request for a special meeting is made, the voting rights to be accorded the control shares are to be presented at the issuing public corporation's next special or annual meeting of shareholders.

If either (i) the acquiring person does not file an acquiring person statement with the issuing public corporation or (ii) the shareholders do not vote to restore voting rights to the control shares, the issuing public corporation may, if its articles of incorporation or bylaws so provide, redeem the control shares from the acquiring person at fair market value. Our Articles and Bylaws do not currently provide for such a redemption right.

Unless otherwise provided in the articles of incorporation or bylaws of an issuing public corporation, all shareholders are entitled to dissenters' rights if the control shares are accorded full voting rights and the acquiring person has obtained control shares with at least a majority of voting power. Notice of such dissenter's rights must be sent to shareholders as soon as practicable thereafter. Our Articles and Bylaws do not currently deny such dissenters' rights.

The directors or shareholders of a corporation may elect to exempt the stock of the corporation from the provisions of the Control Shares Act through adoption of a provision to that effect in the corporation's articles of incorporation or bylaws. To be effective, such an exemption must be adopted prior to the control shares acquisition. Neither our directors nor our shareholders have taken any such action.

We expect the Control Shares Act to have an anti-takeover effect with respect to transactions not approved in advance by our Board of Directors. The Control Shares Act may also discourage takeover attempts that might result in a premium over the market price for the shares of common stock held by our shareholders.

Business Combinations. Under Sections 16-10a-1801 to 16-10a-1804 of the Utah Code and certain amendments to Section 16-10a-840 of the Utah Code, all of which took effect on May 9, 2017, we are prohibited from entering into a business combination, such as a merger, consolidation, recapitalization, asset sale, or disposition of stock, with any person that meets the definition of "interested shareholder" (discussed further below), including any entity that is, or after the business combination would be, an affiliate or associate of an interested shareholder, for a period of five years after the date such person became an interested shareholder, unless one of the of the following conditions is met:

- the business combination, or the acquisition of stock that resulted in the person becoming an interested shareholder, was approved by our Board of Directors prior to the person becoming an interested shareholder;
- the business combination is approved by a majority of our non-interested shareholders at a meeting called no earlier than five years after the date the person first became an interested shareholder; or
- the cash and other consideration to be delivered to the holder of each share of our common stock meets certain minimum value criteria.

For purposes of the business combination provisions, an "interested shareholder" includes any person who owns (or, in the case of affiliates and associates, did own within the last five years) 20% or more of that corporation's voting stock.

These amendments may have an anti-takeover effect with respect to such business combinations.

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of October 24, 2020 by and between Merit Medical Systems, Inc., a Utah corporation ("Company"), and [●], an individual ("Indemnitee").

RECITALS

A. The Company is aware that because of the increased exposure to litigation costs, talented and experienced persons are increasingly reluctant to serve or continue serving as directors and officers of corporations unless they are protected by comprehensive liability insurance and indemnification.

B. The statutes and judicial decisions regarding the duties of directors and officers are often difficult to apply, ambiguous, or conflicting, and therefore often fail to provide such directors and officers with adequate guidance regarding the proper course of action.

C. The Board of Directors of the Company (the "Board"), has concluded that, in order to retain and attract talented and experienced individuals to serve as officers and directors of the Company and its subsidiaries and to encourage such individuals to take the business risks necessary for the success of the Company and its subsidiaries, the Company should contractually indemnify its officers and directors, and the officers and directors of its subsidiaries, in connection with claims against such officers and directors relating to their services to the Company and its subsidiaries and has further concluded that the failure to provide such contractual indemnification could be detrimental to the Company, its subsidiaries and shareholders.

D. Indemnitee's willingness to serve as a director of the Company is predicated, in substantial part, upon the Company's willingness to indemnify Indemnitee in accordance with the principles reflected above, to the fullest extent permitted by the laws of the State of Utah, and upon the other undertakings set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Company and Indemnitee, intending to be legally bound hereby, hereby agree as follows:

1. **Definitions.**

(a) **Agent.** "Agent" with respect to the Company means any person who is or was a director, officer, employee or other agent of the Company or a subsidiary; or is or was serving at the request of, for the convenience of, or to represent the interests of, the Company or a subsidiary as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); or was a director, officer, employee or agent of a predecessor corporation (or other predecessor entity or enterprise) of the Company or a subsidiary, or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the ERISA) at the request of, for the convenience of, or to represent the interests of such predecessor.

(b) **Change in Control.** "Change in Control" shall mean, and shall be deemed to have occurred if, on or after the date of this Agreement: (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) or group acting in concert, other than a trustee or other fiduciary holding securities

under an employee benefit plan of the Company acting in such capacity or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the “beneficial owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company’s then outstanding voting securities; (ii) during any period of two (2) consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company’s shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; (iii) the shareholders of the Company approve a merger or consolidation of the Company with any other corporation other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least eighty percent (80%) of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or (iv) the shareholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of (in one transaction or a series of related transactions) all or substantially all of the Company’s assets.

(c) **Company.** References to the “Company” shall include, in addition to Merit Medical Systems, Inc., any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which Merit Medical Systems, Inc. (or any of its wholly-owned subsidiaries) is a party which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, agents or fiduciaries, so that if Indemnitee is or was a director, officer, employee, agent or fiduciary of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(d) **Expenses.** “Expenses” means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all reasonable attorneys’ and experts’ fees, costs of investigation and related disbursements) reasonably incurred by Indemnitee in connection with the investigation (whether formal or informal), settlement, defense or appeal of a Proceeding covered hereby or the establishment or enforcement of a right to indemnification under this Agreement, including without limitation in the case of an appeal the premium for, and other costs relating to, any costs bond or supercedes bond or other appeal bond or its equivalent.

(e) **Independent Legal Counsel.** “Independent Legal Counsel” shall mean an attorney or firm of attorneys, selected in accordance with the provisions of Section 2(i) hereof, who shall not have otherwise performed services for the Company or Indemnitee within the preceding three years (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other Indemnitees under similar indemnity agreements).

(f) **Other References.** References to “other enterprises” shall include employee benefit plans; references to “finances” shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to “serving at the request of the Company” shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or its beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner “not opposed to the best interests of the Company,” as referred to in this Agreement.

(g) **Proceeding.** “Proceeding” means any threatened, pending, or completed claim, suit, action, proceeding or alternative dispute resolution mechanism, or any hearing or investigation, whether civil, criminal,

administrative, investigative or otherwise, including without limitation any situation which Indemnitee believes in good faith might lead to the institution of any such proceeding.

(h) **Reviewing Party.** “Reviewing Party” shall mean, subject to the provisions of Section 2(g), any person or body appointed by the Board in accordance with applicable law to review the Company’s obligations hereunder and under applicable law, which may include a member or members of the Board, Independent Legal Counsel or any other person or body not a party to the particular Proceeding for which Indemnitee is seeking indemnification, as set forth in Section 2(i).

2. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Utah Revised Business Corporation Act (the “Act”) if Indemnitee is or was a party or is threatened to be made a party to any Proceeding (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, any subsidiary of the Company or any committee or subcommittee of the Board, by reason of any action or inaction on the part of Indemnitee while an Agent of the Company, against all Expenses and liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)) actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee’s conduct was unlawful.

(b) **Proceedings By or in the Right of the Company.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Act if Indemnitee was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, all Expenses and liabilities of any type whatsoever (including, but not limited to, legal fees, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)), in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and its stockholders, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company in the performance of Indemnitee’s duty to the Company and its stockholders unless and only to the extent that the court in which such action or proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses, which such court shall deem proper.

(c) **Presumptions; Burden of Proof.** In making any determination concerning Indemnitee’s right to indemnification, there shall be a presumption that Indemnitee has satisfied the applicable standard of conduct, and the Company may overcome such presumption only by its adducing clear and convincing evidence to the contrary. For purposes of this Agreement, the termination of any Proceeding by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by this Agreement or applicable law. In addition, neither the failure of any Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by any Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of legal proceedings by Indemnitee to secure a judicial determination that Indemnitee should be indemnified under this Agreement under applicable law, shall be a defense to Indemnitee’s claim or create a presumption that Indemnitee has not met any particular standard of conduct or did not have any particular belief. Any determination concerning Indemnitee’s right to indemnification that is adverse to Indemnitee may be challenged by Indemnitee in the courts of the State of Utah. No determination by the Company (including without limitation by its directors or any Independent Legal Counsel) that Indemnitee has not satisfied any applicable standard of conduct shall be a defense to any claim by Indemnitee for indemnification or reimbursement or advance

payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(d) **Reliance as a Safe Harbor.** For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by other Agents of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any Agent of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(e) **Actions Where Indemnitee Is Deceased.** If Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding by reason of the fact that Indemnitee is or was an Agent of the Company, or by reason of anything done or not done by Indemnitee in any such capacity, and prior to, during the pendency of, or after completion of, such Proceeding, Indemnitee shall die, then the Company shall defend, indemnify and hold harmless the estate, heirs and legatees of Indemnitee against any and all Expenses and liabilities reasonably incurred by or for such persons or entities in connection with the investigation, defense, settlement or appeal of such Proceeding on the same basis as provided for Indemnitee in Sections 2(a) and 2(b) above.

(f) **Extent of Insurance.** The Expenses and liabilities covered hereby shall be net of any payments made irrevocably to or on behalf of Indemnitee by any D&O Insurance carriers or others and, for the avoidance of doubt, the Company will not be liable for the payment of any Expenses or liabilities for which Indemnitee has received payment from a D&O Insurance carrier or other person unless and until the D&O Insurance Carrier or such other person requests reimbursement of such Expenses or liabilities from Indemnitee.

(g) **Review of Indemnification Obligations.** Notwithstanding the foregoing, in the event any Reviewing Party shall have determined (in a written opinion, in any case in which Independent Legal Counsel is the Reviewing Party) that Indemnitee is not entitled to be indemnified hereunder under applicable law: (i) the Company shall have no further obligation under Section 2(a) or Section 2(b) to make any payments to Indemnitee not made prior to such determination by such Reviewing Party; and (ii) the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all Expenses theretofore paid to Indemnitee to which Indemnitee is not entitled hereunder under applicable law; provided, however, that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee is entitled to be indemnified hereunder under applicable law, any determination made by any Reviewing Party that Indemnitee is not entitled to be indemnified hereunder under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expenses theretofore paid in indemnifying Indemnitee until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed). Indemnitee's obligation to reimburse the Company for any Expenses shall be unsecured and no interest shall be charged thereon.

(h) **Indemnitee Rights on Unfavorable Determination; Binding Effect.** If any Reviewing Party determines that Indemnitee substantively is not entitled to be indemnified hereunder in whole or in part under applicable law, Indemnitee shall have the right to commence litigation seeking an initial determination by the court or challenging any such determination by such Reviewing Party or any aspect thereof, including the legal or factual bases therefor, and the Company hereby consents to service of process and to appear in any such proceeding.

(i) **Selection of Reviewing Party; Change in Control.** A determination, if required by applicable law, with respect to Indemnitee's entitlement to indemnification shall be made in accordance with the provisions of this paragraph (i). If there has not been a Change in Control, a Reviewing Party shall be selected by the Board, and if there has been such a Change in

Control (other than a Change in Control which has been approved by a majority of the Board who were directors immediately prior to such Change in Control), any Reviewing Party with respect to all matters thereafter arising concerning the rights of Indemnitee to indemnification of Expenses under this Agreement or any other agreement or under the Company's Articles of Incorporation or Bylaws as now or hereafter in effect, or under any other applicable law, if desired by Indemnitee, shall be Independent Legal Counsel selected by Indemnitee and approved by the Company (which approval shall not be unreasonably withheld, conditioned or delayed). Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent Indemnitee would be entitled to be indemnified hereunder under applicable law and the Company agrees to abide by such opinion. The Company agrees to pay the reasonable fees of the Independent Legal Counsel referred to above and to indemnify fully such counsel against any and all expenses (including attorneys' fees), claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto. Notwithstanding any other provision of this Agreement, the Company shall not be required to pay Expenses of more than one Independent Legal Counsel in connection with all matters concerning a single Indemnitee (other than to the extent local counsel or counsel with particular expertise are required), and such Independent Legal Counsel shall be the Independent Legal Counsel for any or all other Indemnitees unless: (i) the employment of separate counsel by one or more Indemnitees has been previously authorized by the Board in writing; or (ii) an Indemnitee shall have provided to the Company a written statement that such Indemnitee has reasonably concluded that there may be a conflict of interest between such Indemnitee and the other Indemnitees with respect to the matters arising under this Agreement.

3. **Expenses; Indemnification Procedure.**

(a) **Advancement of Expenses.** The Company shall advance all expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or Proceeding referred to in Section 2(a) or Section 2(b) hereof (including amounts actually paid in settlement of any such Proceeding if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld, conditioned or delayed). Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company as authorized hereby.

(b) **Notice/Cooperation by Indemnitee.** Promptly after receipt by Indemnitee of notice of the commencement or threat of any Proceeding covered hereby, Indemnitee shall (to the extent legally permitted) notify the Company of the commencement or threat thereof, provided that any failure to so notify shall not relieve the Company of any of its obligations hereunder. Notice to the Company shall be directed to the Chief Executive Officer of the Company and the Chief Legal Officer of the Company, and shall be given in accordance with the provisions of Section 12(i) below. In addition, Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

(c) **Notice to Insurers.** If, at the time of the receipt of a notice of a claim pursuant to Section 3(b) hereof, the Company has D&O Insurance (as defined in Section 6(a) below) in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies, including any advancement of expenses.

(d) Indemnitee shall be entitled to retain one or more counsel from time to time selected by Indemnitee in Indemnitee's reasonable discretion to act as its counsel in and for the investigation, defense, settlement or appeal of each Proceeding. The Company shall not waive any privilege or right available to Indemnitee in any such Proceeding.

(e) The Company shall bear all reasonable fees and Expenses (including invoices for advance retainers) of such counsel, and all reasonable fees and Expenses invoiced by other persons or entities, in connection with the investigation, defense, settlement or appeal of each such Proceeding. Such fees and Expenses are referred to herein as "Covered Expenses."

(f) Until a determination to the contrary under Section 4 hereof is made, the Company shall advance all Covered Expenses in connection with each Proceeding. Indemnitee shall qualify for advances upon the execution and delivery to the

Company of this Agreement which shall constitute an undertaking providing that Indemnitee undertakes to the extent required by law to repay the advance if and to the extent that it is ultimately determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement.

(g) **Selection of Counsel.** In the event the Company shall be obligated hereunder to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding, the Company, if appropriate, shall be entitled to assume the defense of such Proceeding with counsel selected by the Company, subject to approval by Indemnitee (which approval shall not be unreasonably withheld), upon the delivery to Indemnitee of written notice of the Company's election to do so. After delivery of such notice and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees or expenses of separate counsel subsequently retained by or on behalf of Indemnitee with respect to the same Proceeding; provided that: (i) Indemnitee shall have the right to employ Indemnitee's separate counsel in any such Proceeding at Indemnitee's expense; and (ii) if (A) the employment of separate counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, or (C) the Company shall not continue to retain such counsel to defend such Proceeding, then the fees and expenses of Indemnitee's separate counsel shall be Expenses for which Indemnitee may receive indemnification or advancement of Expenses hereunder.

(h) Each advance to be made hereunder shall be paid by the Company to Indemnitee within ten (10) business days following delivery of a written request therefor by Indemnitee to the Company.

(a) The Company acknowledges the potentially severe damage to Indemnitee should the Company fail timely to make such advances to Indemnitee.

(b) The Company shall not settle any Proceeding if, as a result of such settlement, any fine or obligation is imposed on Indemnitee without Indemnitee's prior written consent.

4. **Determination of Right to Indemnification.**

(a) To the extent Indemnitee has been successful on the merits or otherwise in defense of any Proceeding, claim, issue or matter covered hereby, Indemnitee need not repay any of the Expenses advanced in connection with the investigation, defense or appeal of such Proceeding.

(b) Indemnitee shall have the right to advancement by the Company prior to the final disposition of any Proceeding of any and all Expenses relating to, arising out of or resulting from any Proceeding paid or incurred by Indemnitee or which Indemnitee determines are reasonably likely to be paid or incurred by Indemnitee.

(c) Subject to the provisions of Section 2(g), notwithstanding a determination by a Reviewing Party or a court that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the courts of the State of Utah for the purpose of enforcing Indemnitee's right to indemnification pursuant to this Agreement.

(d) Subject to the provisions of Section 2(i), the Company shall indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee in connection with any Proceeding under Sections 4(b) or 4(c) and against all Expenses reasonably incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims and/or defenses of Indemnitee in any such Proceeding were frivolous or made in bad faith.

(e) The Company hereby agrees to indemnify Indemnitee to the fullest extent permitted by the Act, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Articles of Incorporation, the Company's Bylaws or by statute. In the event of any change after the date of this Agreement to the Act or in any applicable law, statute or rule which expands the right of a Utah corporation to indemnify a member of its board of directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits afforded by such change. In the event of any change to the Act or in any applicable law, statute or rule which narrows the right of a Utah corporation to indemnify its Agent, such change, to the extent not otherwise required by the Act or such law, statute or rule to be applied to this Agreement, shall have no effect on this Agreement or the parties' rights and obligations hereunder except as set forth in Section 8 hereof.

(f) **Nonexclusivity.** The indemnification and the payment of Expense advances provided by this Agreement shall be in addition to any rights to which Indemnitee may be entitled under the Company's Articles of Incorporation, its Bylaws, any other agreement, any vote of shareholders or disinterested directors, the Act, or otherwise. The indemnification and the payment or advancement of Expenses provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though subsequent thereto Indemnitee may have ceased to serve in such capacity.

(g) **No Duplication of Payments.** The Company shall not be liable under this Agreement to make any payment in connection with any Proceeding to the extent Indemnitee has otherwise actually received payment (under any insurance policy, provision of the Company's Articles of Incorporation, Bylaws or otherwise) of the amounts otherwise payable hereunder.

(h) **Partial Indemnification.** If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses incurred in connection with any Proceeding, but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

5. **Mutual Acknowledgement.** Both the Company and Indemnitee acknowledge that in certain instances, Federal law or public policy may override applicable state law and prohibit the Company from indemnifying its directors and officers under this Agreement or otherwise. For example, the Company and Indemnitee acknowledge that the Securities and Exchange Commission (the "SEC") has taken the position that indemnification is not permissible for liabilities arising under certain federal securities laws, and federal legislation prohibits indemnification for certain ERISA violations. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the SEC to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

6. **Officer and Director Liability Insurance.**

(a) The Company hereby covenants and agrees with Indemnitee that, subject to Section 6(b), the Company shall obtain and maintain in full force and effect directors' and officers' liability insurance ("D&O Insurance"), in reasonable amounts as the Board shall determine from established and reputable insurers with an AM Best rating of A.VI or better, but no less than the amounts in effect upon initial procurement of the D&O Insurance. In all policies of D&O Insurance, Indemnitee shall be named as an insured.

(b) Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain D&O Insurance if the Board determines in good faith that the premium costs for such insurance are (i) disproportionate to the amount of coverage provided after giving effect to exclusions, and (ii) substantially more burdensome to the Company than the premiums charged to the Company for its initial D&O Insurance; provided that Indemnitee is given written notice of any such determination within thirty (30) days of the date that it is made (but in no event shall such notice be given less than ten (10) days prior to the termination of any existing D&O Insurance); provided, further, that the Company will be required to obtain and maintain "tail" insurance

policies covering Indemnitee for any act or omission taken prior to the termination of the D&O Insurance. For the avoidance of doubt, the Company shall still be obligated to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding pursuant to the terms of this Agreement, regardless of whether the Company maintains D&O Insurance covering Indemnitee.

(c) Indemnitee shall be covered by the D&O Insurance policies that the Company is required to maintain hereunder in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors, if Indemnitee is a director; or of the Company's officers, if Indemnitee is not a director of the Company but is an officer; or of the Company's key employees, agents or fiduciaries, if Indemnitee is not an officer or director but is a key employee, agent or fiduciary.

7. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable as provided in this Section 7. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

8. **Exceptions.** Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) **Claims Initiated by Indemnitee.** To indemnify or advance expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, other than: (i) Proceedings under Sections 4(b) or 4(c); (ii) Proceedings brought to establish or enforce a right to indemnification under this Agreement or the provisions of the Company's Articles of Incorporation or Bylaws unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such Proceeding were not made in good faith or were frivolous; or (iii) proceedings or claims instituted by Indemnitee with the approval by the Board;

(b) **Unauthorized Settlement.** To indemnify Indemnitee under this Agreement for any amounts paid in settlement of a Proceeding covered hereby without the prior written consent of the Company to such settlement, which consent will not be unreasonably withheld provided that the Company's consent is not required if the Company is refusing to indemnify or advance Expenses to Indemnitee;

(c) **Insured Claims.** To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) to the extent such expenses or liabilities have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors; liability insurance maintained by the Company; or

(d) **Claims Under Section 16(b).** To indemnify Indemnitee for expenses or the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

9. **Witness Expenses.** The Company agrees to compensate Indemnitee for the reasonable value of Indemnitee's time spent, and to reimburse Indemnitee for all Expenses (including reasonable attorneys' fees and travel costs) reasonably incurred by Indemnitee, in connection with being a witness, or if Indemnitee is threatened to be made a witness, with respect to any Proceeding, by reason of Indemnitee serving or having served as an Agent of the Company.

10. **Attorneys' Fees.** In the event that any action is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, Indemnitee shall be entitled to be paid all court costs and expenses, including reasonable attorneys' fees, incurred by Indemnitee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such action were not made in good faith or were frivolous.

In the event of an action instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be paid all court costs and expenses, including attorneys' fees, incurred by Indemnitee in defense of such action (including with respect to Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

11. **Duration.** All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is an Agent of the Company and shall continue thereafter (a) so long as Indemnitee may be subject to any possible claim for which Indemnitee may be indemnified hereunder (including any rights of appeal thereto) and (b) throughout the pendency of any Proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret Indemnitee's rights under this Agreement, even if, in either case, Indemnitee may have ceased to serve in such capacity at the time of any such Proceeding.

12. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Utah, without giving effect to principles of conflict of law.

(b) **Consent to Jurisdiction.** The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Utah for all purposes in connection with any action or proceeding which arises out of or relates to this Agreement **and agree that any action instituted under this Agreement shall be commenced, prosecuted and continued only in the federal and state courts located in the State of Utah in and for Salt Lake County, which shall be the exclusive and only proper forum for adjudicating such a claim.**

(c) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party. The parties hereto agree that the indemnification agreement, dated as of [●], [●], by and between the parties hereto (the "Previous Agreement") is hereby superseded by this Agreement; provided, however, that, any action or Proceeding commenced prior to the date hereof shall continue to be governed by the terms and conditions of the Previous Agreement and, for the avoidance of doubt, such Previous Agreement shall not be superseded with respect to any such action or Proceeding.

(d) **Construction.** This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(e) **Counterparts.** This Agreement may be signed in counterparts. This Agreement constitutes a separate agreement between the Company and Indemnitee and may be supplemented or amended as to Indemnitee only by a written instrument signed by the Company and Indemnitee, with such amendment binding only the Company and Indemnitee. All waivers must be in a written document signed by the party to be charged. No waiver of any of the provisions of this Agreement shall be implied by the conduct of the parties. A waiver of any right hereunder shall not constitute a waiver of any other right hereunder.

(f) **Interpretation of Agreement.** This Agreement shall be interpreted and enforced so as to provide indemnification to Indemnitee to the fullest extent now or hereafter permitted by the Act.

(g) **Subrogation.** In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company to effectively bring suit to enforce such rights.

(h) **Continuation of Indemnity; Binding Effect.** Indemnitee's rights hereunder shall continue after Indemnitee has ceased acting an Agent of the Company and the benefits hereof shall inure to the benefit of the heirs, executors and administrators of Indemnitee. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(i) **Notices.** All notices, demands, consents, requests, approvals and other communications required or permitted hereunder shall be in writing and shall be deemed to have been properly given if hand delivered (effective upon receipt or when refused), or if sent by a courier freight prepaid (effective upon receipt or when refused), in the case of the Company, at the addresses listed below, or to such other addresses as the parties may notify each other in writing.

To Company: Merit Medical Systems, Inc.
Attention: Chief Legal Officer
1600 West Merit Parkway
South Jordan, Utah 84095

To Indemnitee: At Indemnitee's residence address and facsimile number on the records of the Company from time to time.

(j) **Evidence of Coverage.** Upon request by Indemnitee, the Company shall provide evidence of the liability insurance coverage required by this Agreement. The Company shall promptly notify Indemnitee of any change in the Company's D&O Insurance coverage.

[Remainder of Page Intentionally Left Blank; Signatures appear on the following page.]

The parties hereto have agreed and accept this Agreement as of the day and year set forth on the first page of this Agreement.

MERIT MEDICAL SYSTEMS, INC.

By: _____

Name: Fred P. Lampropoulos

Title: Chief Executive Officer

INDEMNITEE:

[•], an individual

[Signature Page to Indemnification Agreement]

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of October 24, 2020 by and between Merit Medical Systems, Inc., a Utah corporation ("Company"), and [●], an individual ("Indemnitee").

RECITALS

A. The Company is aware that because of the increased exposure to litigation costs, talented and experienced persons are increasingly reluctant to serve or continue serving as directors and officers of corporations unless they are protected by comprehensive liability insurance and indemnification.

B. The statutes and judicial decisions regarding the duties of directors and officers are often difficult to apply, ambiguous, or conflicting, and therefore often fail to provide such directors and officers with adequate guidance regarding the proper course of action.

C. The Board of Directors of the Company (the "Board"), has concluded that, in order to retain and attract talented and experienced individuals to serve as officers and directors of the Company and its subsidiaries and to encourage such individuals to take the business risks necessary for the success of the Company and its subsidiaries, the Company should contractually indemnify its officers and directors, and the officers and directors of its subsidiaries, in connection with claims against such officers and directors relating to their services to the Company and its subsidiaries and has further concluded that the failure to provide such contractual indemnification could be detrimental to the Company, its subsidiaries and shareholders.

D. Indemnitee's willingness to serve as a director of the Company is predicated, in substantial part, upon the Company's willingness to indemnify Indemnitee in accordance with the principles reflected above, to the fullest extent permitted by the laws of the State of Utah, and upon the other undertakings set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Company and Indemnitee, intending to be legally bound hereby, hereby agree as follows:

1. **Definitions.**

(a) **Agent.** "Agent" with respect to the Company means any person who is or was a director, officer, employee or other agent of the Company or a subsidiary; or is or was serving at the request of, for the convenience of, or to represent the interests of, the Company or a subsidiary as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); or was a director, officer, employee or agent of a predecessor corporation (or other predecessor entity or enterprise) of the Company or a subsidiary, or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the ERISA) at the request of, for the convenience of, or to represent the interests of such predecessor.

(b) **Change in Control.** "Change in Control" shall mean, and shall be deemed to have occurred if, on or after the date of this Agreement: (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) or group acting in concert, other than a trustee or other fiduciary holding securities

under an employee benefit plan of the Company acting in such capacity or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the “beneficial owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company’s then outstanding voting securities; (ii) during any period of two (2) consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company’s shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; (iii) the shareholders of the Company approve a merger or consolidation of the Company with any other corporation other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least eighty percent (80%) of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or (iv) the shareholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of (in one transaction or a series of related transactions) all or substantially all of the Company’s assets.

(c) **Company.** References to the “Company” shall include, in addition to Merit Medical Systems, Inc., any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which Merit Medical Systems, Inc. (or any of its wholly-owned subsidiaries) is a party which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, agents or fiduciaries, so that if Indemnitee is or was a director, officer, employee, agent or fiduciary of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(d) **Expenses.** “Expenses” means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all reasonable attorneys’ and experts’ fees, costs of investigation and related disbursements) reasonably incurred by Indemnitee in connection with the investigation (whether formal or informal), settlement, defense or appeal of a Proceeding covered hereby or the establishment or enforcement of a right to indemnification under this Agreement, including without limitation in the case of an appeal the premium for, and other costs relating to, any costs bond or supercedes bond or other appeal bond or its equivalent.

(e) **Independent Legal Counsel.** “Independent Legal Counsel” shall mean an attorney or firm of attorneys, selected in accordance with the provisions of Section 2(i) hereof, who shall not have otherwise performed services for the Company or Indemnitee within the preceding three years (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other Indemnitees under similar indemnity agreements).

(f) **Other References.** References to “other enterprises” shall include employee benefit plans; references to “finances” shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to “serving at the request of the Company” shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or its beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner “not opposed to the best interests of the Company,” as referred to in this Agreement.

(g) **Proceeding.** “Proceeding” means any threatened, pending, or completed claim, suit, action, proceeding or alternative dispute resolution mechanism, or any hearing or investigation, whether civil, criminal,

administrative, investigative or otherwise, including without limitation any situation which Indemnitee believes in good faith might lead to the institution of any such proceeding.

(h) **Reviewing Party.** “Reviewing Party” shall mean, subject to the provisions of Section 2(g), any person or body appointed by the Board in accordance with applicable law to review the Company’s obligations hereunder and under applicable law, which may include a member or members of the Board, Independent Legal Counsel or any other person or body not a party to the particular Proceeding for which Indemnitee is seeking indemnification, as set forth in Section 2(i).

2. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Utah Revised Business Corporation Act (the “Act”) if Indemnitee is or was a party or is threatened to be made a party to any Proceeding (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, any subsidiary of the Company or any committee or subcommittee of the Board, by reason of any action or inaction on the part of Indemnitee while an Agent of the Company, against all Expenses and liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)) actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee’s conduct was unlawful.

(b) **Proceedings By or in the Right of the Company.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Act if Indemnitee was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, all Expenses and liabilities of any type whatsoever (including, but not limited to, legal fees, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)), in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and its stockholders, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company in the performance of Indemnitee’s duty to the Company and its stockholders unless and only to the extent that the court in which such action or proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses, which such court shall deem proper.

(c) **Presumptions; Burden of Proof.** In making any determination concerning Indemnitee’s right to indemnification, there shall be a presumption that Indemnitee has satisfied the applicable standard of conduct, and the Company may overcome such presumption only by its adducing clear and convincing evidence to the contrary. For purposes of this Agreement, the termination of any Proceeding by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by this Agreement or applicable law. In addition, neither the failure of any Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by any Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of legal proceedings by Indemnitee to secure a judicial determination that Indemnitee should be indemnified under this Agreement under applicable law, shall be a defense to Indemnitee’s claim or create a presumption that Indemnitee has not met any particular standard of conduct or did not have any particular belief. Any determination concerning Indemnitee’s right to indemnification that is adverse to Indemnitee may be challenged by Indemnitee in the courts of the State of Utah. No determination by the Company (including without limitation by its directors or any Independent Legal Counsel) that Indemnitee has not satisfied any applicable standard of conduct shall be a defense to any claim by Indemnitee for indemnification or reimbursement or advance

payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(d) **Reliance as a Safe Harbor.** For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by other Agents of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any Agent of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(e) **Actions Where Indemnitee Is Deceased.** If Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding by reason of the fact that Indemnitee is or was an Agent of the Company, or by reason of anything done or not done by Indemnitee in any such capacity, and prior to, during the pendency of, or after completion of, such Proceeding, Indemnitee shall die, then the Company shall defend, indemnify and hold harmless the estate, heirs and legatees of Indemnitee against any and all Expenses and liabilities reasonably incurred by or for such persons or entities in connection with the investigation, defense, settlement or appeal of such Proceeding on the same basis as provided for Indemnitee in Sections 2(a) and 2(b) above.

(f) **Extent of Insurance.** The Expenses and liabilities covered hereby shall be net of any payments made irrevocably to or on behalf of Indemnitee by any D&O Insurance carriers or others and, for the avoidance of doubt, the Company will not be liable for the payment of any Expenses or liabilities for which Indemnitee has received payment from a D&O Insurance carrier or other person unless and until the D&O Insurance Carrier or such other person requests reimbursement of such Expenses or liabilities from Indemnitee.

(g) **Review of Indemnification Obligations.** Notwithstanding the foregoing, in the event any Reviewing Party shall have determined (in a written opinion, in any case in which Independent Legal Counsel is the Reviewing Party) that Indemnitee is not entitled to be indemnified hereunder under applicable law: (i) the Company shall have no further obligation under Section 2(a) or Section 2(b) to make any payments to Indemnitee not made prior to such determination by such Reviewing Party; and (ii) the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all Expenses theretofore paid to Indemnitee to which Indemnitee is not entitled hereunder under applicable law; provided, however, that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee is entitled to be indemnified hereunder under applicable law, any determination made by any Reviewing Party that Indemnitee is not entitled to be indemnified hereunder under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expenses theretofore paid in indemnifying Indemnitee until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed). Indemnitee's obligation to reimburse the Company for any Expenses shall be unsecured and no interest shall be charged thereon.

(h) **Indemnitee Rights on Unfavorable Determination; Binding Effect.** If any Reviewing Party determines that Indemnitee substantively is not entitled to be indemnified hereunder in whole or in part under applicable law, Indemnitee shall have the right to commence litigation seeking an initial determination by the court or challenging any such determination by such Reviewing Party or any aspect thereof, including the legal or factual bases therefor, and the Company hereby consents to service of process and to appear in any such proceeding.

(i) **Selection of Reviewing Party; Change in Control.** A determination, if required by applicable law, with respect to Indemnitee's entitlement to indemnification shall be made in accordance with the provisions of this paragraph (i). If there has not been a Change in Control, a Reviewing Party shall be selected by the Board, and if there has been such a Change in

Control (other than a Change in Control which has been approved by a majority of the Board who were directors immediately prior to such Change in Control), any Reviewing Party with respect to all matters thereafter arising concerning the rights of Indemnitee to indemnification of Expenses under this Agreement or any other agreement or under the Company's Articles of Incorporation or Bylaws as now or hereafter in effect, or under any other applicable law, if desired by Indemnitee, shall be Independent Legal Counsel selected by Indemnitee and approved by the Company (which approval shall not be unreasonably withheld, conditioned or delayed). Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent Indemnitee would be entitled to be indemnified hereunder under applicable law and the Company agrees to abide by such opinion. The Company agrees to pay the reasonable fees of the Independent Legal Counsel referred to above and to indemnify fully such counsel against any and all expenses (including attorneys' fees), claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto. Notwithstanding any other provision of this Agreement, the Company shall not be required to pay Expenses of more than one Independent Legal Counsel in connection with all matters concerning a single Indemnitee (other than to the extent local counsel or counsel with particular expertise are required), and such Independent Legal Counsel shall be the Independent Legal Counsel for any or all other Indemnitees unless: (i) the employment of separate counsel by one or more Indemnitees has been previously authorized by the Board in writing; or (ii) an Indemnitee shall have provided to the Company a written statement that such Indemnitee has reasonably concluded that there may be a conflict of interest between such Indemnitee and the other Indemnitees with respect to the matters arising under this Agreement.

3. **Expenses; Indemnification Procedure.**

(a) **Advancement of Expenses.** The Company shall advance all expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or Proceeding referred to in Section 2(a) or Section 2(b) hereof (including amounts actually paid in settlement of any such Proceeding if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld, conditioned or delayed). Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company as authorized hereby.

(b) **Notice/Cooperation by Indemnitee.** Promptly after receipt by Indemnitee of notice of the commencement or threat of any Proceeding covered hereby, Indemnitee shall (to the extent legally permitted) notify the Company of the commencement or threat thereof, provided that any failure to so notify shall not relieve the Company of any of its obligations hereunder. Notice to the Company shall be directed to the Chief Executive Officer of the Company and the Chief Legal Officer of the Company, and shall be given in accordance with the provisions of Section 12(i) below. In addition, Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

(c) **Notice to Insurers.** If, at the time of the receipt of a notice of a claim pursuant to Section 3(b) hereof, the Company has D&O Insurance (as defined in Section 6(a) below) in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies, including any advancement of expenses.

(d) Indemnitee shall be entitled to retain one or more counsel from time to time selected by Indemnitee in Indemnitee's reasonable discretion to act as its counsel in and for the investigation, defense, settlement or appeal of each Proceeding. The Company shall not waive any privilege or right available to Indemnitee in any such Proceeding.

(e) The Company shall bear all reasonable fees and Expenses (including invoices for advance retainers) of such counsel, and all reasonable fees and Expenses invoiced by other persons or entities, in connection with the investigation, defense, settlement or appeal of each such Proceeding. Such fees and Expenses are referred to herein as "Covered Expenses."

(f) Until a determination to the contrary under Section 4 hereof is made, the Company shall advance all Covered Expenses in connection with each Proceeding. Indemnitee shall qualify for advances upon the execution and delivery to the

Company of this Agreement which shall constitute an undertaking providing that Indemnitee undertakes to the extent required by law to repay the advance if and to the extent that it is ultimately determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement.

(g) **Selection of Counsel.** In the event the Company shall be obligated hereunder to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding, the Company, if appropriate, shall be entitled to assume the defense of such Proceeding with counsel selected by the Company, subject to approval by Indemnitee (which approval shall not be unreasonably withheld), upon the delivery to Indemnitee of written notice of the Company's election to do so. After delivery of such notice and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees or expenses of separate counsel subsequently retained by or on behalf of Indemnitee with respect to the same Proceeding; provided that: (i) Indemnitee shall have the right to employ Indemnitee's separate counsel in any such Proceeding at Indemnitee's expense; and (ii) if (A) the employment of separate counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, or (C) the Company shall not continue to retain such counsel to defend such Proceeding, then the fees and expenses of Indemnitee's separate counsel shall be Expenses for which Indemnitee may receive indemnification or advancement of Expenses hereunder.

(h) Each advance to be made hereunder shall be paid by the Company to Indemnitee within ten (10) business days following delivery of a written request therefor by Indemnitee to the Company.

(a) The Company acknowledges the potentially severe damage to Indemnitee should the Company fail timely to make such advances to Indemnitee.

(b) The Company shall not settle any Proceeding if, as a result of such settlement, any fine or obligation is imposed on Indemnitee without Indemnitee's prior written consent.

4. **Determination of Right to Indemnification.**

(a) To the extent Indemnitee has been successful on the merits or otherwise in defense of any Proceeding, claim, issue or matter covered hereby, Indemnitee need not repay any of the Expenses advanced in connection with the investigation, defense or appeal of such Proceeding.

(b) Indemnitee shall have the right to advancement by the Company prior to the final disposition of any Proceeding of any and all Expenses relating to, arising out of or resulting from any Proceeding paid or incurred by Indemnitee or which Indemnitee determines are reasonably likely to be paid or incurred by Indemnitee.

(c) Subject to the provisions of Section 2(g), notwithstanding a determination by a Reviewing Party or a court that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the courts of the State of Utah for the purpose of enforcing Indemnitee's right to indemnification pursuant to this Agreement.

(d) Subject to the provisions of Section 2(i), the Company shall indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee in connection with any Proceeding under Sections 4(b) or 4(c) and against all Expenses reasonably incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims and/or defenses of Indemnitee in any such Proceeding were frivolous or made in bad faith.

(e) The Company hereby agrees to indemnify Indemnitee to the fullest extent permitted by the Act, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Articles of Incorporation, the Company's Bylaws or by statute. In the event of any change after the date of this Agreement to the Act or in any applicable law, statute or rule which expands the right of a Utah corporation to indemnify a member of its board of directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits afforded by such change. In the event of any change to the Act or in any applicable law, statute or rule which narrows the right of a Utah corporation to indemnify its Agent, such change, to the extent not otherwise required by the Act or such law, statute or rule to be applied to this Agreement, shall have no effect on this Agreement or the parties' rights and obligations hereunder except as set forth in Section 8 hereof.

(f) **Nonexclusivity.** The indemnification and the payment of Expense advances provided by this Agreement shall be in addition to any rights to which Indemnitee may be entitled under the Company's Articles of Incorporation, its Bylaws, any other agreement, any vote of shareholders or disinterested directors, the Act, or otherwise. The indemnification and the payment or advancement of Expenses provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though subsequent thereto Indemnitee may have ceased to serve in such capacity.

(g) **No Duplication of Payments.** The Company shall not be liable under this Agreement to make any payment in connection with any Proceeding to the extent Indemnitee has otherwise actually received payment (under any insurance policy, provision of the Company's Articles of Incorporation, Bylaws or otherwise) of the amounts otherwise payable hereunder.

(h) **Partial Indemnification.** If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses incurred in connection with any Proceeding, but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

5. **Mutual Acknowledgement.** Both the Company and Indemnitee acknowledge that in certain instances, Federal law or public policy may override applicable state law and prohibit the Company from indemnifying its directors and officers under this Agreement or otherwise. For example, the Company and Indemnitee acknowledge that the Securities and Exchange Commission (the "SEC") has taken the position that indemnification is not permissible for liabilities arising under certain federal securities laws, and federal legislation prohibits indemnification for certain ERISA violations. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the SEC to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

6. **Officer and Director Liability Insurance.**

(a) The Company hereby covenants and agrees with Indemnitee that, subject to Section 6(b), the Company shall obtain and maintain in full force and effect directors' and officers' liability insurance ("D&O Insurance"), in reasonable amounts as the Board shall determine from established and reputable insurers with an AM Best rating of A.VI or better, but no less than the amounts in effect upon initial procurement of the D&O Insurance. In all policies of D&O Insurance, Indemnitee shall be named as an insured.

(b) Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain D&O Insurance if the Board determines in good faith that the premium costs for such insurance are (i) disproportionate to the amount of coverage provided after giving effect to exclusions, and (ii) substantially more burdensome to the Company than the premiums charged to the Company for its initial D&O Insurance; provided that Indemnitee is given written notice of any such determination within thirty (30) days of the date that it is made (but in no event shall such notice be given less than ten (10) days prior to the termination of any existing D&O Insurance); provided, further, that the Company will be required to obtain and maintain "tail" insurance

policies covering Indemnitee for any act or omission taken prior to the termination of the D&O Insurance. For the avoidance of doubt, the Company shall still be obligated to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding pursuant to the terms of this Agreement, regardless of whether the Company maintains D&O Insurance covering Indemnitee.

(c) Indemnitee shall be covered by the D&O Insurance policies that the Company is required to maintain hereunder in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors, if Indemnitee is a director; or of the Company's officers, if Indemnitee is not a director of the Company but is an officer; or of the Company's key employees, agents or fiduciaries, if Indemnitee is not an officer or director but is a key employee, agent or fiduciary.

7. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable as provided in this Section 7. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

8. **Exceptions.** Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) **Claims Initiated by Indemnitee.** To indemnify or advance expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, other than: (i) Proceedings under Sections 4(b) or 4(c); (ii) Proceedings brought to establish or enforce a right to indemnification under this Agreement or the provisions of the Company's Articles of Incorporation or Bylaws unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such Proceeding were not made in good faith or were frivolous; or (iii) proceedings or claims instituted by Indemnitee with the approval by the Board;

(b) **Unauthorized Settlement.** To indemnify Indemnitee under this Agreement for any amounts paid in settlement of a Proceeding covered hereby without the prior written consent of the Company to such settlement, which consent will not be unreasonably withheld provided that the Company's consent is not required if the Company is refusing to indemnify or advance Expenses to Indemnitee;

(c) **Insured Claims.** To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) to the extent such expenses or liabilities have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors; liability insurance maintained by the Company; or

(d) **Claims Under Section 16(b).** To indemnify Indemnitee for expenses or the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

9. **Witness Expenses.** The Company agrees to compensate Indemnitee for the reasonable value of Indemnitee's time spent, and to reimburse Indemnitee for all Expenses (including reasonable attorneys' fees and travel costs) reasonably incurred by Indemnitee, in connection with being a witness, or if Indemnitee is threatened to be made a witness, with respect to any Proceeding, by reason of Indemnitee serving or having served as an Agent of the Company.

10. **Attorneys' Fees.** In the event that any action is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, Indemnitee shall be entitled to be paid all court costs and expenses, including reasonable attorneys' fees, incurred by Indemnitee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such action were not made in good faith or were frivolous.

In the event of an action instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be paid all court costs and expenses, including attorneys' fees, incurred by Indemnitee in defense of such action (including with respect to Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

11. **Duration.** All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is an Agent of the Company and shall continue thereafter (a) so long as Indemnitee may be subject to any possible claim for which Indemnitee may be indemnified hereunder (including any rights of appeal thereto) and (b) throughout the pendency of any Proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret Indemnitee's rights under this Agreement, even if, in either case, Indemnitee may have ceased to serve in such capacity at the time of any such Proceeding.

12. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Utah, without giving effect to principles of conflict of law.

(b) **Consent to Jurisdiction.** The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Utah for all purposes in connection with any action or proceeding which arises out of or relates to this Agreement **and agree that any action instituted under this Agreement shall be commenced, prosecuted and continued only in the federal and state courts located in the State of Utah in and for Salt Lake County, which shall be the exclusive and only proper forum for adjudicating such a claim.**

(c) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(d) **Construction.** This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(e) **Counterparts.** This Agreement may be signed in counterparts. This Agreement constitutes a separate agreement between the Company and Indemnitee and may be supplemented or amended as to Indemnitee only by a written instrument signed by the Company and Indemnitee, with such amendment binding only the Company and Indemnitee. All waivers must be in a written document signed by the party to be charged. No waiver of any of the provisions of this Agreement shall be implied by the conduct of the parties. A waiver of any right hereunder shall not constitute a waiver of any other right hereunder.

(f) **Interpretation of Agreement.** This Agreement shall be interpreted and enforced so as to provide indemnification to Indemnitee to the fullest extent now or hereafter permitted by the Act.

(g) **Subrogation.** In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company to effectively bring suit to enforce such rights.

(h) **Continuation of Indemnity; Binding Effect.** Indemnitee's rights hereunder shall continue after Indemnitee has ceased acting an Agent of the Company and the benefits hereof shall inure to the benefit of the heirs, executors and administrators of Indemnitee. The Company shall require and cause any successor (whether direct or indirect by purchase,

merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(i) **Notices.** All notices, demands, consents, requests, approvals and other communications required or permitted hereunder shall be in writing and shall be deemed to have been properly given if hand delivered (effective upon receipt or when refused), or if sent by a courier freight prepaid (effective upon receipt or when refused), in the case of the Company, at the addresses listed below, or to such other addresses as the parties may notify each other in writing.

To Company: Merit Medical Systems, Inc.
Attention: Chief Legal Officer
1600 West Merit Parkway
South Jordan, Utah 84095

To Indemnitee: At Indemnitee's residence address and facsimile number on the records of the Company from time to time.

(j) **Evidence of Coverage.** Upon request by Indemnitee, the Company shall provide evidence of the liability insurance coverage required by this Agreement. The Company shall promptly notify Indemnitee of any change in the Company's D&O Insurance coverage.

[Remainder of Page Intentionally Left Blank; Signatures appear on the following page.]

The parties hereto have agreed and accept this Agreement as of the day and year set forth on the first page of this Agreement.

MERIT MEDICAL SYSTEMS, INC.

By: _____

Name: Fred P. Lampropoulos

Title: Chief Executive Officer

INDEMNITEE:

[•], an individual

[Signature Page to Indemnification Agreement]

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "Agreement") is made as of October 24, 2020 by and between Merit Medical Systems, Inc., a Utah corporation ("Company"), and [●], an individual ("Indemnitee").

RECITALS

A. The Company is aware that because of the increased exposure to litigation costs, talented and experienced persons are increasingly reluctant to serve or continue serving as directors and officers of corporations unless they are protected by comprehensive liability insurance and indemnification.

B. The statutes and judicial decisions regarding the duties of directors and officers are often difficult to apply, ambiguous, or conflicting, and therefore often fail to provide such directors and officers with adequate guidance regarding the proper course of action.

C. The Board of Directors of the Company (the "Board"), has concluded that, in order to retain and attract talented and experienced individuals to serve as officers and directors of the Company and its subsidiaries and to encourage such individuals to take the business risks necessary for the success of the Company and its subsidiaries, the Company should contractually indemnify its officers and directors, and the officers and directors of its subsidiaries, in connection with claims against such officers and directors relating to their services to the Company and its subsidiaries and has further concluded that the failure to provide such contractual indemnification could be detrimental to the Company, its subsidiaries and shareholders.

D. Indemnitee's willingness to serve as a director of the Company is predicated, in substantial part, upon the Company's willingness to indemnify Indemnitee in accordance with the principles reflected above, to the fullest extent permitted by the laws of the State of Utah, and upon the other undertakings set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Company and Indemnitee, intending to be legally bound hereby, hereby agree as follows:

1. **Definitions.**

(a) **Agent.** "Agent" with respect to the Company means any person who is or was a director, officer, employee or other agent of the Company or a subsidiary; or is or was serving at the request of, for the convenience of, or to represent the interests of, the Company or a subsidiary as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); or was a director, officer, employee or agent of a predecessor corporation (or other predecessor entity or enterprise) of the Company or a subsidiary, or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including without limitation any employee benefit plan whether or not subject to the ERISA) at the request of, for the convenience of, or to represent the interests of such predecessor.

(b) **Change in Control.** "Change in Control" shall mean, and shall be deemed to have occurred if, on or after the date of this Agreement: (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended) or group acting in concert, other than a trustee or other fiduciary holding securities

under an employee benefit plan of the Company acting in such capacity or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the “beneficial owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the total voting power represented by the Company’s then outstanding voting securities; (ii) during any period of two (2) consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company’s shareholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; (iii) the shareholders of the Company approve a merger or consolidation of the Company with any other corporation other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least eighty percent (80%) of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or (iv) the shareholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of (in one transaction or a series of related transactions) all or substantially all of the Company’s assets.

(c) **Company.** References to the “Company” shall include, in addition to Merit Medical Systems, Inc., any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which Merit Medical Systems, Inc. (or any of its wholly-owned subsidiaries) is a party which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, agents or fiduciaries, so that if Indemnitee is or was a director, officer, employee, agent or fiduciary of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(d) **Expenses.** “Expenses” means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all reasonable attorneys’ and experts’ fees, costs of investigation and related disbursements) reasonably incurred by Indemnitee in connection with the investigation (whether formal or informal), settlement, defense or appeal of a Proceeding covered hereby or the establishment or enforcement of a right to indemnification under this Agreement, including without limitation in the case of an appeal the premium for, and other costs relating to, any costs bond or supercedes bond or other appeal bond or its equivalent.

(e) **Independent Legal Counsel.** “Independent Legal Counsel” shall mean an attorney or firm of attorneys, selected in accordance with the provisions of Section 2(i) hereof, who shall not have otherwise performed services for the Company or Indemnitee within the preceding three years (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other Indemnitees under similar indemnity agreements).

(f) **Other References.** References to “other enterprises” shall include employee benefit plans; references to “finer” shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to “serving at the request of the Company” shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or its beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner “not opposed to the best interests of the Company,” as referred to in this Agreement.

(g) **Proceeding.** “Proceeding” means any threatened, pending, or completed claim, suit, action, proceeding or alternative dispute resolution mechanism, or any hearing or investigation, whether civil, criminal,

administrative, investigative or otherwise, including without limitation any situation which Indemnitee believes in good faith might lead to the institution of any such proceeding.

(h) **Reviewing Party.** “Reviewing Party” shall mean, subject to the provisions of Section 2(g), any person or body appointed by the Board in accordance with applicable law to review the Company’s obligations hereunder and under applicable law, which may include a member or members of the Board, Independent Legal Counsel or any other person or body not a party to the particular Proceeding for which Indemnitee is seeking indemnification, as set forth in Section 2(i).

2. **Indemnification.**

(a) **Third Party Proceedings.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Utah Revised Business Corporation Act (the “Act”) if Indemnitee is or was a party or is threatened to be made a party to any Proceeding (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, any subsidiary of the Company or any committee or subcommittee of the Board, by reason of any action or inaction on the part of Indemnitee while an Agent of the Company, against all Expenses and liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)) actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee’s conduct was unlawful.

(b) **Proceedings By or in the Right of the Company.** The Company shall defend, indemnify and hold harmless Indemnitee to the fullest extent permitted by the Act if Indemnitee was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was or is claimed to be an Agent of the Company, all Expenses and liabilities of any type whatsoever (including, but not limited to, legal fees, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld)), in each case to the extent actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and its stockholders, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudicated by court order or judgment to be liable to the Company in the performance of Indemnitee’s duty to the Company and its stockholders unless and only to the extent that the court in which such action or proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses, which such court shall deem proper.

(c) **Presumptions; Burden of Proof.** In making any determination concerning Indemnitee’s right to indemnification, there shall be a presumption that Indemnitee has satisfied the applicable standard of conduct, and the Company may overcome such presumption only by its adducing clear and convincing evidence to the contrary. For purposes of this Agreement, the termination of any Proceeding by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by this Agreement or applicable law. In addition, neither the failure of any Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by any Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of legal proceedings by Indemnitee to secure a judicial determination that Indemnitee should be indemnified under this Agreement under applicable law, shall be a defense to Indemnitee’s claim or create a presumption that Indemnitee has not met any particular standard of conduct or did not have any particular belief. Any determination concerning Indemnitee’s right to indemnification that is adverse to Indemnitee may be challenged by Indemnitee in the courts of the State of Utah. No determination by the Company (including without limitation by its directors or any Independent Legal Counsel) that Indemnitee has not satisfied any applicable standard of conduct shall be a defense to any claim by Indemnitee for indemnification or reimbursement or advance

payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(d) **Reliance as a Safe Harbor.** For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by other Agents of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any Agent of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(e) **Actions Where Indemnitee Is Deceased.** If Indemnitee was or is a party, or is threatened to be made a party, to any Proceeding by reason of the fact that Indemnitee is or was an Agent of the Company, or by reason of anything done or not done by Indemnitee in any such capacity, and prior to, during the pendency of, or after completion of, such Proceeding, Indemnitee shall die, then the Company shall defend, indemnify and hold harmless the estate, heirs and legatees of Indemnitee against any and all Expenses and liabilities reasonably incurred by or for such persons or entities in connection with the investigation, defense, settlement or appeal of such Proceeding on the same basis as provided for Indemnitee in Sections 2(a) and 2(b) above.

(f) **Extent of Insurance.** The Expenses and liabilities covered hereby shall be net of any payments made irrevocably to or on behalf of Indemnitee by any D&O Insurance carriers or others and, for the avoidance of doubt, the Company will not be liable for the payment of any Expenses or liabilities for which Indemnitee has received payment from a D&O Insurance carrier or other person unless and until the D&O Insurance Carrier or such other person requests reimbursement of such Expenses or liabilities from Indemnitee.

(g) **Review of Indemnification Obligations.** Notwithstanding the foregoing, in the event any Reviewing Party shall have determined (in a written opinion, in any case in which Independent Legal Counsel is the Reviewing Party) that Indemnitee is not entitled to be indemnified hereunder under applicable law: (i) the Company shall have no further obligation under Section 2(a) or Section 2(b) to make any payments to Indemnitee not made prior to such determination by such Reviewing Party; and (ii) the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all Expenses theretofore paid to Indemnitee to which Indemnitee is not entitled hereunder under applicable law; provided, however, that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee is entitled to be indemnified hereunder under applicable law, any determination made by any Reviewing Party that Indemnitee is not entitled to be indemnified hereunder under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expenses theretofore paid in indemnifying Indemnitee until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed). Indemnitee's obligation to reimburse the Company for any Expenses shall be unsecured and no interest shall be charged thereon.

(h) **Indemnitee Rights on Unfavorable Determination; Binding Effect.** If any Reviewing Party determines that Indemnitee substantively is not entitled to be indemnified hereunder in whole or in part under applicable law, Indemnitee shall have the right to commence litigation seeking an initial determination by the court or challenging any such determination by such Reviewing Party or any aspect thereof, including the legal or factual bases therefor, and the Company hereby consents to service of process and to appear in any such proceeding.

(i) **Selection of Reviewing Party; Change in Control.** A determination, if required by applicable law, with respect to Indemnitee's entitlement to indemnification shall be made in accordance with the provisions of this paragraph (i). If there has not been a Change in Control, a Reviewing Party shall be selected by the Board, and if there has been such a Change in

Control (other than a Change in Control which has been approved by a majority of the Board who were directors immediately prior to such Change in Control), any Reviewing Party with respect to all matters thereafter arising concerning the rights of Indemnitee to indemnification of Expenses under this Agreement or any other agreement or under the Company's Articles of Incorporation or Bylaws as now or hereafter in effect, or under any other applicable law, if desired by Indemnitee, shall be Independent Legal Counsel selected by Indemnitee and approved by the Company (which approval shall not be unreasonably withheld, conditioned or delayed). Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent Indemnitee would be entitled to be indemnified hereunder under applicable law and the Company agrees to abide by such opinion. The Company agrees to pay the reasonable fees of the Independent Legal Counsel referred to above and to indemnify fully such counsel against any and all expenses (including attorneys' fees), claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto. Notwithstanding any other provision of this Agreement, the Company shall not be required to pay Expenses of more than one Independent Legal Counsel in connection with all matters concerning a single Indemnitee (other than to the extent local counsel or counsel with particular expertise are required), and such Independent Legal Counsel shall be the Independent Legal Counsel for any or all other Indemnitees unless: (i) the employment of separate counsel by one or more Indemnitees has been previously authorized by the Board in writing; or (ii) an Indemnitee shall have provided to the Company a written statement that such Indemnitee has reasonably concluded that there may be a conflict of interest between such Indemnitee and the other Indemnitees with respect to the matters arising under this Agreement.

3. **Expenses; Indemnification Procedure.**

(a) **Advancement of Expenses.** The Company shall advance all expenses incurred by Indemnitee in connection with the investigation, defense, settlement or appeal of any civil or Proceeding referred to in Section 2(a) or Section 2(b) hereof (including amounts actually paid in settlement of any such Proceeding if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld, conditioned or delayed). Indemnitee hereby undertakes to repay such amounts advanced only if, and to the extent that, it shall ultimately be determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company as authorized hereby.

(b) **Notice/Cooperation by Indemnitee.** Promptly after receipt by Indemnitee of notice of the commencement or threat of any Proceeding covered hereby, Indemnitee shall (to the extent legally permitted) notify the Company of the commencement or threat thereof, provided that any failure to so notify shall not relieve the Company of any of its obligations hereunder. Notice to the Company shall be directed to the Chief Executive Officer of the Company and the Chief Legal Officer of the Company, and shall be given in accordance with the provisions of Section 12(i) below. In addition, Indemnitee shall give the Company such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

(c) **Notice to Insurers.** If, at the time of the receipt of a notice of a claim pursuant to Section 3(b) hereof, the Company has D&O Insurance (as defined in Section 6(a) below) in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies, including any advancement of expenses.

(d) Indemnitee shall be entitled to retain one or more counsel from time to time selected by Indemnitee in Indemnitee's reasonable discretion to act as its counsel in and for the investigation, defense, settlement or appeal of each Proceeding. The Company shall not waive any privilege or right available to Indemnitee in any such Proceeding.

(e) The Company shall bear all reasonable fees and Expenses (including invoices for advance retainers) of such counsel, and all reasonable fees and Expenses invoiced by other persons or entities, in connection with the investigation, defense, settlement or appeal of each such Proceeding. Such fees and Expenses are referred to herein as "Covered Expenses."

(f) Until a determination to the contrary under Section 4 hereof is made, the Company shall advance all Covered Expenses in connection with each Proceeding. Indemnitee shall qualify for advances upon the execution and delivery to the

Company of this Agreement which shall constitute an undertaking providing that Indemnitee undertakes to the extent required by law to repay the advance if and to the extent that it is ultimately determined by a court of competent jurisdiction in a final judgment, not subject to appeal, that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement.

(g) **Selection of Counsel.** In the event the Company shall be obligated hereunder to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding, the Company, if appropriate, shall be entitled to assume the defense of such Proceeding with counsel selected by the Company, subject to approval by Indemnitee (which approval shall not be unreasonably withheld), upon the delivery to Indemnitee of written notice of the Company's election to do so. After delivery of such notice and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees or expenses of separate counsel subsequently retained by or on behalf of Indemnitee with respect to the same Proceeding; provided that: (i) Indemnitee shall have the right to employ Indemnitee's separate counsel in any such Proceeding at Indemnitee's expense; and (ii) if (A) the employment of separate counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, or (C) the Company shall not continue to retain such counsel to defend such Proceeding, then the fees and expenses of Indemnitee's separate counsel shall be Expenses for which Indemnitee may receive indemnification or advancement of Expenses hereunder.

(h) Each advance to be made hereunder shall be paid by the Company to Indemnitee within ten (10) business days following delivery of a written request therefor by Indemnitee to the Company.

(a) The Company acknowledges the potentially severe damage to Indemnitee should the Company fail timely to make such advances to Indemnitee.

(b) The Company shall not settle any Proceeding if, as a result of such settlement, any fine or obligation is imposed on Indemnitee without Indemnitee's prior written consent.

4. **Determination of Right to Indemnification.**

(a) To the extent Indemnitee has been successful on the merits or otherwise in defense of any Proceeding, claim, issue or matter covered hereby, Indemnitee need not repay any of the Expenses advanced in connection with the investigation, defense or appeal of such Proceeding.

(b) Indemnitee shall have the right to advancement by the Company prior to the final disposition of any Proceeding of any and all Expenses relating to, arising out of or resulting from any Proceeding paid or incurred by Indemnitee or which Indemnitee determines are reasonably likely to be paid or incurred by Indemnitee.

(c) Subject to the provisions of Section 2(g), notwithstanding a determination by a Reviewing Party or a court that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the courts of the State of Utah for the purpose of enforcing Indemnitee's right to indemnification pursuant to this Agreement.

(d) Subject to the provisions of Section 2(i), the Company shall indemnify Indemnitee against all Expenses reasonably incurred by Indemnitee in connection with any Proceeding under Sections 4(b) or 4(c) and against all Expenses reasonably incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims and/or defenses of Indemnitee in any such Proceeding were frivolous or made in bad faith.

(e) The Company hereby agrees to indemnify Indemnitee to the fullest extent permitted by the Act, notwithstanding that such indemnification is not specifically authorized by the other provisions of this Agreement, the Company's Articles of Incorporation, the Company's Bylaws or by statute. In the event of any change after the date of this Agreement to the Act or in any applicable law, statute or rule which expands the right of a Utah corporation to indemnify a member of its board of directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits afforded by such change. In the event of any change to the Act or in any applicable law, statute or rule which narrows the right of a Utah corporation to indemnify its Agent, such change, to the extent not otherwise required by the Act or such law, statute or rule to be applied to this Agreement, shall have no effect on this Agreement or the parties' rights and obligations hereunder except as set forth in Section 8 hereof.

(f) **Nonexclusivity.** The indemnification and the payment of Expense advances provided by this Agreement shall be in addition to any rights to which Indemnitee may be entitled under the Company's Articles of Incorporation, its Bylaws, any other agreement, any vote of shareholders or disinterested directors, the Act, or otherwise. The indemnification and the payment or advancement of Expenses provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified capacity even though subsequent thereto Indemnitee may have ceased to serve in such capacity.

(g) **No Duplication of Payments.** The Company shall not be liable under this Agreement to make any payment in connection with any Proceeding to the extent Indemnitee has otherwise actually received payment (under any insurance policy, provision of the Company's Articles of Incorporation, Bylaws or otherwise) of the amounts otherwise payable hereunder.

(h) **Partial Indemnification.** If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses incurred in connection with any Proceeding, but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

5. **Mutual Acknowledgement.** Both the Company and Indemnitee acknowledge that in certain instances, Federal law or public policy may override applicable state law and prohibit the Company from indemnifying its directors and officers under this Agreement or otherwise. For example, the Company and Indemnitee acknowledge that the Securities and Exchange Commission (the "SEC") has taken the position that indemnification is not permissible for liabilities arising under certain federal securities laws, and federal legislation prohibits indemnification for certain ERISA violations. Indemnitee understands and acknowledges that the Company has undertaken or may be required in the future to undertake with the SEC to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Indemnitee.

6. **Officer and Director Liability Insurance.**

(a) The Company hereby covenants and agrees with Indemnitee that, subject to Section 6(b), the Company shall obtain and maintain in full force and effect directors' and officers' liability insurance ("D&O Insurance"), in reasonable amounts as the Board shall determine from established and reputable insurers with an AM Best rating of A.VI or better, but no less than the amounts in effect upon initial procurement of the D&O Insurance. In all policies of D&O Insurance, Indemnitee shall be named as an insured.

(b) Notwithstanding the foregoing, the Company shall have no obligation to obtain or maintain D&O Insurance if the Board determines in good faith that the premium costs for such insurance are (i) disproportionate to the amount of coverage provided after giving effect to exclusions, and (ii) substantially more burdensome to the Company than the premiums charged to the Company for its initial D&O Insurance; provided that Indemnitee is given written notice of any such determination within thirty (30) days of the date that it is made (but in no event shall such notice be given less than ten (10) days prior to the termination of any existing D&O Insurance); provided, further, that the Company will be required to obtain and maintain "tail" insurance

policies covering Indemnitee for any act or omission taken prior to the termination of the D&O Insurance. For the avoidance of doubt, the Company shall still be obligated to provide indemnification for and/or make any advancement of Expenses with respect to the Expenses of any Proceeding pursuant to the terms of this Agreement, regardless of whether the Company maintains D&O Insurance covering Indemnitee.

(c) Indemnitee shall be covered by the D&O Insurance policies that the Company is required to maintain hereunder in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors, if Indemnitee is a director; or of the Company's officers, if Indemnitee is not a director of the Company but is an officer; or of the Company's key employees, agents or fiduciaries, if Indemnitee is not an officer or director but is a key employee, agent or fiduciary.

7. **Severability.** Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. The provisions of this Agreement shall be severable as provided in this Section 7. If this Agreement or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify Indemnitee to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated, and the balance of this Agreement not so invalidated shall be enforceable in accordance with its terms.

8. **Exceptions.** Any other provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) **Claims Initiated by Indemnitee.** To indemnify or advance expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, other than: (i) Proceedings under Sections 4(b) or 4(c); (ii) Proceedings brought to establish or enforce a right to indemnification under this Agreement or the provisions of the Company's Articles of Incorporation or Bylaws unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such Proceeding were not made in good faith or were frivolous; or (iii) proceedings or claims instituted by Indemnitee with the approval by the Board;

(b) **Unauthorized Settlement.** To indemnify Indemnitee under this Agreement for any amounts paid in settlement of a Proceeding covered hereby without the prior written consent of the Company to such settlement, which consent will not be unreasonably withheld provided that the Company's consent is not required if the Company is refusing to indemnify or advance Expenses to Indemnitee;

(c) **Insured Claims.** To indemnify Indemnitee for expenses or liabilities of any type whatsoever (including, but not limited to, judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement) to the extent such expenses or liabilities have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors; liability insurance maintained by the Company; or

(d) **Claims Under Section 16(b).** To indemnify Indemnitee for expenses or the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute.

9. **Witness Expenses.** The Company agrees to compensate Indemnitee for the reasonable value of Indemnitee's time spent, and to reimburse Indemnitee for all Expenses (including reasonable attorneys' fees and travel costs) reasonably incurred by Indemnitee, in connection with being a witness, or if Indemnitee is threatened to be made a witness, with respect to any Proceeding, by reason of Indemnitee serving or having served as an Agent of the Company.

10. **Attorneys' Fees.** In the event that any action is instituted by Indemnitee under this Agreement to enforce or interpret any of the terms hereof, Indemnitee shall be entitled to be paid all court costs and expenses, including reasonable attorneys' fees, incurred by Indemnitee with respect to such action, unless as a part of such action, the court of competent jurisdiction determines that each of the material assertions made by Indemnitee as a basis for such action were not made in good faith or were frivolous.

In the event of an action instituted by or in the name of the Company under this Agreement or to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be paid all court costs and expenses, including attorneys' fees, incurred by Indemnitee in defense of such action (including with respect to Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action the court determines that each of Indemnitee's material defenses to such action were made in bad faith or were frivolous.

11. **Duration.** All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is an Agent of the Company and shall continue thereafter (a) so long as Indemnitee may be subject to any possible claim for which Indemnitee may be indemnified hereunder (including any rights of appeal thereto) and (b) throughout the pendency of any Proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret Indemnitee's rights under this Agreement, even if, in either case, Indemnitee may have ceased to serve in such capacity at the time of any such Proceeding.

12. **Miscellaneous.**

(a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Utah, without giving effect to principles of conflict of law.

(b) **Consent to Jurisdiction.** The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Utah for all purposes in connection with any action or proceeding which arises out of or relates to this Agreement **and agree that any action instituted under this Agreement shall be commenced, prosecuted and continued only in the federal and state courts located in the State of Utah in and for Salt Lake County, which shall be the exclusive and only proper forum for adjudicating such a claim.**

(c) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party. [The parties hereto agree that the indemnification agreement, dated as of [●], [●], by and between the parties hereto (the "Previous Agreement") is hereby superseded by this Agreement; provided, however, that, any action or Proceeding commenced prior to the date hereof shall continue to be governed by the terms and conditions of the Previous Agreement and, for the avoidance of doubt, such Previous Agreement shall not be superseded with respect to any such action or Proceeding.]

(d) **Construction.** This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto.

(e) **Counterparts.** This Agreement may be signed in counterparts. This Agreement constitutes a separate agreement between the Company and Indemnitee and may be supplemented or amended as to Indemnitee only by a written instrument signed by the Company and Indemnitee, with such amendment binding only the Company and Indemnitee. All waivers must be in a written document signed by the party to be charged. No waiver of any of the provisions of this Agreement shall be implied by the conduct of the parties. A waiver of any right hereunder shall not constitute a waiver of any other right hereunder.

(f) **Interpretation of Agreement.** This Agreement shall be interpreted and enforced so as to provide indemnification to Indemnitee to the fullest extent now or hereafter permitted by the Act.

(g) **Subrogation.** In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company to effectively bring suit to enforce such rights.

(h) **Continuation of Indemnity; Binding Effect.** Indemnitee's rights hereunder shall continue after Indemnitee has ceased acting an Agent of the Company and the benefits hereof shall inure to the benefit of the heirs, executors and administrators of Indemnitee. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(i) **Notices.** All notices, demands, consents, requests, approvals and other communications required or permitted hereunder shall be in writing and shall be deemed to have been properly given if hand delivered (effective upon receipt or when refused), or if sent by a courier freight prepaid (effective upon receipt or when refused), in the case of the Company, at the addresses listed below, or to such other addresses as the parties may notify each other in writing.

To Company: Merit Medical Systems, Inc.
Attention: Chief Legal Officer
1600 West Merit Parkway
South Jordan, Utah 84095

To Indemnitee: At Indemnitee's residence address and facsimile number on the records of the Company from time to time.

(j) **Evidence of Coverage.** Upon request by Indemnitee, the Company shall provide evidence of the liability insurance coverage required by this Agreement. The Company shall promptly notify Indemnitee of any change in the Company's D&O Insurance coverage.

13. **No Employment Rights.** Nothing contained in this Agreement is intended to create in Indemnitee any right to continued employment. Indemnitee specifically acknowledges that Indemnitee's employment with or services to the Company or any of its subsidiaries is at will and Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment agreement between Indemnitee and the Company (or any of its subsidiaries), other applicable formal severance policies duly adopted by the Board or, with respect to service as a director or officer of the Company, the Company's Articles of Incorporation and Bylaws, as applicable.

[Remainder of Page Intentionally Left Blank; Signatures appear on the following page.]

The parties hereto have agreed and accept this Agreement as of the day and year set forth on the first page of this Agreement.

MERIT MEDICAL SYSTEMS, INC.

By: _____

Name: Fred P. Lampropoulos

Title: Chief Executive Officer

INDEMNITEE:

[•], an individual

[Signature Page to Indemnification Agreement]

**MERIT MEDICAL NEDERLAND BV
AGREEMENT FOR EMPLOYMENT**

The undersigned:

- A. The private company with limited liability according to Dutch law, **MERIT MEDICAL NEDERLAND BV**, established at and having its offices at Amerikalaan 42, 6199 AE Maastricht Airport, Netherlands, here represented by Manon van Kregten-Maarschalkerweerd, International Employment Counsel & Compliance Manager (hereinafter referred to as "**Employer**");

and

- B. Name: **JUSTIN LAMPROPOULOS**
 Address: 920 Coldwater Way
Midway, Utah, 84095 (USA)
 Date of Birth: 23 December 1982
 (hereinafter referred to as "**Employee**"),

Hereby declare to have agreed on the following employment terms and conditions ("Employment Agreement"):

Article 1 - Duration, Position and Obligations

- 1.1 The Employment Agreement is entered for an indefinite period of time starting on 1 December 2020.
- 1.2 Either party is entitled to terminate the Employment Agreement by giving written notice at the end of a calendar month with due observance of the statutory notice period (article 7:672 of the Dutch Civil Code). In any case this Employment Agreement will end automatically by operation of law, without notice of termination or any announcement being required on the day that the Employee becomes eligible for state pension benefits (AOW).
- 1.3 Employee will fulfil the position of President, EMEA. The job description for this position is more fully set forth in **Exhibit A** attached hereto and incorporated herein as an integral part of the Employment Agreement. Exhibit A may be amended from time to time if the Employer deems this to be necessary. Employee will report directly to Joe Wright, President, International. At its sole discretion Employer can revise Employee's reporting lines and therefore change who Employee directly reports to.
- 1.4 Employer's offices are located at Amerikalaan 42, 6199 AE Maastricht Airport, Netherlands. Employee's normal place of work will be Amerikalaan 42, Maastricht Airport, or such other place within a reasonable area as Employer may reasonably determine, taking into account the needs of the Employer's business and Employee's personal circumstances. Employer may, with the Employee's approval, change the Employee's work location with 60 days' notice to Employee.
- 1.5 The Employee is obliged to behave and act as a good Employee. This means that she will carry out her tasks and duties to the best of her ability and that she will do everything and anything which a good employee under equal circumstances is obliged to do or not do. This entails, among other things, that Employee will co-operate with all reasonable measures which the Employer deems desirable or necessary, including but not limited to those:

- for the increase of knowledge, skills or productivity of the Employee;
 - in the interest of the health of the Employee, other employees of the Employer and third parties;
 - from the point of view of insurance, taxes or other financial benefits of Employer.
- 1.6 In carrying out her tasks and duties, the Employee is obliged to abide by the guidelines and instructions given by the Employer, including the guidelines and instructions within the framework of the Dutch Working Conditions Act ("Arbeidsomstandighedenwet").
- 1.7 The Employee is furthermore obliged to carry out other tasks assigned to her, including those which differ from the activities mentioned in the job description set forth in Exhibit A, as may be agreed upon between the Employer and the Employee, and to fulfil another position in so far as this can reasonably be expected of the Employee and to the extent that the activities relate to the business of the Employer.
- 1.8 The Employee is obliged to inform the Employer in a timely manner of any changes in her personal data that may reasonably be of importance to the Employer. The consequences of not informing the Employer in a timely manner are accountable to the Employee.
- 1.9 The Employee declares that she is not hindered in the performance of her duties by a non-competition clause of any former employers.
- 1.10 The Merit Medical EMEA Employee Manual (hereinafter: "Employee Manual") forms an integral part of this Employment Agreement. By signing this Employment Agreement Employee declares that she has received a copy of said Employee Manual and that she agrees with its contents.

Article 2 - Salary

- 2.1 The salary of the Employee shall amount to Five Hundred Eleven Thousand Four Hundred Forty Euros (€ 511,440) gross per year, of which 1/12th part in the amount of Forty Two Thousand Six Hundred Twenty Euros (€ 42,620) gross is payable to the Employee at the end of each month with due observance of the statutory deductions.
- 2.2 The Employee is entitled to a holiday allowance of 8% of the gross salary paid to her under this Employment Agreement. The holiday allowance is calculated over a period from 1 June until 31 May and is paid, on a yearly basis, in the month of May. In the event that the employment commences or terminates during this period, the holiday allowance will be calculated proportionate to time.
- 2.3 Reimbursement for working overtime is explicitly agreed upon to be included in the aforementioned salary.
- 2.4 The Employer may withhold from any amounts payable under this Employment Agreement such income taxes, any other applicable taxes and employee social security contributions as may be required to be withheld pursuant to any applicable law or regulation in the Netherlands. Notwithstanding the foregoing, it is the intent of the parties hereto that the Employer shall equalize the Employee's income tax and any other applicable tax and social security contributions obligation as if the Employee's compensation and other benefits provided under this Employment Agreement were earned in the Employee's home country (United States of America) and subject only to local income tax, any other applicable tax and national insurance contributions in the Employee's home country. As such, the parties hereto expressly acknowledge and agree that (i) the Employer or its affiliates shall pay all of the Employee's non-Dutch income tax and social security obligations

associated with the Employee's compensation and other benefits provided under this Employment Agreement, in such amounts and at such times as required by applicable non-Dutch income tax and social security law, and any other applicable law (whether directly to the non-Dutch taxing authority, or through reimbursement to the Employee on finalization of the non-Dutch total liabilities), plus provide such additional amounts as are required to gross up the Employee's compensation and benefits provided under this Employment Agreement for any non-Dutch income taxes or other local income taxes and any other applicable taxes and social security contributions of the Employee's home country associated with the payments and reimbursements required by this paragraph 2.4, notwithstanding any change in applicable tax or national insurance contribution law after the date hereof.

- 2.5 In addition to the amount set forth in Article 2.1, Employee is entitled to participate in a bonus scheme, payable at the discretion of the Employer. Details of such sales a bonus scheme are set forth in **Exhibit B** attached to this Employment Agreement.
- 2.6 Employee and Employer will attempt to meet annually to review job performance and compensation issues on a formal basis. On an informal basis, the parties may meet frequently to discuss and record performance and progress.

Article 3 - Working Hours

Employee will work at least 40 hours per week. The normal working hours are Monday to Friday between 8:00 until 18:00.

Article 4 - Vacation

- 4.1 The Employee is entitled to 26 days' vacation per year on the basis of a full working week of 40 hours. Of this 26 day total, 20 days are the legal minimum as stipulated by law. 6 days are extra-legal days. If the employment term lasts less than a year, and/or the employment time is not a full working week, then the number of vacation days is reduced proportionally.
- 4.2 Vacation days will be taken in mutual agreement between Employer and Employee. Applications for vacation days or days off should be made at least 14 days in advance.
- 4.3 If during sick leave Employee wants to go on vacation, this must be reported to the Employer. The Employer will seek the advice from the company doctor on whether the vacation could be detrimental to the Employee's recovery and reintegration. If the company doctor advises that there are no reasons not to go on vacation, the Employer will grant the Employee's request. The extra-legal days as indicated in article 4.1 will be considered to be vacations days instead of sick days. In addition, in the event of a vacation request by the Employee during illness, article 4.2 will be applicable. In that event, the legal minimum vacation days will be registered as vacation days instead of sick days as well.

Article 5 - Illness / Incapacity For Work

- 5.1 If the Employee is unable to carry out her tasks and duties because of illness or incapacity for work, she will notify the Employer thereof on the first day of her incapacity for work before 9:30 in the morning. Employee must report her illness to her direct manager.
- 5.2 During sick leave the Employee may be subject to an examination by the company doctor/insurance medical officer appointed by the Employer. Furthermore, the Employee is obliged to observe the instructions regarding check-ups and co-operation determined by the Employer and/or company

doctor/insurance medical officer, in default of which the Employer may suspend payment of the Employee's salary. Moreover, the Employee is obliged to inform the Employer and company doctor/insurance medical officer of her nursing address, if this is different from her home address as registered with the Employer.

- 5.3 The company doctor/insurance medical officer appointed by the Employer may examine the Employee in order to ascertain:
- a. whether the Employee is impeded from carrying out her work because of her illness;
 - b. whether the Employee has deliberately caused her impediment to carry out her work;
 - c. whether the Employee is deliberately slowing down her recovery process;
 - d. whether the Employee wrongfully allows herself to be treated insufficiently or not at all;
 - e. whether other measures or provisions are necessary for the recovery or improvement of the Employee's health;
 - f. at what moment in time the Employee is ready to resume her activities, and to what degree.
- 5.4 The Employee is obliged to be at home between 9:00 and 11:00 in the morning for possible visits by the examining doctor. In addition, the Employer must be able to contact the Employee by phone at all times during working hours.
- 5.5 In case of illness of the Employee, the Employer will continue to pay the Employee's salary as stated in Article 2.1 of this Employment Agreement in conformity with article 7:629 of the Dutch Civil Code.
- 5.6 During sick leave the employee is not entitled to any reimbursement of travel allowance for home-work travel, nor is employee entitled to any (structural) reimbursement for work related expenses.

Article 6 - Reintegration after dismissal or termination

- 6.1 If, within four (4) weeks after the termination of her employment agreement, the Employee becomes ill or disabled, and at that moment in time she is not working for another employer or receiving unemployment benefits, she is obliged to immediately call in sick with the Employer in accordance with the rules and regulations that apply within the Employer's company (Employee Manual and this Employment Agreement) regarding sickness and sick leave.
- 6.2 If the employee is already ill or disabled at the moment her employment agreement terminates and she meets the criteria set forth in subsection 6.1 above, then she is obliged to:
- abide by instructions from the company doctor and/or occupational health officer appointed by the Employer to visit said company doctor or occupational health officer for a consultation;
 - provide the Employer with all the information that she is obliged to provide to the Employer as a Risk Carrier (Eigen Risicodrager) or the UWV in accordance with the Sickness Benefits Act (Ziektewet) or Disability Benefits Act (Wet Werk en Inkomen naar Arbeidsvermogen, Wet WIA). If the Employee does not give her permission to the Employer to consult or receive medical information regarding the Employee, then the Employee is obliged to provide such medical information to the company doctor or an authorized physician;
 - abide by all the obligations set forth in the Sickness Benefits Act (Ziektewet) and the Disability Benefits Act (Wet WIA);
 - cooperate with and take part in a reintegration program or trial placement (in another job or function or with another employer) offered to the Employee by or on behalf of the Employer;

- apply for (early) Full Disability Benefits (IVA-uitkering) as soon as the company doctor deems this possible.

The obligations above will remain in full force and effect for as long as the Employee is sick and/or disabled and receives Sickness Benefits (Ziektewetuitkering). Once the Employee has fully recovered said obligations will end, unless the Employee falls ill or becomes disabled again within four (4) weeks of recovery.

- 6.3 If the Employee does not abide by the obligations and instructions set forth in the subsections above, then the Employer will be required to inform the UWV of this fact. The consequences of such an announcement to the UWV for the Employee and at her own risk.

Article 7 - Pension Scheme

There is currently a pension scheme connected to this Employment Agreement whereby the Employer may contribute towards old-age pension and surviving relatives' pension. The Employer does not contribute toward invalidity pension.

Article 8 - Confidentiality

- 8.1 The Employee will observe strict confidentiality with regard to all details relating to the Employer's company and any companies affiliated with or connected to it.
- 8.2 The Employee is prohibited from making any statements to third parties, either directly or indirectly, and in any form or manner, with regard to any information related to Employer's company and any companies affiliated with or connected to it, either during or after the term of employment.
- 8.3 The Employee is prohibited from taking any notes, drawings or other documents, letters, receipts, copies of such documents, tools, models, samples, manufactured products, automated files or other information containing data or other content, or having such matters taken, sent, copied, inspected and/or disposed of or using such matters in any way, unless such has been explicitly approved of in writing by the Employer. In addition, the Employee is prohibited from allowing inspection of machines, plants or workshops or any other items under the control of the Employer, as well as making use of the Employer's know-how and activities without informing the Employer thereof.
- 8.4 The Employee is obliged to request and obtain the prior written approval of the Employer for publications that may affect the interests of the Employer in any way.
- 8.5 Corporate property, including all correspondence, notes, drawings, models, samples, automated files and other data that relate to corporate affairs must be immediately returned to the Employer upon Employer's request, but no later than upon termination of employment.
- 8.6 The obligations in this Article 8 also pertain, and are without prejudice, to any information, documents, machines or plants etc. or any other affairs by any name, of clients or other business relations or companies affiliated with the Employer.
- 8.7 Violation of the stipulations contained in paragraphs 1 through 6 of this Article 8 will constitute an urgent legal cause for termination of employment.

Article 9 - Intellectual Property Rights

- 9.1 The Employer is entitled to the exclusive (property) rights, both nationally and internationally, of the patents, models, drawings and/or any other intellectual property right arising from the activities that the Employee has carried out during the term of the Employment Agreement, or during a year after termination of this Employment Agreement.
- 9.2 The Employee is obliged to inform the Employer of all activities carried out during employment or after termination of employment that can lead, in The Netherlands or elsewhere, to the existence of intellectual property rights, including, but not limited to, inventions, computer programs, working methods, achievements in the field of industrial design and the like.
- 9.3 The Employee is obliged to transfer any rights relating to the aforementioned activities to the Employer in the shortest possible term, both in The Netherlands and elsewhere, if and in so far as these rights do not accrue to the Employer by virtue of the law and/or this Employment Agreement.
- 9.4 Even after the Employment Agreement has been terminated, the Employee is still obliged to cooperate in every way with the Employer with regard to the establishment, disposal, and enforcement of any rights belonging to and/or transferred within the meaning of this Article 9.
- 9.5 The Employer is not obliged to apply for legal protection of the rights belonging to it or transferred to it. In case of a patent application, the Employer shall promote to the fullest extent possible that the Employee is named as an inventor.
- 9.6 The Employee acknowledges that her salary set forth in Article 2 of this Employment Agreement constitutes payment for the fact that intellectual property rights do not accrue to her, and that she transfers the intellectual rights to the Employer to the extent this is necessary.

Article 10 - Additional Functions

- 10.1 During the term of employment the Employee will not fulfil any additional positions outside the performance of his employment with Employer or carry out any additional tasks or duties elsewhere, either for a fee or not, without the prior written approval of the Employer, and at the discretion of the Employer. Failure to comply with the obligations of this Article 10 can be regarded as immediate grounds for dismissal by the Employer, and Employer may, in its discretion, employ the penalty set forth in Article 13 of this Employment Agreement.
- 10.2 At the written and substantiated request of the Employee, the Employer may grant general or specific approval to deviate from the stipulations of this Article 10. The Employer may attach certain conditions to the approval in its discretion.

Article 11 - Business Relation, Non-competition, and Crimping Clause

- 11.2 Business Relation Clause: For twelve (12) months after termination of this Employment Agreement the Employee is obliged to refrain from establishing contacts, or have contacts established and/or to maintain contacts, or have contacts maintained, both directly and indirectly, both for herself and for any third parties, with clients, suppliers or other business relations of the Employer and of any companies affiliated with the Employer. Within this framework, clients are taken to be those companies, businesses and/or institutions by whose order, either directly or indirectly, the Employee has carried out work during the last two (2) years of the employment relationship with the Employer, as well as those clients to whom the Employee has submitted quotations and/or received a request

to submit a quotation during the last two (2) years of the employment relationship with the Employer.

The definition of "Business Relation" in this Employment Agreement applies to all persons, institutions, companies, businesses, etc. with which the Employer maintains or has maintained contacts, regardless of whether those persons, institutions, companies, businesses etc. were employed by or were part of the group of companies to which the company of Employer belongs; Business Relations are also the so-called 'prospects' or 'leads', which can be persons, companies, businesses, etc. that the Employer has not yet done any business, but with which it has been in contact, and such contact with persons, companies, businesses can be seen as actual/recent.

- 11.3 Non-competition Clause: During this Employment Agreement, as well as during a period of twelve (12) months after termination of this Employment Agreement, the Employee may not carry out any activities within The Netherlands in any way and in any form, either on the basis of an employment agreement, or in her own name, or by means of a collaboration with other natural persons or legal persons, which activities are equal, similar or related to the activities of the Employer or any affiliated companies. This includes (financial) participation interest in and/or (in)direct control of companies that are equal, similar, or related to the competitive activities of the Employer or any affiliated companies. The stipulations set forth in this Article will remain valid even in the event that Employee's job description has changed.
- 11.4 Crimping Clause: The Employee is not permitted to approach any of the Employer's employees, either directly or indirectly, either for herself or for any third parties, in order to persuade them to terminate their employment with the Employer or the companies affiliated with it.

Article 12 - Benefits

The Employee is prohibited from accepting any payment, gifts or other such benefits from a third party for his own benefit, either directly or indirectly, in connection with his activities in the employment of his Employer.

Article 13 - Penalty Clause

Contrary to article 7:650 paragraph 6 of the Dutch Civil Code, the Employee will, in the event of any violation of the stipulations in Articles 5.2, 6, 8, 9, 10, 11 and 12 of this Employment Agreement be accountable for an immediately payable penalty to the benefit of the Employer of Five Thousand Euros (€ 5.000) in one payment per violation, increased by an amount of One Thousand Euros (€ 1.000) for every day that the violation continues, without prejudice to the other rights of the Employer by virtue of the law or this Employment Agreement, such as the right to fulfilment of a violated stipulation or to demand an injunction or, instead of this penalty, compensation, as well as to terminate this Employment Agreement, if it is still in existence.

Article 14 - Applicable Law

Dutch law is applicable to this Employment Agreement. The legally competent Dutch court is exclusively authorised to take cognisance of any disputes between the parties which result from the interpretation or execution of this Employment Agreement.

Article 15 - Replacement In Case Of Nullity

If this Employment Agreement contains any invalid stipulations, then this will not lead to the nullity of any of the other stipulations of the Agreement. The invalid stipulations will then be replaced by

valid stipulations which correspond as much as possible with the intentions the parties had with the invalid stipulation. The stipulations that are not changed remain in full force and effect.

Article 16 - Concluding Stipulations

- 16.1 This Employment Agreement replaces all previous oral or written agreements between the parties. Any translation of this Employment Agreement into other languages will be for reference only and will not be binding.
- 16.2 The Employer has the right to change the terms and conditions of employment as set forth in this Employment Agreement pursuant to, without limitation, article 7:613 of the Dutch Civil Code.
- 16.3 This Employment Agreement consists of eleven (11) numbered pages.

Agreed upon, made in triplicate, and signed on 19 November 2020,

Merit Medical Nederland BV

Employee

/s/ Manon van Kregten-Maarschalkerweerd

/s/ Justin Lampropoulos

Name: Manon van Kregten-Maarschalkerweerd
Title: International Employment Counsel &
Compliance Manager

Justin Lampropoulos

Exhibit A

JOB DESCRIPTION

PRESIDENT, EMEA

SUMMARY OF DUTIES

Responsible for providing direction, leadership and making key decisions.

ESSENTIAL FUNCTIONS PERFORMED

1. Provides leadership and vision to department heads and employees.
2. Accountable for the development and communication of key strategies and objectives.
3. Works closely with management team members from other departments to ensure that customer needs are understood and met.
4. Handles and directs all Good Manufacturing Practices issues and compliance with ISO requirements while ensuring that the highest degree of integrity is present in all processes and procedures.
5. Attends meetings and evaluates the performance of managed areas in general and accepts feedback from department heads to make key organizational decisions.
6. Prepares departmental budgets and performs tasks involved in capital expenditure planning.
7. Manages employees by interviewing, hiring, training, evaluating performance, terminating, etc.
8. Provides leadership in determining and implementing best operational practices.
9. Performs a variety of related management tasks, as required.

ESSENTIAL PHYSICAL/ENVIRONMENTAL DEMANDS

- Lifting -- Not to exceed 50 lbs. -- local practice may apply.
- Writing
- Sitting
- Standing
- Bending
- Visual acuity
- Color perception
- Depth perception
- Reading
- Field of vision/peripheral

SUMMARY OF MINIMUM QUALIFICATIONS

- Education and/or experience equivalent to a Bachelor's Degree in Business Administration or related area.
- A minimum of ten years of related management/leadership experience, to include budget planning.
- Ability to work as part of a top management team.
- Demonstrated ability to meet organizational goals and schedules while making key decisions for areas managed.
- Ability to make key decisions and set goals and objectives consistent with Merit's vision for production and product development.
- Ability to act as a resource in solving problems and improving the effectiveness of large numbers of employees in an organization.
- Excellent interpersonal, verbal, and written communication skills.
- Demonstrated computer skills preferably spreadsheets, word processing, database and other applicable software programs.

COMPETENCIES

- Leadership/vision
- Budget
- Decision making
- Objective/strategy planning
- Special projects
- Problem solving

COMMENTS

Infectious Control Risk Category II:
The risk category explains whether or not employees are likely to come into contact with blood or body fluids while performing their jobs. Risk category II states employment and procedures that may require exposure.

Merit Medical Nederland BV

Employee

/s/ Manon van Kregten-Maarschalkerweerd

/s/ Justin Lampropoulos

Name: Manon van Kregten-Maarschalkerweerd
Title: International Employment Counsel &
Compliance Manager

Justin Lampropoulos

Exhibit B

BONUS

The Company may in its absolute discretion pay Employee a bonus of such amount as the Company deems appropriate in relation to the Employee's overall performance and his achievement of set targets and/or deliverables as well as the Company's and the relevant department's (financial) performance.

The bonus may be determined by the Company in respect of each complete financial year of the Company during which the Employee's employment subsists, subject to the rules of the bonus plan in place from time to time.

Receipt by Employee of a bonus in relation to any financial year is not to be regarded as establishing an entitlement on Employee's part to receive a bonus in relation to subsequent financial years or as to the amount of any such further bonus.

Lapse of rights to bonus

If the Employee is absent for any reason for a period of time longer than ninety (90) days, then the Employee's claim and rights to a bonus will lapse to the extent that the Employee was not directly engaged in or actively promoting efforts at the Employer's office toward the underlying bonus objectives.

Merit Medical Nederland BV

Employee

/s/ Manon van Kregten-Maarschalkerweerd

/s/ Justin Lampropoulos

Name: Manon van Kregten-Maarschalkerweerd
Title: International Employment Counsel &
Compliance Manager

Justin Lampropoulos

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into by and between Merit Medical Systems, Inc., a Utah corporation (the "Company") and Michel J. Voigt (the "Executive"), as of December 11, 2020.

RECITALS:

WHEREAS, the Executive currently serves as an executive employee of the Company;
and

WHEREAS, the Board of Directors of the Company (the "Board") has determined that it is in the best interests of the Company and its shareholders to assure that the Company will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change in Control (as defined below) of the Company; and

WHEREAS, the Company and the Executive desire to enter into the Employment Agreement as follows:

AGREEMENT:

NOW, THEREFORE, the above recitals are incorporated herein and the parties agree as follows:

1. Certain Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Affiliated Companies" shall mean any corporation, partnership, limited liability company or other business entity controlled by, controlling or under common control with the Company. One entity shall be presumed to control another if it owns directly, or indirectly through other Affiliated Companies, a majority of the outstanding voting equity interests of the other entity.

(b) "Change in Control" shall mean:

(i) The acquisition during any 12-month period in one or more integrated transactions by any individual, entity or "group" (within the meaning of Section 13(d) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"))(a "Person") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than 30% of the combined voting power of the then outstanding common stock and other voting securities of the Company entitled to vote generally in the election of directors of the Company (the "Outstanding Company Voting Securities"); provided, however, that for purposes of this subsection (i), the following acquisitions shall not constitute a Change in Control: (A) any acquisition by the Company, an employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company, or any corporation or other entity pursuant to a transaction which complies with clauses (A) and (B) of subsection (iii) of this Section 1(b); and (B) any acquisition which does also not constitute a "change in effective control" of the Company within the meaning of Treasury Regulation Section 1.409A-3(i)(5)(vi)(A)(1);

(ii) The replacement during any 12-month period of a majority of the directors serving on the Board by directors whose appointment or election is not endorsed by at least a majority of the Board immediately before the date of any such appointment or election; provided that this subsection (ii) shall only apply to a change in the Board that constitutes a "change in effective control" of the Company within the meaning of Treasury Regulation Section 1.409A-3(i)(5)(vi)(A)(2); and

(iii) The sale or other disposition of all or substantially all of the assets of the Company (an “Asset Sale”), including a disposition by merger or consolidation, in a transaction that also constitutes a “change in ownership of a substantial portion” of the Company’s assets within the meaning of Treasury Regulation Section 1.409A-3(i)(5)(vii); provided, however, that a transaction will not constitute a Change in Control under this subsection (iii) if: (A) the beneficial owners of the Outstanding Company Voting Securities immediately prior to such Asset Sale beneficially own, directly or indirectly, 50% or more of the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities of the acquiror or resulting corporation in such Asset Sale in substantially the same proportions as their ownership, immediately prior to such Asset Sale of the Outstanding Company Voting Securities; and (B) no Person beneficially owns, directly or indirectly, more than 30% of the combined voting power of the then outstanding voting securities of the acquiror or resulting corporation except to the extent that such ownership existed prior to the Asset Sale. For avoidance of doubt, no transaction or event will constitute a “Change in Control” under this Agreement unless it also constitutes a “change in effective control” of the Company within the meaning of Treasury Regulation Section 1.409A-3(i)(5)(vi) or a “change in ownership of a substantial portion” of the Company’s assets within the meaning of Treasury Regulation Section 1.409A-3(i)(5)(vii).

(c) “Code” means the Internal Revenue Code of 1986, as amended.

(d) “Company” shall mean Merit Medical Systems, Inc.

(e) “Employment Period” shall mean the period commencing on the date hereof and continuing through the effective date of termination of Executive’s employment as provided below.

(f) “Executive” shall mean the executive employee of the Company named in the first introductory paragraph of this Agreement.

(g) “Separation from Service” means “separation from service” (as defined in Treasury Regulation Section 1.409A-1(h) from the Company.

(h) “Treasury Regulation” means the regulations promulgated under the Code. Any reference in this Agreement to a Treasury Regulation shall include such regulation as amended from time to time and shall be deemed to incorporate herein the full text of such regulation.

2. Employment. Subject to termination as provided below, the Company hereby agrees to continue the Executive in its employ “at will”, and the Executive hereby agrees to remain in the employ of the Company “at will”, subject to the terms and conditions of this Agreement. As an “at will” employee, the Company may terminate the Executive’s employment, and the Executive may resign his/her employment with the Company, at any time and for any or no reason.

3. Terms of Employment.

(a) Position and Duties.

(i) During the Employment Period, the Executive’s position and title shall be Chief Human Resources Officer. Notwithstanding the foregoing, upon a Change in Control: (A) the Executive’s position (including offices, titles and reporting requirements), authority, duties and

responsibilities shall be at least commensurate in all material respects with the most significant of those held, exercised and assigned at any time during the 120-day period immediately preceding the effective date of a Change in Control; and (B) the Executive's services shall be performed at the location where the Executive was employed immediately preceding the Effective Date or any office or location less than 35 miles from such location.

(ii) During the Employment Period, and excluding any periods of vacation and sick leave to which the Executive is entitled, the Executive agrees to devote reasonable attention and time during normal business hours to the business and affairs of the Company and, to the extent necessary to discharge the responsibilities assigned to the Executive hereunder, to use the Executive's reasonable best efforts to perform faithfully and efficiently such responsibilities. During the Employment Period it shall not be a violation of this Agreement for the Executive to: (A) serve on corporate, civic or charitable boards or committees, provided that the Executive obtains the Company's prior, written consent, which will not be unreasonably withheld; (B) deliver lectures, fulfill speaking engagements or teach at educational institutions; and (C) manage personal investments, so long as such activities do not significantly interfere with the performance of the Executive's responsibilities as an employee of the Company in accordance with this Agreement. It is expressly understood and agreed that to the extent that any such activities have been conducted by the Executive prior to the effective date of a Change in Control, the continued conduct of such activities (or the conduct of activities similar in nature and scope thereto) subsequent to the effective date shall not thereafter be deemed to interfere with the performance of the Executive's responsibilities to the Company.

(b) Compensation.

(i) Base Salary. During the Employment Period the Executive shall receive an annual base salary ("Annual Base Salary"), which shall be paid in equal monthly installments, at least equal to the Executive's then current salary or such other amount as is authorized by the Compensation Committee of the Board; provided, however that following a Change in Control, the Executive's rate of Annual Base Salary for any fiscal year of the Company following the Change in Control shall not be less than 12 times the highest monthly base salary paid or payable (including any base salary which has been earned but deferred) to the Executive by the Company and its Affiliated Companies in respect of the 12-month period immediately preceding the month in which the Change in Control occurs. During the Employment Period, the Annual Base Salary shall be reviewed no more than 12 months after the last salary increase or decrease applicable to the Executive and thereafter at least annually. Any increase or decrease in Annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement.

(ii) Annual Bonus. In addition to Annual Base Salary, for each fiscal year of the Company that ends during the Employment Period (a "Bonus Award Year") the Executive shall be awarded an annual bonus (the "Annual Bonus") in cash in such amount as the Board determines in its sole discretion; provided that (A) no Annual Bonus shall be payable for a particular Bonus Award Year unless the Executive is still employed by the Company on the last day of the Bonus Award Year in question (or such earlier date as the Annual Bonus is paid); and (B) for any Company fiscal year ending on or after the effective date of a Change in Control, the Annual Bonus shall be at least equal to the Executive's average annual cash bonus for the last three full 12-month fiscal years ending prior to the Change in Control (or such lesser number of full fiscal years as the Executive has completed with the Company, and annualized in the event that the Executive was not employed by the Company for the whole of any such full 12-month Company fiscal year) (the "Average Annual Bonus"). Each such Annual

Bonus shall be paid to the Executive not later than the 15th day of the third month following the calendar year in which the Annual Bonus is earned, unless the Executive shall elect to defer the receipt of such Annual Bonus pursuant to a non-qualified deferred compensation plan maintained by the Company that complies with the requirements of Code Section 409A. The Executive shall not be entitled to any Annual Bonus for a Bonus Award Year unless the Executive remains employed by the Company through the earlier of the date the Annual Bonus is paid or the last day of the Bonus Award Year in question.

(iii) Commissions. In addition to the Annual Base Salary and Annual Bonus, the Executive may, at the Board's discretion, be awarded monthly or quarterly commissions (the "Commissions"), at least equal to the Executive's then current commissions or such other amount as is authorized by the Board; provided, however that for any company fiscal year ending on or after the effective date of a Change in Control, the Executive's Commissions shall not be less than the Executive's average annual commissions for the last three full 12-month fiscal years ending prior to the Change of Control (or such lesser number of full fiscal years as the Executive has completed with the company, and annualized in the event the Executive was not employed by the Company for the whole of any such full 12-month Company fiscal year (the "Average Annual Commissions"). During the Employment Period, the Commissions shall be reviewed no more than 12 months after the last commission increase or decrease applicable to the Executive and thereafter at least annually. Any increase or decrease in Commissions shall not serve to limit or reduce any other obligation to the Executive under this Agreement.

(iv) Stock Incentive and Retirement Plans. During the Employment Period, the Executive shall be entitled to participate in all incentive, savings and retirement plans, practices, policies and programs applicable generally to other peer executives of the Company and its Affiliated Companies. In no event shall such plans, practices, policies and programs provide the Executive with incentive opportunities (measured with respect to both regular and special incentive opportunities, to the extent, if any, that such distinction is applicable), savings opportunities and retirement benefit opportunities, in each case, materially less favorable, in the aggregate following the effective date of a Change in Control, than the those provided by the Company and its Affiliated Companies for the Executive under such plans, practices, policies and programs as in effect at any time during the 120-day period immediately preceding the Change in Control or if more favorable to the Executive, those provided generally at any time after the Change in Control to other peer executives of the Company and its Affiliated Companies.

(v) Welfare Benefit Plans. During the Employment Period, the Executive shall be eligible for participation in and shall receive all benefits under welfare benefit plans, practices, policies and programs provided by the Company and its Affiliated Companies (including, without limitation, medical, prescription, dental, disability, employee life, group life, accidental death and travel accident insurance plans and programs for the Executive, the Executive's spouse and the Executive's qualifying dependent children) to the extent applicable generally to other peer executives of the Company and its Affiliated Companies, but in no event shall such plans, practices, policies and programs provide the Executive with benefits following a Change in Control which are materially less favorable, in the aggregate, than the plans, practices, policies and programs in effect for the Executive at any time during the 120-day period immediately preceding the Change in Control or, if more favorable to the Executive, those provided generally at any time after the Change in Control to other peer executives of the Company and its Affiliated Companies.

(vi) Expenses. During the Employment Period, the Executive shall be entitled to receive prompt reimbursement for all reasonable expenses incurred by the Executive in accordance with the most favorable policies, practices and procedures of the Company and its Affiliated Companies. In no event shall such policies, practices and procedures be materially less favorable, in the aggregate, following a Change in Control than the policies, practices and procedures in effect for the Executive at any time during the 120-day period immediately preceding the Change in Control or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its Affiliated Companies. All such expense reimbursements shall be paid promptly following submission for the applicable expense reimbursement requests and appropriate substitution but in no event later than the end of the calendar year following the calendar year in which the expense in question is incurred by the Executive. No reimbursement shall be exchanged or liquidated for another benefit and the amount of expenses eligible for reimbursement in a particular calendar year shall not affect the expense eligible for reimbursement in another taxable year.

(vii) Fringe Benefits. During the Employment Period, the Executive shall be entitled to fringe benefits, including, without limitation, tax and financial planning services, payment of club dues, and, if applicable, use of an automobile and payment of related expenses, in accordance with the generally applicable plans, practices and programs of the Company for its executive employees. In no event shall such policies and programs be materially less favorable following a Change in Control than the most favorable plans, practices, programs and policies of the Company and its Affiliated Companies in effect for the Executive at any time during the 120-day period immediately preceding the Change in Control or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its Affiliated Companies.

(viii) Office and Support Staff. During the Employment Period, the Executive shall be entitled to an office or offices of a size and with furnishings and other appointments, and to exclusive personal secretarial and other assistance, generally provided to other executive officers of the Company and its Affiliated Companies.

(ix) Vacation. During the Employment Period, the Executive shall be entitled to paid vacation in accordance with the generally applicable plans, practices and programs of the Company for its executive employees. In no event shall such policies and programs be materially less favorable following a Change in Control than the most favorable plans, policies, programs and practices of the Company and its Affiliated Companies as in effect for the Executive at any time during the 120-day period immediately preceding the Change in Control or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its Affiliated Companies.

4. Termination of Employment.

(a) Death or Disability. The Executive's employment shall terminate automatically upon the Executive's death during the Employment Period. If the Company determines in good faith that the Disability of the Executive has occurred during the Employment Period (pursuant to the definition of Disability set forth below), it may give to the Executive written notice in accordance with Section 10(b) of this Agreement of its intention to terminate the Executive's employment. In such event, the Executive's employment with the Company shall terminate effective on the 30th day after receipt of such notice by the Executive (the "Disability Effective Date"), provided that, within the 30 days after such receipt, the Executive shall not have returned to full-time performance of the Executive's

duties. For purposes of this Agreement, “Disability” shall mean the absence of the Executive from the Executive’s duties with the Company on a full-time basis for 180 consecutive business days as a result of incapacity due to mental or physical illness which is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive’s legal representative.

(b) By the Company for Cause. The Company may terminate the Executive’s employment at any time during the Employment Period for Cause to be effective on the applicable Date of Terminations set forth in Section 4(g). For purposes of this Agreement, “Cause” shall mean:

(i) the willful and continued failure of the Executive to perform substantially all of the Executive’s duties with the Company or one of its Affiliates (other than any such failure results from incapacity due to physical mental illness), after a written demand for substantial performance is delivered to the Executive by the Board or the Chief Executive Officer of the Company which specifically identifies the manner in which the Board or Chief Executive Officer believes that the Executive has not substantially performed the Executive’s duties,

(ii) the Executive willfully engaging in illegal conduct, intentional misconduct or gross negligence which is materially and demonstrably injurious to the Company, or

(iii) the Executive’s violation of written Company policies prohibiting workplace discrimination, sexual harassment and alcohol or substance abuse.

For purposes of this provision, no act or failure to act, on the part of the Executive, shall be considered “willful” unless it is done, or omitted to be done, by the Executive in bad faith or without reasonable belief that the Executive’s action or omission was in the best interests of the Company. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or upon the instructions of the Chief Executive Officer or a senior officer of the Company or based upon the advice of counsel for the Company shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. Following a Change in Control, the cessation of employment of the Executive shall not be deemed to be for Cause unless and until there shall have been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than three-quarters of the entire membership of the Board at a meeting of the Board called and held for such purpose (after reasonable notice is provided to the Executive and the Executive is given an opportunity, together with counsel, to be heard before the Board), finding that, in the good faith opinion of the Board, the Executive is guilty of the conduct described in subparagraph (i) or (ii) above, and specifying the particulars thereof in detail.

(c) By the Company without Cause. The Company, acting through the Board, may terminate the Executive’s employment with the Company at any time “at will” without Cause for any or no reason upon written notice of termination to the Executive to be effective on the applicable Date of Termination set forth in Section 4(g).

(d) By the Executive for Good Reason. The Executive may terminate and resign the Executive’s employment for Good Reason effective on or after the date of a Change in Control upon not less than thirty (30) advance written notice of termination to the Company; provided the Executive delivers such notice of termination to the Company within ninety (90) days after the occurrence of the event constituting Good Reason. For purposes of this Agreement, “Good Reason” shall mean:

(i) the Company's assignment to the Executive upon or within two (2) years after a Change in Control of any duties inconsistent in any respect with the Executive's position (including offices, titles and reporting requirements), authority, duties or responsibilities as contemplated by Section 3(a) of this Agreement, or any other action by the Company upon or within two (2) years after a Change in Control which results in a diminution in such position, authority, duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(ii) the Company's failure upon or within two (2) years following a Change in Control to comply with any of the provisions of Section 3(b) of this Agreement, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company promptly after receipt of notice thereof given by the Executive;

(iii) upon or within two (2) years following a Change in Control, the Company's requiring the Executive to be based at any office or location other than as provided in Section 3(a)(i)(B) hereof or the Company's requiring the Executive to travel on Company business to a substantially greater extent than required immediately prior to the Effective Date; and

(iv) any failure by the Company to comply with and satisfy Section 9(c) of this Agreement.

(e) By Executive without Good Reason. The Executive may resign and terminate the Executive's employment with the Company without Good Reason at any time "at will" upon written notice of termination to the Company to be effective on the applicable Date of Termination set forth in Section 4(g).

(f) Notice of Termination. Any termination by the Company for Cause, by the Executive for Good Reason, or by either party without Cause or Good Reason shall be communicated by Notice of Termination to the other party hereto given in accordance with Section 10(b) of this Agreement. For purposes of this Agreement, a "Notice of Termination" means a written notice which

(i) indicates the specific termination provision in this Agreement relied upon,

(ii) to the extent applicable, sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive's employment under the provision so indicated, and

(iii) if the Date of Termination (as defined below) is other than the date of receipt of such notice, specifies the termination date (which date shall be as set forth Section 4(g)). The failure by the Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting such fact or circumstance in enforcing the Executive's or the Company's rights hereunder.

(g) Date of Termination. For purposes of this Agreement the term "Date of Termination" means:

(i) if the Executive's employment is terminated by the Company for Cause, or upon or following a Change in Control by the Executive for Good Reason: (A) the date of the receipt of the Notice of Termination in the case of termination by the Company for Cause, or (B) the date set forth in the Notice of Termination in the case of termination by the Executive for Good Reason, which shall be not less than thirty (30) days after the delivery of the Notice of Termination.

(ii) if the Executive's employment is terminated by the Company other than for Cause, death or Disability; the Date of Termination shall be the tenth (10th) day after the Company notifies the Executive of such termination, provided that the Notice of Termination may specify a later effective Date of Termination (which date shall not be more than 30 days after the giving of such notice);

(iii) if the Executive voluntarily resigns his/her employment (other than for Good Reason upon or following a Change in Control), the Date of Termination shall be the tenth (10th) day after the Executive notifies the Company of such resignation, provided that the Notice of Termination may specify a later Date of Termination (which date shall not be more than 30 days after the giving of such notice); and

(iv) if the Executive's employment is terminated by reason of death or Disability, the Date of Termination shall be the date of death of the Executive or the Disability Effective Date, as the case may be.

5. Obligations of the Company upon Termination of Executive's Employment.

(a) General. Upon termination of the Executive's employment with the Company the Company shall provide the Executive with the payments and benefits set forth in the applicable subsection of this Section 5. The amounts payable under this Section 5 are in addition to the Company's obligations to the Executive under the Company's various retirement, deferred compensation, stock option and long-term incentive, employee stock purchase and welfare benefit plans. The Company's obligations under this Section 5 vary depending upon whether or not the Executive's termination of employment is in "Connection with a Change in Control." For purposes of this Agreement, termination of the Executive's employment shall be deemed to be in "Connection with a Change in Control" if and only if:

(i) the Executive's Date of Termination is on or within two (2) years after the effective date of a Change in Control; or

(ii) the Company terminates the Executive's employment without Cause within six (6) months prior to the date on which a Change in Control occurs and the Executive reasonably demonstrates that such termination of employment (A) was at the request of a third party who has taken steps reasonably calculated to effect a Change in Control; or (B) otherwise arose in connection with or anticipation of a Change in Control.

(b) Termination Other Than in Connection with a Change in Control. If the Executive's employment shall terminate for any reason, voluntarily or involuntarily with or without Cause, other than in Connection with a Change in Control, the Company shall pay to the Executive (or if deceased to the Executive's estate) the following amounts:

(i) a lump sum cash payment equal to the Executive's Annual Base Salary earned through the Date of Termination to the extent not theretofore paid and any accrued vacation pay through the Date of Termination, which lump sum shall be paid ten (10) days after the Date of Termination;

(ii) a lump sum cash payment equal to the Executive's accrued Annual Bonus earned for the last Company fiscal year ending immediately prior to the Date of Termination to the extent not theretofore paid, which lump sum shall be paid within the time period set forth in Section 3(b)(ii);

(iii) if applicable to Executive, a lump sum Commissions payment earned through the Date of Termination to the extent not theretofore paid, which lump sum shall be paid ten (10) days after the date the applicable Commissions would have been calculated by the Company had the Executive's employment not been terminated; and

(iii) such additional severance benefits, if any, as the Board approves in its sole and absolute discretion without reference to the amount of severance benefits, if any, paid to any other executive officer or employee of the Company; provided, however, that no such discretionary severance benefits shall be paid in a manner or amount that renders such payments non-qualified deferred compensation subject to additional tax or interest under Section 409A(a)(1) (B) of the Code.

(c) Resignation for Good Reason or Termination without Cause in Connection with a Change in Control. If the Executive resigns for Good Reason in Connection with a Change in Control (i.e., on or within two (2) years after the date of a Change in Control) or the Company terminates the Executive without Cause in Connection with a Change in Control, the Company shall:

(i) Pay to the Executive the following amounts:

(A) a lump sum cash payment equal to the Executive's Annual Base Salary through the Date of Termination to the extent not theretofore paid and any accrued unpaid vacation pay through the Date of Termination, which lump sum shall be paid ten (10) days after the Date of Termination (on a date within that 10 day period designated by the Company);

(B) a lump sum cash payment equal to the Executive's accrued Annual Bonus, if any, for the last Company fiscal year ending immediately prior to the Date of Termination to the extent not theretofore paid, which lump sum shall be paid within the time period set forth in Section 3(b)(ii). The sum of the amounts described in clauses (A) and (B) shall be hereinafter referred to as the "Accrued Obligations;" and

(C) if applicable to Executive, a lump sum Commissions payment earned through the Date of Termination to the extent not theretofore paid, which lump sum shall be paid ten (10) days after the date the applicable Commissions would have been calculated by the Company had the Executive's employment not been terminated; and

(ii) Pay to the Executive a cash severance benefit (the "Severance Benefit") in an amount equal to two (2) times the sum of: (A) the Executive's Annual Base Salary (computed at the highest rate in effect at any time during the 12-month period immediately preceding the Change in Control); (B) the Executive's Average Annual Bonus as defined in Section 3(b)(ii); and (C) if applicable to Executive, the Executive's Average Annual Commissions as defined in Section 3(b)(iii). The Severance Benefit payable under this Section 5(c)(ii) shall be paid:

(A) In a cash lump sum within 30 days after the later of the date of the Executive's Separation from Service with the Company or the date of the Change in Control to the limited extent the amount so paid constitutes "separation pay" due to an "involuntary separation from service" within the meaning and dollar limitations of Treasury Regulation Section 1.409A-1(b)(9)(iii), or is otherwise exempt from Code Section 409A under Treasury Regulation Section 1.409A-1(b); and

(B) the balance, in a separate cash lump sum on the date that is six months and one day after the date of the Executive's Separation from Service with the Company. The balance of the Severance Benefit payable under this clause (B) shall bear interest from the Executive's Date of Termination at an annual rate equal to the "prime rate" of Wells Fargo Bank, NA in effect on the Date of Termination plus four (4) percentage points, which interest the Company shall pay to the Executive contemporaneously with payment of the Severance Benefit under this clause (B).

This Section 5(c)(ii) shall be interpreted and applied to permit the payment of the Change in Control Severance Benefit prior to the date that is six months and one day after Executive's Separation from Service with the Company only to the extent such payments would not thereby constitute a deferral of compensation subject to Code Section 409A. Neither the Company nor the Executive shall have the right to accelerate or defer such payments except as permitted or required by Code Section 409A.

(iii) To the extent permitted by law and the Company's applicable insurance policies, for two (2) after the Executive's Date of Termination, continue benefits to the Executive and/or the Executive's eligible spouse and dependent children at least equal to those which would have been provided to them in accordance with the welfare plans, programs, practices and policies described in Section 3 of this Agreement if the Executive's employment had not been terminated or, if more favorable to the Executive, as in effect generally at any time thereafter with respect to other peer executives of the Company and its Affiliated Companies and their families, provided, however, that if the Executive becomes reemployed with another employer and is eligible to receive medical and other welfare benefits described herein shall be secondary to those provided under such other plan during such applicable period of eligibility.

(iv) Provide at the Company's sole expense for a period not to exceed twelve (12) months the Executive with reasonable outplacement services the scope and provider of which shall be selected by the Executive in his/her reasonable discretion; and

(v) To the extent not theretofore paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive under any plan, program, policy or practice or contract or agreement of the Company and its Affiliated Companies (such other amounts and benefits shall be hereinafter referred to as the "Other Benefits") in accordance with the terms of such other plans, programs, policies or practices.

(d) Death on or after Change in Control. If the Executive's employment is terminated by reason of the Executive's death on or after the date of a Change in Control, this Agreement shall terminate without further obligations to the Executive's legal representatives under this Agreement, other than for payment of Accrued Obligations and the timely payment or provision of Other Benefits. Accrued Obligations shall be paid to the Executive's estate or beneficiary, as applicable, in cash in the manner and within the time frames set forth in Section 5(b)(i) and (ii), as applicable. With respect to the provision of Other Benefits, the term Other Benefits as utilized in this Section 5(d) shall include, without limitation, and the Executive's estate and/or beneficiaries shall be entitled to receive, benefits at least equal to the most favorable benefits provided by the Company and Affiliated Companies to the estates and beneficiaries of peer executives of the Company and such Affiliated Companies under such plans, programs, practices and policies relating to death benefits, if any, as in effect with respect to other peer executives and their beneficiaries at any time during the 120-day period immediately preceding the Effective Date of a Change in Control, or, if more favorable to the Executive's estate and/or the Executive's beneficiaries, as in effect on the date of the Executive's death with respect to other peer executives of the Company and its Affiliated Companies and their beneficiaries.

(e) Disability on or after Change in Control. If the Executive's employment is terminated by reason of the Executive's Disability on or after the date of a Change in Control, this Agreement shall terminate without further obligations to the Executive, other than for payment of Accrued Obligations and the timely payment or provision of Other Benefits. Accrued Obligations shall be paid to the Executive in cash in the manner and within the time frames set forth in Section 5(b)(i) and (ii), as applicable. With respect to the provision of Other Benefits, the term Other Benefits as utilized in this Section 5(e) shall include, and the Executive shall be entitled after the Disability Effective Date to receive, disability and other benefits at least equal to the most favorable of those generally provided by the Company and its Affiliated Companies to disabled executives and/or their families in accordance with such plans, programs, practices and policies relating to disability, if any, as in effect generally with respect to other peer executives and their families at any time during the 120-day period immediately preceding the Effective Date of a Change in Control, or, if more favorable to the Executive and/or the Executive's family, as in effect at any time thereafter generally with respect to other peer executives of the Company and its Affiliated Companies and their families.

(f) Termination for Cause or Resignation Other than for Good Reason on or after a Change in Control. If the Company terminates the Executive's for Cause on or after the date of a Change in Control, this Agreement shall terminate without further obligations to the Executive hereunder other than the obligation to pay to the Executive (i) his/her Annual Base Salary, Commissions, if applicable, and accrued vacation through the Date of Termination, and (ii) Other Benefits, in each case to the extent theretofore unpaid. If the Executive voluntarily terminates employment upon or following a Change in Control (excluding a resignation for Good Reason in Connection with a Change in Control) this Agreement shall terminate without further obligations to the Executive under, other than for Accrued Obligations and timely payment or provision of Other Benefits. In such case, all Accrued Obligations shall be paid to the Executive in cash in the manner and within the time frames set forth in Section 5(b)(i) and (ii), as applicable.

(g) Limits on Timing of Post-employment Payments. Notwithstanding any provision in this Agreement to the contrary, payments under Sections 5(b) and 5(c) shall be bifurcated into two portions, the first consisting of the portion that does not constitute "nonqualified deferred

compensation” within the meaning of Section 409A of the Code and the second consisting of the portion of such payments that does constitute such “nonqualified deferred compensation.” Such payments shall first be made from the portion that does not constitute “nonqualified deferred compensation” until it is exhausted and then from the portion that constitutes “nonqualified deferred compensation.” Because Executive is a “specified employee” within the meaning of Code Section 409A, the commencement and delivery of any such payments that constitute “nonqualified deferred compensation” shall be delayed to the date that is six months and one day after the date of Executive’s Separation from Service with the Company. The determination of whether, and the extent to which, payments under Section 5(b) or Section 5(c) are “nonqualified deferred compensation” shall be made after the application of all applicable exclusions under Treasury Regulation Section 1.409A-1(b). Similarly, continuation coverage under each employee benefit plan pursuant to Section 5.2(c)(iii) and outplacement assistance under Section 5.2(c)(iv) shall be treated as separate plans from each other and from the cash payments under Section 5.2(c)(i) and (ii). Each type of employee benefit plan continuation coverage specified in Section 5.2(c)(iii) and the outplacement assistance described in Section 5.2(c)(iv) shall also be bifurcated into two portions, one consisting of the maximum portion of such employee benefit plan continuation coverage or outplacement assistance, as applicable, that does not constitute “nonqualified deferred compensation” within the meaning of Section 409A of the Code, and the second portion consisting of the element that does constitute “nonqualified deferred compensation” within the meaning of Code Section 409A.” Provision of the portion of any benefit under Section 5(c)(iii) and 5(c)(iv) that constitutes “nonqualified deferred compensation” shall be deferred until six months and one day after the date of Executive’s Separation from Service with the Company.

With respect to items eligible for reimbursement under the terms of this Agreement or any other plan of the Company, (i) the amount of such expenses eligible for reimbursement in any taxable year shall not affect the expenses eligible for reimbursement in another taxable year, (ii) no such reimbursement may be exchanged or liquidated for another payment or benefit, and (iii) any reimbursements of such expenses shall be made as soon as practicable under the circumstances but in any event no later than the end of the calendar year following the calendar year in which the related expenses were incurred. All payments under Section 5(c) on account of the Executive’s termination for Good Reason shall be treated for purposes of Code Section 409A, to the fullest extent permitted by the Treasury Regulations under Code Section 409A, as payments on account of the Executive’s involuntary termination.

6. Non-exclusivity of Rights. Nothing in this Agreement shall prevent or limit the Executive’s continuing or future participation in any plan, program, policy or practice provided by the Company or any of its Affiliated Companies and for which the Executive may qualify, nor shall anything herein limit or otherwise affect such rights as the Executive may have under any contract or agreement with the Company or any of its Affiliated Companies. Amounts which are vested benefits or which the Executive is otherwise entitled to receive under any plan, policy, practice or program of or any contract or agreement with the Company or any of its Affiliated Companies at or subsequent to the Date of Termination shall be payable in accordance with such plan, policy, practice or program or contract or agreement except as explicitly modified by this Agreement.

7. Full Settlement. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement and such amounts shall not be reduced whether or not the Executive obtains other employment.

8. Confidential Information. Executive shall hold in a fiduciary capacity for the benefit of the Company all secret or confidential information, knowledge or data relating to the Company or any of its Affiliated Companies, and their respective businesses, which shall have been obtained by the Executive during the Executive's employment by the Company or any of its Affiliated Companies and which shall not be or become public knowledge (other than by acts by the Executive or representatives of the Executive in violation of this Agreement). After termination of the Executive's employment with the Company, the Executive shall not, without the prior written consent of the Company or as may otherwise be required by law or legal process, communicate or divulge any such information, knowledge or data to anyone other than the Company and those designated by it, or use such confidential information. In no event shall an asserted violation of the provisions of this Section 8 constitute a basis for deferring or withholding any amounts otherwise payable to the Executive under this Agreement.

9. Successors.

(a) This Agreement is personal to the Executive and without the prior written consent of the Company shall not be assignable by the Executive otherwise than by will or the laws of descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal representatives.

(b) This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns.

(c) The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume expressly and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such success had taken place. As used in this Agreement, "Company" shall mean the Company as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumed and agrees to perform this Agreement by operation of law, or otherwise.

10. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives. No waiver of any party's rights or benefits under this Agreement shall be effective unless such party signs a written waiver of its rights or benefits.

(b) All notices and other communications hereunder shall be writing and shall be given by hand delivery to the other party by registered or certified mail, return receipt requested, postage prepaid, or in the case of notices to the Executive by electronic mail (email) addressed as follows:

If to the Executive:

To the Executive's most current home address (or email address, as applicable) on file with the Company's Human Resources Department

If to the Company:

Merit Medical Systems, Inc.
1600 West Merit Parkway
South Jordan, Utah 84095
Attention: Chief Legal Officer

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(d) The Company may withhold from any amounts payable under this Agreement such Federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation. The Company makes no representation or warranty to the Executive regarding the tax consequences of any payment or benefit under this Agreement, including any representation as to the application of Code Section 409A to such payments. Neither the Company, any Affiliated Companies of the Company, nor any director, officer, employee or agent of the Company or of any of its Affiliated Companies shall have any obligation or liability to gross-up, reimburse or indemnify the Executive for any taxes (including tax-related interest and penalties) imposed on the Executive.

(e) The Executive's or the Company's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right the Executive or the Company may have hereunder, including, without limitation, the right of the Executive to terminate employment for Good Reason, shall not be deemed to be a waiver of such provision or right of this Agreement.

(f) This Agreement constitutes the entire agreement between the parties with respect to the Executive's employment by the Company and supersedes and replaces all other agreements, oral or written, between the parties with respect to the subject matter hereof.

(g) The Company and the Executive irrevocably: (i) agree that any claim, law suit, cause of action or dispute arising under or with respect to this Agreement or the Executive's employment hereunder (a "Claim") shall be adjudicated solely in the United States Federal District Court or Utah State Courts situated in Salt Lake City, Utah (collectively the "Utah Courts"); (ii) consent and submit to the personal jurisdiction of the Utah Courts with respect to any Claim; (iii) agree that the Utah Courts shall have exclusive subject matter jurisdiction over any such Claims and that venue with respect to any such Claims is proper and most convenient in the Utah Courts; and (iv) agree and covenant not to assert any objection to personal jurisdiction, subject matter jurisdiction or venue in the Utah Courts with respect to any Claim. TO THE FULLEST EXTENT PERMITTED BY LAW, THE COMPANY AND THE EXECUTIVE IRREVOCABLY WAIVE AND RELEASE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT OR THE EXECUTIVE'S EMPLOYMENT BY THE COMPANY.

(h) If the Executive or the Company retains legal counsel and/or incurs other costs and expenses in connection with the enforcement of any or all of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs, and expenses incurred by the prevailing party in connection with the enforcement of this Agreement. Notwithstanding the foregoing, in the event that following a Change in Control the Executive engages legal counsel to enforce the Executive's rights or seek a determination under this

Agreement, the Company shall pay the expenses of such legal counsel regardless of the outcome of any legal proceeding resulting therefrom; provided that such claim is not determined by a trier of fact to be frivolous or in bad faith.

[Remainder of Page Intentionally Left Blank-Signature Page Follows]

Employment Agreement
Page 15 of 16

IN WITNESS WHEREOF, the Executive and Company have caused this Agreement to be executed as of the date first set forth above.

EXECUTIVE: /s/ Michel J. Voigt
Name: Michel J. Voigt
Title: Chief Human Resources Officer

COMPANY: **MERIT MEDICAL SYSTEMS, INC.**

/s/ Fred Lampropoulos
Name: Fred Lampropoulos
Title: Chairman and Chief Executive Officer

SUBSIDIARIES OF MERIT MEDICAL SYSTEMS, INC.
as of December 31, 2020

Subsidiary Name	Jurisdiction of Incorporation/Organization
Merit Medical Australia Pty Ltd.	Australia
IntelliMedical Technologies Pty Ltd.	Australia
ITL Healthcare Pty Ltd.	Australia
Merit Medical Austria GmbH	Austria
Merit Medical Belgium Sprl	Belgium
Merit Medical Comercialização, Distribuição, Importação e Exportação de Produtos Hospitalares LTDA.	Brazil
Merit Medical Canada Ltd.	Canada
Merit Medical Colombia S.A.S.	Colombia
Merit Medical Beijing Co. Ltd.	China
BioSphere Medical Japan, Inc.	Delaware
BioSphere Medical, Inc.	Delaware
Brightwater Medical, Inc.	Delaware
BSMD Ventures, Inc.	Delaware
Cianna Medical, Inc.	Delaware
DFINE, Inc.	Delaware
Vascular Access Technologies, Inc.	Delaware
Merit Medical Denmark A/S	Denmark
Merit Medical Egypt LLC	Egypt
Merit Medical Finland Ltd.	Finland
BioSphere Medical SA	France
Merit Medical France SAS	France
Dfine Europe GmbH	Germany
Merit Medical GmbH	Germany
Merit Medical Asia Company Limited	Hong Kong
Merit Medical Systems India Private Limited	India
Merit Medical (NRI) Ireland Limited	Ireland
Merit Medical Ireland, Ltd.	Ireland
Merit Medical System's NRI Limited	Ireland
STD Pharmaceutical (Ireland) Limited	Ireland
Merit Medical Italy S.R.L.	Italy
Merit Medical Japan KK	Japan
Merit Medical Malaysia Sdn. Bhd	Malaysia
Merit Maquiladora México, S. DE R.L. DE C.V.	Mexico
Merit Mexico Sales, S. de R.L. de C.V.	Mexico
Merit Medical Coatings B.V.	Netherlands
Merit Medical Nederland B.V.	Netherlands
Argon Medical Devices Netherlands BV	Netherlands
Merit Medical New Zealand Limited	New Zealand
Merit Medical Norway AS	Norway
Thomas Medical Products, Inc.	Pennsylvania
Merit Medical Portugal, S.A.	Portugal
LLC Merit Technologies	Russia
Merit Medical Singapore Holdings Pte. Ltd	Singapore
Merit Medical Singapore Pte. Ltd.	Singapore

Merit Medical Korea Co., Ltd.	South Korea
Merit Medical South Africa (Pty) LTD	South Africa
Merit Medical Africa (Pty) LTD	South Africa
Merit Medical Spain S.L.Unipersonal	Spain
Merit Medical Systems AB	Sweden
Merit Medical Switzerland AG	Switzerland
Merit Medical Turkey Tibbi Ürünler Ticaret Anonim Şirketi	Turkey
Merit Medical ME FZ-LLC	United Arab Emirates
Merit Medical UK Limited	United Kingdom
Fibrovein Holdings Limited	United Kingdom
STD Pharmaceutical Products Limited	United Kingdom
Merit Holdings, Inc.	Utah
Merit Sensor Systems, Inc.	Utah

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-226320 on Form S-3ASR and Registration Statement Nos. 333-225426, 333-206297, 333-206296, 333-163104, 333-135614, 333-129267, 333-58112 and 333-58162 on Form S-8 of our reports dated March 1, 2021, relating to the financial statements of Merit Medical Systems, Inc. and the effectiveness of Merit Medical Systems, Inc.'s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2020.

/s/ DELOITTE & TOUCHE LLP
Salt Lake City, Utah
March 1, 2021

CERTIFICATION

I, Fred P. Lampropoulos, certify that:

1. I have reviewed this Annual Report on Form 10-K (the "Report") of Merit Medical Systems, Inc. (the "Registrant");
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 statements made, 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 condition, 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 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 its 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 general 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 the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d) disclosed in this Report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in 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's auditors and the audit committee of the 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 adversely 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.

Date: March 1, 2021

/s/ Fred P. Lampropoulos

Fred P. Lampropoulos
President and Chief Executive Officer
(principal executive officer)

CERTIFICATION

I, Raul Parra, certify that:

1. I have reviewed this Annual Report on Form 10-K (the "Report") of Merit Medical Systems, Inc. (the "Registrant");
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 statements made, 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 condition, 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 controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and 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 its 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 general 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 the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d) disclosed in this Report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in 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's auditors and the audit committee of the 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 adversely 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.

Date: March 1, 2021

/s/ Raul Parra

Raul Parra
Chief Financial Officer
(principal financial officer)

Certification of Principal Executive Officer
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 on Form 10-K of Merit Medical Systems, Inc. (the "Company") for the year ended December 31, 2020, as filed with the Securities and Exchange Commission (the "Report"), I, Fred P. Lampropoulos, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (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 results of operations of the Company.

Date: March 1, 2021

/s/ Fred P. Lampropoulos

Fred P. Lampropoulos

President and Chief Executive Officer

(principal executive officer)

This certification accompanies the foregoing Report pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Registrant for purposes of Section 18 of the Securities Exchange Act of 1934, as amended. A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

Certification of Chief Financial Officer
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 on Form 10-K of Merit Medical Systems, Inc. (the "Company") for the year ended December 31, 2020, as filed with the Securities and Exchange Commission (the "Report"), I, Raul Parra, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (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 results of operations of the Company.

Date: March 1, 2021

/s/ Raul Parra

Raul Parra

Chief Financial Officer

(principal financial officer)

This certification accompanies the foregoing Report pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Registrant for purposes of Section 18 of the Securities Exchange Act of 1934, as amended. A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.
