

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2022
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number: 001-35955

Vuzix Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)
25 Hendrix Road
West Henrietta, New York
(Address of principal executive office)

04-3392453
(I.R.S. employer identification no.)

14586
(Zip code)

(585) 359-5900

(Registrant's telephone number including area code)

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

Title of each class:	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001	VUZI	Nasdaq Capital 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 Exchange 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 pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit 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 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. Yes No

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

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

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

The aggregate market value of the voting and non-voting common equity of the registrant held by non-affiliates as of June 30, 2022 was approximately \$409,000,000 (based on the closing price of the common stock of \$7.10 per share on that date, as reported on the NASDAQ Capital Market and, for purposes of this computation only, the assumption that all of the registrant's directors and executive officers are affiliates and that beneficial holders of 10% or more of the outstanding common stock are affiliates).

As of March 1, 2023, there were 63,207,674 shares of the registrant's common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Part III of this Form 10-K incorporates by reference portions of the registrant's proxy statement for its 2023 annual meeting of stockholders.

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FORWARD-LOOKING STATEMENTS

This annual report includes forward-looking statements within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These statements are based on our management's beliefs and assumptions and on information currently available to our management. The forward-looking statements are contained principally under the headings "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and "Business." Forward-looking statements contained in this Annual Report on Form 10-K include, but are not limited to, statements concerning:

- trends in our operating expenses, including personnel costs, research and development expense, sales and marketing expense, and general and administrative expense;
- the effect of competitors and competition in our markets;
- the impact of further pandemics like COVID-19 on our business and our response to it;
- our wearable display products and their market acceptance and future potential;
- our ability to develop, timely introduce and effectively manage the introduction of new products and services or improve our existing products and services;
- expected technological advances by us or by third parties and our ability to leverage them;
- our ability to attract and retain customers;
- our ability to accurately forecast demand and adequately manage inventory;
- our ability to deliver an adequate supply of product to meet demand;
- our ability to maintain and promote our brand and expand brand awareness;
- our ability to detect, prevent, or fix defects in our products;
- our reliance on third-party suppliers and manufacturers, as well as logistics providers and our limited control over such parties;
- trends in revenue, costs of revenue, and gross margin and our possible or assumed future results of operations;
- our ability to attract and retain highly skilled employees;
- the impact of foreign currency exchange rates;
- the effect of future regulations; and
- general market, political, economic and business conditions.

All statements in this annual report that are not historical facts are forward-looking statements. We may, in some cases, use terms such as "anticipates," "believes," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "projects," "should," "will," "would" or similar expressions that convey uncertainty of future events or outcomes to identify forward-looking statements.

Forward-looking statements are made based on management's beliefs, estimates and opinions on the date the statements are made and we undertake no obligation to update forward-looking statements if these beliefs, estimates and opinions or other circumstances should change, except as may be required by applicable law. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance, or achievements.

PART I

Item 1. *Business*

Company Overview

We are engaged in the design, manufacture, marketing and sale of augmented reality wearable display and computing devices, also referred to as head mounted displays (“HMDs”) in the form of Smart Glasses and Augmented Reality (AR) glasses. Our wearable display devices are worn like eyeglasses or attach to a head worn mount. These devices typically include a built-in computer, cameras, and sensors that enable the user to view, record and interact with video and digital content, such as computer data, the Internet, enterprise data, social media or entertainment applications effectively connecting the metaverse to the real world. Our wearable display products integrate micro-display technology with our advanced optics to produce compact high-resolution display engines, less than half an inch diagonally, which when viewed through our Smart Glasses and AR glasses create virtual images that appear comparable in size to that of a computer monitor or a large-screen television. This includes the representative forms such as augmented reality (AR), mixed reality (MR) and extended reality (XR) and the areas interpolated to all real-and-virtual combined environments. Our solutions are proven to help our customers improve their operational efficiency and allow users of our glasses to operate hands free.

Today’s near-eye or HMD products for AR, MR, XR and Virtual Reality are typically large goggles which are bulky and as a result, they have limited mass-market appeal. We have developed thin optics, called waveguides, that are fully see-through and enable miniature display engines to be mounted in the temples of the HMD which allows the form factor of the Smart Glasses to be near comparable to conventional eyeglasses. Our Smart Glasses and AR glasses are designed for all day use cases and are small enough to fit in a user’s pocket or purse. No external cabling or tethering to an external computing device is required to use our current Smart Glasses unlike most competitors today.

We believe that our waveguide optics and display engines offer a number of significant advantages over other wearable display solutions, including higher contrast, greater power efficiency, less weight, more compact size, and high brightness images for use outdoors. We also believe that our waveguide optics give us a substantial advantage over competitors’ optics, including other waveguides, because our solution allows us to produce optics that are fully transparent when off while also delivering the high brightness required for AR and enterprise Smart Glasses applications.

We believe that our compact display engine technologies coupled with our waveguides are a key differentiator for enabling next generation AR and Smart Glasses hardware for the enterprise and many other market segments because they will ultimately allow us to make HMDs nearly indistinguishable from regular fashion forward eyeglasses. We believe that key growth areas for us currently are the enterprise, medical, defense, and security and then ultimately will expand into broader consumer markets. We are addressing most of these markets by developing and selling our own finished products and building a growing eco-system of software and services internally and with our value-added resellers (VARs), distributors, software developers and end customers. Another potential channel to these markets that we are in the early stages of developing include the sale of components to Original Equipment Manufacturers (“OEMs”) where we intend to supply mass production of our waveguide optics and display engines to select third parties to use in their products or provide a white-labeled AR Smart Glasses reference design that select third parties can customize and sell as a branded product.

We have developed our own intellectual property portfolio that includes not only patents, but also over 25 years of manufacturing know-how, software, proprietary processes, materials, and equipment to create high performance waveguides, and near-eye display products. Our in-house waveguide manufacturing processes and equipment has the ability to produce in volume and at broad market price points.

In 2022, we began investing in our own next generation micro-LED display technology with Atomistic SAS, a new entity based in France with whom we are engaged as a partner. We believe our technology, intellectual property portfolio and established position in the marketplace give us a leadership position in AR and Smart Glasses products, waveguide optics, micro LEDs and display engine technology.

Our History

Historically, we have focused on three markets: the consumer markets for VR, entertainment and mobile video; Smart Glasses products for enterprise; and night-vision display electronics and rugged mobile displays for defense markets. We introduced our first HMD products over 25 years ago and we have offered numerous product models and versions with ever-advancing features and capabilities that have served these three markets. In June 2012, we sold the assets that produced products and provided services to military organizations and defense organizations and exited the defense and security markets by giving that buyer a non-compete period of exclusivity for 10 years. Effective June 2022, all market restrictions in the defense and security space for the Company expired and, as a result, we have resumed marketing and sales initiatives directly into the defense and homeland security markets.

Overall Strategy

Our goal is to establish and maintain a leadership position as a worldwide supplier of wearable displays and computers including AR glasses and Smart Glasses solutions, as well as manufacturing related components needed to build such products, to third party OEMs. We strive to be an innovator in designing wearable display devices that can enable hands-free enterprise productivity applications, see-what-I see remote viewing and AR applications. We seek to generate top and bottom-line revenue growth through the continued introduction of new AR Smart Glasses, waveguides and display engines, and, to a lesser degree, software applications and solutions.

To broaden our position as a leading provider of wearable display products for AR and hands-free computing, as well as waveguides and display engines for OEMs, we seek to:

- develop innovative products based on our unique technology for both specialized and large enterprise and medical markets, as well as for defense and security;
- develop a suite of software applications that can take advantage of our products, offering these solutions bundled with our hardware and through our “app store”;
- promote and enhance the development of third-party software that can take advantage of our products, including offering apps and software through our own “app store”;
- sell our products or license our technology to third-party companies that would incorporate and sell them as a new product with their own brand name (OEM partners);
- sell our waveguide products to OEMs as a standard product or on a custom order basis to meet their design requirements;
- develop new micro-display engine products utilizing third-party displays and ultimately our own micro LED displays to sell to third-party OEMs
- build or acquire our own internal capabilities to deliver SaaS-based solutions directly to our customers;
- extend our innovative and proprietary technology leadership;
- enhance and protect our intellectual property portfolio;
- broaden and develop strategic relationships and partnerships;
- establish multiple revenue sources;
- improve brand recognition;
- provide excellent products and service; and
- attract and retain highly qualified personnel.

Our strategy is also to create a leadership position as a worldwide supplier of waveguide optics and near-eye display technology solutions for applications in high growth segments of the enterprise and consumer electronics industry by capitalizing on our experience and expertise in wearable displays and computers. We aim to provide waveguides, display engines and complementary optics to enable OEM customers to serve a variety of markets with new enhanced display electronic products. Some key elements of our OEM strategy to achieve these objectives include:

- strengthening our technology leadership;
- optimizing waveguide manufacturing efficiencies while protecting proprietary processes;

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- investing in new micro LED display technologies and products such as backplanes and the micro LEDs themselves;
- developing OEM and mass production partnerships in the AR Smart Glasses market; and
- leveraging third-party technology and marketing strategic relationships.

The Market

The mobile phone has evolved into a ubiquitous, location-aware, and powerful smart mobile computing device. Mobile technology has redefined the way people interact with their world, both at work and play, and it has become an essential technology for most individuals around the globe. We believe that interactive AR content, Artificial Intelligence (“AI”), Edge Computing, internet of things (IoT), and speech-based cloud services will significantly further change the way such mobile computing devices are used and how content is delivered to the user, including the enabling of new experiences that cannot be experienced in any other way. We believe head-worn displays that are hands-free can connect the digital world to the real world and have the ability to change the future of the computing industry.

Current mobile display technology is almost universally based upon direct view screens. These displays are designed to be handheld and small to make portability easy. Our products provide hands-free virtual large screens that are interactive and fit into eyeglass form factors. AR-based displays are designed to be "see-through" or "see-around" and allow the user to still see and interact with their surroundings. They may contain one (monocular) or two (binocular) displays.

Our business for the last five years has primarily focused on enterprise, industrial and medical markets. We believe the demand for head-worn displays in these markets is being driven by such factors and expectations as:

- the continued growth of mobile computing devices;
- an increasing number of “ready-to-go” hands-free enterprise, commercial and medical applications for which our products are well-suited;
- increasing demand for Internet, and cloud services’ access “anywhere, anytime”;
- the expansion of IoT that enables the exchange of information amongst smart connected devices to improve timeliness and visibility;
- the need for better efficiencies from training and on-boarding to the ROI created by having hands-free mobile computing allowing frontline workers to work more efficiently and accurately;
- the need to solve complex problems remotely ranging from medical technologists and doctors in a surgery to equipment in factories around the world; and
- the growing use of AR/XR applications that will drive the need for head-worn display solutions to replace the need to hold up handheld devices to use the applications.

As a result, we believe that our near-eye display technologies can significantly increase user satisfaction and allow for widespread AR adoption and applications.

Target Markets

We offer smart wearable display and computing products that enable the development and deployment of AR applications. AR Smart Glasses enable the wearer to see computer-generated information, graphics or images projected into the real-world environment or upon an object that the user is observing.

Our target markets and applications by sector are:

Enterprise

Our Smart Glasses products are currently focused on the enterprise market, including sectors such as industrial and medical. These Smart Glasses products run native Android applications within the glasses that, for example, allow them to stream video in real-time, scan bar codes, share visuals that are related to the work at hand and much more, all of

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which are highly useful for many enterprise applications. We believe that increasing demand for easy and instant data accessibility in a wide variety of commercial and industrial markets offer significant opportunities for our products. The benefit of hands-free mobile displays and computers over a handheld device or laptop on a cart is significant. Most mobile workers need the use of their hands while working and having ready access to the information required while being hands-free can significantly improve their work performance, enhance safety, and reduce errors. Our Smart Glasses are being used for numerous applications including: remote service video support, wearable computer displays, viewing of wireless sensor data, quality assurance, hands-free access to work instructions such as assembly checklists and manuals, in-the-field maintenance, warehouse pick-and-pack, real-time viewing of remote images, and training and education. There are many reasons why enterprise users are adopting Smart Glasses, such as for:

- Increasing productivity;
- Eliminating travel costs;
- Improving worker safety;
- Lowering carbon footprint;
- Reducing worker errors; and
- Protecting worker health

Medical

The healthcare industry continues to be an early adopter of Smart Glasses to deliver a variety of benefits in and outside of the operating room. Our Smart Glasses are being used in operating rooms to enable MedTech experts, assisting surgeons, medical student training, patient care, and other healthcare professionals to see and communicate with surgeons in real-time. This unique solution empowers surgeons, medical device specialists, and other experts to work together remotely without incurring costly expenses to commute on-sight for consultations and surgeries. Our Smart Glasses are also being used in telemedicine for remote calls made to provide a virtual presence within hospitals and senior care facilities that are video broadcast securely. Further, our Smart Glasses provide virtual training, health care for patients in the ICU and the operating room, and assistance in performing virtual patient rounds.

Security and First Responders

Our Smart Glasses, particularly the versions that have a sunglass look, have the potential to become disruptive and market changing products for security providers and first responders such as police and firefighters. We believe there are significant business opportunities in having the Vuzix smart glasses offering a traditional eyeglass unique form factor that can assist law enforcement and security personnel in keeping people safe or identifying suspicious persons or those associated with unlawful activities. The ability to deliver video feeds and real-time facial recognition and weapons detection alerts in a covert fashion to our smart glasses wearers literally provides security personnel and first responders with eyes in the back of their heads, allowing them to view and interact with their immediate surroundings while also staying remotely connected and informed.

Consumer

We believe that the most significant driver of longer-term wearable display market adoption that will change the future of computing and will result in broad adoption of AR smart glasses in smaller wearable packages will be the augmentation of the real world with cloud-based information. This capability will allow smart phone users to be able to keep their phones in their pocket and at the same time still receive location-aware content overlaid with their real-world view. These glasses are expected to be ideal for consumer needs such as language translation, closed captioning, messaging, directions, health reporting, and workout status, amongst many other things. The advent of AI programs such as OpenAI and ChatGPT are expected to, if anything, create awareness that could significantly accelerate this demand in the upcoming years. We believe that the keys to the consumer AR market are fashion forward light weight smart glasses that have the ability to support the user's prescription. Vuzix new OEM solutions offerings are pointed directly at solving for these needs.

OEM Waveguide Optics and Display Engines

We believe our waveguide and display engine technologies address the critical performance parameters for next generation AR products, including higher brightness, sharper resolution, true see-through capabilities, compact size, lower power consumption and longer operational life. As we manufacture our waveguides and display engines in higher volumes at reduced costs and capitalize on our waveguide manufacturing expertise, we believe that our products will be increasingly well-positioned to compete with other see-through optics and displays, particularly as demand expands for sophisticated mobile computing devices offering higher resolution and better image quality for AR/XR and Smart Glasses applications. We are developing, with partners, new micro LED display technologies that should greatly increase the ability to offer high resolution displays that can overlay AR information and graphics to wearers in nearly any environment. The goal is to have extremely efficient full color micro displays capable of high brightness for use in any conditions. We believe that our waveguide and display engine technologies address the critical performance parameters for next generation AR products, including higher brightness, sharper resolution, true see-through capabilities, compact size, lower power consumption and longer life.

Products

We produce and sell AR Smart Glasses for a variety of applications. Our products are available with varying features and are currently offered as both monocular and binocular display systems.

Our current products include:

M400 and M4000 Smart Glasses (M series)

The M400 and M4000 (the current “M series”) products are our monocular smart glasses designed for enterprise, industrial, commercial, and medical markets. The M400 is Vuzix’ work-horse Smart Glasses offering with its enhanced capabilities and is our fourth model in this family. This product began commercial production in September 2019 and the M4000 was introduced to the market and entered volume production in September 2020. The M400 is equipped with an occluded nHD OLED display and the M4000 employs our latest see-through waveguide optics with a WVGA DMD display. These two products include an Android-based wearable computer similar in performance to a modern smart phone, enhanced with a wearable monocular display, speech control, camera, sensors and wireless connectivity capabilities. These Smart Glasses serve up the digital world “hands-free”, offering access to information to augment the real world, data collection and more. Monocular products, due to their single eye display, are best used for push notifications and “information snacking”. Integrated head tracking, camera, touchpad, buttons and speech recognition gives versatility to navigate and use these M-series Smart Glasses in almost any environment. These products include pre-installed apps that can be used to record and play-back still pictures and broadcast quality video, track timed events, manage a user’s calendar, link to a phone, scan barcodes and much more. We offer connector applications, with annual subscriptions, that allow the smart glasses to join the most popular video conferencing applications including Microsoft Teams, Zoom, Blue Jeans, WebEx Teams and others. These products can provide enhancements to existing workflows and open new opportunities in industrial, medical, retail, supply chain, remote help desk, and many more aspects of our customers’ businesses.

The M4000 offers all the performance and functionality of the M400, and features Vuzix’ proprietary waveguide optics to provide a non-occluded, see-through, heads-up display with higher display resolution.

Vuzix Blade® Smart Glasses

We introduced the Blade Smart Glasses as a monocular system at CES 2018. In September 2022, we introduced the Blade 2, an upgraded replacement version, which added a host of advanced features and performance, including stereo audio, improved CPU performance, Android 11 OS and an autofocus camera, all to help meet the needs of connected workers. We believe the Vuzix Blade is the natural evolution of AR smart glasses by providing the user with a wide range of features and capabilities in a natural glasses form factor. The display imagery is projected visually out in front of the user like the heads-up display in a car. Current applications range from basic text messaging and answering the phone to overlaying mapping directions, menus, work instructions, documentation, biometrics and much more. The

intuitive and feature-packed Vuzix Blade OS allows the user to simply and intuitively navigate via simple swipes and taps, or leverage voice controls and external AI systems, allowing users to leave their phones in their pockets for most functions and adds the ability to connect the information being presented to the real world, including that from cloud-based speech AI platforms such as Amazon Alexa. The Blade also has connector applications, with annual subscriptions, that allow the glasses to join the most popular video conferencing applications including Microsoft Teams, Zoom, Blue Jeans, WebEx Teams and others. We believe the Blade Smart Glasses is the first natural step to replacing the smart phone with a ubiquitous wearable device for all.

Vuzix Shield™ Smart Glasses

We introduced the Vuzix Shield Smart Glasses, which we believe is a revolutionary leap for enterprise AR smart glasses, as our first binocular AR system utilizing micro LED displays at CES January 2022. The Vuzix Shield Smart Glasses offer all the computing power and performance of our M400 series platform and its related enhanced AR capabilities coupled with Vuzix' proprietary waveguide optics driven by miniature micro LED stereo displays to provide a completely non-occluded see-through heads-up display. Housed inside lightweight, stylish, prescription-ready safety glasses combined with stereo HD cameras, the Vuzix Shield delivers a singular wearable AR experience. The Shield, when commercially released in the first half of 2023, will also have connector applications, with annual subscriptions, that allow the glasses to join the most popular video conferencing applications including Microsoft Teams, Zoom, Blue Jeans, WebEx Teams and others.

Vuzix Ultralite™ Smart Glasses

We announced in November 2022 the introduction of the Vuzix Ultralite™ AR Smart Glasses platform as a go-to-market ready, turnkey offering. Weighing just 38 grams and power-efficient with two days of run-time on a single charge, Vuzix Ultralite™, we believe, is the world's most fashion forward smart glasses available today and is designed specifically for both enterprise users as well as the broader consumer market. Vuzix' advanced monocular waveguide optics and custom micro-display engine work together to create a crisp, transparent image that delivers all the important information on a user's smartphone/watch, hands-free right before their eyes. Vuzix has started working with select industry-leading and global consumer electronic technology and fashion brands around the Vuzix Ultralite™ platform to bring the ultimate in lightweight, affordable smart glasses solutions to market. This CES 2023 award winning product is expected to commence commercial shipments by the end of summer 2023.

Mobilium® Logistics Mobility Software

We acquired Moviynt®, a US-based SAP Certified ERP platform software solution provider, to support hand-held mobile phones and scanners used in logistics, warehousing and manufacturing applications in November 2022. Moviynt, a boutique-specialized software firm which was founded in 2018 by three principals, has developed a logistics mobility software platform (Mobilium®) which eliminates traditional middleware, and is device agnostic. Mobilium can ultimately support multiple ERP systems and modern-day warehouse picking with wearable devices such as Vuzix' smart glasses, handheld devices such as scanners, and even mobile phone-based systems. Moviynt's SAP studio product is highly configurable and allows customers to customize and optimize specific mobile workflows for a given use case. Moviynt's core technology and architecture consists of a certified SAP gateway module, IOS and Android client and mobile apps that run on a wide range of handhelds and wearables. This technology is unique in that it plugs directly into the customer's SAP environment and does not require any new hardware, middleware or intermediate servers to process warehouse and logistics related transactions such as cycle counts and picks and transfers on the shop floor. Moviynt's technology is SAP certified and compatible with other ERP systems including Oracle, which will also be fully developed and supported over time.

- The acquisition of Moviynt further positions Vuzix as a software solutions provider capable of expanding access and interaction between wearable and handheld devices that will help drive further market adoption to manage day-to-day business activities such as supply chain operations that are tied to ERP systems.

Applications for Smart Glasses

Dozens of standard applications that are optimized for use with the growing lineup of Vuzix AR Smart Glasses are included on the devices and available for download from the Vuzix App Store. Many of these applications are similar to what is available to the customer with modern smart phones. These standard applications are designed to be simple to get started and easy-to-use, and we believe can immediately provide the fundamental benefits of Smart Glasses to novice and expert users alike.

Vuzix also resells a variety of other applications, including TeamViewer Frontline and Vuzix Remote Assist (VRA), which provide remote telepresence capabilities, otherwise known as “see-what-I-see” video collaboration and work instructions, amongst other features. VRA enables an operator, mechanic, field technician or consultant to communicate in a hands-free manner with a remote expert to drive “just-in-time” video support of a process or repair. These applications increase productivity and customer satisfaction by sharing information between field technicians and remote support experts. The VRA app enables Vuzix Smart Glasses customers to multiply their expert workforce, eliminate the high costs of travel, improve customer service levels and equipment operation and accelerate knowledge transfer and training. We are offering the VRA app on a monthly or one-year subscription basis. We have also developed “connector” applications to enable third party applications like Zoom, Cisco WebEx, Microsoft Teams, BlueJeans and others, for use with our smart glasses. In some cases these applications will be free to the user and in others we will charge annual fees.

Vuzix’ position as a Smart Glasses supplier fills a market need that can be long lasting and could be the basis of the future of computing if the glasses are developed into a much larger integration within current and future technology ecosystems. The idea that the Smart Glasses alone will lead to major innovations and use cases is a typical “chicken and egg scenario” that has played out in almost every massively disruptive technology advancement. The “build it and they will come” mentality works only when you build the “whole thing” or if you have a large enough ecosystem. Vuzix’ Smart Glasses have all the features and benefits consumers expect of a modern tablet or smart phone with the added benefit of being worn ergonomically on one’s head, allowing for hands-free operation, and at the same time connecting the visuals in the glasses to the real world. The steady advances in the Smart Glasses hardware are impressive but this alone is not what is driving market adoption to date. The “whole thing” is the solution to solve the customer pain point, problems and/or inefficiencies while simultaneously creating another use case in the form of a toolbox that allows for new innovations or products.

We believe Vuzix is gaining market awareness and has the opportunity to move up the value chain, increase market share and to create a sustainable higher software subscription margin business by:

- Properly implementing a digital solution strategy that retains more of the customer relationship across a wide range of industries; and
- Improving Vuzix’ participation in more areas of the customer relationship and having less reliance on VARs to deliver the full solution. When VARs are heavily involved in the middle of the relationship, Vuzix is primarily relegated to being a product manufacturer and seller. There is significant customer value that can be captured by adopting a solutions model including recurring revenue opportunities.

App Store for Smart Glasses

We also have an app store on our website where users can download and purchase Smart Glasses applications, including third-party apps. We continue to foster the development of an ecosystem of third-party developers to offer applications and trials for their smart glasses apps, many of which will be sold on an industry common revenue share model, with the publisher receiving approximately 70% of the subscriptions collected. Supported by Vuzix’ new App Store, developers can offer or sell their applications to all Vuzix Smart Glasses users, expanding into an ecosystem of AR applications for real world use today. The app store supports free, one-time fee, and paid subscription monetization models. The Vuzix third-party developer community is able to leverage the open Android platform of the Vuzix M-Series and the Vuzix Blade to bring new and creative ideas to life.

Waveguide Optics, Display Engines and Design Reference Kits

We selectively offer waveguide optics and related coupling optics combined with our compact proprietary display engine to form a see-through display module. We sell limited numbers of our waveguide optic design reference kits to select qualified potential OEMs/ODMs, which include a projector, waveguide optics and associated electronics, to help these customers evaluate our technologies and to assist their efforts to build and test new products incorporating our proprietary solutions.

Our strategy for addressing the broader mass market includes developing partnerships with both select consumer companies, including wireless communications carriers, and select high volume production manufacturing companies.

Custom Solutions and Engineering Solutions

Historically, we have provided fully-integrated wearable display systems, including head mounted displays, human computer interface devices, near-eye display-related engineering services and wearable computers to commercial, industrial and medical customers. Starting in June 2022 after the expiry of a 10-year non-compete, we are again able to market and sell to defense, first responders and security customers. Such potential customers include police, fire fighters, EMTs, other first responders, and homeland and border security personnel.

We have an outward facing section of our website dedicated to offering our OEM and engineering services around our waveguides and display technologies. Waveguides require a display engine built for the purpose of the intended design. Vuzix is able to address most of these design specifications regardless of size, light coupling, power consumption, or resolution.

Defense and Security Products

As noted above, in June 2022, the 10-year non-compete restrictions with the buyer of our former defense division, TDG Acquisition LLC (DBA – Six15 Technologies (“Six15”)) expired. This allows us to again pursue, on an unrestricted basis, opportunities related to the Company’s smart glasses and waveguide optics technologies into these expanded market opportunities related to first responders, US Department of Defense, Security Organizations and the Military.

Product Development

We believe that the continued introduction of new products in our target markets is essential to our growth. Our products tend to have two to three-year life cycles. We have assembled a group of highly skilled engineers who work internally as well as with external consultants to continue our product development efforts. Our primary development efforts are focused on waveguide optics (and their manufacture), projection engines, new micro LED-display technologies, low-power electronic designs, firmware and wearable computing software, and the design and ergonomics of wearable displays. Our display product development efforts are focused towards continually enhancing the resolution, performance and manufacturability of our display products. We expect to increase our research and development expenditures in the future and as our revenues grow. We have also acquired and licensed technologies developed by third parties and we may continue to do so in the future.

Technology

We believe that it is important to make substantial investments in research and development to maintain our competitive advantage. The development and procurement of intellectual property rights relating to our technologies is a key aspect of our business strategy. We expect to continue to improve our products through our ongoing research and development and advancements made by our third-party suppliers of key components.

We believe that the range of our proprietary technologies gives us a significant competitive advantage. Our technologies relate to advanced optics systems including passive and active see-through imaging waveguides, micro-

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projection display engines, investments in micro LED displays, and specialized software drivers and applications for wearable displays and computers. We also have a portfolio of trade secrets and expertise in nano-imprinting using high stability mold substrates, nano structure embossing, and engineering tool-sets for the design and manufacturing of diffractive waveguide optics.

We believe that display engines are also important for commercializing wearable displays. We have developed a proprietary micro digital light processing (DLP) based engine and micro LED engines designed specifically for our waveguide optics solutions. We are currently working with multiple partners in the micro LED arena and unveiled our first micro LED display-based binocular AR Smart Glasses called the Shield as well as the Vuzix Ultralite at CES 2023. These next generation waveguides and Micro LED display engines have allowed us to shrink the entire assembly to fit in the space available in a typical off-the-shelf pair of sports sunglasses in the case of the Shield and reading glasses in the case of the Ultralite.

We entered into a technology license agreement with Nokia Corporation in August 2011 for their Exit Pupil Expanding (EPE) optics technology. This agreement was amended in October 2017 to allow us greater flexibility with sub-licensing and preferable royalty terms. EPE technology is an important foundation of our diffraction-based waveguide optics technology.

In October 2017 and June 2021, we acquired certain IP and patent applications from the inventor/seller related to holographic optics and display engines for “image and wave field projection through a diffusive media”. This technology is still in active development and we are making progress towards our first functional solution.

On May 12, 2022, the Company signed a series of agreements with Atomistic SAS, a French company that is developing new micro LED displays and a related backplane. These agreements provided for an exclusive license by the Company of key micro LED technology and for the custom design of a backplane, for cash commitments totaling \$30 million along with equity issuance commitments to be made by the Company relating to certain deliverables and the achievement of performance milestones by Atomistic. On December 16, 2022, the Company signed new agreements with Atomistic (the “Atomistic Agreements”) that superseded the prior May 12, 2022 agreements, whereby the scope for the construction of a backplane was modified and the Company obtained an additional license in an alternative self-emissive micro LED technology. This multi-year project, if this new IP proves out, could result in industry-leading very efficient full color HD micro LED displays in an extremely small form-factor.

Major technologies that we employ in our products include:

Micro-display Optics: Optical components represent a significant cost of goods for both us and our competitors. This cost is a function of the physical size of the micro-display and the cost of the supporting optics. We have developed thin and lightweight optics that can be integrated with very small micro-displays where we can more closely match conventional eyewear frames in size and weight. These new optics and displays provide what we believe are significantly improved ergonomics compared to competing wearable display solutions.

See-Through Waveguides: We have developed a range of patents and patents-pending around our see-through waveguides, as well as passive, dynamic and diffractive optics-based waveguides that are the basis for some of our future slim wearable display AR and smart glasses products. We are striving to develop ultra-compact micro-display engines to magnify and focus the light from a display into a user’s eye. Our development goal with these waveguides is to create AR-based wearable displays that will appear to others as practically indistinguishable from today’s conventional sunglasses by most measures, including comfort, size, weight and ergonomics.

Nanoimprinting: We continue to develop a portfolio of trade secrets and expertise in nanoimprinting for use in our waveguide optics. We believe these technologies are essential to the production of our approximately 1.2 mm thick see-through lenses which we believe are the cornerstone to making fashionable eyeglass-styled Smart Glasses. We have developed technology for waveguide design and production, including: tool design and creation, custom designed software for grating structures and layout, lithography processes, high index low shrinkage polymers and other materials, mold treatments, automation equipment and test/QA processes and procedures, to name a few.

Custom Display Engines: We have patents and patents-pending on intellectual property around micro DLP display engines. We have also worked on very compact micro LED projectors and are also working on micro LED engines designed specifically for our waveguide optics solutions. We are currently working with multiple partners on micro LED engines, both monochrome and color, and have delivered preliminary evaluation systems to select partners and potential OEM customers.

Patents and other Intellectual Property

We have an intellectual property policy which has as its objectives: (i) the development of new intellectual property to further our intellectual property position in relation to personal display technology; and (ii) the maintenance and protection of our valuable trade secrets and know-how. We seek to achieve these objectives through the education and training of our engineering staff and the adoption of appropriate systems, policies and procedures for the creation, identification, and protection of intellectual property.

Our general practice is to file patent applications for our technology in the United States, Europe, Japan, and in additional countries, including Canada and China for inventions which we believe have the greatest potential. We file and prosecute our patent applications in pursuit of the most extensive fields of protection possible including, where appropriate, the application of the relevant technology to the broader display industry.

We believe that our intellectual property portfolio, coupled with our supplier relationships and accumulated experience in the near-eye display field, gives us an advantage over potential competitors. We also believe our copyrights, trademarks, and patents are critical to our success and we intend to maintain and protect these. We also rely on proprietary technology, trade secrets, and know-how, including manufacturing processes and procedures, which are not patented. To protect our rights in these areas, we require all employees and, where appropriate, contractors, consultants, advisors and collaborators, to enter into confidentiality, invention assignment, and non-competition agreements with us.

Our technologies enable us to provide low-cost, small form factor, high-resolution wearable display products. To protect our technologies, we have developed a patent portfolio which currently consists of 148 issued U.S. and foreign patents and 130 pending U.S. and foreign patent applications. We are also currently preparing several invention disclosures for the purposes of submitting design and utility patent applications. Our U.S. and foreign patents expire on various dates to January 24, 2040. In addition, in connection with the sale of our defense division in 2012, we received a worldwide, royalty-free, assignable grant-back license to all the patents and other intellectual property sold for use in the manufacture and sale of products in the consumer markets.

In addition to our various patents, we have 7 registered U.S. trademarks and 79 trademark registrations worldwide.

Competitors

The near-eye wearable computer or personal display and mobile device industry in which we operate is highly competitive and evolving rapidly. We compete against both direct view display technology in smart phones and tablets and wearable display technology. We believe that the principal competitive factors in the personal display industry include image size, image quality, image resolution, power efficiency, manufacturing cost, weight and dimension, feature implementation, AR capabilities, ergonomics, style, hands-free capabilities and, lastly, the interactive capabilities of the overall display system.

Aside from direct view displays, we also have competitors who produce near-eye personal displays or wearable displays. For the past decade, most of these products were mainly low-resolution, bulky in size, ergonomically deficient, costly, and heavy in their power requirements.

Competition – Binocular Wearable Display Products

Vuzix AR Smart Glasses competitors include binocular wearable displays and virtual reality systems, using micro-displays or smaller flat panels. Examples of such companies include or have included Carl Zeiss, Seiko Epson (Epson), Sony Corporation, Microsoft Corporation, Avegant Corp., Meta (formerly Oculus/Facebook), HTC Corporation, Razer Inc., HP, Lenovo and many others. Some of these firms have discontinued their efforts while others continue to introduce new products. We believe that most these competitive products have received limited customer acceptance, except for Meta's products, due to their being bulky, limited operating time, and when connected to a computer, extra cables. Despite their size, VR headsets from companies like Meta and Sony have been selling in the millions of units, primarily for game applications. VR systems are either standalone devices or require a wire to be connected to a PC to operate. To date, the most popular units have been standalone devices from Meta which incorporate a computer similar to the ones used in our smart glasses products.

Competition – AR Glasses

In the AR markets, there are currently few competitors with most of this market currently aimed at the high-end and research markets. Companies that have offered or are offering products or intend to do so in this area include Microsoft Corporation, Sony Corporation, Epson, Lenovo, Magic Leap, Nreal and CastAR. Further, industry watchers have speculated that companies such as Apple, Google, Snap, and Meta may offer or support AR wearable display products in the future, but to date, no specific product launch details have been officially announced. Today, many of these products are fairly bulky and are typically tethered to an external controller. Some are using external view cameras to simulate an AR environment where the wearer can see the outside world in effectively a pair of VR goggles with limited success thus far. The Meta Quest Pro announced in fall of 2022 is an example of this and it retails for \$1,500. Many are being sold as AR Smart Glasses and are currently targeted at enterprise and academic researchers. The most complete and functional systems today are the Microsoft HoloLens II and the Magic Leap Two, both of which cost \$2,295 - \$3,500 per unit. And Magic Leap 2 for Enterprise starts at \$4,999 and higher based upon features purchased.

Competition – Monocular Smart Glasses and Wearable Display Products

Although several companies produce monocular wearable displays, we believe that the market opportunity for these products, other than night vision products, has been limited primarily to trial tests and smaller rollouts in enterprise markets rather than broad commercial volume purchases. Competitors in these markets include or have included: Google/Alphabet, Lenovo, RealWear, Iristick, Liteye Systems, Inc., Lumus, Zebra Technologies (inclusive of the business unit formerly part of Motorola), Six-15 Technologies, LLC (the purchaser of our defense division), Optinvent, Shimadzu Corporation, Sony Corporation, Kopin Corporation, tooz technologies GmbH, Creative Display Systems, Brother, Garmin, BAE Systems, Focals by North (acquired by Google), and Rockwell Collins.

Several Japanese electronics companies including Hitachi, Murata Manufacturing Co., Sony Corporation, WESTUNITIS, and Olympus have or had announced monocular smart glasses systems for industry and many have exited the business over the last three years. There are also several China-based companies that have been showing monocular smart glasses products, including Lenovo but their sales activities thus far have been somewhat limited and focused primarily on Asia. We expect that we will encounter competition in the future from major consumer electronics companies and suppliers of imaging and information products for defense applications.

There is competition in all types of products we manufacture, from both large and small companies. The principal points of competition for these products include, among other factors: price, product performance, the availability of supporting applications, and the experience and brand name of the particular company and history of its dealings in such products. We believe that our monocular products match or exceed the display products currently offered by our competitors.

Competition – Waveguides and Display Engines

There are a limited number of manufacturers of waveguide optics, all targeted at OEM producers of AR and smart glasses. Competitors to our waveguide products include Lumus, WaveOptics (acquired by Snap), Digilens,

Dispelix, Optinvent and several others. In addition, several new waveguide manufacturers from China have begun demonstrating their solutions at recent trade shows. Snap Inc. recently purchased WaveOptics and it appears that Snap is planning to use such waveguides for their own internal solutions and likely no longer will be competitive as a waveguide component supplier.

Sales and Marketing

Sales

Our strategy is to sell our products and components both directly and through distributors and value-added resellers (VARs – also referred to as Vuzix Integration Partners or VIPs), and on a select basis to OEMs. As a result, we have distinct strategies for the sales of our products.

In the Smart Glasses and AR markets, we are currently focused on the enterprise space and as such are building strategic marketing relationships with software firms and distributors to address and support enterprise customers. We are, in parallel, supporting a VAR network with leading companies in various vertical markets from warehousing to field service to medical. These VARs provide their software and services offerings to their respective customer bases. We are also supporting select larger key accounts and distributors with our in-house direct sales team. For our Smart Glasses, we continue to foster an ecosystem with application developers from around the world. We also have our own hosted application store where our Smart Glasses customers can download and purchase applications and software developer kits.

We currently sell our products internationally through resellers, distributors, direct to commercial customers, and via online stores and various Vuzix operated web stores in the USA, Europe and Japan. Our international focus is currently on Japan and the EMEA (including the UK, Europe, Middle East and Africa). In Japan, we have a branch sales and service office and a small warehouse in Tokyo. We have a wholly-owned subsidiary, Vuzix (Europe) Limited, through which we conduct our business in the EU and Middle Eastern markets. We maintain small European sales offices in Oxford, England and Munich, Germany that are staffed by full-time sales consultants or employees. For warehousing, we have contracted with a third-party fulfillment center based in the UK and the Netherlands to service our customers in the EMEA. We also currently serve other APAC customers through North American West Coast and Tokyo sales offices.

For customer support for the EMEA, we have contracted with a third-party end-user technical support firm that provides sixteen (16) hours of customer and technical support daily.

We intend to primarily provide our Vuzix Ultralite OEM platform, waveguide and miniature display engine modules and optics components to select OEMs to incorporate into their branded products and sell through their own well-established distribution channels. An OEM/ODM design cycle typically requires between 6 and 24 months, depending upon the uniqueness of the market, and the complexity of the end product. Because our waveguides and display engines are the main functional component that define the imaging as well as look and feel of many of our potential OEM customers' end products, we intend to work closely with these customers to provide technical assistance throughout their product evaluation and any eventual integration process.

We believe that the technical nature of our OEM products, including waveguides and display projectors with micro-displays, demands close relationships with such customers. Our sales and marketing staff, assisted by our technical staff and senior management, visit prospective and existing customers worldwide on a regular basis. We believe these contacts are vital to the development of a close, long-term working relationship with our OEM customers, and in securing accurate and regular forecasts, market updates and information regarding technical and market trends. We also participate in industry specific trade shows and conferences.

Marketing

Our marketing and sales group, in conjunction with external firms, is responsible for product management, planning, advertising, marketing communications, and public relations. We have both internal and external public

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relations efforts in the U.S. and UK. We also employ marketing firms to help prepare brochures, packaging, tradeshow messaging and advertising campaigns, focused on either the enterprise or consumer end markets. Most of our products are currently sold under the Vuzix brand name. We seek to have Vuzix become known as one of the premier suppliers of wearable display products for enterprise applications and AR smart glasses. We currently undertake specific marketing activities as needed, including, but not limited to:

- product reviews, case studies and promotions in trade publications;
- case studies and white papers on successful enterprise uses of Smart Glasses and AR;
- product and technology views for our website and social media;
- internet search engine ads and social media advertising and targeted emails;
- public relations; and
- trade shows and event sponsorships.

We engage in select marketing efforts that are intended to drive customers to our products and to help to grow awareness of our AR Smart Glasses and wearable displays in general. Public relations and product videos are an important aspect of our marketing and we intend to continue to distribute samples of our products to key industry participants.

Our Smart Glasses are sold through distributors, valued-added resellers, direct to end customers, through our webstore, and through a limited number of third-party online stores, such as Amazon. Our website, www.vuzix.com, is an important part of our direct sales efforts.

Engineering Services and OEM Products

We primarily respond to sales inquiries for our engineering services programs and OEM component requests directly and usually in response to inbound inquiries. We do not offer “works for hire” services at Vuzix but rather offer our services to opportunities that could result in advancing our technology or develop into a long-term supply or OEM relationship. We believe that we have established a strong reputation for quality, performance, and innovation for wearable near-eye display systems, waveguides, and display engines that will be attractive to many types of commercial users who want to leverage our services and products within their businesses. We continue to receive inbound requests for engagement related to our proprietary waveguide optics and miniature display engines from some of the world’s largest consumer and mobile electronics firms. Our business strategy is to commercialize our waveguide and display engine technologies and products to permit select ODMs and OEMs to integrate and embed our technologies and products in a way that best matches their unique capabilities and timeline for bringing their products to market. Our design and engineering staff are actively involved with customers during all phases of prototype design through to production by providing engineering data, up-to-date product application notes, regular follow-up and technical assistance.

Manufacturing

We purchase product components from our suppliers, engage third-party contract manufacturing firms to perform electronic circuit board and cable assemblies, and now do the final assembly of our products primarily in our West Henrietta, New York facility. We are experienced in the successful production of our products in moderate volumes. Our current facilities are capable of producing tens of thousands of finished products annually, and we believe producing out of these facilities at these levels is more economical and easier to manage than through third parties. We also manufacture all of our waveguide optics in our cleanroom environments at our West Henrietta, New York facility. We evaluate contract manufacturers and component suppliers on an ongoing basis, including whether or not to utilize new or alternative contract manufacturers or component suppliers. However, we also expect to manufacture all of our

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waveguide optics only at our West Henrietta, New York facility. In October 2022, we announced the signing of a new lease agreement for additional floor space in a building adjacent to our West Henrietta facility for the express purpose of expanding our waveguide production capacity.

We currently purchase almost all of the micro-displays used in our products from Sony Corporation, Jade Bird Display and Texas Instruments. Our relationship with these micro-display suppliers is generally on a purchase order basis and none have a contractual obligation to provide adequate supply or acceptable pricing to us on a long-term basis, nor do we have any contractual obligation to purchase micro-displays from them. We have operated this way for over a decade with these suppliers. Our Cobra II display engine is based on our proprietary design and is exclusively manufactured for us by a firm in Asia and it incorporates a DLP engine from Texas Instruments. We generally procure our other non-micro-display components and products from our vendors on a purchase order basis without any long-term commitments. Many of the raw materials used in our components are standard to the consumer electronics and computer industry. We provide forecasts that allow our contract manufacturers to stock component parts and other materials and plan capacity. Our contract manufacturers procure raw materials in volumes consistent with our forecasts, manufacture and/or assemble the products and perform tests according to our specifications. In some cases, we procure specific components and either sell them or consign them to our contract manufacturers. Products are either shipped to our customers or shipped to our West Henrietta, New York facility to be inventoried as finished goods. We currently use several manufacturing sources in Asia where we have located some of our tooling.

While we do not manufacture our components, other than waveguides, we do own the tooling that is used to make our custom components. Some of our accessory products are sourced from third parties as finished goods. We typically have them print our Vuzix brand name on these products if they are co-branded. Such third-party products represented less than 5% of our sales in last three fiscal years.

Our manufacturing is not currently subject to seasonal variations, but in the future, depending upon our customers' product mix, we may be affected by seasonal fluctuations which could affect working capital demands.

Backlog

There is a relatively short cycle between order and shipment of our product sales. Most purchase orders we receive are subject to rescheduling or cancellation by the customer with no or limited penalties. In regard to sales of custom products and waveguides to our OEM customers, we believe that the backlog metric is currently of limited utility in predicting future sales because all these OEM customers operate on a ship-to-order basis. Therefore, we believe at this time that backlog information is not material to the understanding of our business.

Employees

As of March 1, 2023, we had 105 full-time employees in North America, of which 50 are in research and development and engineering services support. In Japan we have 2 full-time employees to manage our Asian sales activities. In Europe we have 2 full-time employees and 2 full-time contractors to manage our European sales and marketing activities.

Available Information

We make available free of charge through our website, www.vuzix.com, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and our proxy statements and other reports that we file or furnish with the SEC as soon as reasonably practicable after they are filed or furnished, as well as certain of our corporate governance policies, including the charters for the Board of Directors' audit, compensation and nominating and corporate governance committees and our code of ethics, corporate governance guidelines and whistleblower policy. We will also provide to any person without charge, upon request, a copy of any of the foregoing materials. Any such request must be made in writing to us, c/o Investor Relations, Vuzix Corporation, 25 Hendrix Road, West Henrietta, NY, 14586.

Information about Geographic Revenue

Information about geographic revenue is described in Note 19, “Geographic and Other Financial Information” in the notes to our consolidated financial statements.

History - Corporate

We were incorporated in Delaware in 1997 as VR Acquisition Corp. In 1997, we acquired substantially all of the assets of Forte Technologies, Inc. (Forte), which was engaged in the manufacture and sale of Virtual Reality headsets and the development of related technologies. Forte was originally owned and controlled by Kopin Corporation, one of our prior micro-display suppliers. Most of the technologies developed by Forte are now owned and used by us.

Reference in this report to “Vuzix”, the “Company”, “we,” “us,” “our” and similar words refer to Vuzix Corporation and its wholly-owned subsidiary.

Item 1A. Risk Factors

An investment in our securities involves a high degree of risk. An investor should carefully consider the risks described below, together with all of the other information included in this annual report, before making an investment decision. Our business, financial condition or results of operations could suffer as a result of these risks. In that case, the market value of our securities could decline, and an investor may lose all or part of his or her investment.

Summary of Risk Factors:

- *We have incurred net losses since our inception and may continue to incur losses.*
- *We operate in a highly competitive market and the size, resources and brand name of some of our competitors may allow them to compete more effectively than we can, which could result in a loss of our market share and a decrease in our revenue and profitability.*
- *We depend on advances in technology by other companies and if those advances do not materialize or are not accessible to us, some of our anticipated new products could be delayed or cancelled.*
- *Our products could infringe on the intellectual property rights of others.*
- *If we lose our rights under our third-party technology licenses, our operations could be adversely affected.*

Risks Related to Our Business

We have incurred net losses since our inception and may continue to incur losses.

We reported a net loss of \$40,763,573 for the year ended December 31, 2022, a net loss of \$40,377,160 for the year ended December 31, 2021, and a net loss of \$17,952,172 for the year ended December 31, 2020. We have an accumulated deficit of \$243,835,716 as of December 31, 2022.

We may not achieve or maintain profitability in the future. We will need to increase sales in order to achieve and maintain profitability. In addition, we expect that our expenses relating to product development and research, sales and marketing, as well as our general and administrative costs, may increase as our business grows. If we do not achieve and maintain profitability, our financial condition will ultimately be materially and adversely affected and we would eventually be required to raise additional capital. We may not be able to raise any necessary capital on commercially reasonable terms or at all. If we fail to achieve or maintain profitability on a quarterly or annual basis within the timeframe expected by investors, the market price of our common stock may decline.

We operate in a highly competitive market and the size, resources and brand name of some of our competitors may allow them to compete more effectively than we can, which could result in a loss of our market share and a decrease in our revenue and profitability.

The market for head-worn display devices, including AR and Smart Glasses, is highly competitive. Further, we expect competition to intensify in the future as existing competitors introduce new and more competitive offerings alongside their existing products, and as new market entrants introduce new products into our markets. We compete against established, well-known diversified consumer electronics manufacturers such as Samsung Electronics Co., Sony Corporation, LG Electronics (LGE), HTC, Lenovo, and large software and other products companies such as Alphabet Inc. (Google), Microsoft Corporation, Meta (Facebook) and Snap. Many of our current competitors have substantial market share, longer operating histories, larger intellectual property portfolios, diversified product lines, ability to bundle competitive offerings with our products and services, well-established supply and distribution systems, strong worldwide brand recognition and greater financial, marketing, research and development and other resources than we do.

Moreover, smartphones, tablets, and new wearable devices with ever-expanding video display screens, including foldable and expandable screens, and ever-increasing computing power have significantly improved the mobile personal computing experience. In the future, the manufacturers of these devices, such as Apple Inc., Samsung, LGE, Lenovo, Google, Snap, Garmin, Meta/Facebook, Microsoft and others may design or develop products similar to ours. In addition to competition or potential competition from large, established companies, new companies may emerge and offer competitive products. Further, our current and prospective competitors may consolidate with each other or acquire companies that will allow them to develop products that better compete with our products, which would intensify the competition that we face and may also disrupt or lead to termination of our distribution, technology and content partnerships. Increased competition may result in pricing pressures and reduced profit margins and may impede our ability to increase the sales of our products, any one of which could substantially harm our business and results of operations.

Our lack of long-term purchase orders and commitments from our customers may lead to a rapid decline in our sales.

All of our customers issue purchase orders solely at their own discretion, often shortly before the requested date of shipment. Our customers are generally able to cancel orders (without penalty) or delay the delivery of products on relatively short notice. In addition, our current customers may decide not to purchase products from us for any reason. If those customers do not continue to purchase our products, our sales volume could decline rapidly with little or no warning.

We cannot currently rely on long-term purchase orders or commitments to protect us from the negative financial effects of a decline in demand for our products. We typically plan our production and inventory levels based on internal forecasts of customer demand, which are highly unpredictable and can fluctuate substantially. The uncertainty of product orders makes it difficult for us to forecast our sales and allocate our resources in a manner consistent with our actual sales. Moreover, our expense levels and the amounts we invest in capital equipment and new product development costs are based in part on our expectations of future sales and, if our expectations regarding future sales are inaccurate, we may be unable to reduce costs in a timely manner to adjust for sales shortfalls. As a result of our lack of long-term purchase orders and purchase commitments, we may experience a rapid decline in our sales.

As a result of these and other factors, investors should not rely on our revenues and our operating results for any one quarter or year as an indication of our future revenues or operating results. If our quarterly revenues or results of operations fall below the expectations of investors or public market analysts, the price of our common stock could fall substantially.

If we do not effectively maintain and further develop our sales channels for our products, including developing and supporting our value added resellers (VARs), distributors and retail sales channels, our business could be harmed.

We depend upon effective sales channels to assist us in reaching the customers who are the ultimate purchasers of our Smart Glass and AR products. We primarily sell our products either through distributors and VARs or from our in-house sales team directly to enterprise, medical and end users or through our website.

Our distributors, third-party online resellers and VARs generally offer products from several different manufacturers. Accordingly, we are at risk that these distributors, resellers and VARs may give higher priority to selling other companies' products. If we were to lose the services of a distributor, online reseller or VAR, we might need to find another in that area, and there can be no assurance of our ability to do so in a timely manner or on favorable terms. Further, our resellers and distributors can at times build inventories in anticipation of future sales, and if such sales do not occur as rapidly as they anticipate, our resellers and distributors will decrease the size of their future product orders. We are also subject to the risks of our distributors, resellers and VARs encountering financial difficulties, which could impede their effectiveness and also expose us to financial risk if they are unable to pay for the products they purchase from us. Any reduction in sales by our current distributors or VARs, loss of key distributors and VARs or decrease in revenue from our distributors and VARs could adversely affect our revenue, operating results and financial condition.

Our products require ongoing research and development and we may experience technical problems or delays, which could lead our business to fail.

Our research and development efforts remain subject to all of the risks associated with the development of new products based on emerging and innovative technologies, including, for example, unexpected technical problems or the possible insufficiency of funds for completing development of these products. If we experience technical problems or delays, further improvements in our products and the introduction of future products could be adversely impacted, and we could incur significant additional expenses and our business may fail.

We depend on advances in technology by other companies and if those advances do not materialize, some of our anticipated new products could be delayed or cancelled.

We rely on and will continue to rely on technologies (including micro-displays, mobile computing electronics and operating systems) that are developed and produced by other companies. The commercial success of certain of our planned future products will depend in part on advances in these and other technologies by other companies. We may, from time to time, contract with and support companies developing key technologies in order to accelerate the development of them for our specific uses. Such activities might not result in useful technologies or components for us. We are attempting to mitigate this risk by exploring ways to develop our own micro-display technologies using micro LED and laser scanning displays, but there can be no assurance that we will be successful in doing so.

If micro-display-based personal displays or near-eye displays do not gain greater acceptance in the market for mobile displays, our business strategy may fail.

The mobile display market is dominated by displays larger than one-inch, most of which are based on direct view liquid crystal display (LCD) and organic light emitting display (OLED) technology. A number of large established global companies have made and continue to make substantial investments in, and are conducting research to improve characteristics of, handheld direct view LCDs and OLED displays. Advances in direct view LCD and OLED technology, micro LED or other technologies, including foldable and stretchable displays may overcome current market limitations and permit them to remain or become more attractive technologies for personal viewing applications, which could limit the potential market for our near-eye display and computing technology and cause our business strategy to fail.

It is difficult to assess or predict with any certainty the potential size, timing and viability of market opportunities for our micro-display-based AR Smart Glasses products or their level of market acceptance. Market acceptance of AR and Smart Glasses technology will depend, in part, upon end-user acceptance of near-to-eye displays and upon micro-display technology providing benefits comparable to or greater than those provided by alternative direct view display technology at a competitive price. Smart Glasses and AR products work best when used close to the eye, which may not be acceptable to consumers. Such acceptance may depend on the relative complexity, reliability, usefulness and cost-effectiveness of our near-eye display products compared to other display products available in the market or that may be developed by our competitors. In addition, our products are not designed for a shared experience amongst multiple viewers at the same time. Potential customers may be reluctant to adopt our Smart Glasses and AR products because of concerns surrounding perceived risks relating to use and the fact that it is a new technology. Further, over half the world's adult population needs some level of vision correction which adds complexities in the design and ergonomics of any AR Smart Glasses products. If end-users fail to accept near-to-eye displays in the numbers we

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anticipate or as soon as we anticipate, the sales of our Smart Glasses and AR products and our results of operations would be adversely affected and our business strategy may fail.

There are a number of competing providers of micro-display-based personal display technology, including smart glasses, and we may fail to capture a substantial portion of the personal wearable display market.

In addition to competing with direct view displays, we also compete with micro-display-based personal display technologies that have been developed by other companies. Our primary personal display competitors are or have included Carl Zeiss, Inc., Sony, Epson, Alphabet (Google), Brother International, 5DT Inc., eMagin Corporation, Meta/Facebook (Oculus), Avegant, Kopin Corporation, Magic Leap, Lenovo, Microsoft, HTC, MicroVision, Inc., Lumus Ltd., Kaiser Electro Optics Inc., Garmin, Optinvent, HTC Valve, LGE, N-Real, Epson, Zebra and Accupix. Numerous other start-up companies have announced their intentions to offer smart glasses and AR products and developer kits in the near future. Further, industry blogs have speculated that companies such as Apple may offer AR glasses in the near future.

Most of our competitors have greater financial, marketing, distribution and technical resources than we do. Moreover, our competitors may succeed in developing new micro-display-based personal display technologies and near-eye display products that are more affordable or have more desirable features than our technology. If our products are unable to capture a reasonable portion of the smart wearable display market, our business strategy may fail.

Product quality issues and a higher-than-expected number of warranty claims or returns could harm our business and operating results.

The products that we sell could contain defects in design or manufacture. Defects could also occur in the products or components that are supplied to us. There can be no assurance we will be able to detect and remedy all defects in the hardware and software we sell, which could result in product recalls, product redesign efforts, loss of revenue, reputational damage and significant warranty and other remediation expenses. Similar to other mobile and consumer electronics, our products with batteries have a potential risk of overheating in the course of usage or upon malfunction. Any such defect could result in harm to property or in personal injury. If we determine that a product does not meet product quality standards or may contain a defect, the launch of such product could be delayed until we remedy the quality issue or defect. The costs associated with any protracted delay necessary to remedy a quality issue or defect in a new product could be substantial.

We generally provide a one-year warranty on all of our products, except in certain European countries where it can be two years if it is deemed a consumer-focused product. The occurrence of any material defects in our products could expose us to liability for damages and warranty claims in excess of our current reserves, and we could incur significant costs to correct any defects, warranty claims or other problems. In addition, if any of our product designs are defective or are alleged to be defective, we may be required to participate in a recall campaign. In part due to the terms of our warranty policy, any failure rate of our products that exceeds our expectations may result in unanticipated losses. Any negative publicity related to the perceived quality of our products could affect our brand image and decrease VAR, distributor and end customer confidence and demand, which could adversely affect our operating results and financial condition. Further, accidental damage coverage and extended warranties are regulated in the United States at the state level and are treated differently within each state. Additionally, outside of the United States, regulations for extended warranties and accidental damage vary from country to country. Changes in interpretation of the regulations concerning extended warranties and accidental damage coverage on a federal, state, local or international level may cause us to incur costs or have additional regulatory requirements to meet in the future in order to continue to offer our support services. Our failure to comply with past, present and future similar laws could result in reduced sales of our products, reputational damage, penalties and other sanctions, which could harm our business and financial condition.

Our products could likely experience declining unit prices and we may not be able to offset that decline with production cost decreases or higher unit sales.

In the markets in which we compete, prices of established consumer electronics displays, personal computers, and mobile products tend to decline significantly over time or as new enhanced versions are introduced, frequently every

12 to 24 months. In order to maintain adequate product profit margins over the long term, we believe that we will need to continuously develop product enhancements and new technologies that will either slow price declines of our products or reduce the cost of producing and delivering our products. While we anticipate many opportunities to reduce production costs over time, we may not be able to reduce our component costs. We expect to attempt to offset the anticipated decrease in our average selling price by introducing new products, increasing our sales volumes or adjusting our product mix. If we fail to do so, our results of operations will be materially and adversely affected.

Our products could infringe on the intellectual property rights of others.

Companies in the consumer electronics, wireless communications, semiconductor, IT and display industries steadfastly pursue and protect intellectual property rights, often times resulting in considerable and costly litigation to determine the validity of patents and claims by third parties of infringement of patents or other intellectual property rights. Our products could be found to infringe on the intellectual property rights of others. Other companies may hold or obtain patents or inventions or other proprietary rights in technology necessary for our business. Periodically, other companies inquire about our products and technology in their attempts to assess whether we violate their intellectual property rights. If we are forced to defend against infringement claims, we may face costly litigation, diversion of technical and management personnel, and product shipment delays, even if the allegations of infringement are unwarranted. If there is a successful claim of infringement against us and we are unable to develop non-infringing technology or license the infringed or similar technology on a timely basis, or if we are required to cease using one or more of our business or product names due to a successful trademark infringement claim against us, it could adversely affect our business.

Our intellectual property rights and proprietary rights may not adequately protect our products.

Our commercial success will depend substantially on our ability to obtain patents and other intellectual property rights and maintain adequate legal protection for our products in the United States and other countries. We will be able to protect our intellectual property from unauthorized use by third parties only to the extent that these assets are covered by valid and enforceable patents, trademarks, copyrights or other intellectual property rights, or are effectively maintained as trade secrets. As of the date of this filing, we have 148 issued U.S. and foreign patents and 130 pending U.S. and foreign patent applications. We apply for patents covering our products, services, technologies and designs, as we deem appropriate. We may fail to apply for patents on important products, services, technologies or designs in a timely fashion, or at all. We do not know whether any of our patent applications will result in the issuance of any patents. Even if patents are issued, they may not be sufficient to protect our products, services, technologies, or designs. Our existing and future patents may not be sufficiently broad to prevent others from developing competing products, services technologies, or designs. Intellectual property protection and patent rights outside of the United States are even less predictable. As a result, the validity and enforceability of patents cannot be predicted with certainty. Moreover, we cannot be certain whether:

- we were the first to conceive, reduce to practice, invent, or file the inventions covered by each of our issued patents and pending patent applications;
- others will independently develop similar or alternative products, technologies, services or designs or duplicate any of our products, technologies, services or designs;
- any patents issued to us will provide us with any competitive advantages, or will be challenged by third parties;
- we will develop additional proprietary products, services, technologies or designs that are patentable; or
- the patents of others will have an adverse effect on our business.

The patents we own or license and those that may be issued to us in the future may be challenged, invalidated, rendered unenforceable or circumvented, and the rights granted under any issued patents may not provide us with

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proprietary protection or competitive advantages. Moreover, third parties could replicate our inventions in territories where we do not have patent protection or in territories where they could obtain a compulsory license to our technology where patented. Such third parties may then try to import products made using our inventions into the United States or other territories. We cannot ensure that any of our pending patent applications will result in issued patents, or even if issued, predict the breadth, validity and enforceability of the claims upheld in our and other companies' patents.

Unauthorized parties may attempt to copy or otherwise use aspects of our processes and products that we regard as proprietary. Policing unauthorized use of our proprietary information and technology is difficult and can be costly, and our efforts to do so may not prevent misappropriation of our technologies. We may become engaged in litigation to protect or enforce our patent and other intellectual property rights or in International Trade Commission proceedings to abate the importation of goods that would compete unfairly with our products and, if unsuccessful, these actions could result in the loss of patent or other intellectual property rights protection for the key technologies on which our business strategy depends.

We rely in part on unpatented proprietary technology, and others may independently develop the same or similar technology or otherwise obtain access to our unpatented technology. We require employees, contractors, consultants, financial advisors, suppliers and strategic partners to enter into confidentiality and intellectual property assignment agreements (as appropriate), but these agreements may not provide sufficient protection for our trade secrets, know-how or other proprietary information.

The laws of certain countries do not protect intellectual property and proprietary rights to the same extent as the laws of the United States and, therefore, in certain jurisdictions we may be unable to protect our products, services, technologies and designs adequately against unauthorized third-party copying, infringement or use, which could adversely affect our competitive position. To protect or enforce our intellectual property rights, we may initiate proceedings or litigation against third parties. Such proceedings or litigation may be necessary to protect our trade secrets or know-how, products, technologies, designs, brands, reputation, likeness, authorship works or other intellectual property rights. Such proceedings or litigation may also be necessary to determine the enforceability, scope and validity of the proprietary rights of others. Any proceedings or lawsuits that we initiate could be expensive, take significant time and divert management's attention from other business concerns. Additionally, we may provoke third parties to assert claims against us, which could invalidate or narrow the scope of our own intellectual property rights. We may not prevail in any proceedings or lawsuits that we initiate and the damages or other remedies awarded, if any, may be significant. The occurrence of any of these events may adversely affect our business, financial condition and operating results.

We have registered and applied to register certain of our trademarks in several jurisdictions worldwide. In some jurisdictions where we have applied to register our trademarks, other applications or registrations exist for the same, similar or otherwise related products or services. If we are not successful in arguing that there is no likelihood of confusion between our marks and the marks that are the subject of the other applications or registrations owned by third parties, our applications may be denied, preventing us from obtaining trademark registrations and adequate protection for our marks in the relevant jurisdictions, which could impact our ability to build our brand identity and market our products and services in those jurisdictions. Whether or not our application is denied, third parties may claim that our trademarks infringe their rights. As a result, we could be forced to pay significant settlement costs or cease the use of these trademarks and associated elements of our brand in the United States or other jurisdictions.

Even in those jurisdictions where we are able to register our trademarks, competitors may adopt or apply to register similar trademarks to ours, may register domain names that mimic ours or incorporate our trademarks, or may purchase keywords that are identical or confusingly similar to our brand names as terms in Internet search engine advertising programs, which could impede our ability to build our brand identity and lead to confusion among potential customers of our products and services. If we are not successful in proving that we have prior rights in our marks and arguing that there is a likelihood of confusion between our marks and the marks of these third parties, our inability to prevent these third parties from using such may negatively impact the strength, value and effectiveness of our brand names and our ability to market our products and prevent consumer confusion.

If we lose our rights under our third-party technology licenses, our operations could be adversely affected.

Our business depends in part on technology rights and software licensed from third parties. We could lose our exclusivity or other rights to use the technology under our licenses if we fail to comply with the terms and performance requirements of the licenses. In addition, certain licensors may terminate a license upon our breach and have the right to consent to sublicense arrangements. If we were to lose our rights under any of these licenses, or if we were unable to obtain required consents to future sublicenses, we could lose a competitive advantage in the market, and may even lose the ability to commercialize certain products or technologies completely. Either of these results could substantially decrease our revenues.

Our business depends in part on access to third-party platforms or technologies, and if the access is withdrawn, denied, or is not available on terms acceptable to us, or if the platforms or technologies change without notice to us, our business and operating results could be adversely affected.

With the growth of mobile devices and personal voice assistants, cloud services and AI, the number of supporting platforms has grown, and with it the complexity and increased need for us to have business or contractual relationships with the platform owners in order to produce products compatible with these platforms and enable access to and use of these platforms with our products. Our product strategy includes current and future products designed for use with third-party platforms or software, such as iPhone, Android phones, Google Assistant and Amazon Alexa. Our business in these categories relies on our access to the platforms of third parties, some of whom are our competitors. Platform owners who are competitors may limit or decline access to their platforms, and in any case have a competitive advantage in designing products for their own platforms and may produce products that work better, or are perceived to work better, than our products in connection with those platforms. As we expand the number of platforms and software applications with which our products are compatible, we may not be successful in launching products for those platforms or software applications and/or we may not be successful in establishing strong relationships with the new platform or software owners, which could negatively impact our ability to develop and produce high-quality products on a timely basis for those platforms and software applications. We may otherwise fail to navigate various new relationships, which could adversely affect our relationships with existing platform or software owners.

Our access to third-party platforms may also require paying a royalty or licensing fee, which lowers our product margins or may otherwise be on terms that are not acceptable to us. In addition, the third-party platforms or technologies used to interact with our product portfolio can be delayed in production or can change without prior notice to us, which can result in our having excess inventory, lower margins, or customer support issues.

If we are unable to access third-party platforms or technologies, or if our access is withdrawn, denied, or is not available on terms acceptable to us, or if the platforms or technologies are delayed or change without notice to us, our business and operating results could be adversely affected.

Our use of open source software could negatively affect our ability to sell our products and could subject us to possible litigation.

We incorporate open source software into our products. Open source software is generally licensed by its authors or other third parties under open source licenses. Some of these licenses contain requirements that we make available source code for modifications or derivative works we create based upon the open source software, and that we license such modifications or derivative works under the terms of a particular open source license or other license granting third parties certain rights of further use. Additionally, if a third-party software provider has incorporated open source software into software that we license from such provider, we could be required to disclose any of our source code that incorporates or is a modification of our licensed software. If an author or other third-party that distributes open source software that we use or license were to allege that we had not complied with the conditions of the applicable license, we could be required to incur significant legal expenses defending against those allegations and could be subject to significant damages, enjoined from offering or selling our products that contained the open source software and be required to comply with the foregoing conditions. Any of the foregoing could disrupt and harm our business and financial condition.

Our dependence on sales to distributors, VARs, and resellers increases the risks of managing our supply chain and may result in excess inventory or inventory shortages.

Many of our various reseller relationships for our Smart Glasses and AR products and their accessories could involve them taking inventory positions and reselling to multiple customers. Under some possible distributor relationships, we would not recognize revenue until the distributors sell the product to their end user customers and receive payment thereon; however, at this time we do not currently enter into these types of arrangements. Our distributor and VAR relationships may reduce our ability to forecast sales and increase risks to our business. Since our distributors and VARs would act as intermediaries between us and the end user customers or resellers, we would be required to rely on our distributors to accurately report inventory levels and production forecasts. This may require us to manage a more complex supply chain and monitor the financial condition and credit worthiness of our distributors and VARs and their major end user customers. Our failure to manage one or more of these risks could result in excess inventory or shortages that could adversely impact our operating results and financial condition.

We may lose the services of key management personnel and may not be able to attract and retain other necessary personnel.

Changes in our management could have an adverse effect on our business, and in particular, while our staff is relatively small with just over 100 employees and full-time foreign contractors globally, we are dependent upon the active participation of several key management personnel, including Paul Travers, our President and Chief Executive Officer. Mr. Travers is critical to the strategic direction and overall management of our company as well as our research and development process. The loss of Mr. Travers could adversely affect our business, financial condition and operating results. We do not carry key person life insurance on any of our senior management or other key personnel. Our Executive Vice President and Chief Financial Officer, Grant Russell, a Canadian citizen, currently has his principal residence in Vancouver, Canada and a second residence in West Henrietta, New York. If he becomes unable to legally or efficiently travel to, and work in, the United States, his ability to perform some of his duties could be materially adversely affected.

We need to hire and retain highly skilled technical personnel as employees and independent contractors in order to develop our products and grow our business. The competition for highly skilled technical, managerial and other personnel is at times intense. Our human capital and labor issues related to recruiting and retention success is substantially dependent upon our ability to offer competitive salaries and benefits to our employees. We must compete with companies that possess greater financial and other resources than we do and that may be more attractive to potential employees and contractors. To be competitive, we may have to increase the compensation, bonuses, stock options and other fringe benefits we offer to employees in order to attract and retain such personnel. Further, during COVID-19, many employees began working remotely and many now want to make it a permanent arrangement, which can further complicate the management of such personnel. The costs of retaining or attracting new personnel may have a material adverse effect on our business and operating results. If we fail to attract and retain the technical and managerial personnel required to be successful, our business, operating results and financial condition could be materially adversely affected.

Risks Related to Manufacturing

The manufacture of waveguides encompasses several complex processes and several steps of our production processes are dependent upon certain critical machines and tools which could result in delivery interruptions, which could adversely affect our operating results.

Our product technology and manufacturing processes are evolving which can result in production challenges and difficulties. We may be unable to produce our products in sufficient quantity and quality to maintain existing customers and attract new customers. In addition, we may experience manufacturing problems which could result in delays in delivery of orders or product introductions. We currently do not have full equipment redundancy in our manufacturing facility. If we experience any significant disruption in the operation of our manufacturing facility or a serious failure of a critical piece of equipment, we may be unable to supply products to our customers in a timely manner. Interruptions in our manufacturing could be caused by equipment problems, the introduction of new equipment

into the manufacturing process or delays in the delivery of new manufacturing equipment. Lead-time for delivery, installation, testing, repair and maintenance of manufacturing equipment can be extensive. We have experienced production interruptions in the past and no assurance can be given that we will not lose potential sales or be able to meet production orders due to future production interruptions in our manufacturing lines.

Our waveguide and display engine products are subject to lengthy OEM development periods.

We intend to sell some of our waveguide and display engines with micro-displays to OEMs with the objective that they then incorporate them into products they sell. To date, this business has not been a material contributor to our overall revenues, but it could become so in the future. OEMs determine during their product development phase whether they will incorporate our products. The time elapsed between initial sampling of our products by OEMs, the custom design of our products to meet specific OEM product requirements, and the ultimate incorporation of our products into OEM products is significant, often with a duration of between one to two years or even longer. If our products fail to meet our eventual OEM customers' cost, performance or technical requirements or if unexpected technical challenges arise in the integration of our products into OEM consumer products, our operating results could be significantly and adversely affected. Long delays in achieving customer qualification and incorporation of our products also could adversely affect our business.

We depend on third parties to provide integrated circuit chip sets and other critical components for use in our products.

We do not manufacture the integrated circuit chip sets, microprocessors, wireless chips, optics, micro-displays, backlights, projection engines, printed circuit boards or other electronic components which are used in our products. Instead, we purchase them from third-party suppliers or rely on third-party independent contractors for these integrated circuit chip sets and other critical components, some of which are customized or custom made for us. We also may use third parties to assemble all or portions of our products. Some of these third-party contractors and suppliers are small companies with limited financial resources. In addition, any partial or full government-mandated shutdowns resulting from health epidemics like COVID-19 may cause supply chain disruptions. If any of these third-party contractors or suppliers were unable or unwilling to supply these integrated circuit chip sets or other critical components to us, we would be unable to manufacture and sell our products until a suitable replacement supplier could be found. We may be unable to find, if and when needed, a replacement third-party contractor or supplier on reasonable terms or in a timely manner. Any interruption in our ability to manufacture and distribute our products could cause our business to be unsuccessful.

Risks Related to Our Common Stock

The rights of holders of common stock may be impaired by the possible future issuance of preferred stock.

Our Board of Directors has the right, without approval of the holders of our common stock (subject to the rules of any exchange on which our securities are then listed), to issue additional preferred stock with voting, dividend, conversion, liquidation and other rights which could adversely affect the voting power and equity interest of the holders of common stock, which could be issued with the right to more than one vote per share, and could be utilized as a method of discouraging, delaying or preventing a change-of-control. The possible negative impact of takeover attempts could adversely affect the price of our common stock. Although we have no present intention to issue any shares of preferred stock, we may issue these shares in the future.

We have not paid dividends in the past and do not expect to pay dividends in the future on our common stock.

We have never paid cash dividends on our common stock and do not anticipate paying cash dividends in the foreseeable future. The payment of dividends on our common stock will depend on earnings, financial condition, and other business and economic factors affecting us at such time as our Board of Directors may consider relevant. If we do not pay dividends, our common stock may be less valuable because a return on a stockholders' investment will only occur if our stock price appreciates.

Our stock price may be volatile in the future.

The trading price of our common stock has been subject to wide fluctuations in response to quarter-to-quarter variations in results of operations, announcements of technological innovations or new products introduced by us or our competitors, general conditions in the wireless communications, consumer electronics, semiconductor and display markets, changes in earnings estimates by analysts or other events or factors. In addition, the public stock markets recently have experienced high price and trading volatility. The risks related to rising inflation and rising interest rates could have a material impact on our revenues and costs. This volatility has significantly affected the market prices of securities of many technology companies for reasons frequently unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the market price of our common stock.

There is uncertainty regarding the exclusive forum clause in our amended and restated bylaws.

Our amended and restated bylaws include a clause that provides that the Court of Chancery of the State of Delaware will be the exclusive forum for certain types of actions that may be brought against us. There is uncertainty as to whether we would seek to, or whether we could successfully, apply this exclusive forum provision to any actions that may be brought against us under the Securities Act.

Additional stock offerings in the future may dilute then existing stockholders' percentage ownership of our company.

Given our capital plans, needs and expectations, we may issue additional shares of common stock or securities convertible or exercisable for shares of common stock, including convertible preferred stock, convertible notes, stock options or warrants. The issuance of additional securities in the future will dilute the percentage ownership of the then existing stockholders.

General Risk Factors

Our future growth and profitability may be adversely affected if our marketing initiatives are not effective in generating sufficient levels of our product and brand awareness.

Our future growth and profitability from our enterprise, industrial and medical markets focused products will depend in large part upon the effectiveness and efficiency of our marketing efforts, including our ability to:

- create awareness of our brand and products;
- convert customer awareness into actual product purchases;
- effectively manage marketing costs (including creative and media) in order to maintain acceptable operating margins and return on marketing investment; and
- successfully offer to sell our products or license our technology to third-party companies for sale under their own brand name as OEM partners.

Our planned marketing expenditures may not result in increased total sales or generate sufficient levels of product and brand name awareness. We may not be able to manage our marketing expenditures on a cost-effective basis.

If we fail to keep pace with changing technologies or are unable to anticipate customer preferences, our business and results of operations may be materially adversely affected.

Rapidly changing customer requirements, evolving technologies and industry standards characterize the consumer electronics, IT, mobile devices, smart phone, wearables and display industries. To achieve our goals, we need to enhance our existing products and develop and market new products that keep pace with continuing changes in industry standards, requirements and customer preferences.

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Our success depends on our ability to originate new products and to identify product trends as well as to anticipate and react to changing customer demands in a timely manner. If we are unable to introduce new products or novel technologies in a timely manner or our new products or technologies are not accepted by customers, our competitors may introduce more attractive products, which could hurt our competitive position. Our new products might not receive customer acceptance if customer preferences shift to other products, and our future success depends in part on our ability to anticipate and respond to these changes. Failure to anticipate and respond in a timely manner to changing customer preferences could lead to, among other things, lower revenue and excess inventory levels.

Our business and products are subject to government regulation and we may incur additional compliance costs or, if we fail to comply with applicable regulations, may incur fines or be forced to suspend or cease operations.

In our current business and as we expand into new markets and product categories, we must comply with a wide variety of laws, regulations, standards and other requirements governing, among other things, electrical safety, wireless emissions, health and safety, e-commerce, consumer protection, export and import requirements, hazardous materials usage, product-related energy consumption, packaging, recycling and environmental matters. Compliance with these laws, regulations, standards and other requirements may be onerous and expensive, and they may be inconsistent from jurisdiction to jurisdiction (including from country to country), further increasing the cost of compliance and conducting business activities. Our products may require regulatory approvals or satisfaction of other regulatory concerns in the various jurisdictions in which they are manufactured, sold or both. These requirements create procurement and design challenges that require us to incur additional costs identifying suppliers and manufacturers who can obtain and produce compliant materials, parts and products. Failure to comply with such requirements can subject us to liability, additional costs and reputational harm and, in extreme cases, force us to recall products or prevent us from selling our products in certain jurisdictions. If there is a new regulation, or change to an existing regulation, that significantly increases our costs of manufacturing or causes us to significantly alter the way that we manufacture our products, this would have a material adverse effect on our business, financial condition and results of operations. Additionally, while we have implemented policies and procedures designed to ensure compliance with applicable laws and regulations, there can be no assurance that our employees, contractors and agents will not violate such laws and regulations or our policies and procedures.

Our products must comply with certain requirements of the U.S. Federal Communications Commission (FCC) regulating electromagnetic radiation in order to be sold in the United States and with comparable requirements of the regulatory authorities of the EU, Japan, China and other jurisdictions in order to be sold in those jurisdictions. Our AR smart glasses products include wireless radios and receivers which require additional emission testing. We are also subject to various environmental laws and governmental regulations related to toxic, volatile, and other hazardous chemicals used in the third-party components incorporated into our products, including the Restriction of Certain Hazardous Substances Directive, or RoHS and the EU Waste Electrical and Electronic Equipment Directive, or the WEEE Directive, as well as the implementing legislation of the EU member states, which directive restricts the distribution of products within the EU that exceed very low maximum concentration amounts of certain substances, including lead. Similar laws and regulations have been passed or are pending in China, Japan, and numerous countries around the world and may be enacted in other regions, including in the United States, and we are, or may in the future be, subject to these laws and regulations.

From time to time, our products are subject to new domestic and international requirements. Compliance with regulations enacted in the future could substantially increase our cost of doing business or otherwise have a material adverse effect on our results of operations and our business. Any inability by us to comply with regulations in the future could result in the imposition of fines or in the suspension or cessation of our operations or sales in the applicable jurisdictions. Any such inability by us to comply with regulations may also result in our not being permitted, or limit our ability, to ship our products which would adversely affect our revenue and ability to achieve or maintain profitability.

Although we have policies and procedures in place requiring our contract manufacturers and major component suppliers to comply with the supply chain transparency requirements, such as RoHS Directive, we cannot provide assurance that our manufacturers and suppliers consistently comply with these requirements. In addition, if there are changes to these or other laws (or their interpretation) or if new related laws are passed in other jurisdictions, we may be

required to re-engineer our products to use components compatible with these regulations. This re-engineering and component substitution could result in additional costs to us or disrupt our operations or logistics.

The WEEE Directive requires electronic goods producers to be responsible for the collection, recycling and treatment of such products. Changes in interpretation of the directive may cause us to incur costs or have additional regulatory requirements to meet in the future in order to comply with this directive, or with any similar laws adopted in other jurisdictions. Our failure to comply with past, present and future similar laws could result in reduced sales of our products, substantial product inventory write-offs, reputational damage, penalties and other sanctions, which could harm our business and financial condition. We also expect that our products will be affected by new environmental laws and regulations on an ongoing basis. To date, our expenditures for environmental compliance have not had a material impact on our results of operations or cash flows and, although we cannot predict the future impact of such laws or regulations, they will likely result in additional costs and may increase penalties associated with violations or require us to change the content of our products or how they are manufactured, which could have a material adverse effect on our business and financial condition.

While we may incur increasing costs to comply with such other government regulations, we do not believe that our compliance with such requirements will have a material effect on our capital expenditures, competitive position, consolidated results of operations, earnings, or cash flows. Nonetheless, we believe that certain environmental, social and governance ("ESG") regulations could potentially materially impact our business.

We are subject to risks related to environmental, social and governance activities and disclosures (ESG) and sustainability requirements.

Concern over climate change may result in new or additional legal, legislative and regulatory requirements to reduce or mitigate the effects of climate change on the environment, which could result in future tax, transportation and other cost increases that could adversely affect our business. Compliance with such requirements could also require additional expenditures by us or our suppliers, which could have a material adverse effect on our business, results of operations, financial condition and cash flows. Our operations, supply chain and products are not currently subject to carbon pricing or other legally required carbon taxation or penalties.

Our operations, supply chain and our products are expected to become increasingly subject to federal, state, local and foreign laws, regulations and international treaties relating to climate change, such as climate disclosure, carbon pricing or product energy efficiency requirements, requiring us to comply or potentially face market access limitations or other sanctions including fines. We intend to strive to improve the energy and carbon efficiency of our operations, supply chain and product portfolio.

In addition, ESG reporting and disclosure requirements are continuing to evolve, with increasing global regulation and heightened investor expectations. Companies must develop an expanded set of metrics and measures, data collection and processing, controls, and reporting processes in order to meet regulatory requirements and stakeholder expectations. Failure to promptly and accurately meet these expectations and requirements may result in reputational and brand damage, regulatory penalties and litigation, among other things.

Regulations related to conflict minerals may cause us to incur additional expenses and could limit the supply and increase the costs of certain materials used in the manufacturing of our products.

As a public company, we are subject to requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, or the Dodd-Frank Act, that require us to determine, disclose and report whether or not our products contain conflict minerals. These requirements could adversely affect the sourcing, availability and pricing of the materials used in the manufacture of components used in our products. In addition, we have and will continue to incur additional costs to comply with the disclosure requirements, including costs related to conducting diligence procedures to determine the sources of conflict minerals that may be used in, or necessary for the production of, our products and, if applicable, potential changes to products, processes or sources of supply as a consequence of such verification activities. We also may face reputational harm if we determine that certain of our products contain minerals

not determined to be conflict free or if we are unable to alter our products, processes or sources of supply to avoid such materials.

If our customers are not satisfied with our technical support, firmware or software updates on some of our products, they may choose not to purchase our products, which would adversely impact our business and operating results.

Our business relies, in part, on our customers' satisfaction with the technical support, firmware, software and security updates we provide to support our products. If we fail to provide technical support services and necessary updates that are responsive, satisfy our customers' expectations and resolve issues that they encounter with our products, customers may choose not to purchase additional products and we may face brand and reputational harm, which could adversely affect our operating results.

Our operating results may be adversely impacted by worldwide political, economic, public health uncertainties, wars and specific conditions in the markets we address.

Any worsening of global economic, financial, or public health conditions, including global pandemics, such as COVID-19, could materially adversely affect (i) our ability to raise, or the terms of needed capital; (ii) demand for our current and future products; and (iii) the supply of components for our products. We cannot predict the timing, strength, or duration of any economic slowdown or subsequent economic recovery, worldwide, or such impact on the display industry.

Our results of operations may suffer if we are not able to successfully manage our increasing exposure to foreign exchange rate risks.

A majority of our sales and cost of components are denominated in U.S. dollars. As our business grows, both our sales and production costs may increasingly be denominated in other currencies. Where such sales or production costs are denominated in other currencies, they are converted to U.S. dollars for the purpose of calculating any sales or costs to us. Our sales may decrease as a result of any appreciation of the U.S. dollar against these other currencies.

The majority of our current expenditures are incurred in U.S. dollars and many of our components come from countries that currently peg their currency against the U.S. dollar. If the pegged exchange rates change adversely or are allowed to float up, additional U.S. dollars will be required to fund our purchases of these components.

Although we do not currently enter into currency option contracts or engage in other hedging activities, we may do so in the future. There is no assurance that we will undertake any such hedging activities or that, if we do so, they will be successful in reducing the risks to us of our exposure to foreign currency fluctuations.

Due to our significant level of international operations, including the use of foreign suppliers and contract manufactures, we are subject to international operational, financial, legal, political and public health risks which could harm our operating results.

We purchase product components from our suppliers and engage third-party contract manufacturing firms to perform electronic circuit board and cable assemblies. We assemble our finished products to our plant in West Henrietta, New York. Additionally, we use our West Henrietta, New York facility for the production of waveguides and their related display engines and intend to do so for some time. In the future, our mature products could have their final assembly performed outside the United States. Accordingly, a substantial part of our operations, including manufacturing of certain components used in our products, could be outside of the United States and many of our customers and suppliers have some or all of their operations in countries other than the United States. Risks associated with our doing business outside of the United States include:

- compliance burdens and costs with a wide variety of foreign laws and regulations, particularly labor, environmental and other laws and regulations that govern our operations in those countries;

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- legal uncertainties regarding foreign taxes, tariffs, border taxes, quotas, export controls, export licenses, import controls and other trade barriers;
- economic instability and high levels of inflation in the countries of our suppliers and customers, particularly in the Asia-Pacific region, causing delays or reductions in orders for their products and therefore our sales;
- political or public health instability, including global pandemics, such as COVID-19, in the countries in which our suppliers operate;
- changes or volatility in currency exchange rates; and
- difficulties in collecting accounts receivable and longer accounts receivable payment cycles.

Any of these factors could harm our own, our suppliers' and our customers' international operations and businesses and impair our and/or their ability to continue expanding into international markets.

We could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act or similar anti-bribery laws in other jurisdictions in which we operate.

The global nature of our business and the significance of our international revenue create various domestic and local regulatory challenges and subject us to risks associated with our international operations. We operate in areas of the world that experience corruption by government officials to some degree and, in certain circumstances, compliance with anti-bribery and anticorruption laws may conflict with local customs and practices. Our global operations require us to import and export to and from several countries, which geographically expands our compliance obligations. In addition, changes in such laws could result in increased regulatory requirements and compliance costs which could adversely affect our business, financial condition and results of operations.

The U.S. Foreign Corrupt Practices Act (FCPA), the U.K. Bribery Act 2010 (U.K. Bribery Act), and similar anti-bribery and anticorruption laws in other jurisdictions generally prohibit U.S.-based companies and their intermediaries from making improper payments to non-U.S. officials for the purpose of obtaining or retaining business, directing business to another, or securing an advantage. In addition, U.S. public companies are required to maintain records that accurately and fairly represent their transactions and have an adequate system of internal accounting controls. Under the FCPA, U.S. companies may be held liable for the corrupt actions taken by directors, officers, employees, agents, or other strategic or local partners or representatives. As such, if we or our intermediaries fail to comply with the requirements of the FCPA or similar legislation, governmental authorities in the United States and elsewhere could seek to impose substantial civil and/or criminal fines and penalties which could have a material adverse effect on our business, reputation, operating results and financial condition.

We are subject to governmental export and import controls and economic sanctions laws that could subject us to liability and impair our ability to compete in international markets.

The U.S. and various foreign governments have imposed controls, export license requirements and restrictions on the import or export of some technologies. Our products are subject to U.S. export controls, including the Commerce Department's Export Administration Regulations and various economic and trade sanctions regulations established by the Treasury Department's Office of Foreign Assets Controls, and exports of our products must be made in compliance with these laws. Furthermore, U.S. export control laws and economic sanctions prohibit the provision of products and services to countries, governments, and persons targeted by U.S. sanctions. Even though we take precautions to prevent our products from being provided to targets of U.S. sanctions, our products, including our firmware updates, could be provided to those targets or provided by our customers despite such precautions. Any such provision could have negative consequences, including government investigations, penalties and reputational harm. Our failure to obtain required import or export approval for our products could harm our international and domestic sales and adversely affect our revenue.

If significant tariffs or other restrictions are placed and maintained on Chinese imports or any related counter-measures are taken by China, our revenue and results of operations may be materially harmed.

If additional significant tariffs or other restrictions are placed on Chinese imports or any related counter-measures are taken by China, our revenue and results of operations may be materially harmed. Since July 2018, the US Administration introduced a list of thousands of categories of goods that began facing tariffs of up to 25%, inclusive of many components and services we have sourced or have performed for us in China by suppliers there. These tariffs currently affect most of our products and we may be required to raise our prices on those products due to the tariffs, which may result in a loss of customers and harm our operating performance. If the existing tariffs are expanded or interpreted by a court or governmental agency to apply to any of our other products, we may be required to raise our prices on those products also, which may further result in a loss of customers and harm our operating performance. It is possible further tariffs will be imposed on imports of our products, or that our business will be impacted by retaliatory trade measures taken by China or other countries in response to existing or future tariffs, causing us to raise prices or make changes to our operations, any of which could materially harm our revenue or operating results.

Changes in trade policy in the United States and other countries, including changes in trade agreements and the imposition of tariffs and the resulting consequences, may have adverse impacts on our business, results of operations and financial condition.

The U.S. government has indicated and demonstrated its intent to alter its approach to international trade policy through the renegotiation, and potential termination, of certain existing bilateral or multilateral trade agreements and treaties with, and the imposition of tariffs on a wide range of products and other goods from China, countries in EMEA and other countries. Given our manufacturing in those countries, and our lack of manufacturing elsewhere, policy changes in the United States or other countries, such as the tariffs already proposed, implemented and threatened, present particular risks for us. Tariffs already implemented are having an adverse effect on certain of our products and threatened additional tariffs could adversely affect more or all of our products. There are also risks associated with retaliatory tariffs and resulting trade wars. We cannot predict future trade policy, the terms of any renegotiated trade agreements or treaties, or tariffs and their impact on our business. A trade war could have a significant adverse effect on world trade and the world economy. To the extent that trade tariffs and other restrictions imposed by the United States or other countries increase the price of, or limit the amount of, our products or components or materials used in our products imported into the United States or other countries, or create adverse tax consequences, the sales, cost or gross margin of our products may be adversely affected and the demand from our customers for products and services may be diminished. Uncertainty surrounding international trade policy and disputes and protectionist measures could also have an adverse effect on consumer confidence and spending. If we deem it necessary to alter all or a portion of our activities or operations in response to such policies, agreements or tariffs, our capital and operating costs may increase. Our ongoing efforts to address these risks may not be effective and may have long-term adverse effects on our operations and operating results that we may not be able to reverse. Such efforts may also take time to implement or to have an effect, and may result in adverse quarterly financial results or fluctuations in our quarterly financial results. As a result, changes in international trade policy, changes in trade agreements and tariffs could adversely affect our business, results of operations and financial condition.

Any significant disruption to our ecommerce business could result in lost sales.

Our sales through our ecommerce channel have been growing. Sales through vuzix.com and our related EU, UK and Japanese web stores generally have higher profit margins than sales through resellers, VARs and distributors. Online sales are subject to a number of risks. System interruptions or delays could cause potential customers to fail to purchase our products and could harm our brand. The operation of our direct-to-consumer ecommerce business through vuzix.com depends on our ability to maintain the efficient and uninterrupted operation of online order-taking and fulfillment operations. Our ecommerce operations subject us to certain risks that could have an adverse effect on our operating results, including risks related to the computer systems that operate our website and related support systems, such as system failures, viruses, identity information thefts, denial-of-services attacks, computer hackers and similar disruptions. If we are unable to continually add software and hardware, effectively upgrade our systems and network infrastructure and take other steps to improve the efficiency of our systems, system interruptions or delays could occur that would adversely affect our operating results.

We utilize third-party vendors for our customer-facing ecommerce technology, portions of our order management system and fulfillment internationally. We depend on our technology vendors to manage “up-time” of the front-end ecommerce store, manage the intake of our orders, and export orders for fulfillment. Any failure on the part of our third-party ecommerce vendors or in our ability to transition third-party services effectively could result in lost sales and harm our business.

We collect, store, process and use portions of our customers’ personally identifiable information and other data, which subjects us to governmental regulation and other legal obligations related to privacy, information security and data protection. Any cybersecurity breaches or our actual or perceived failure to comply with such legal obligations by us, or by our third-party service providers or partners, could harm our business.

We collect, store, process and use our customers’ personally identifiable information and other data in our transactions with them, and we rely on third parties who are not directly under our control to do so as well. While we take reasonable measures intended to protect the security, integrity and confidentiality of the personal information and other sensitive information we collect, store or transmit, we cannot guarantee that inadvertent or unauthorized use or disclosure will not occur, or that third parties will not gain unauthorized access to this information. While our privacy policies currently prohibit such activities, our third-party service providers or partners may engage in such activity without our knowledge or consent. If we or our third-party service providers were to experience a breach, disruption or failure of systems compromising our customers’ data, or if one of our third-party service providers or partners were to access our customers’ personal data without our authorization, our brand and reputation could be adversely affected, use of our products could decrease and we could be exposed to a risk of loss, litigation and regulatory proceedings.

Regulatory scrutiny of privacy, data collection, use of data and data protection is intensifying globally, and the personal information and other data we collect, store, process and use is increasingly subject to legislation and regulations in numerous jurisdictions around the world, especially in Europe. These laws often develop in ways we cannot predict and may materially increase our cost of doing business, particularly as we expand the nature and types of products we offer. For example, the General Data Protection Regulation (the “GDPR”), which came into effect in the EU, and the State of California enacted California Consumer Privacy Act of 2018 (the “CCPA”), which went into effect on January 1, 2020, impose more stringent data protection requirements and provide for greater penalties for noncompliance. These regulations require companies that process information to make new disclosures to consumers about their data collection, use and sharing practices, and allows consumers to opt out of certain data sharing with third parties while providing a new cause of action for data breaches. Further, data protection legislation is also becoming increasingly common in the United States at both the federal and state level. The burdens imposed by these and other similar laws that may be enacted at the federal and state level may require us to modify our data processing practices and policies and/or to incur substantial expenditures in order to comply.

Cybersecurity risks could adversely affect our business and disrupt our operations.

The threats to network and data security are increasingly diverse and sophisticated. Despite our efforts and processes to prevent breaches, our devices, as well as our servers, computer systems, and those of third parties that we use in our operations are vulnerable to cybersecurity risks, including cyber-attacks such as viruses and worms, phishing attacks, denial-of-service attacks, physical or electronic break-ins, employee theft or misuse, and similar disruptions from unauthorized tampering with our servers and computer systems or those of third parties that we use in our operations, which could lead to interruptions, delays, loss of critical data, unauthorized access to user data, and loss of consumer confidence. In addition, we may be the target of email scams that attempt to acquire personal information or company assets. Despite our efforts to create security barriers to such threats, we may not be able to entirely mitigate these risks. Any cyber-attack that attempts to obtain our or our users’ data and assets, disrupt our service, or otherwise access our systems, or those of third parties we use, if successful, could adversely affect our business, operating results, and financial condition, be expensive to remedy, and damage our reputation. In addition, any such breaches may result in negative publicity, adversely affect our brand, decrease demand for our products and services, and adversely affect our operating results and financial condition.

Our failure to effectively manage growth could harm our business.

We intend to expand the number and types of products we sell. We will need to replace and regularly introduce on a timely basis new products and technologies, enhance existing products, and effectively stimulate customer demand for new products and upgraded or enhanced versions of our existing products.

The replacement and expansion of our products places a significant strain on our management, operations and engineering resources. Specifically, the areas that are strained most by these activities include the following:

- **New Product Launches:** With the changes in and growth of our product portfolio, we will experience increased complexity in coordinating product development, manufacturing, and shipping. As this complexity increases, it places a strain on our ability to accurately coordinate the commercial launch of our products with adequate supply to meet anticipated customer demand and effectively market to stimulate demand and market acceptance. We have experienced delays in the past. If we are unable to scale and improve our product launch coordination, we could frustrate our customers and lose possible retail shelf space and product sales;
- **Existing Products Impacted by New Introductions:** The introduction of new products or product enhancements may shorten the life cycle of our existing products, or replace sales of some of our current products, thereby offsetting the benefit of even a successful product introduction and may cause customers to defer purchasing our existing products in anticipation of the new products and potentially lead to challenges in managing inventory of existing products. We may also provide price protection to some of our retailers as a result of our new product introductions and reduce the prices of existing products. If we fail to effectively manage new product introductions, our revenue and profitability may be harmed; and
- **Forecasting, Planning and Supply Chain Logistics:** With the changes in and growth of our product portfolio, we will experience increased complexity in forecasting customer demand, in planning for production, and in transportation and logistics management. If we are unable to scale and improve our forecasting, planning, production, and logistics management, we could frustrate our customers, lose product sales or accumulate excess inventory.

Our facilities and information systems and those of our key suppliers could be damaged as a result of disasters or unpredictable events, which could have an adverse effect on our business operations.

We operate the majority of our business from one location in West Henrietta, New York (a suburb of Rochester). We also rely on third-party manufacturing plants in the United States and Asia and third-party logistics, sales and marketing facilities in Japan and Europe, and in other parts of the world to provide key components for our products and services. If major disasters such as earthquakes, pandemics, fires, floods, wars, terrorist attacks, computer viruses, transportation disasters or other events occur in any of these locations, or our information systems or communications network or those of any of our key component suppliers breaks down or operates improperly as a result of such events, our facilities or those of our key suppliers may be seriously damaged, and we may have to stop or delay production and shipment of our products. We may also incur expenses relating to such damages. If production or shipment of our products or components is stopped or delayed or if we incur any increased expenses as a result of damage to our facilities, our business, operating results and financial condition could be materially adversely affected.

We do not control our component suppliers, service providers and contract manufacturers or currently require them to comply with a formal code of conduct, and actions that they might take could harm our reputation and sales.

We do not control our component suppliers, service providers and contract manufacturers, including their labor, environmental or other practices, or require them to comply with a formal code of conduct. Though we conduct periodic visits to some of our contract manufacturers and suppliers, these visits are not frequent or thorough enough to detect non-compliance with applicable laws and good industry practices. A violation of labor, environmental or other laws by our contract manufacturers or suppliers, or a failure of these parties to follow ethical business practices, could lead to negative publicity and harm our reputation. In addition, we may choose to seek alternative manufacturers or suppliers if

these violations or failures were to occur. Identifying and qualifying new manufacturers or suppliers can be time consuming and we might not be able to substitute suitable alternatives in a timely manner or at an acceptable cost. Other consumer products companies have faced significant criticism for the actions of their manufacturers and suppliers, and we could face such criticism ourselves. Any of these events could adversely affect our brand, harm our reputation, reduce demand for our products and harm our ability to meet demand if we need to identify alternative manufacturers or suppliers.

We rely on third-party suppliers, some of which are sole-source suppliers, to provide components for our products which may lead to supply shortages, long lead times for components, and supply changes, any one of which could disrupt our supply chain, may increase our costs, and we may be unable to meet the demands of our customers and end-users on a timely basis.

Our ability to meet customer demand depends, in part, on our ability to obtain timely and adequate delivery of components for our products. All of the components that go into the manufacturing of our smart glasses products and accessories, other than waveguide optics, are sourced from third-party suppliers. The availability of certain of the components that we require to produce our AR Smart Glasses and other near-eye display products may decrease.

Some of the key components used to manufacture our products come from a limited or single source of supply, or by a supplier that could potentially become a competitor. Our contract manufacturers generally purchase these components on our behalf from approved suppliers. We are subject to the risk of shortages and long lead times in the supply of these components and the risk that our suppliers discontinue or modify components used in our products. The potential of partial or full government mandated shutdowns resulting from COVID-19 or other pandemics may increase these risks. In addition, the lead times associated with certain components are lengthy and preclude rapid changes in quantities and delivery schedules. Further the electronic components we utilize can go end-of-life due to technological changes, which can require us to invest in implementation costs of alternatives and the potential for the forced obsolescence of other related items. We have in the past experienced end-of-life issues and expect to see more shortages in the future. As such, the availability of these components may be unpredictable.

As the availability of components decreases, the cost of acquiring those components ordinarily increases. High growth product categories such as the consumer electronics and mobile phone markets have experienced chronic shortages of components during periods of exceptionally high demand. If we do not properly anticipate the need for or procure critical components, we may pay higher prices for those components, our gross margins may decrease and we may be unable to meet the demands of our customers and end-users, which could reduce our competitiveness, cause a decline in our market share and have a material adverse effect on our results of operations.

If we lose access to components from a particular supplier or experience a significant disruption in the supply of products and components from a current supplier, we may be unable to locate alternative suppliers of comparable quality at an acceptable price, or at all, and our business could be materially and adversely affected. In addition, if we experience a significant increase in demand for our products, our suppliers might not have the capacity or elect not to meet our needs as they allocate components to other customers. Developing suitable alternate sources of supply for these components may be time-consuming, difficult and costly, and we may not be able to source these components on terms that are acceptable to us, or at all, which may adversely affect our ability to meet our development requirements or to fill our orders in a timely or cost-effective manner. Identifying a suitable supplier is an involved process that requires us to become satisfied with the supplier's quality control, responsiveness and service, financial stability, labor and other ethical practices, and if we seek to source materials from new suppliers, there can be no assurance that we could do so in a manner that does not disrupt the manufacture and sale of our products.

Our reliance on single source, or a small number of suppliers involves a number of additional risks, including risks related to supplier capacity constraints, price increases, timely delivery, component quality, failure of a key supplier to remain in business and adjust to market conditions, delays in, or the inability to execute on, a supplier roadmap for components and technologies; and natural disasters, fire, wars, acts of terrorism or other catastrophic events, including global pandemics.

We do not currently own or operate any manufacturing facilities for any types of micro-displays, one of the key components in our products. Certain other components and services necessary for the manufacture of our products are available from only a limited number of sources, and other components and services are only available from a single source. We currently purchase almost all of the micro-displays used in our Smart Glasses products from Sony Corporation and Texas Instruments. Our relationship with these companies generally is on a purchase order basis and these firms do not have a contractual obligation to provide adequate supply or acceptable pricing to us on a long-term basis. These firms could discontinue sourcing components for us at any time. If any of these firms were to discontinue its relationship with us, or discontinue providing specific products to us, and we are unable to contract with a new supplier that can meet our requirements, or if they or such other supplier were to suffer a disruption in their production, we could experience disruption of our inventory flow, a decrease in sales and the possible need to re-design our products. Any such event could disrupt our operations and have an adverse effect on our business, financial condition and results of operations. Several new LCOS, alternative OLED, as well as micro-LED suppliers have begun offering micro-displays suitable for use in our products. With new tooling and electronics, any one of these alternative displays could be incorporated into our products but our costs of production could be higher, they may offer less performance, and, as a result, may make our products too costly and less desirable.

If our estimates or judgments relating to our critical accounting policies prove to be incorrect, our operating results could be adversely affected.

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, as provided in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this Annual Report on Form 10-K. The results of these estimates form the basis for making judgments about the carrying values of assets, liabilities, and equity, and the amount of revenue and expenses that are not readily apparent from other sources. Significant assumptions and estimates used in preparing our consolidated financial statements include those related to revenue recognition, inventories, product warranty reserves, accounting for income taxes, and stock-based compensation expense. Our operating results may be adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our operating results to fall below the expectations of securities analysts and investors, resulting in a decline in the price of our common stock.

Item 1B. *Unresolved Staff Comments*

None.

Item 2. *Properties*

We lease approximately 39,000 square feet as our main facility at 25 Hendrix Road, West Henrietta, New York, 14586 (a suburb of Rochester). This facility houses our headquarters office, R&D and manufacturing space under an operating lease for the facility that we began occupying in October 2015. In October 2022, we leased an additional 12,000 square feet for our new waveguide manufacturing facility at 30 Becker Road, also in West Henrietta, New York. The base rent contractual payment obligations under these operating leases is currently \$698,000 per year. The lease at 25 Hendrix Road has an original five-year term with an option by the Company to renew for two additional three-year terms at pre-agreed to lease rates. As of June 25, 2020, the Company exercised the first of the two renewal terms, extending our current lease expiration date to January 31, 2024. The lease at 30 Becker Road has an original three-year term with an option by the Company to renew for two additional one-year terms at pre-agreed to lease rates. We believe that our West Henrietta facilities are in good operating condition and currently adequately serves our needs. Note, our new expansion space at 30 Becker Road is currently under construction and its planned completion is May or June of 2023.

In Oxford, England, we rent 400 square feet of office space at a cost of approximately \$9,700 per year. The lease for this location expired on September 30, 2021 and is currently on a month-to-month basis.

In Tokyo, Japan, we rent 577 square feet of office space at a cost of approximately \$85,000 per year. We lease this location pursuant to a renewable one-year lease which expired on February 28, 2022 and is currently on a month-to-month basis.

Item 3. *Legal Proceedings*

We are not currently involved in any actual or pending legal proceedings or litigation that we consider to be material, and we are not aware of any such material proceedings contemplated by or against us or involving our property.

Item 4. *Mine Safety Disclosures*

Not applicable.

PART II

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

Market for our Common Stock

Our common stock is listed on the NASDAQ Capital Market under the symbol "VUZI".

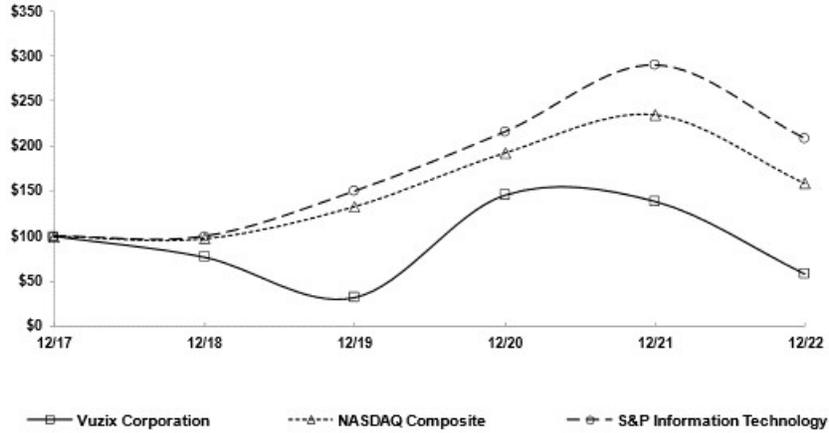
Company Stock Performance

The following graph shows a five-year comparison of cumulative total shareholder return for the Company, the NASDAQ US Benchmark TR Index and the S&P 500 Information Technology index. The graph assumes \$100 was invested in each of the Company's common stock, the NASDAQ Composite Index and the S&P 500 Information

Technology index on December 31, 2017. Data points on the graph are annual. Note that historical price performance is not necessarily indicative of future performance.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*

Among Vuzix Corp, the NASDAQ Composite Index
and the S&P Information Technology Index



*\$100 invested on 12/31/17 in stock or index, including reinvestment of dividends.
Fiscal year ending December 31.

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Holders of Record

As of March 1, 2023, there were 61 holders of record of our common stock.

Dividends

We have not historically and currently do not pay dividends on our outstanding common stock. The declaration of any future dividends and, if declared, the amount of any such dividends, will be subject to our actual future earnings, capital requirements, regulatory restrictions, any applicable contractual restrictions and at the discretion of our Board of Directors. Our Board of Directors may take into account such matters as general business conditions, our financial condition and results of operations, our capital requirements, our prospects and such other factors as our Board of Directors may deem relevant.

Shares of Series A Preferred stock were entitled to receive dividends at a rate of 6% per year, compounded quarterly and payable in cash or in kind, at our discretion. On January 28, 2021, the holder converted all of its shares of Series A Preferred Stock into 4,962,600 shares of common stock. The shares of Series A Preferred were retired and cannot be reissued. On the same date, the Company and the holder entered into a Dividend Settlement Agreement pursuant to which the holder agreed to accept \$10,000,000 in cash in full payment of all accrued Series A Preferred Stock dividends in the approximate amount of \$10,800,000.

Issuer Purchases of Equity Securities

We did not purchase equity securities that are registered under Section 12 of the Exchange Act during the year ended December 31, 2022.

Unregistered Sales of Equity Securities and use of Proceeds

Sales of Unregistered Securities - none

Purchase of Equity Securities:

Period	Total number of shares purchased (1)	Average price paid per share (1)	Total number of shares purchased under the Company's Share Buyback Program (1)	Maximum dollar value that may yet be purchased (1)
March 30 - 31, 2022	36,685	\$ 6.84	36,685	\$ 24,748,906
November 29 – December 31, 2022	427,987	\$ 4.10	427,987	\$ 22,994,256

(1) On March 2, 2022, our Board of Directors approved the repurchase by the Company of up to an aggregate of \$25 million of our common stock by open market or privately negotiated transactions under the Share Buyback Program. This program is in effect for one year, does not obligate the Company to acquire any particular amount of common stock and may be suspended or discontinued at any time at the Company's sole discretion.

Equity Compensation Plan Information

The following table provides information about our equity compensation plan as of December 31, 2022.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance (1)
Equity compensation plans approved by security holders	8,589,673	\$ 15.34	1,495,760
Equity compensation plans not approved by security holders	—	—	—
Total	8,589,673	\$ 15.34	1,495,760

(1) The amount appearing under "Number of securities remaining available for future issuance" includes shares available under our 2014 Equity Incentive Plan. The 2014 Plan (as amended) has an "evergreen provision", under which the maximum number of shares of common stock that may be issued under the 2014 Plan automatically increases each time the Company issues additional shares of common stock so that the total number of shares issuable thereunder at all times equals 20% of the then outstanding shares of common stock, unless in any case the Board of Directors adopts a resolution providing that the number of shares issuable under the 2014 Plan not be so increased. Refer to Note 14 for further details.

Item 6. [Reserved]

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

The following discussion and analysis of financial condition and results of operations should be read in conjunction with our financial statements and related notes appearing elsewhere in this annual report. In addition to historical information, the following discussion and analysis includes forward looking statements that involve risks, uncertainties and assumptions. Our actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of a variety of factors, including those discussed in "Risk Factors" and elsewhere in this annual report. See the discussion under "Forward Looking Statements" beginning on page 1 of this annual report.

Overview

We are engaged in the design, manufacture, marketing and sale of augmented reality wearable display devices also referred to as head mounted displays (or HMDs, but also known as near-eye displays), in the form of Smart Glasses and Augmented Reality (AR) glasses. Our wearable display devices are worn like eyeglasses or attach to a head worn mount. These devices typically include cameras, sensors, and a computer that enable the user to view, record and interact with video and digital content, such as computer data, the Internet, social media or entertainment applications. Our wearable display products integrate micro-display technology with our advanced optics to produce compact high-resolution display engines, less than half an inch diagonally, which when viewed through our smart glasses products create virtual images that appear comparable in size to that of a computer monitor or a large-screen television.

With respect to our Smart Glasses and AR products, we are focused on the enterprise, industrial, medical and commercial markets. All of the mobile display and mobile electronics markets in which we compete have been subject to rapid technological change over the last decade including the rapid adoption of tablets, larger screen sizes and display resolutions along with declining prices on mobile phones and other computing devices, and as a result we must continue to improve our products' performance and lower our costs. We believe our technology, intellectual property portfolio and position in the marketplace give us a leadership position in AR and Smart Glasses products, waveguide optics, micro LEDs and display engine technology.

Critical Accounting Policies and Significant Developments and Estimates

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements and related notes appearing elsewhere in this annual report. The preparation of these statements in conformity with generally accepted accounting principles requires the appropriate application of certain accounting policies, many of which require us to make estimates and assumptions about future events and their impact on amounts reported in our consolidated financial statements, including the statement of operations, balance sheet, cash flow and related notes. We continually evaluate our estimates used in the preparation of our consolidated financial statements, including those related to revenue recognition, bad debts, inventories, warranty reserves, product warranty, carrying value of long-lived assets, derivatives, valuation of stock compensation awards, and income taxes. We base our estimates on historical experience and on various other assumptions that we believe 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 apparent from other sources. Since we cannot determine future events and their impact with certainty, the actual results may differ from our estimates. Such differences could be material to the consolidated financial statements.

We believe that our application of accounting policies, and the estimates inherently required therein, are reasonable. We periodically re-evaluate these accounting policies and estimates and make adjustments when facts and circumstances dictate a change. Historically, we have found our application of accounting policies to be appropriate, and actual results have not differed materially from those determined using necessary estimates.

Our accounting policies are more fully described in the notes to our consolidated financial statements included in this annual report on Form 10-K. The critical accounting policies, judgments and estimates that we believe have the most significant effect on our financial statements are:

- Valuation of inventories;

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- Variable interest entities;
- Business combinations;
- Carrying value of long-lived assets, goodwill and other intangible assets;
- Software development costs;
- Revenue recognition;
- Product warranty;
- Stock-based compensation; and
- Income taxes.

Valuation of Inventories

Inventory is stated at the lower of cost or net realizable value, with cost determined on a weighted average first-in, first-out method. Inventory includes purchased parts and components, work in process and finished goods. Provisions for excess, obsolete or slow-moving inventory are recorded after periodic evaluation of historical sales, current economic trends, forecasted sales, estimated product life cycles and estimated inventory levels. Purchasing practices, electronic component obsolescence, accuracy of sales and production forecasts, introduction of new products, product life cycles, product support and foreign regulations governing hazardous materials are factors that contribute to inventory valuation risks. Exposure to inventory valuation risks is managed by maintaining safety stocks, minimum purchase lots, managing product and end-of-life issues brought on by aging components or new product introductions, and by utilizing certain inventory minimization strategies such as vendor-managed inventories. The accounting estimate related to valuation of inventories is considered a “critical accounting estimate” because it is susceptible to changes from period-to-period due to the requirement for management to make estimates relative to each of the underlying factors, ranging from purchasing to sales, production, and after-sale support. If actual demand, market conditions or product life cycles differ from estimates, inventory adjustments to net realizable values would result in a reduction to the carrying value of inventory, an increase in inventory write-offs and a decrease to gross margins.

The write-down and obsolescence provision for finished goods and components totaled \$290,405, \$519,950 and \$1,273,835 for the years ended December 31, 2022, 2021 and 2020, respectively. These provisions are included in Cost of Sales on the Consolidated Statements of Operations.

Business Combinations

The Company applied the acquisition method of accounting for business acquisitions for its business acquisition, described in further detail in Note 2. Under the acquisition method, identifiable assets acquired, liabilities assumed and consideration transferred are measured at their acquisition-date fair value. The Company used an income approach to determine the fair values, described in further detail in Note 2. We relied upon the use of reports from third-party valuation specialists to assist in the estimation of fair values. Purchase price allocations are subject to revision within the measurement period, not to exceed one year from the date of acquisition. Costs to acquire a business may include, but are not limited to, fees for accounting, legal and valuation services, and are expensed as incurred in the Consolidated Statements of Income.

Variable Interest Entities

We determine at the inception of each arrangement whether an entity in which we have made an investment or in which we have other variable interests is considered a variable interest entity (VIE). We consolidate VIEs when we are the primary beneficiary. We are the primary beneficiary of a VIE when we have the power to direct activities that most significantly affect the economic performance of the VIE and have the obligation to absorb the majority of their losses or benefits. If we are not the primary beneficiary in a VIE, we account for the investment or other variable interests in a VIE in accordance with applicable GAAP. Each reporting period, we assess whether any changes in our interest or relationship with the entity affect our determination of whether the entity is a VIE and, if so, whether we are the primary beneficiary.

Carrying Value of Long-Lived Assets

If facts and circumstances indicate that a long-lived asset, including a products' mold tooling and equipment, may be impaired, the carrying value is reviewed in accordance with FASB ASC Topic 360-10 *Accounting for the Impairment or Disposal of Long-Lived Assets*. If this review indicates that the carrying value of the asset will not be recovered as determined based on projected undiscounted cash flows related to the asset over its remaining life, the carrying value of the asset is reduced to its estimated fair value. Impairment losses are dependent on a number of factors such as general economic trends and major technology advances, and thus could be significantly different from historical results. For the years ended December 31, 2022 and 2021, we recorded a loss on fixed asset disposal of \$35,350 and \$183,614, respectively, upon the retirement of certain tooling and manufacturing equipment assets no longer in use. No loss on fixed asset disposal charges on tooling and equipment were recorded in 2020.

We perform a valuation of our patents and trademark assets when events or circumstances indicate their carrying amounts may be unrecoverable. For the years ended December 31, 2022, 2021 and 2020, there was an impairment charge of \$97,675, \$80,163 and \$73,532, respectively. The value of the remaining intellectual property, such as patents and trademarks, was valued (net of accumulated amortization) at \$2,220,094 as of December 31, 2022, because management believes that this value is recoverable.

Software Development Costs

The Company capitalizes the costs of obtaining and developing its software once technological feasibility has been determined by management or of purchased software solutions when placed into service. Such costs are accumulated and capitalized. These projects could take several years to complete. The capitalized costs are then amortized over 3 years on a straight-line basis. Unsuccessful or discontinued software projects are written off and expensed in the fiscal period where the application is abandoned or discontinued. The unamortized software development costs remaining were valued (net of accumulated amortization) at \$500,000 as of December 31, 2022. Management believes that this value is recoverable.

Revenue Recognition

The Company adopted the guidance on Revenue from Contracts with Customers under FASB ASC Topic 606, "Revenue from Contracts with Customers", as of January 1, 2018. Product sales represent the majority of the Company's revenue. The Company recognizes revenue from these product sales as performance obligations are satisfied and transfer of control to the customer has occurred, typically upon physical shipment. Revenue is recognized in the amount that the Company expects to receive in exchange from the sale of our products. FOB shipping point is our standard shipping term and revenue is recognized as our products ship to customers, as control is transferred at that time. All of our standard product sales include a 30-day money back guarantee and expected returns are estimated at each reporting period date and a portion of revenue is deferred for all estimated returns. As of December 31, 2022 and 2021, deferred revenue associated with our expected returns was immaterial. The Company collects and remits sales taxes in certain jurisdictions and reports revenue net of any associated sales taxes.

Revenue from engineering consulting and other services is recognized at the time the services are rendered. The Company accounts for its longer-term development contracts, which to date have all been firm fixed-priced contracts, on

the percentage-of-completion method, whereby income is recognized as work on contracts progresses, but estimated losses on contracts in progress are charged to operations immediately. The percentage-of-completion is determined using the cost-to-cost method. To date, all such contracts have been less than one calendar year in duration.

Product Warranty

Warranty obligations are generally incurred in connection with the sale of our products. The warranty period for these products is generally one year and up to 18 months for certain distributors. Customers may also purchase an additional twelve (12) month extended warranty. Warranty costs are accrued, to the extent that they are not recoverable from third-party manufacturers, for the estimated cost to repair or replace products for the balance of the warranty periods. We provide for the costs of expected future warranty claims at the time of product shipment or over-builds to cover replacements. The adequacy of the provision is assessed at each quarter end and is based on historical experience of warranty claims and costs. The costs incurred to provide for these warranty obligations are estimated and recorded as an accrued liability at the time of sale. Future warranty costs are estimated based on historical performance rates and related costs to repair given products. The accounting estimate related to product warranty is considered a “critical accounting estimate” because judgment is exercised in determining future estimated warranty costs. Should actual performance rates or repair costs differ from estimates, revision to the estimated warranty liability would be required.

Stock-Based Compensation Expense

Our Board of Directors approves grants of stock awards and options to employees to purchase our common stock. Stock-based compensation expense is recorded based upon the estimated fair value of the stock option or stock award at the date of grant. The Company uses the Black-Scholes-Merton option pricing model to estimate the fair value of stock options granted pursuant to ASC Topic 718. The application of this pricing model involves assumptions that are judgmental and sensitive in the determination of compensation expense. The fair market value of our common stock on the date of each option grant is determined based on the most recent quoted sales price on our primary trading stock exchange, currently the NASDAQ Capital Market. For stock options awards under the Company's LTIP (Long-term Incentive Plan), options vest upon the achievement of certain equity market conditions and performance-based milestones. The fair value of options granted under this program were calculated by using a Monte Carlo simulation for the equity market condition tranches and the Black-Scholes-Merton option pricing method for the performance-based tranches. The equity market condition awards are expensed over their derived service periods, which is an output of the Monte Carlo model. Upon the achievement of any market condition milestone, any unrecognized expense to-date would be expensed immediately. The performance-based tranches, that are currently considered probable of achievement, are expensed over their respective implicit service periods. We may experience significant catch-up or reversal of expense in the future in a period when any performance-based milestones first are determined to be probable of achievement or when any that are currently deemed probable are considered no longer probable.

Income Taxes

We have historically incurred operating losses from both a financial reporting and tax return standpoint. We provide deferred income tax assets and liabilities based on the estimated future tax effects of differences between the financial and tax bases of assets and liabilities based upon currently enacted tax laws. Any future recorded value of our deferred tax assets will be dependent upon our ability to generate taxable income in the jurisdictions in which we operate. These assets consist primarily of credit carry-forwards and net operating loss carry-forwards and the future tax effects of temporary differences between balances recorded for financial statement purposes and for tax return purposes. A valuation allowance is established for deferred tax assets in amounts for which realization is not considered more likely than not to occur. The accounting estimate related to income taxes is considered a “critical accounting estimate” because judgment is exercised in estimating future taxable income, including prudent and feasible tax planning strategies, and in assessing the need for any valuation allowance. To date, we have determined a 100% valuation allowance is required and accordingly no deferred tax asset has been reflected in our consolidated financial statements. In the event that it should be determined that all or part of a deferred tax asset in the future is more likely than not to be realized, an adjustment (reduction) of the valuation allowance would increase income to be recognized in the period such determination was made.

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In addition, the calculation of our deferred taxes involves dealing with uncertainties in the application of complex tax regulations. As a result, we recognize liabilities for uncertain tax positions based on the two-step process prescribed by GAAP. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step requires us to estimate and measure the tax benefit as the largest amount that is more than 50% likely of being realized upon ultimate settlement. It is inherently difficult and subjective to estimate such amounts, as this requires us to determine the probability of various possible outcomes. We re-evaluate these uncertain tax positions on a quarterly basis based on factors including, but not limited to, changes in facts or circumstances, changes in tax law, effectively settled issues under audit and new audit activity. Such a change in recognition or measurement would result in the recognition of a tax benefit or an additional charge to the tax provision in the period. The Company currently has no uncertain tax positions.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have, or are reasonably likely to have, a material effect on our financial condition, financial statements, revenues or expenses.

Recent Accounting Pronouncements

Refer to Note 1

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Results of Operations for Fiscal Years Ended December 31, 2022 and December 31, 2021

The following table compares the Company's consolidated statements of operations data for the years ended December 31, 2022 and 2021.

	Year Ended December 31,			
	2022	2021	Dollar Change	% Increase (Decrease)
Sales:				
Sales of Products	\$ 10,505,763	\$ 12,784,600	\$ (2,278,837)	(18)%
Sales of Engineering Services	1,330,119	380,333	949,786	250 %
Total Sales	11,835,882	13,164,933	(1,329,051)	(10)%
Cost of Sales:				
Cost of Sales - Products Sold	8,737,852	9,709,268	(971,416)	(10)%
Cost of Sales - Inventory Reserve for Obsolescence	290,405	519,950	(229,545)	(44)%
Cost of Sales - Depreciation and Amortization	799,317	1,321,467	(522,150)	(40)%
Cost of Sales - Engineering Services	525,182	45,758	479,424	1,048 %
Total Cost of Sales	10,352,756	11,596,443	(1,243,687)	(11)%
Gross Profit	1,483,126	1,568,490	(85,364)	(5)%
Gross Profit %	13 %	12 %		
Operating Expenses:				
Research and Development	12,676,688	11,674,954	1,001,734	9 %
Selling and Marketing	8,078,538	6,118,929	1,959,609	32 %
General and Administrative	21,038,562	22,502,833	(1,464,271)	(7)%
Depreciation and Amortization	1,788,584	988,104	800,480	81 %
Loss on Fixed Asset Disposal	35,350	183,614	(148,264)	(81)%
Impairment of Patents and Trademarks	97,675	80,163	17,512	22 %
Loss from Operations	(42,232,271)	(39,980,107)	(2,252,164)	6 %
Other Income (Expense):				
Investment Income	1,395,579	53,511	1,342,068	2,508 %
Income and Other Taxes	(212,997)	(307,368)	94,371	(31)%
Foreign Exchange Loss	(180,589)	(143,196)	(37,393)	26 %
Employee Retention Credit Refund	466,705	—	466,705	NM
Total Other Income (Expense), Net	1,468,698	(397,053)	1,865,751	(470)%
Net Loss	\$ (40,763,573)	\$ (40,377,160)	\$ (386,413)	1 %

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Sales. There was a decrease in total sales for the year ended December 31, 2022, from those in 2021 of \$1,329,051 or 10%. The following table reflects the major components of our sales:

	Year Ended December 31, 2022	% of Total Sales	Year Ended December 31, 2021	% of Total Sales	Dollar Change	% Increase (Decrease)
Sales of Products	\$ 10,505,763	89 %	\$ 12,784,600	97 %	\$ (2,278,837)	(18)%
Sales of Engineering Services	1,330,119	11 %	380,333	3 %	949,786	250 %
Total Sales	\$ 11,835,882	100 %	\$ 13,164,933	100 %	\$ (1,329,051)	(10)%

Sales of products decreased by 18% for the year ended December 31, 2022, compared to the same period in 2021. Smart glasses revenues declined primarily due to a combination of higher average sales discounts due to larger volume reseller sales, negative foreign exchange comparatives and to a lesser extent, a decrease in overall unit sales. Sales of waveguides and display engines for our engineering services customers included in product sales rose by \$394,150 for the year ended December 31, 2022, as compared to the same period in 2021.

Sales of engineering services for the year ended December 31, 2022, were \$1,330,119, as compared to \$380,333 in the same period of 2021, an increase of 250%.

Cost of Sales and Gross Profit (Loss). Cost of product revenues and engineering services are comprised of materials, components, labor, warranty costs, freight costs, manufacturing overhead, software royalties, the non-cash depreciation for our tooling and manufacturing equipment and amortization of software development costs related to the production of our products and rendering of engineering services. The following table reflects the components of our cost of goods sold:

	Year Ended December 31, 2022	% of Total Sales	Year Ended December 31, 2021	% of Total Sales	Dollar Change	% Increase (Decrease)
Product Cost of Sales	\$ 6,815,981	58 %	\$ 7,832,397	59 %	\$ (1,016,416)	(13)%
Manufacturing Overhead - Unapplied	2,212,276	19 %	2,396,821	18 %	(184,545)	(8)%
Depreciation and Amortization	799,317	7 %	1,321,467	10 %	(522,150)	(40)%
Engineering Services Cost of Sales	525,182	4 %	45,758	0 %	479,424	1,048 %
Total Cost of Sales	10,352,756	87 %	11,596,443	88 %	(1,243,687)	(11)%
Gross Profit	\$ 1,483,126	13 %	\$ 1,568,490	12 %	\$ (85,364)	(5)%

For the year ended December 31, 2022, gross profit from total sales was \$1,483,126 or 13% as compared to \$1,568,490 or 12% in the same period in 2021.

Manufacturing overhead costs, not already added in Cost of Sales, decreased by \$184,545 or 8% for the year ended December 31, 2022 over the 2021 comparable period to 19% as a percentage of total sales as compared to 18% in 2021. The decrease in the net dollar amount of these unapplied overhead costs in the current period versus the prior period is primarily due to more absorption of fixed costs being allocated directly to Product Cost of Sales and inventory.

Depreciation and amortization expense decreased by \$522,150 or 40% for the year ended December 31, 2022, over the 2021 comparable period to 7% as a percentage of total sales as compared to 10% in 2021. The decrease was due to some of our tooling and manufacturing equipment becoming fully depreciated in the first half of 2022.

Research and Development. Our research and development costs consist primarily of compensation costs for personnel, related stock-based compensation expenses, third-party services, purchase of research supplies and materials, and consulting fees related to research and development. Software development expenses to determine technical

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feasibility before final development and ongoing maintenance are not capitalized and are included in research and development costs.

	Year Ended December 31, 2022	% of Total Sales	Year Ended December 31, 2021	% of Total Sales	Dollar Change	% Increase (Decrease)
Research and Development	\$ 12,676,688	107 %	\$ 11,674,954	89 %	\$ 1,001,734	9 %

Research and development costs for the year ended December 31, 2022, increased by \$1,001,734 or 9%, as compared to the same period in 2021. This increase was largely due to an increase of \$557,165 in external development expenses related to our Next Generation Smart Glasses (Shield) and Blade 2.0; a \$386,821 increase in salary and benefits expenses due to additional personnel; an increase of \$78,920 in technology licensing fees; and an increase of \$84,300 in recruitment and hiring fees, and partially offset by a decrease of \$147,843 in supplies and consumables expense.

Selling and Marketing. Selling and marketing costs consist of trade show costs, advertising, sales samples, travel costs, sales staff compensation costs including stock-based compensation expense, consulting fees, public relations agency fees, website costs and sales commissions paid to full-time staff and outside consultants.

	Year Ended December 31, 2022	% of Total Sales	Year Ended December 31, 2021	% of Total Sales	Dollar Change	% Increase (Decrease)
Selling and Marketing	\$ 8,078,538	68 %	\$ 6,118,929	46 %	\$ 1,959,609	32 %

Selling and marketing costs for the year ended December 31, 2022, increased by \$1,959,609 or 32%, as compared to the same period in 2021. This increase was largely due to a \$1,685,428 increase in salary and salary benefits related expense; an increase of \$368,018 in travel related expenses; an increase of \$360,034 in trade show expenses; an increase of \$117,423 in recruiting and hiring expenses; and a \$47,794 increase in advertising costs; and partially offset by a decrease of \$441,585 in website development and maintenance costs; and a \$196,478 decrease for consulting costs.

General and Administrative. General and administrative costs include professional fees, investor relations (IR) costs, salaries and related stock compensation, travel costs, office and rental costs.

	Year Ended December 31, 2022	% of Total Sales	Year Ended December 31, 2021	% of Total Sales	Dollar Change	% Increase (Decrease)
General and Administrative	\$ 21,038,562	178 %	\$ 22,502,833	171 %	\$ (1,464,271)	(7)%

General and administrative costs for the year ended December 31, 2022 decreased by \$1,464,271 or 7%, as compared to the same period in 2021. This decrease was largely due to a \$1,259,137 decrease in non-cash stock-based compensation which was significantly higher in the first quarter of 2021 due to the vesting of an achieved equity market capitalization milestone under the LTIP; a \$515,952 decrease in legal expenses; a \$89,262 decrease in recruitment and hiring expenses related to new external board members who joined the Board of Directors in June 2021; and partially offset by increases in audit and tax advisory fees of \$261,958, and insurance premiums of \$209,528.

Depreciation and Amortization. Depreciation and amortization expense, not included in Cost of Sales, for the year ended December 31, 2022 was \$1,788,584 as compared to \$988,104 in the same period in 2021, an increase of \$800,480. The increase in depreciation and amortization expense is primarily due to the amortization of our technology license related to the Atomistic Agreements which began on May 12, 2022.

Other Income (Expense), Net. Total other income was \$1,468,698 for the year ended December 31, 2022, as compared to other expense of \$397,053 in the same period in 2021, an increase of \$1,865,851. The overall increase in other income was primarily the result of an increase of \$1,342,068 in investment income resulting from the recent rise in interest rates earned on the Company's excess cash period over period; a \$466,705 gain recorded for an employee

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retention credit refund claim that was filed with the IRS on November 10, 2022; and a decrease of \$94,371 in income and other taxes, partially offset by an increase of \$37,393 in foreign exchange losses.

Provision for Income Taxes. There were no provisions for income taxes in 2022 or 2021.

Results of Operations for Fiscal Years Ended December 31, 2021 and December 31, 2020

The following table compares the Company's consolidated statements of operations data for the years ended December 31, 2021 and 2020.

	Year Ended December 31,			
	2021	2020	Dollar Change	% Increase (Decrease)
Sales:				
Sales of Products	\$ 12,784,600	\$ 10,081,209	\$ 2,703,391	27 %
Sales of Engineering Services	380,333	1,500,287	(1,119,954)	(75)%
Total Sales	13,164,933	11,581,496	1,583,437	14 %
Cost of Sales:				
Cost of Sales - Products	9,709,268	7,914,686	1,794,582	23 %
Cost of Sales - Inventory Reserve for Obsolescence	519,950	1,273,835	(753,885)	(59)%
Cost of Sales - Depreciation and Amortization	1,321,467	1,512,979	(191,512)	(13)%
Cost of Sales - Engineering Services	45,758	282,038	(236,280)	(84)%
Total Cost of Sales	11,596,443	10,983,538	612,905	6 %
Gross Profit	1,568,490	597,958	970,532	162 %
Gross Profit %	12 %	5 %		
Operating Expenses:				
Research and Development	11,674,954	7,568,074	4,106,880	54 %
Selling and Marketing	6,118,929	4,039,772	2,079,157	51 %
General and Administrative	22,502,833	6,915,213	15,587,620	225 %
Depreciation and Amortization	988,104	1,128,831	(140,727)	(12)%
Loss on Fixed Asset Disposal	183,614	—	183,614	NM
Impairment of Patents and Trademarks	80,163	73,532	6,631	9 %
Loss from Operations	(39,980,107)	(19,127,464)	(20,852,643)	109 %
Other Income (Expense):				
Investment Income	53,511	41,120	12,391	30 %
Income and Other Taxes	(307,368)	(103,833)	(203,535)	196 %
Foreign Exchange Loss	(143,196)	(67,895)	(75,301)	111 %
Gain on Debt Extinguishment, net of Loss on Note Receivable	—	1,305,900	(1,305,900)	(100)%
Total Other Income (Expense), Net	(397,053)	1,175,292	(1,572,345)	(134)%
Loss Before Provision for Income Taxes	(40,377,160)	(17,952,172)	(22,424,988)	125 %
Provision for Income Taxes	—	—	—	— %
Net Loss	\$ (40,377,160)	\$ (17,952,172)	\$ (22,424,988)	125 %

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Sales. There was an increase in total sales for the year ended December 31, 2021 from those in 2020 of \$1,583,437 or 14%. The following table reflects the major components of our sales:

	Year Ended December 31, 2021	% of Total Sales	Year Ended December 31, 2020	% of Total Sales	Dollar Change	% Increase (Decrease)
Sales of Smart Glasses	\$ 12,784,600	97 %	\$ 10,081,209	87 %	\$ 2,703,391	27 %
Sales of Engineering Services	380,333	3 %	1,500,287	13 %	(1,119,954)	(75)%
Total Sales	\$ 13,164,933	100 %	\$ 11,581,496	100 %	\$ 1,583,437	14 %

Sales of Smart Glasses products rose by \$2,703,391 or 27% in the year ended December 31, 2021, primarily as a result of continued growth of our M400 model and M4000 Smart Glasses sales, as compared to the same period in 2020. Sales revenues from our M-Series Smart Glasses were \$10,254,905, a 22% increase of \$1,848,282 over the prior year. Revenues of Blade Smart Glasses decreased by \$395,529 or 23% in the year ended December 31, 2021 versus the comparable period in 2020 primarily driven by component shortages required to make Blade projector engines in the second half of 2021 and higher unit sales in the prior year's comparable quarter when we offered lower selling prices on the previous Blade model, which we discontinued in the fall of 2020.

Sales of Engineering Services for the year ended December 31, 2021, were \$380,333 as compared to \$1,500,287 in the 2020 comparable period. The revenue recognized in the year ended December 31, 2021 for engineering services was primarily a result of waveguide and display engine development projects which commenced in 2020 and were completed in the first quarter of 2021. We believe that ongoing and new engineering services programs have been deferred to give customers time to evaluate and present to their end customers the solutions we helped to design and delivered in 2020 and the first quarter of 2021, which has been made more difficult by the ongoing disruptions caused by COVID-19.

Cost of Sales and Gross Profit. Cost of product revenues and engineering services are comprised of materials, components, labor, warranty costs, freight costs, manufacturing overhead, software royalties, and the non-cash depreciation for our tooling and manufacturing equipment and amortization of software development costs related to the production of our products and rendering of engineering services. The following table reflects the components of our cost of goods sold:

	Year Ended December 31, 2021	% of Total Sales	Year Ended December 31, 2020	% of Total Sales	Dollar Change	% Increase (Decrease)
Product Cost of Sales	7,832,397	59 %	\$ 7,573,557	65 %	\$ 258,840	3 %
Engineering Services Cost of Sales	45,758	0 %	282,038	2 %	(236,280)	(84) %
Manufacturing Overhead - Unapplied	2,396,821	18 %	1,614,964	14 %	781,857	48 %
Depreciation and Amortization	1,321,467	10 %	1,512,979	13 %	(191,512)	(13)%
Total Cost of Sales	\$ 11,596,443	88 %	\$ 10,983,538	95 %	\$ 612,905	6 %
Gross Profit	\$ 1,568,490	12 %	\$ 597,958	5 %	\$ 970,532	162 %

For the year ended December 31, 2021, gross profit from total sales was \$1,568,490 or 12% as compared to \$597,958 or 5% in the same period in 2021.

Manufacturing overhead costs, not already added in Cost of Sales, increased by \$781,857 or 48% for the year ended December 31, 2021, over the 2020 comparable period to 18% as a percentage of total sales as compared to 14% in 2020, primarily due to manufacturing supply chain additional personnel and increased non-cash stock-based compensation expense.

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In addition to its normal Reserve for Obsolescence provision, the Company reserved for (i) an additional 25% of its remaining M300XL finished goods and related accessory inventory on-hand as of December 31, 2021 and (ii) all of its Blade 1.5 excess components that will not be used in current planned builds of the Blade in 2022, due to end-of-life availability of some required components. The total reserve write-down recorded at December 31, 2021 was \$519,950. The write-down and obsolescence provision for finished goods and components, included in Product Cost of Sales, totaled \$1,273,835 for the year ended December 31, 2020.

Research and Development. Our research and development costs consist primarily of compensation costs for personnel, related stock-based compensation expenses, third-party services, purchase of research supplies and materials, and consulting fees related to research and development. Software development expenses to determine technical feasibility before final development and ongoing maintenance are not capitalized and are included in research and development costs.

	Year Ended December 31, 2021	% of Total Sales	Year Ended December 31, 2020	% of Total Sales	Dollar Change	% Increase (Decrease)
Research and Development	\$ 11,674,954	89 %	\$ 7,568,074	65 %	\$ 4,106,880	54 %

Research and development costs for the year ended December 31, 2021, increased by \$4,106,880 or 54% as compared to 2020. This increase was largely due to a \$2,532,628 increase in salary and salary benefits related expenses, of which \$944,065 was related to non-cash stock-based compensation; an increase of \$1,173,817 in external development expenses primarily related to our Next Generation Smart Glasses; an increase of \$296,748 in other research and development consulting fees; and an increase of \$99,947 in research and development supplies.

Selling and Marketing. Selling and marketing costs consist of trade show costs, advertising, sales samples, travel costs, sales staff compensation costs including stock-based compensation expense, consulting fees, public relations agency fees, website costs and sales commissions paid to full-time staff and outside consultants.

	Year Ended December 31, 2021	% of Total Sales	Year Ended December 31, 2020	% of Total Sales	Dollar Change	% Increase (Decrease)
Selling and Marketing	\$ 6,118,929	46 %	\$ 4,039,772	35 %	\$ 2,079,157	51 %

Selling and marketing costs for the year ended December 31, 2021, increased by \$2,079,157 or 51% as compared to 2020. This increase was largely due to a \$1,089,571 increase in salary and salary benefits related expenses, of which \$420,661 was related to non-cash stock-based compensation; an increase of \$578,621 in sales consulting and marketing fees, primarily for foreign full-time contractors; a \$595,263 increase in advertising costs; an increase of \$242,570 in website development and maintenance costs; partially offset by decreases of \$316,319 in trade show expenses; a decrease of \$102,215 in commissions largely due to a reduction in commissions payable to TDG for defense related engineering services; and a decrease of \$35,670 in travel related expenses.

General and Administrative. General and administrative costs include professional fees, investor relations (IR) costs, salaries and related stock compensation, travel costs, office and rental costs.

	Year Ended December 31, 2021	% of Total Sales	Year Ended December 31, 2020	% of Total Sales	Dollar Change	% Increase (Decrease)
General and Administrative	\$ 22,502,833	171 %	\$ 6,915,213	60 %	\$ 15,587,620	225 %

General and administrative costs for the year ended December 31, 2021, increased by \$15,587,620 or 225% as compared 2020. This increase was largely due to a \$13,471,358 increase in salary and salary benefits related expenses, of which \$12,668,230 was related to non-cash stock-based compensation, primarily related to the Company's LTIP, which was implemented in the first quarter of 2021 and unlike traditional time vesting options, option awards under the LTIP vest only upon the achievement of predetermined market equity capitalization, revenue and EBITDA milestones and if participants are currently employed by the Company when the milestones are achieved; an increase of \$875,230 in legal expenses; an increase of \$357,444 in insurance premiums; an increase of \$217,433 in audit and tax advisory fees; an increase of \$205,329 in recruitment and hiring fees; an increase in shareholder related expenses of \$151,524; an increase of \$109,846 in regulatory filing fees; and an increase of \$100,228 in software subscription expenses.

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Depreciation and Amortization. Depreciation and amortization expense, not included in Cost of Sales, for the year ended December 31, 2021, was \$988,104 as compared to \$1,128,831 in the same period in 2020, a decrease of \$140,727. The decrease in depreciation expense is primarily due to leasehold improvements in our West Henrietta, New York, location, which became fully amortized in October 2020.

Other Income (Expense), Net. Total other expense, net was \$397,053 for the year ended December 31, 2021 as compared to income of \$1,175,292 in the period in 2020. The overall decrease of \$1,572,345 in other income was primarily the result of no gain from debt extinguishment in the year ended December 31, 2021, whereas we had a net gain on debt extinguishment of \$1,305,900 in 2020; an increase of \$203,535 in income, foreign enterprise and other taxes; and an increase of \$75,301 in foreign exchange losses.

Provision for Income Taxes. There were no provisions for income taxes in 2022 or 2021.

Liquidity and Capital Resources

Capital Resources: As of December 31, 2022, we had cash and cash equivalents of \$72,563,943, a decrease of \$47,639,930 from \$120,203,873 as of December 31, 2021.

As of December 31, 2022, we had current assets of \$91,241,241 as compared to current liabilities of \$15,277,358 which resulted in a positive working capital position of \$75,963,883. As of December 31, 2021, we had a working capital position of \$132,994,189. Our current liabilities are comprised principally of accounts payable, accrued expenses, licensing fee commitments, and operating lease right-of-use liabilities.

Summary of Cash Flow:

The following table summarizes our select cash flows for the years ended:

	December 31, 2022	December 31, 2021	December 31, 2020
Net Cash Provided by (used in)			
Operating Activities	(24,521,082)	(26,980,411)	(13,964,053)
Investing Activities	(21,170,816)	(4,852,452)	(1,485,513)
Financing Activities	(1,948,032)	115,967,228	40,912,983

During the year ended December 31, 2022, we used \$24,521,082 of cash for operating activities. Net changes in working capital items were \$2,544,394 for the year ended December 31, 2022, with the largest factors resulting from a \$2,052,376 increase in trade accounts receivables and other accrued receivables and a decrease of \$591,784 in net trade payables and accrued expenses, partially offset by a \$98,988 decrease in inventory and vendor prepayments. For the year ended December 31, 2021, we used a total of \$26,980,411 in cash for operating activities.

During the year ended December 31, 2022, we used \$21,170,816 of cash for investing activities, which included \$16,500,000, in payments made towards our \$30,000,000 technology license fee commitment (as discussed in Note 7), \$2,300,000 for the purchase price for the Moviynt acquisition (as discussed in Note 2), \$1,723,622 for purchases of manufacturing equipment and product mold tooling; \$499,031 in patent and trademark expenditures; and a further investment of \$125,000 in the purchase of software operating license upgrades for our smart glasses platform. For the year ended December 31, 2021, we used a total of \$4,852,452 in cash for investing activities.

During the year ended December 31, 2022, we used \$1,948,032 in net cash from financing activities, which included \$2,005,744 for share repurchases under our Share Buyback Program that was announced on March 2, 2022, and partially offset by \$57,712 in proceeds from the exercise of stock options. For the year ended December 31, 2021, we received \$115,967,228 in proceeds from financing activities, primarily from sales of our equity securities.

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As of December 31, 2022, the Company does not have any current or long-term debt obligations outstanding other than licensing fee commitments totaling \$11,500,000 related to the Atomistic Agreements described in Note 7 of the consolidated financial statements.

Additionally, as part of the Atomistic Agreements, the Company entered a Stock Purchase Agreement with the stockholders of Atomistic under which the Company will buy Series B Preferred shares of Atomistic through the issuance of Vuzix common shares based on certain deliverables and the achievement of milestones as defined in the Share Purchase Agreement. This will result, depending upon Vuzix' share price at the time of each issuance, in the Company's issuance of a minimum of 1,750,000 to a maximum of 2,843,750 common shares to Atomistic stockholders in exchange for convertible preferred shares of Atomistic over approximately the next six to 24 months. Once Atomistic has achieved all its milestones or has them waived by the Company, and the Company issues the required number of Vuzix common shares, in exchange for Series B Preferred shares in Atomistic that could ultimately be converted into common shares of Atomistic, the Company would ultimately own just under 99.9% of Atomistic.

The Company's cash requirements are primarily for funding operating losses, working capital, research and development, capital expenditures, and license fee commitments. We incurred a net loss for the years ended December 31, 2022, 2021 and 2020 of \$40,763,573 (of which \$15,775,553 was related to non-cash stock-based compensation primarily due to our LTIP), \$40,377,160 (of which \$17,302,833 was related to non-cash stock-based compensation primarily due to our LTIP), and \$17,952,172 in 2020, respectively. The Company has an accumulated deficit of \$243,835,716 as of December 31, 2022.

On March 2, 2022, our Board of Directors approved the repurchase by the Company of up to an aggregate of \$25 million of our common stock by open market or privately negotiated transactions under the Share Buyback Program. This program is in effect for one year, does not obligate the Company to acquire any particular amount of common stock, and may be suspended or discontinued at any time at the Company's sole discretion. During the year ended December 31, 2022, the Company repurchased 464,672 shares of our common stock at an average cost of \$4.32. As of December 31, 2022, 464,672 shares of our common stock were held in treasury.

Our operations have historically been financed primarily through net proceeds from the sale of our equity securities. As of December 31, 2022, our principal sources of liquidity consisted of cash and cash equivalents of \$72,563,943.

Contractual Obligations

The following is a summary of our contractual payment obligations as of December 31, 2022:

Contractual Obligations	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Operating Lease Obligations	\$ 1,021,753	\$ —	\$ 1,021,753	—	—
Licensing Fees Commitment	11,500,000	11,500,000	—	—	—
Open Purchase Obligations	8,082,184	8,082,184	—	—	—

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

We invest our excess cash in short-term highly rated corporate debt instruments or commercial paper, which bear lower levels of relative risk. We believe that the effect, if any, of reasonably possible near-term changes in interest rates on our financial position, results of operations and cash flows should not be material to our cash flows or income. It is possible that interest rate movements would increase our unrecognized gain or loss on interest rate securities. Our portfolio of marketable debt securities is subject to interest rate risk although our intent is to hold securities until maturity. The credit rating of our investments may be affected by the underlying financial health of the guarantors of our investments. Our investment policy generally directs our investment managers to select investments to achieve the following goals: principal preservation, adequate liquidity, and return.

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We are exposed to changes in foreign currency exchange rates primarily through the translation of our foreign subsidiary's financial positions, results of operations, and transaction gains and losses as a result of non-U.S. dollar denominated cash flows related to business activities in Asia and the United Kingdom, and re-measurement of U.S. dollars to the functional currency of our foreign subsidiaries. We are also exposed to the effects of exchange rates in the purchase of certain raw materials whose price is in U.S. dollars but the price on future purchases is subject to change based on the relationship of the Japanese Yen to the U.S. Dollar. We do not currently hedge our foreign currency exchange rate risk. We estimate that any market risk associated with our international operations is unlikely to have a material adverse effect on our business, financial condition or results of operation.

Item 8. Financial Statements and Supplementary Data

The information required by this item is incorporated herein by reference to pages F-1 through F-29 of this annual report and is indexed under Item 15(a)(1) and (2).

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

None.

Item 9A. Controls and Procedures

The information contained in this section covers management's evaluation of our disclosure controls and procedures and our assessment of our internal control over financial reporting as of December 31, 2022.

(a) Evaluation of Disclosure Controls and Procedures

Our management, including our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this annual report as required by Rule 13a-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Disclosure controls and procedures are those controls and other procedures that are designed to ensure that information required to be disclosed in reports filed or submitted under the Exchange Act is properly recorded, processed, summarized, and reported, within the time periods specified by the rules and forms promulgated by the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that such information is properly accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. As a result of this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2022, our disclosure controls and procedures were effective.

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

Our management is responsible for establishing and maintaining adequate "internal control over financial reporting," as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act. Our system of internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external reporting purposes in accordance with US GAAP.

Our internal control over financial reporting includes those policies and procedures that: (a) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of consolidated financial statements in accordance with US GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and Board of Directors; and (c) provide reasonable assurance regarding prevention or timely detection of unauthorized use, acquisition, or disposition of our assets that could have a material effect on the consolidated financial statements.

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our internal control over financial reporting as of December 31, 2022, and they concluded that our

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internal control over financial reporting was effective as of December 31, 2022. In making this assessment, we utilized the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) in Internal Control — Integrated Framework (2013).

The Company’s independent registered public accounting firm, Freed Maxick CPAs, P.C., who audited the consolidated financial statements included in this Annual Report on Form 10-K, has issued an attestation report on the effectiveness of the management’s internal control over financial reporting as of December 31, 2022. This report states that the internal control over financial reporting was effective and appears on page F-2 of this Annual Report on Form 10-K.

(c) *Limitations on the Effectiveness of Controls.*

Because of its inherent limitations, internal control over financial reporting, no matter how well-conceived or operated, can only provide reasonable assurance, not absolute assurance, that the objectives of the control system are met. Such controls may not prevent or detect every misstatement. 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.

(d) *Change in Internal Control Over Financial Reporting*

There were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) during the three months ended December 31, 2022, except for the full remediation of the material weakness the Company reported for the year ended December 31, 2021, that has materially affected, or is likely to materially affect, our internal control over financial reporting.

Item 9B. *Other Information*

None.

Item 9C.

Not applicable.

PART III

Item 10. *Directors, Executive Officers and Corporate Governance*

The information required by this item will be presented in our definitive proxy statement not later than 120 days after the end of the fiscal year covered by this annual report and is incorporated in this annual report by reference thereto.

Item 11. *Executive Compensation*

The information required by this item will be presented in our definitive proxy statement not later than 120 days after the end of the fiscal year covered by this annual report and is incorporated in this annual report by reference thereto, except, however, the section entitled “Compensation Committee Report” shall not be deemed to be “soliciting material” or to be filed with the Securities and Exchange Commission or subject to Regulation 14A or 14C, or to the liabilities of Section 18 of the Exchange Act of 1934, as amended.

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

The information required by this item will be presented in our definitive proxy statement not later than 120 days after the end of the fiscal year covered by this annual report and is incorporated in this annual report by reference thereto.

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

The information required by this item will be presented in our definitive proxy statement not later than 120 days after the end of the fiscal year covered by this annual report and is incorporated in this annual report by reference thereto.

Item 14. *Principal Accountant Fees and Services*

The information required by this item will be presented in our definitive proxy statement not later than 120 days after the end of the fiscal year covered by this annual report and is incorporated in this annual report by reference thereto.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) The following documents are filed as part of this report

(1) Financial Statements

	<u>Page</u>
Report of Independent Registered Public Accounting Firm (PCAOB ID 317)	F-2
Consolidated Balance Sheets — As of December 31, 2022 and 2021	F-5
Consolidated Statements of Changes In Stockholders' Equity — For The Years Ended December 31, 2022, 2021 and 2020	F-6
Consolidated Statements of Operations — For the Years Ended December 31, 2022, 2021 and 2020	F-7
Consolidated Statements of Cash Flows — For the Years Ended December 31, 2022, 2021 and 2020	F-8
Notes to Consolidated Financial Statements	F-9

(2) Financial Statement Schedules

Schedule II – Valuation and Qualifying Accounts

Schedules other than the one listed above have been omitted because of the absence of conditions under which they are required or because the required information is included in the consolidated financial statements or the notes thereto.

(3) Exhibits

A list of exhibits filed with this annual report is set forth in the Exhibit Index and is incorporated in this Item 15(a)(3) by reference.

VUZIX CORPORATION

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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Consolidated Balance Sheets — As of December 31, 2022 and 2021	F-5
Consolidated Statements of Changes In Stockholders' Equity — For The Years Ended December 31, 2022, 2021 and 2020	F-6
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Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Vuzix Corporation

Opinions on the Financial Statements and Internal Control Over Financial Reporting

We have audited the accompanying consolidated balance sheets of Vuzix Corporation and Subsidiaries (the Company) as of December 31, 2022 and 2021, and the related consolidated statements of changes in stockholders' equity, operations, and cash flows for each of the three years in the period ended December 31, 2022, and the related notes and schedules (collectively, the financial statements). We also have audited the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013.

Basis for Opinions

The Company's management is responsible for these financial statements, 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 Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's financial statements and an opinion on the company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with 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 audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the financial statements 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. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

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.

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.

Estimate for excess, obsolete and slow-moving inventory reserve

Critical Audit Matter Description

As discussed in Notes 1 and 4 to the consolidated financial statements, inventories are stated at the lower of cost or net realizable value using the weighted average first-in, first-out method. The Company records provisions for excess, obsolete or slow-moving inventory based on changes in customer demand, technology developments or other economic factors. The Company's products have product life cycles that range on average from two to three years. At both the product introduction and product discontinuation stage, there is a higher degree of risk of inventory obsolescence. The excess, obsolete or slow-moving reserve serves to reduce the Company's inventory balance through a charge to cost of sales – products sold.

The Company's reserve for excess, obsolete or slow-moving inventory is based upon estimates on the evaluation of changes in customer demand, technology developments, and expected future product sales, which can be difficult to forecast. If the actual realization of excess, obsolete, and slow-moving inventory does not meet the Company's assumptions future inventory adjustments would result in a decrease in gross profit. Due to the magnitude of the inventory, and the subjectivity involved in estimating the reserve we identified the evaluation of the reserve as a critical audit matter, which required a high degree of auditor judgment.

How the Critical Audit Matter Was Addressed in the Audit

Addressing the matter involved performing subjective procedures and evaluating audit evidence in connecting with forming our overall opinion on the financial statements. The primary procedures we performed include, performing a retrospective review of prior year-estimates used to identify potential bias of management judgments; obtaining an understanding of the process and assumptions used by management to develop the reserve for excess, obsolete and slow-moving inventory; testing the operating effectiveness of controls over management's estimate of reserves for excess, obsolete, and slow-moving inventory; and testing management's calculation of the reserve for excess, obsolete, and slow-moving inventory by: testing the completeness and accuracy of the source information used, testing the mathematical accuracy of management's calculations, and evaluating the reasonableness and consistency of methodology and assumptions applied by management.

Accounting for Atomistic Agreements

Critical Audit Matter Description

As discussed in Notes 1, 5, 7 and 12 to the consolidated financial statements the Company has a series of agreements with a Variable Interest Entity ('VIE'), Atomistic. The agreements provide for an exclusive license by the Company of key technology which includes cash commitments of \$30 million. Upon achievement or acceleration of performance milestones contained in the agreements, the Company is committed to pay \$2.5 million and issue a minimum of 1,750,000 shares of common stock of Company to the stockholders of Atomistic as consideration for certain shares of Atomistic. In the event the fair market value of Company stock, which is determined based upon the trailing 10-day volume weighted average price of the Company's common shares, is between a floor of \$8.00 and a ceiling of \$13.00, the Company may opt, at its sole discretion, to pay any fair market valuation shortfall with up to 1,093,754 additional Vuzix common stock or cash to the Atomistic owners.

The Company determined based upon interactions with Atomistic, review of agreements as well as the assessment of the activity of Atomistic that most significantly impacts its economic performance, that the operating and governance structure of Atomistic does not allow the Company to direct the activities that would significantly affect their economic performance as of December 31, 2022. As a result, the Company accounted for the series of agreements under other relevant accounting principles generally accepted in the United States of America. If the facts and circumstances change and the Company is determined to be the primary beneficiary, the Company would consolidate Atomistic into their consolidated financial statements.

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How the Critical Audit Matter Was Addressed in the Audit

Addressing the matter involved performing subjective procedures and evaluating audit evidence in connecting with forming our overall opinion on the financial statements. The primary procedures we performed include, reviewing the agreements associated with the arrangement and management's memo regarding VIE treatment and corroborating management's conclusion, testing the design and operating effectiveness of controls over management's determination of primary beneficiary, and testing the accounting treatment to ensure it is in accordance with other relevant accounting principles generally accepted in the United States of America.

/s/ Freed Maxick CPAs, P.C.

We have served as the Company's auditor since 2014.

Buffalo, New York
March 1, 2023

VUZIX CORPORATION
CONSOLIDATED BALANCE SHEETS

ASSETS	December 31, 2022	December 31, 2021
Current Assets		
Cash and Cash Equivalents	\$ 72,563,943	\$ 120,203,873
Accounts Receivable	3,558,971	2,242,429
Accrued Revenues in Excess of Billings	269,129	—
Employee Retention Credit Receivable	466,705	—
Inventories, Net	11,267,969	12,151,982
Manufacturing Vendor Prepayments	998,671	504,051
Prepaid Expenses and Other Assets	2,115,853	2,047,819
Total Current Assets	91,241,241	137,150,154
Long-Term Assets		
Fixed Assets, Net	3,878,505	5,190,438
Operating Lease Right-of-Use Asset	956,165	1,117,022
Patents and Trademarks, Net	2,220,094	1,988,370
Technology Licenses, Net	30,158,689	1,389,936
Intangible Asset, Net	675,313	147,548
Goodwill	1,601,400	—
Other Assets, Net	1,581,143	1,483,589
Total Assets	\$ 132,312,550	\$ 148,467,057
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Accounts Payable	\$ 1,211,747	\$ 2,054,762
Unearned Revenue	29,064	27,797
Accrued Expenses	1,670,539	1,419,308
Licensing Fees Commitment	11,500,000	—
Income and Other Taxes Payable	214,997	120,242
Operating Lease Right-of-Use Liability	651,011	534,146
Total Current Liabilities	15,277,358	4,156,255
Long-Term Liabilities		
Operating Lease Right-of-Use Liability	305,154	582,876
Total Liabilities	15,582,512	4,739,131
Stockholders' Equity		
Common Stock - \$0.001 Par Value, 100,000,000 shares authorized; 63,783,779 shares issued and 63,319,107 shares outstanding as of December 31, 2022 and 63,672,268 shares issued and outstanding as of December 31, 2021.	63,783	63,672
Additional Paid-in Capital	362,507,715	346,736,397
Accumulated Deficit	(243,835,716)	(203,072,143)
Treasury Stock, at cost, 464,672 shares as of December 31, 2022 and 0 shares as of December 31, 2021	(2,005,744)	—
Total Stockholders' Equity	116,730,038	143,727,926
Total Liabilities and Stockholders' Equity	\$ 132,312,550	\$ 148,467,057

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

VUZIX CORPORATION

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Treasury Stock		Total
	Shares	Amount	Shares	Amount			Shares	Amount	
Balance - December 31, 2019	49,626	\$ 50	33,128,620	\$ 33,128	\$ 168,950,076	\$(144,742,811)	—	—	\$ 24,240,443
Stock-Based Compensation Expense	—	—	942,986	943	2,656,888	—	—	—	2,657,831
Proceeds from Common Stock Offerings	—	—	8,647,059	8,647	26,741,355	—	—	—	26,750,002
Direct Costs of Common Stock Offerings	—	—	—	—	(1,550,666)	—	—	—	(1,550,666)
Stock Warrant Exercises	—	—	2,882,647	2,883	14,125,644	—	—	—	14,128,527
Stock Option Exercises	—	—	43,854	44	29,176	—	—	—	29,220
2020 Net Loss	—	—	—	—	—	(17,952,172)	—	—	(17,952,172)
Balance - December 31, 2020	<u>49,626</u>	<u>\$ 50</u>	<u>45,645,166</u>	<u>\$ 45,645</u>	<u>\$ 210,952,473</u>	<u>\$(162,694,983)</u>	<u>—</u>	<u>\$ —</u>	<u>\$ 48,303,185</u>
Stock-Based Compensation Expense	—	—	368,047	368	18,429,556	—	—	—	18,429,924
Stock Option Exercises	—	—	659,398	659	781,618	—	—	—	782,277
Stock Warrant Exercises	—	—	7,276,928	7,277	34,708,451	—	—	—	34,715,728
Proceeds from Common Stock Offerings	—	—	4,768,293	4,768	97,745,239	—	—	—	97,750,007
Direct Costs of Common Stock Offerings	—	—	—	—	(6,136,420)	—	—	—	(6,136,420)
Shares Redeemed to Cover Employee Tax	—	—	—	—	—	—	—	—	—
Withholdings	—	—	(83,164)	(83)	(1,144,282)	—	—	—	(1,144,365)
Stock Issued for Technology License Purchase	—	—	75,000	75	1,404,675	—	—	—	1,404,750
Preferred Stock Converted	(49,626)	(50)	4,962,600	4,963	(10,004,913)	—	—	—	(10,000,000)
2021 Net Loss	—	—	—	—	—	(40,377,160)	—	—	(40,377,160)
Balance - December 31, 2021	<u>—</u>	<u>\$ —</u>	<u>63,672,268</u>	<u>\$ 63,672</u>	<u>\$ 346,736,397</u>	<u>\$(203,072,143)</u>	<u>—</u>	<u>\$ —</u>	<u>\$ 143,727,926</u>
Stock-Based Compensation Expense	—	—	(3,017)	(3)	15,713,732	—	—	—	15,713,729
Stock Option Exercises	—	—	114,528	114	57,586	—	—	—	57,700
Purchases of Treasury Stock	—	—	—	—	—	—	(464,672)	(2,005,744)	(2,005,744)
2022 Net Loss	—	—	—	—	—	(40,763,573)	—	—	(40,763,573)
Balance - December 31, 2022	<u>—</u>	<u>\$ —</u>	<u>63,783,779</u>	<u>\$ 63,783</u>	<u>\$ 362,507,715</u>	<u>\$(243,835,716)</u>	<u>(464,672)</u>	<u>\$(2,005,744)</u>	<u>\$ 116,730,038</u>

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

VUZIX CORPORATION
CONSOLIDATED STATEMENTS OF OPERATIONS

	For Years Ended December 31,		
	2022	2021	2020
Sales:			
Sales of Products	\$ 10,505,763	\$ 12,784,600	\$ 10,081,209
Sales of Engineering Services	1,330,119	380,333	1,500,287
Total Sales	11,835,882	13,164,933	11,581,496
Cost of Sales:			
Cost of Sales - Products Sold	8,737,852	9,709,268	7,914,686
Cost of Sales - Inventory Reserve for Obsolescence	290,405	519,950	1,273,835
Cost of Sales - Depreciation and Amortization	799,317	1,321,467	1,512,979
Cost of Sales - Engineering Services	525,182	45,758	282,038
Total Cost of Sales	10,352,756	11,596,443	10,983,538
Gross Profit	1,483,126	1,568,490	597,958
Operating Expenses:			
Research and Development	12,676,688	11,674,954	7,568,074
Selling and Marketing	8,078,538	6,118,929	4,039,772
General and Administrative	21,038,562	22,502,833	6,915,213
Depreciation and Amortization	1,788,584	988,104	1,128,831
Loss on Fixed Asset Disposal	35,350	183,614	—
Impairment of Patents and Trademarks	97,675	80,163	73,532
Total Operating Expenses	43,715,397	41,548,597	19,725,422
Loss From Operations	(42,232,271)	(39,980,107)	(19,127,464)
Other Income (Expense):			
Investment Income	1,395,579	53,511	41,120
Income and Other Taxes	(212,997)	(307,368)	(103,833)
Foreign Exchange Loss	(180,589)	(143,196)	(67,895)
Employee Retention Credit Refund	466,705	—	—
Gain on Debt Extinguishment, net of Loss on Note Receivable	—	—	1,305,900
Total Other Income (Expense), Net	1,468,698	(397,053)	1,175,292
Loss Before Provision for Income Taxes	(40,763,573)	(40,377,160)	(17,952,172)
Provision for Income Taxes	—	—	—
Net Loss	(40,763,573)	(40,377,160)	(17,952,172)
Preferred Stock Dividends - Accrued not Paid	—	—	(2,056,150)
Loss Attributable to Common Stockholders	\$ (40,763,573)	\$ (40,377,160)	\$ (20,008,322)
Basic and Diluted Loss per Common Share	\$ (0.64)	\$ (0.66)	\$ (0.53)
Weighted-average Shares Outstanding - Basic and Diluted	63,708,986	61,125,215	38,109,765

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

VUZIX CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended December 31,		
	2022	2021	2020
Cash Flows from Operating Activities			
Net Loss	\$ (40,763,573)	\$ (40,377,160)	\$ (17,952,172)
Non-Cash Adjustments			
Depreciation and Amortization	2,587,901	2,309,571	2,641,810
Stock-Based Compensation	15,775,553	17,302,833	2,805,842
Impairment of Patents and Trademarks	97,675	80,163	73,532
Loss on Fixed Asset Disposal	35,350	183,614	—
Gain on Debt Extinguishment, net of Loss on Note Receivable	—	—	(1,305,900)
Change in Inventory Reserve for Obsolescence	290,405	519,950	1,273,835
(Increase) Decrease in Operating Assets			
Accounts Receivable	(1,316,542)	(853,547)	(289,413)
Accrued Revenues in Excess of Billings	(269,129)	—	—
Employee Retention Credit Receivable	(466,705)	—	—
Inventories	593,608	(6,571,108)	(1,666,792)
Manufacturing Vendor Prepayments	(494,620)	(19,019)	(242,493)
Prepaid Expenses and Other Assets	(95,244)	(526,825)	156,537
Increase (Decrease) in Operating Liabilities			
Accounts Payable	(843,015)	537,607	454,370
Accrued Expenses	251,231	436,276	97,136
Unearned Revenue	1,268	(13,355)	(101,311)
Income and Other Taxes Payable	94,755	10,589	90,966
Net Cash Flows Used in Operating Activities	(24,521,082)	(26,980,411)	(13,964,053)
Cash Flows from Investing Activities			
Purchases of Fixed Assets	(1,723,622)	(3,809,268)	(496,629)
Investments in Patents and Trademarks	(499,031)	(593,184)	(488,884)
Investments in Licenses, Intangibles and Other Assets	(16,523,163)	(200,000)	—
Investments in Software Development	(125,000)	(250,000)	(500,000)
Business Acquisition, net of cash acquired	(2,300,000)	—	—
Net Cash Flows Used in Investing Activities	(21,170,816)	(4,852,452)	(1,485,513)
Cash Flows from Financing Activities			
Proceeds from Exercise of Warrants	—	34,715,728	14,128,527
Proceeds from Exercise of Stock Options	57,712	782,277	29,220
Proceeds from Common Stock Offering, Net	—	91,613,587	25,199,336
Purchases of Treasury Stock	(2,005,744)	—	—
Preferred Dividend Settlement Payment	—	(10,000,000)	—
Employee Tax Withholdings Payment	—	(1,144,364)	—
Proceeds from Term Note	—	—	1,555,900
Net Cash Flows (Used in) Provided from Financing Activities	(1,948,032)	115,967,228	40,912,983
Net (Decrease) Increase in Cash and Cash Equivalents	(47,639,930)	84,134,365	25,463,417
Cash and Cash Equivalents - Beginning of Period	120,203,873	36,069,508	10,606,091
Cash and Cash Equivalents - End of Period	\$ 72,563,943	\$ 120,203,873	\$ 36,069,508
Supplemental Disclosures			
Unamortized Common Stock Expense included in Prepaid Expenses and Other Assets	\$ 1,240,156	\$ 1,365,242	\$ 219,051
Non-Cash Investment in Licenses	11,500,000	1,294,262	272,444
Stock-Based Compensation Expense - Expensed less Previously Issued	61,824	(1,127,091)	148,011

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

VUZIX CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1 — Summary of Significant Accounting Policies

Operations

Vuzix Corporation (the Company) was formed in 1997 under the laws of the State of Delaware and maintains its corporate offices in West Henrietta, New York (a suburb of Rochester). We are engaged in the design, manufacture, marketing and sale of augmented reality wearable display and computing devices also referred to as head mounted displays (or HMDs, but also known as near-eye displays), in the form of Smart Glasses and Augmented Reality (AR) glasses. Our AR wearable display devices are worn like eyeglasses or attach to a head worn mount. These devices typically include cameras, sensors, and a computer that enable the user to view, record and interact with video and digital content, such as computer data, the internet, social media or entertainment applications. Our wearable display products integrate micro-display technology with our advanced optics to produce compact high-resolution display engines, less than half an inch diagonally, which when viewed through our smart glasses products create virtual images that appear comparable in size to that of a computer monitor or a large-screen television. The wearable display products we produce can be used for a variety of enterprise, commercial and medical uses and applications, including AR for on-the-go users and as mobile displays and remote service support. Our products are available with varying features and are offered as monocular and binocular display systems.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries, Vuzix (Europe) Limited and Moviynt, Inc. All significant inter-company transactions have been eliminated.

Business Acquisitions

The Company applied the acquisition method of accounting for business acquisitions, as described in further detail in Note 2. Under the acquisition method, identifiable assets acquired, liabilities assumed and consideration transferred are measured at their acquisition-date fair value. The Company used various income methods to determine the fair values, described in further detail in Note 2. We relied upon the use of reports from third-party valuation specialists to assist in the estimation of fair values. Purchase price allocations are subject to revision within the measurement period, not to exceed one year from the date of acquisition. Costs to acquire a business may include, but are not limited to, fees for accounting, legal and valuation services, and are expensed as incurred in the Consolidated Statements of Operations.

Variable Interest Entities

The Company determines at the inception of each arrangement whether an entity in which it has made an investment or in which the Company has other variable interests is considered a variable interest entity (VIE). The Company consolidates VIEs when it is the primary beneficiary. The Company is the primary beneficiary of a VIE when it has the power to direct activities that most significantly affect the economic performance of the VIE and have the obligation to absorb the majority of their losses or benefits. If the Company is not the primary beneficiary in a VIE, the Company accounts for the investment or other variable interests in a VIE in accordance with applicable GAAP. Each reporting period, the Company assesses whether any changes in our interest or relationship with the entity affect our determination of whether the entity is a VIE and, if so, whether the Company is the primary beneficiary.

We have an investment in a VIE in which we are not the primary beneficiary. This VIE includes a private company investment, described further in Notes 5, 7 and 12. We have determined that the governance and operating structures of this entity do not allow us to direct the activities that would significantly affect their economic performance. Therefore, we are not the primary beneficiary, and the results of operations and financial position of this VIE is not included in our consolidated financial statements. We account for this investment as a technology license. The maximum

exposure of this unconsolidated VIEs is generally based on the current carrying value of the investment. We have determined that the single source of our exposure to this VIE is our capital investment in them. The carrying value and maximum exposure of these unconsolidated VIE was \$30 million as of December 31, 2022.

Segment Data, Geographic Information and Significant Customers

The Company is not organized by market and is managed and operated as one business. A single management team that reports to the chief operating decision maker comprehensively manages the entire business. The Company does not operate any material separate lines of business or separate business entities. Accordingly, the Company does not accumulate discrete information, other than product and engineering services revenue and material engineering services costs, with respect to separate product lines and does not have separately reportable segments as defined by FASB ASC Topic 280, "Disclosures about Segments of an Enterprise and Related Information".

Refer to Note 19 — Geographic and Other Financial Information (Unaudited).

Foreign Currency Transactions

The Company considers the US dollar as the functional currency of the Company's United Kingdom subsidiary. The Company's United Kingdom subsidiary transacts in Euros and British pounds. All transactions in foreign currencies are recorded in U.S. dollars at the then current exchange rate(s). Upon settlement of the underlying transaction, all amounts are re-measured to U.S. dollars at the current exchange rate on date of settlement. All unsettled foreign currency transactions that remain in accounts receivable and trade account payables are re-measured to U.S. dollars at the period-end exchange rates. All re-measurement gains and losses are recorded in the current period net income.

Use of Estimates

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at year-end and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Concentration of Credit Risk

The Company maintains its cash in bank deposit accounts, which at times may exceed federally insured limits.

Cash and Cash Equivalents

Cash and cash equivalents can include highly liquid investments with original maturities of three months or less.

Fair Value of Financial Instruments

The Company's financial instruments primarily consist of cash and cash equivalents, accounts receivable, accounts payable, unearned revenue, accrued expenses, and income and other taxes payable. As of the consolidated balance sheet dates, the estimated fair values of the financial instruments were not materially different from their carrying values as presented due to the short maturities of these instruments.

Accounts Receivable

The Company carries its trade accounts receivable at the invoice amount less an allowance for doubtful accounts. The Company establishes an allowance for uncollectible trade accounts receivable based on the age of outstanding invoices and management's evaluation of collectability of outstanding balances. These provisions are established when the aging of outstanding amounts exceeds allowable terms and are re-evaluated at each quarter-end for

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adequacy. In determining the adequacy of the provision, the Company considers known uncollectible or at-risk receivables. The allowance for doubtful accounts as of December 31, 2022, and 2021 was nil. The Company does not accrue interest on any past due accounts receivable unless such receivable goes into collection.

Reclassification of Prior Year Presentation

Certain prior year amounts have been reclassified for consistency with the current year's presentation. These reclassifications had no effect on the reported results of operations. An adjustment has been made to the Consolidated Statements of Operations for the years ended December 31, 2021 and 2020 to reclassify depreciation expense related to our manufacturing operations from the amounts of reported depreciation and amortization expenses originally included in Operating Expenses. This change in classification does not affect previously reported Net Loss or reported Cash Flows Used in Operating Activities in the Consolidated Statements of Cash Flows or Consolidated Balance Sheets. The below table is a summary of the impact to these reclassifications:

Condensed Statement of Operations	For the Year Ended December 31, 2021			For the Year Ended December 31, 2020		
	As Previously Presented	Reclassification	Revised	As Previously Presented	Reclassification	Revised
Total Sales	\$ 13,164,933	\$ —	\$ 13,164,933	\$ 11,581,496	\$ —	\$ 11,581,496
Total Cost of Sales	10,714,088	882,355	11,596,443	9,653,887	1,329,651	10,983,538
Gross Profit	2,450,845	(882,355)	1,568,490	1,927,609	(1,329,651)	597,958
Operating Expenses:						
Research and Development	11,674,954		11,674,954	7,568,074		7,568,074
Selling and Marketing	6,118,929		6,118,929	4,039,772		4,039,772
General and Administrative	22,502,833		22,502,833	6,915,213		6,915,213
Depreciation and Amortization	1,870,459	(882,355)	988,104	2,458,482	(1,329,651)	1,128,831
Loss on Fixed Asset Disposal	183,614		183,614	—		—
Impairment of Patents and Trademarks	80,163		80,163	73,532		73,532
Total Operating Expenses	42,430,952	(882,355)	41,548,597	21,055,073	(1,329,651)	19,725,422
Loss From Operations	(39,980,107)	—	(39,980,107)	(19,127,464)	—	(19,127,464)
Total Other (Expense) Income, Net	(397,053)		(397,053)	1,175,292		1,175,292
Net Loss	\$ (40,377,160)	\$ —	\$ (40,377,160)	\$ (17,952,172)	\$ —	\$ (17,952,172)

Customer and Supplier Concentrations

One customer represented 14% of total product revenue and two customers represented 48% and 39%, respectively, of engineering services revenue for the year ended December 31, 2022. One customer represented 10% of total product revenue and four customers represented 39%, 28%, 16% and 12%, respectively, of our engineering services revenue for the year ended December 31, 2021. No one customer represented more than 10% of total product revenue and two customers represented 48% and 26%, respectively, of our engineering services revenue for the year ended December 31, 2020.

One customer represented 26% of accounts receivable at December 31, 2022. Three customers represented 27%, 20% and 10%, respectively, of accounts receivable at December 31, 2021. Two customers represented 21% and 14%, respectively, of accounts receivable at December 31, 2020.

One third-party vendor represented 15% of purchases for the year ended December 31, 2022. As of December 31, 2022, the net amount due to this vendor was \$478,382. Two third-party vendors represented 38% and 24%, respectively, of material purchases for the year ended December 31, 2021. As of December 31, 2021, the net amount due to these vendors was \$504,073.

Accrued Project Revenue

The Company carries accrued project revenue based on the percentage of completion on the project measured using the input method based upon costs incurred to-date as a percentage of total expected costs to complete the project less amounts invoiced, if any. As of December 31, 2022 there was \$269,129 in accrued project revenue and nil as of December 31, 2021 and 2020.

Inventories

Inventories are valued at the lower of cost or net realizable value using the weighted average first-in, first-out method. The Company includes labor and overhead costs in its inventory valuation costing. The Company records provisions for excess, obsolete or slow-moving inventory based on changes in customer demand, technology developments or other economic factors. The Company's products have product life cycles that range on average from two to three years currently. At both the product introduction and product discontinuation stage, there is a higher degree of risk of inventory obsolescence. The provision for obsolete and excess inventory is evaluated for adequacy at each quarter end. The estimate of the provision for obsolete and excess inventory is partially based on expected future product sales, which are difficult to forecast for certain products.

Revenue Recognition

The Company recognizes revenue from Contracts with Customers under FASB ASC Topic 606, "Revenue from Contracts with Customers", as of January 1, 2018. Product sales represent the majority of the Company's revenue. The Company recognizes revenue from these product sales as performance obligations are satisfied and transfer of control and ownership to the customer has occurred, typically upon physical shipment. Revenue is recognized in the amount that the Company expects to receive in exchange from the sale of our products. FOB shipping point is our standard shipping term and revenue is recognized as our products ship to customers, as control and ownership are transferred at this time. All of our standard product sales include a 30-day money back guarantee and expected returns are estimated at each reporting period date, and a portion of revenue is deferred for all estimated returns. As of December 31, 2022 and 2021, unearned revenue consisted of deferred revenue associated with our expected returns were immaterial. The Company collects and remits sales taxes in certain jurisdictions and reports revenue net of any associated sales taxes.

Revenue from any engineering consulting and other services is recognized at the time the services are rendered. The Company accounts for its longer-term development contracts, which to date have all been firm fixed-priced contracts, on the percentage-of-completion method, whereby income is recognized as work on contracts progresses, but estimated losses on contracts in progress are charged to operations immediately. The percentage-of-completion is determined using the cost-to-cost method. To date, all such contracts have been less than one calendar year in duration.

Unearned Revenue

These amounts represent deferred revenue against our expected product sales returns for all December 2022 and 2021 products sales that are subject to the Company's 30-day money back guarantee return policy.

Cost of Product Sales

Cost of product sales includes the direct and allocated indirect costs of products sold to customers. Direct costs include labor, materials, reserves for estimated warranty expenses, and other costs incurred directly, or charged to us by our contract manufacturers in the manufacture of these products. Indirect costs include labor, manufacturing overhead, and other costs associated with operating our manufacturing facility and capacity. Manufacturing overhead includes the costs of procuring, inspecting and storing material, facility and other costs, and is allocated to cost of product revenue based on the proportion of indirect labor which supported production activities. Depreciation of manufacturing tools and equipment and amortization of software development costs are included in our cost of product sales. The cost of product sales can fluctuate significantly from period to period, depending upon the product mix and volume, the level of manufacturing overhead expense and the volume of direct cost of materials.

Cost of Engineering Services Sales

Cost of engineering services revenues includes both the direct and allocated indirect costs of performing on contracts and producing prototype units. Direct costs include labor, materials and other costs incurred directly in performing under the contract. Direct costs also include labor and other costs associated with operating our research and development department based on the level of effort supporting the development activity. Cost of engineering sales is determined by the level of direct and indirect costs incurred, which can fluctuate substantially from period to period.

Fixed Assets

Fixed assets are stated at cost. Depreciation of fixed assets is provided for using the straight-line method over the following estimated useful lives:

Computers and Purchased Software	3 years
Leasehold Improvements	Lesser of expected life or lease term
Manufacturing Equipment	5 years
Tooling	3 years
Furniture and Equipment	5 years

Repairs and maintenance costs are expensed as incurred. Asset betterments are capitalized and depreciated over their expected useful life.

Patents and Trademarks

The Company capitalizes the costs of obtaining its patents and registration of trademarks. Such costs are accumulated and capitalized during the filing periods, which can take several years to complete. Successful applications that result in the granting of a patent or trademark are then amortized over 15 years on a straight-line basis. Unsuccessful applications are written-off and expensed in the fiscal period where the application is abandoned or discontinued. Ongoing maintenance and legal fees for issued patents and trademarks are expensed as incurred.

Software Development Costs

The Company capitalizes the costs of obtaining or developing its software once technological feasibility has been determined by management or of purchased software solutions when placed into service. Such costs are accumulated and capitalized. Projects can take several years to complete. Unsuccessful or discontinued software projects are written-off and expensed in the fiscal period when the software development effort is abandoned or discontinued. Costs incurred internally in researching and developing a computer software product are charged to expense until technological feasibility has been established for the product. Once technological feasibility is established, all software costs are capitalized until the product is available for general release to customers. Judgment is required in determining when technological feasibility of a product is established. Once the product is available for general release, accumulated costs are amortized over the life of the asset. The amortization of these costs is included in cost of product sales over the estimated life of the products, which currently is estimated at three years using a straight-line basis. As of December 31, 2022, 2021 and 2020, we had \$500,000, \$541,666 and \$458,333, respectively, of net software development costs included in Other Assets. For the years ended December 31, 2022, 2021 and 2020, there was nil in impairment of software development costs.

Licenses

The Company capitalizes the costs of acquiring licenses and prepaid royalties. They are amortized on either a per unit basis or straight line over the expected life of the license. In some cases, future royalties are subject to annual limits.

Long-Lived Assets, Goodwill and Other Acquired Intangible Assets

The Company at least annually assesses all of its long-lived assets and intangibles, excluding goodwill, for impairment and when events or circumstances indicate their carrying amounts may not be recoverable. For the years ended December 31, 2022, 2021 and 2020, there was an impairment charge of \$97,675, \$80,163 and \$73,532, respectively, to Patents and Trademarks. For the years ended December 31, 2022 and 2021, we recorded a loss on fixed asset disposal of \$35,350 and \$183,614, respectively, upon the retirement of certain tooling and manufacturing equipment assets no longer in use. No loss on fixed asset disposal charges on tooling and equipment were recorded in 2020.

We test our goodwill for impairment at least annually, or more frequently if events or changes in circumstances indicate that the asset may be impaired.

There was no goodwill impairment recognized for the periods presented. Intangible assets with definite lives are amortized over their estimated useful lives on a straight-line basis over a five-year period.

Research and Development

Research and development costs are expensed as incurred consistent with the guidance of FASB ASC Topic 730, "Research and Development," and include employee related costs, office expenses, third-party design and engineering services, and new product prototyping costs. Costs incurred internally in researching and developing a computer software product are charged to expense until technological feasibility has been established for the product.

Shipping and Handling Costs

Amounts charged to customers and costs incurred by the Company related to shipping and handling are included in net sales and cost of sales, respectively.

Provision for Future Warranty Costs

The Company provides for the estimated returns under warranty and the costs of fulfilling our obligations under product warranties at the time the related revenue is recognized. The Company estimates the costs based on historical and projected product failure rates, historical and projected repair costs, and knowledge of specific product failures (if any). The specific warranty terms and conditions vary depending upon the country in which we do business, but generally include parts and labor over a period generally ranging from one to two years from the date of product shipment. The Company provides a reserve for expected future warranty returns at the time of product shipment or produces over-builds to cover replacements. We regularly re-evaluate our estimates to assess the adequacy of the recorded warranty liabilities and adjust the amounts as necessary each quarter end, based upon historical experience of warranty claims and costs.

Advertising

Advertising costs are expensed as incurred and recorded in "Selling and Marketing" in the Consolidated Statements of Operations. Advertising expense for the years ended December 31, 2022, 2021 and 2020 was \$1,668,910, \$1,263,897 and \$974,461, respectively.

Income Taxes

The Company accounts for income taxes in accordance with FASB ASC Topic 740-10, "Income Taxes." Accordingly, the Company provides deferred income tax assets and liabilities based on the estimated future tax effects of differences between the financial and tax bases of assets and liabilities based on currently enacted tax laws. A valuation allowance is established for deferred tax assets in amounts for which realization is not considered more likely than not to occur.

The Company reports any interest and penalties accrued relating to uncertain income tax positions as a component of the income tax provision.

Net Loss Per Share

Basic earnings per share is computed by dividing the net income (loss) less accrued dividends on any outstanding preferred stock by the weighted average number of common shares outstanding for the period. Diluted earnings per share calculations reflect the assumed exercise of all dilutive employee stock options and warrants applying the treasury stock method promulgated by FASB ASC Topic 260, "Earnings Per Share" and the conversion of any outstanding convertible preferred shares or notes payable that are-in-the-money, applying the as-if-converted method. However, if the assumed exercise of stock options and warrants and the conversion of any preferred shares are anti-dilutive, basic and diluted earnings per share are the same for all periods. As a result of the net losses generated in 2022, 2021 and 2020, all outstanding instruments would be anti-dilutive. As of December 31, 2022, 2021 and 2020, there were 8,589,673, 8,606,062 and 14,872,703 common stock share equivalents, respectively, that were potentially issuable under stock options, conversion of preferred shares (excluding accrued dividends), and stock warrants that could potentially dilute basic earnings per share in the future.

Stock-Based Compensation Expense

The Company accounts for stock-based compensation to employees and directors in accordance with FASB ASC Topic 718 "Compensation - Stock Compensation," which requires that compensation expense be recognized in the consolidated financial statements for stock-based awards based on the grant date fair value. For stock option awards, the Black-Scholes-Merton option pricing model was used to estimate the fair value of share-based awards under FASB ASC Topic 718. The Black-Scholes-Merton option pricing model incorporates various and highly subjective assumptions, including expected term and share price volatility. The expected term of options granted was estimated to be the average of the vesting term, historical exercise and forfeiture rates, and the contractual life of the option. The share price volatility at the grant date is estimated using historical stock prices based upon the expected term of the options granted. The risk-free interest rate assumption is determined using the rates for U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the award being valued.

For common stock awards, the Company uses the fair market value of our common stock on the date of each stock-based award based on the market price of the Company's common shares and the expense related to these awards is recognized over the requisite service period of the awards on a straight-line or graded vesting basis, which is generally commensurate with the vesting term. Stock-based compensation expense associated with stock awards and stock option grants for the years ended December 31, 2022, 2021 and 2020 was \$4,645,026, \$4,047,444 and \$2,805,842, respectively, excluding awards under the Company's Long-term Incentive Plan (LTIP). The Company issues new shares upon stock option exercises.

For stock options awarded under the Company's LTIP, options vest only upon the achievement of certain equity market conditions or performance-based milestones. The fair value of options granted under this program were calculated by using a Monte Carlo simulation for the equity market condition tranches and the Black-Scholes-Merton option pricing method on the performance-based tranches. Stock-based compensation expense associated with the Company's LTIP for the years ended December 31, 2022 and 2021 was \$11,130,527 and \$13,255,388, respectively, and nil for the year ended December 31, 2020.

Leases

The Company determines if an arrangement is a lease at inception. Our lease agreements generally contain lease and non-lease components. Historically, non-lease components such as utilities have been immaterial. Payments under our lease arrangements are primarily fixed. Lease assets and liabilities are recognized at the present value of the future lease payments at the lease commencement date. The Company has made an accounting policy election to account for lease and non-lease components in its contracts as a single lease component for its real estate leases. The interest rate used to determine the present value of the future lease payments is our incremental borrowing rate, because the interest rate implicit in our leases is not readily determinable. Our incremental borrowing rate is estimated to approximate the

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interest rate on a collateralized basis with similar terms and payments, and in economic environments where the leased asset is located. Our lease terms include periods under options to extend or terminate the lease when it is reasonably certain that we will exercise that option.

As of December 31, 2022, all of our leases are considered operating leases. Operating lease right-of-use assets and liabilities were included on our Consolidated Balance Sheets beginning January 1, 2019. The Company does not have any finance leases as of December 31, 2022.

Recent Accounting Pronouncements

In June 2016, the Financial Accounting Standards Board (the “FASB”) issued ASU 2016-13, “Financial Instruments - Credit Losses” (Topic 326). ASU 2016-13 provides for a new impairment model which requires measurement and recognition of expected credit losses for most financial assets and certain other instruments, including but not limited to accounts receivable. ASU 2016-13 will become effective for the Company on January 1, 2023 and early adoption is permitted. The Company is currently evaluating the guidance and its impact on the financial statements.

Note 2 – Acquisition

On October 20, 2022, the Company acquired Moviynt®, a US-based SAP Certified ERP platform software solution provider, that supports handheld mobile phones and scanners used in logistics, warehousing and manufacturing applications. Moviynt, a boutique specialized software firm which was founded in 2018 by three principals, has developed a logistics mobility software platform (Mobilium®) which eliminates traditional middleware, and is device agnostic. With the acquisition, Moviynt becomes a wholly-owned subsidiary of Vuzix.

The Moviynt acquisition was completed pursuant to an agreement and plan of merger by and among the Company and Moviynt, Inc. (the Sellers), a Delaware corporation. Total purchase price consideration paid to the Sellers was \$2,469,574, which included \$2,300,000 in base merger consideration and \$169,574 in net working capital adjustments, in exchange for all shares outstanding. The acquisition agreements contained customary terms and conditions including representations, warranties and indemnification provisions. A portion of the consideration paid to the Sellers was held in escrow for indemnification purposes, which was subsequently released to the Sellers upon the Company completing a 90-day post close review.

The Moviynt acquisition was accounted for in accordance with the accounting treatment of a business combination pursuant to FASB ASC Topic 805, Business Combinations (“ASC 805”). Accordingly, the purchase price was allocated to the tangible and intangible assets acquired and the liabilities assumed based on their estimated fair values on the acquisition date. The excess of the purchase price over the estimated fair value of the separately identifiable assets acquired and liabilities assumed was allocated to goodwill. Management is responsible for determining the acquisition date fair value of the assets acquired and liabilities assumed, which requires the use of various assumptions and judgments that are inherently subjective. The purchase price allocation presented below reflects all known information about the fair value of the assets acquired and liabilities assumed as of the acquisition date.

The following table represents the preliminary assets acquired and liabilities assumed on October 20, 2022:

Cash	\$	132,233
Accounts Receivable		44,820
Goodwill		1,601,400
Other Intangible Assets		698,600
Accrued Expenses		(7,479)
Net Assets Acquired	\$	<u>2,469,574</u>

The goodwill included in the Company’s purchase price allocation presented above represents the value of Moviynt’s assembled and trained workforce and the incremental value that Moviynt’s technology and deployment

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efforts currently in place will add to the Company's expected revenue growth. No amount of goodwill is considered deductible for tax purposes.

Intangible assets were valued using various income methods based upon management's approved projections of future cash flows. The following table summarizes the estimated fair value and annual amortization for each of the identifiable intangible assets acquired:

	Estimated Fair Value	Amortization Period (Years)	Annual Amortization				
			Year 1	Year 2	Year 3	Year 4	Year 5
Tradenam-Trademark	\$ 92,600	5	\$ 18,520	\$ 18,520	\$ 18,520	\$ 18,520	\$ 15,433
IP-Technology-License	415,400	5	83,080	83,080	83,080	83,080	69,233
Customer Base	153,400	5	30,680	30,680	30,680	30,680	25,567
Non-Competes	37,200	5	7,440	7,440	7,440	7,440	6,200
Total definite-lived intangible assets	\$ 698,600		\$ 139,720	\$ 139,720	\$ 139,720	\$ 139,720	\$ 116,433

During the year ended December 31, 2022, the Company incurred acquisition-related costs and other non-recurring expenses of \$74,723 directly attributable to the acquisition, including one-time accounting, legal and due diligence services, which amounts were expensed as incurred.

In 2022, since the acquisition date, Moviynt generated \$76,952 in engineering revenue which was applied against \$24,819 related to Cost of Sales, generating a gross margin of \$52,133. Revenues and earnings for Moviynt prior to the acquisition date are not presented here as they were considered non-material to the Company's Consolidated Statement of Operations.

Note 3 – Revenue Recognition and Contracts with Customers

Disaggregated Revenue

The Company's total revenue was comprised of two major product lines: Products Sales (which include Smart Glasses, OEM Product Sales, and Waveguide and Display Engine Sales) and Engineering Services. The following table summarizes the revenue recognized by product line:

	For the Years Ended December 31,		
	2022	2021	2020
Revenues			
Products Sales	\$ 10,505,763	\$ 12,784,600	\$ 10,081,209
Engineering Services	1,330,119	380,333	1,500,287
Total Revenue	\$ 11,835,882	\$ 13,164,933	\$ 11,581,496

Significant Judgments

Under Topic 606 "Revenue from Contracts with Customers", we use judgments that could potentially impact both the timing of our satisfaction of performance obligations and our determination of transaction prices used in determining revenue recognized by major product line. Such judgments include considerations in determining our transaction prices and when our performance obligations are satisfied for our standard product sales that include an end-user 30-day right to return if not satisfied with product and general payment terms that are between Net 30 and 60 days. For our Engineering Services, performance obligations are recognized over time using the input method and the estimated costs to complete each project are considered significant judgments.

Performance Obligations

Revenues from our performance obligations are typically satisfied at a point-in-time for Smart Glasses, Waveguides and Display Engines, and our OEM Products, which are recognized when the customer obtains control and

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ownership, which is generally upon shipment. The Company considers shipping and handling activities performed to be fulfillment activities and not a separate performance obligation. The Company also records revenue for performance obligations relating to our Engineering Services over time by using the input method measuring progress toward satisfying the performance obligations. Satisfaction of our performance obligations related to our Engineering Services is measured by the Company's costs incurred as a percentage of total expected costs to project completion as the inputs of actual costs incurred by the Company are directly correlated with progress toward completing the contract. As such, the Company believes that our methodologies for recognizing revenue over time for our Engineering Services correlate directly with the transfer of control of the underlying assets to our customers.

Our standard product sales include a twelve (12) month assurance-type product warranty. In the case of certain of our OEM products and waveguide sales, some include a standard product warranty of up to eighteen (18) months to allow distribution channels to offer the end customer a full twelve (12) months of coverage. We offer extended warranties to customers, which extend the standard product warranty on product sales for an additional twelve (12) month period. All revenue related to extended product warranty sales is deferred and recognized over the extended warranty period. Our Engineering Services contracts vary from contract to contract but typically include payment terms of Net 30 days from the date of billing, subject to an agreed upon customer acceptance period.

As of December 31, 2022 and 2021, there were no outstanding performance obligations remaining for extended warranties.

The following table presents a summary of the Company's net sales by revenue recognition method as a percentage of total net sales:

	% of Total Net Sales		
	2022	2021	2020
Point-in-Time	89 %	97 %	87 %
Over Time – Input Method	11 %	3 %	13 %
Total	100 %	100 %	100 %

Remaining Performance Obligations

As of December 31, 2022, the Company had approximately \$187,000 of remaining performance obligations under a current waveguide development project, which represents the remainder of the total transaction price of approximately \$896,000 under this development agreement, less revenue recognized under percentage of completion to date. The Company expects to recognize the remaining revenue related to this project in the first quarter of 2023. Revenues earned less amounts invoiced at December 31, 2022 in the amount of \$269,129 are reflected as Accrued Revenues in Excess of Billings in the accompanying Consolidated Balance Sheet.

In addition, the Company had no material outstanding performance obligations related to product sales, other than its standard product warranty.

Note 4 — Inventories, Net

Inventories consisted of the following:

	<u>December 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
Purchased Parts and Components	\$ 10,399,527	\$ 11,580,766
Work-in-Process	344,242	226,126
Finished Goods	1,941,689	1,472,534
Less: Reserve for Obsolescence	<u>(1,417,489)</u>	<u>(1,127,444)</u>
Inventories, Net	<u>\$ 11,267,969</u>	<u>\$ 12,151,982</u>

For the year ended December 31, 2022, the Company increased its general Reserve for Obsolescence provision by \$290,405 related to some of its accessories. The total write-down and obsolescence provision for finished goods and components recorded for the years ended December 31, 2021 and 2020 was \$519,950 and \$1,273,835, respectively.

Note 5 — Fixed Assets, Net

Fixed Assets consisted of the following:

	<u>December 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
Tooling and Manufacturing Equipment	\$ 6,065,445	\$ 6,612,811
Leaseholds	826,329	797,059
Computers and Purchased Software	760,256	980,561
Furniture and Equipment	2,487,650	2,661,346
	<u>10,139,680</u>	<u>11,051,777</u>
Less: Accumulated Depreciation	<u>(6,261,175)</u>	<u>(5,861,339)</u>
Fixed Assets, Net	<u>\$ 3,878,505</u>	<u>\$ 5,190,438</u>

Total depreciation expense for fixed assets for the years ended December 31, 2022, 2021 and 2020 was \$869,502, \$1,306,479 and \$1,904,282, respectively.

On May 12, 2022, the Company signed a series of agreements with Atomistic SAS, which provided for an exclusive license by the Company of key micro LED technology and for the custom design of a backplane, for cash commitments totaling \$30 million along with equity issuance commitments to be made by the Company relating to the certain deliverables and the achievement of milestones by Atomistic. \$15 million of the consideration was for the design and construction of the backplane, all of which is custom to the Company. On December 16, 2022, the Company signed new agreements with Atomistic (the "Atomistic Agreements") that superseded the prior May 12, 2022 agreements, whereby the scope for the construction of a backplane was modified and the Company obtained an additional license in an alternative self-emissive micro LED technology. As a result, \$5,529,120 that was previously recorded to construction-in-process, as of September 30, 2022, is now recognized as a technology license asset at December 16, 2022. This was considered a non-monetary exchange and the Company recorded no gain or loss.

Note 6 — Patents and Trademarks, Net

	<u>December 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
Patents and Trademarks	\$ 3,153,358	\$ 2,854,521
Less: Accumulated Amortization	<u>(933,264)</u>	<u>(866,151)</u>
Patents and Trademarks, Net	<u>\$ 2,220,094</u>	<u>\$ 1,988,370</u>

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Total amortization expense for patents and trademarks for the years ended December 31, 2022, 2021 and 2020 was \$149,700, \$145,072 and \$130,656, respectively. The estimated aggregate annual amortization expense for each of the next five fiscal years is approximately \$210,000. For the years ended December 31, 2022, 2021 and 2020, we recorded \$97,675, \$80,163 and \$73,532, respectively, in patent impairment charges.

Note 7 — Technology Licenses, Net

	<u>December 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
Licenses	\$ 2,443,356	\$ 1,038,606
Additions	30,000,000	1,404,750
Less: Accumulated Amortization	(2,284,667)	(1,053,420)
Licenses, Net	<u>\$ 30,158,689</u>	<u>\$ 1,389,936</u>

Total amortization expense related to technology licenses in the years ended December 31, 2022, 2021 and 2020 was \$1,231,197, \$480,945, and \$393,174, respectively.

As noted above in Note 5, on May 12, 2022, the Company signed a series of agreements with Atomistic SAS, which provided for an exclusive license of key micro LED technology and for the custom design and construction of a backplane chip for cash commitments totaling \$30 million along with equity issuance commitments to be made by the Company relating to the certain deliverables and the achievement of milestones by Atomistic. \$15 million of the consideration was for the exclusive license of technology and know-how and developed technologies related to next generation micro LEDs and micro-displays. On December 16, 2022, the Company entered into the Atomistic Agreements expanding upon the original license to include certain alternative self-emissive micro LED technology in addition to the previously licensed technology. The Company recorded this additionally licensed technology asset at \$15,000,000, which included a reclassification of \$5,529,120 from fixed assets construction-in-progress, as of September 30, 2022, which was the result of the non-monetary exchange described in Note 5, and recorded an accrued liability of \$9,470,880 at December 16, 2022. This was in addition to the \$15,000,000 recorded under the terms of the original agreements with Atomistic.

These intangible technology license assets are to be amortized over a ten-year period, which began on May 12, 2022 and, as modified on, December 16, 2022. During the year ended December 31, 2022, the Company paid \$18,500,000 towards this commitment and recorded a total of \$1,231,197 in amortization relating to these intangible assets and other licenses. Total amortization expense related to licenses in the years ending December 31, 2021 and 2020 was \$480,945 and \$393,174, respectively. The remaining funding commitment of \$11,500,000 associated with these licenses is to be paid over the next twelve months.

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Note 8 — Intangible Asset, Net

Goodwill

Changes in the carrying amount of goodwill acquired with the Company's acquisition of Moviynt for the year ended December 31, 2022 were as follows:

Goodwill at December 31, 2021	\$	—
Acquisitions		<u>1,601,400</u>
Goodwill at December 31, 2022	\$	<u><u>1,601,400</u></u>

Intangible Asset, Net

Information regarding purchased intangible assets acquired with the Company's acquisition of Moviynt for the year ended December 31, 2022 was as follows:

	As of December 31, 2022		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
Tradename-Trademark	\$ 92,600	\$ (3,087)	\$ 89,513
IP-Technology-License	415,400	(13,847)	401,553
Customer Base	153,400	(5,113)	148,287
Non-Competes	37,200	(1,240)	35,960
Total definite-lived intangible assets	<u>\$ 698,600</u>	<u>\$ (23,287)</u>	<u>\$ 675,313</u>

For all intangible assets acquired and purchased during the year ended December 31, 2022, Tradename, IP-Technology License, Customer Base and Non-Competes have expected useful lives of 5 years.

Amortization expense relating to purchased intangible assets was \$23,287 for the year ended December 31, 2022. As of December 31, 2022, expected amortization expense relating to purchased intangible assets for each of the next five years and thereafter was as follows:

2023	\$	139,720
2024		139,720
2025		139,720
2026		139,720
2027		<u>116,433</u>
	\$	<u><u>675,313</u></u>

Note 9 – Other Assets

The Company's other assets consists of the following:

	December 31, 2022	December 31, 2021
Private Corporation Investments (at cost)	\$ 450,000	\$ 450,000
Software Development Costs	750,000	500,000
Additions	125,000	250,000
Less: Accumulated Amortization	(375,000)	(208,334)
Software Development Costs, Net	500,000	541,666
Unamortized Common Stock Expense included in Long-Term Prepaid Expenses	631,143	491,923
Total Other Assets	<u>\$ 1,581,143</u>	<u>\$ 1,483,589</u>

During 2020, the Company invested \$500,000 in Android operating systems upgrades for its CPU platform used on its M400 and M4000 products. This upgrade was finished and placed into service in the beginning of the fourth quarter of 2020. This capitalized asset will be amortized on a straight-line over its expected product life cycle of 36 months, which began on October 1, 2020. In October 2021, the Company invested \$250,000 for further Android operating systems version upgrades to the CPU platform it uses on its M400 and M4000 products. This development work has not yet been completed and will ultimately be amortized once placed into service which is expected in the first quarter of 2023.

Total amortization expense for capitalized software development costs for the years ended December 31, 2022, 2021 and 2020 was \$166,667, \$240,395 and \$183,328, respectively, and are included in Cost of Sales – Products in the Consolidated Statements of Operations.

Note 10 — Accrued Expenses

Accrued expenses consisted of the following:

	December 31, 2022	December 31, 2021
Accrued Wages and Related Costs	\$ 843,537	\$ 683,044
Accrued Professional Services	263,800	551,220
Accrued Warranty Obligations	159,927	185,044
Other Accrued Expenses	403,275	—
Total	<u>\$ 1,670,539</u>	<u>\$ 1,419,308</u>

The Company has warranty obligations in connection with the sale of certain of its products. The warranty period for its products is generally twelve (12) months, unless the customer purchases an extended warranty for an additional twelve (12) months. The costs incurred to provide for these warranty obligations are estimated and recorded as an accrued liability at the time of sale. The Company estimates its future warranty costs based upon product-based historical performance rates and related costs to repair. Included in Other Accrued Expenses as of December 31, 2022, were \$318,320 in accrued vendor expenses.

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The changes in the Company's accrued warranty obligations for the years ended December 31, 2022, 2021 and 2020 were as follows:

Accrued Warranty Obligations at December 31, 2019	\$ 98,893
Reductions for Settling Warranties	(193,503)
Warranty Issued During Year	<u>238,508</u>
Accrued Warranty Obligations at December 31, 2020	143,898
Reductions for Settling Warranties	(342,392)
Warranty Issued During Year	<u>383,538</u>
Accrued Warranty Obligations at December 31, 2021	\$ 185,044
Reductions for Settling Warranties	(408,655)
Warranties Issued During Year	<u>383,538</u>
Accrued Warranty Obligations at December 31, 2022	<u><u>\$ 159,927</u></u>

Note 11 — Income Taxes

The Company files U.S. federal and various state and foreign tax returns.

Pre-tax earnings consisted of the following for the years ended:

	December 31, 2022	December 31, 2021	December 31, 2020
Pre-Tax Income (Loss)			
U.S.	\$ (41,356,619)	\$ (39,906,101)	\$ (18,238,773)
Outside the U.S.	593,046	(471,059)	286,601
Total Pre-Tax Income (Loss)	<u>\$ (40,763,573)</u>	<u>\$ (40,377,160)</u>	<u>\$ (17,952,172)</u>

The provision expense/(benefit) for income taxes for the years ended December 31, 2022, 2021 and 2020 was as follows:

	2022	2021	2020
U.S. Income Taxes:			
Current Provision	\$ —	\$ —	\$ —
Deferred Provision	(2,957,991)	(8,924,947)	(3,897,293)
Valuation Allowance	2,957,991	8,924,947	3,897,293
Income Taxes Outside the U.S.:			
Current Provision	—	—	—
Deferred Provision	109,107	(341,181)	7,916
Valuation Allowance	(109,107)	341,181	(7,916)
State Income Taxes:			
Current Provision	—	—	—
Deferred Provision	271,248	(636,401)	(94,324)
Valuation Allowance	(271,248)	636,401	94,324
Total Provision	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>

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A reconciliation of the statutory U.S. federal income tax rate to the effective rates for the years ended December 31, 2022, 2021 and 2020 is as follows:

	2022 %	2021 %	2020 %
Federal Income Tax at Statutory Rate	21.0	21.0	21.0
State Tax Provision, Net of Federal Benefit	(0.5)	1.6	0.3
Permanent Differences	(0.4)	—	(0.4)
Forgiveness of PPP Loan	—	—	1.8
Federal Tax Credits	(0.1)	0.2	1.1
Stock Compensation	(13.2)	1.5	(2.1)
Foreign Tax Provision	0.1	0.6	0.3
Expiration of NOL, Credits, Charitable Contribution	(0.8)	(0.7)	0.1
Other	0.2	0.3	0.1
Effective Tax Rate	6.3	24.5	22.2
Change in Valuation Allowance	(6.3)	(24.5)	(22.2)
Net Effective Tax Rate	—	—	—

Significant components of the Company's deferred tax assets and liabilities at year end are as follows:

	December 31, 2022	December 31, 2021	December 31, 2020
Deferred Tax Assets:			
Net Operating Loss Carry-forwards	\$ 38,655,757	\$ 36,705,377	\$ 29,264,829
Tax Credit Carry-forwards	4,048,872	3,924,660	3,778,001
Inventory Valuation Adjustment	350,165	290,713	847,441
Stock-Based Compensation	890,169	2,989,427	208,803
Lease Obligation Liability	204,141	240,741	323,186
Capitalized R&D	2,265,857	—	—
Other	702,540	425,737	368,243
Total Deferred Tax Assets	47,117,501	44,576,655	34,790,503
Deferred Tax Liabilities:			
Income from Foreign Operations	—	—	10,727
Lease Right of Use Asset	204,141	240,741	323,186
Moviynt Intangibles	3,867	—	—
Other	—	4,057	27,262
Total Deferred Tax Liabilities	208,008	244,798	361,175
Net Deferred Tax Assets Before Valuation Allowance	\$ 46,909,493	\$ 44,331,857	\$ 34,429,328
Valuation Allowance	(46,909,493)	(44,331,857)	(34,429,328)
Net Deferred Tax Assets	\$ —	\$ —	\$ —

As of December 31, 2022, the Company has approximately \$178 million in US federal net operating loss (NOL) carry-forwards and \$2.2 million of Japanese NOL carry-forwards. The federal NOL carry-forwards generated in tax years prior to 2018 began to expire in 2020. The federal NOL carry-forwards created in 2018 - 2022 have no expiration. The Company has state NOL carry-forwards of approximately \$8.4 million available in various jurisdictions in which it files that will begin to expire in 2034. The Company also has approximately \$4.0 million of federal and state credit carry-forwards. The federal and state credit carry-forwards began to expire during 2018. Utilization of the NOL carry-forwards may be subject to an annual limitation in the case of sufficient equity ownership changes under Section 382 of the tax law or the carry-forwards may expire unutilized.

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As a result of the assessment of the FASB ASC 740-10 (Prior Authoritative Literature: FASB Interpretation No. 48 (“FIN 48”), Accounting for Uncertainty in Income Taxes — An Interpretation of FASB Statement No. 109), the Company has no unrecognized tax benefits.

The Company’s U.S. federal and state tax returns for the years 2018 through 2021 remain subject to examination by the respective tax authorities.

FASB ASC 740 (Prior Authoritative Literature: SFAS No. 109, Accounting for Income Taxes), requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements or tax returns. Under this method, deferred tax assets and liabilities are determined based on differing treatment of items for financial reporting and income tax reporting purposes. The deferred tax balances are adjusted to reflect tax rates by tax jurisdiction, based on currently enacted tax laws, which will be in effect in the years in which the temporary differences are expected to reverse. In light of the historic losses of the Company, a 100% valuation allowance has been recorded to fully offset any benefit associated with the net deferred tax assets, for which realization is not considered more likely than not to occur.

Note 12 — Capital Stock

Preferred stock

The Board of Directors are authorized to establish and designate different series of preferred stock and to fix and determine their voting powers and other special rights and terms. A total of 5,000,000 shares of preferred stock with a par value of \$0.001 are authorized as of December 31, 2022 and December 31, 2021. Of this total, 49,626 shares are designated as Series A Preferred Stock. There were no shares of Series A Preferred Stock issued and outstanding on December 31, 2022 and 2021.

On January 28, 2021, Intel Corporation (“Intel”) (which was the holder of all of the outstanding shares of Series A Preferred Stock) converted all of its 49,626 shares of Series A Preferred Stock into 4,962,600 shares of common stock and the shares of Series A Preferred Stock have been retired and cannot be reissued. In connection with the foregoing, Intel and the Company entered into an agreement pursuant to which Intel agreed to accept \$10,000,000 in full payment of all accrued Series A Preferred Stock dividends in the approximate amount of \$10,800,000.

Common Stock

The Company’s authorized common stock consists of 100,000,000 shares, par value of \$0.001 as of December 31, 2022, and December 31, 2021. There were 63,783,779 shares of common stock issued and 63,319,107 shares of common stock outstanding as of December 31, 2022 and 63,672,268 shares of common stock issued and outstanding as of December 31, 2021.

On March 2, 2022, our Board of Directors approved the repurchase by the Company of up to an aggregate of \$25 million of our common stock by open market or privately negotiated transactions under the Share Buyback Program. This program is in effect for one year, does not obligate the Company to acquire any particular amount of common stock and may be suspended or discontinued at any time at the Company’s sole discretion. During the year ended December 31, 2022, the Company repurchased 464,672 shares of our common stock at an average cost of \$4.32 per share. As of December 31, 2022, 464,672 shares of our common stock were held in treasury.

On March 25, 2021, the Company entered into an underwriting agreement with BTIG, LLC for the sale of the Company’s common stock in an underwritten public offering at a public offering price of \$20.50 per share. The Company closed on this public offering (including the full exercise of the over-allotment option granted to the underwriters), receiving total gross proceeds of \$97,750,007 from the sale of 4,768,293 shares. The Company received net proceeds after the underwriting discount and issuance costs and expenses of \$91,613,587.

In connection with the Atomistic Agreements, the Company will, upon certain deliverables and the achievement of milestones contained in the Atomistic Agreements, be committed to pay \$2,500,000 and to issue a

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minimum of 1,750,000 common shares of Vuzix to the stockholders of Atomistic (as a portion of the consideration for certain shares of Atomistic) which would result in Vuzix owning Series A Preferred shares in Atomistic that could ultimately be converted into ordinary shares of Atomistic, with Atomistic becoming a subsidiary of the Company, and Vuzix ultimately owning 100% of Atomistic. The share issuances by the Company are expected to be issued over the next 6 to 24 months. In the event the fair market value of Vuzix stock, which is determined based upon the trailing 10-day VWAP of the Company's common shares, is between a floor of \$8.00 and a ceiling of \$13.00, Vuzix may opt, at its sole discretion, to pay any fair market valuation shortfall with up to 1,093,754 additional Vuzix common shares or cash to Atomistic shareholders. Within five years of the commencement of the Atomistic Agreements, the Company has agreed to issue up to a 15% equity bonus of the previously issued common shares to Atomistic stockholders, if: (i) the Company engages in a change-of-control transaction for an implied equity value of at least \$3.5 billion or (ii) the Company's market valuation exceeds \$3.5 billion. This could result in the issuance of an additional 291,346 to 473,438 shares of the Company's common stock when that valuation target is exceeded. None of these share commitments have been issued to date.

Note 13 — Stock Warrants

The following table shows the various changes in warrants for the years ended:

	December 31, 2022	December 31, 2021	December 31, 2020
Warrants Outstanding at:	—	7,276,928	6,512,516
Exercised During the Period	—	(7,276,928)	(2,882,647)
Issued During the Period	—	—	3,647,059
Warrants Outstanding at:	—	—	7,276,928

During the year ended December 31, 2021, a total of 7,276,928 warrants were exercised on a cash basis resulting in the issuance of 7,276,928 shares of common stock and proceeds of \$34,715,728. During the year ended December 31, 2020, a total of 2,882,647 warrants were exercised on a cash basis resulting in the issuance of 2,882,647 shares of common stock and proceeds of \$14,128,527.

As of December 31, 2022, there were no outstanding warrants remaining.

Note 14 — Stock-Based Compensation

The Company has the following Stock Option Plans ("Plans") that allow for the granting of both incentive stock options or ISOs, which can result in potentially favorable tax treatment to the participant, and non-statutory stock options. The Company's 2014 Equity Incentive Plan (the "2014 Plan") was approved by the stockholders of the Company on June 26, 2014. The Company no longer issues any options under its prior 2009 Plan. The 2014 Plan has an "evergreen provision", under which the maximum number of shares of common stock that may be issued under the 2014 Plan was approved by the Company's stockholders to increase the number of shares available for issuance thereunder to 20% of the outstanding shares of common stock. As of December 31, 2022, the authorized shares of common stock under the 2014 Plan, as amended, were 12,663,821.

The exercise price per share subject to an option is determined by the administrator, but in the case of an ISO must not be less than the fair market value of a share of our common stock on the date of grant and in the case of a non-statutory stock option must not be less than 100% of the fair market value of a share of our common stock on the date of grant.

Under the 2014 Plan, the Company may grant stock options, stock appreciation rights, performance awards of stock and/or cash, and stock awards of restricted stock.

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Options issued or outstanding under the Stock Options Plans are as follows:

	2009 Plan	2014 Plan	Total
Outstanding or Exercised as of December 31, 2020	85,498	2,547,677	2,633,175
Available for future issuance under plan	—	6,583,033	6,583,033
Total authorized by plan	<u>85,498</u>	<u>9,130,710</u>	<u>9,216,208</u>
Outstanding or Exercised as of December 31, 2021	—	11,184,450	11,184,450
Available for future issuance under plan	—	1,550,004	1,550,004
Totals authorized by plan	<u>—</u>	<u>12,734,454</u>	<u>12,734,454</u>
Outstanding or Exercised as of December 31, 2022	—	11,168,061	11,168,061
Available for future issuance under plan	—	1,495,760	1,495,760
Totals authorized by plan	<u>—</u>	<u>12,663,821</u>	<u>12,663,821</u>

The 2014 Plan gives the Board of Directors of the Company the ability to determine vesting periods for all stock incentives granted under the 2014 Plan and allows option terms to be up to ten years from the original grant date. Employees' incentive stock options typically vest at a minimum rate of 25% per year over a four-year period, commencing on the date of grant.

The following table summarizes stock option activity related to the Company's standard employee incentive plan, excluding options awarded under the Long-term Incentive Plan (LTIP), for the years ended December 31, 2022, 2021 and 2020:

	Number of Options	Weighted Average Exercise Price	Average Remaining Life (years)
Outstanding at December 31, 2019	1,383,591	\$ 4.77	6.25
Granted	1,481,000	1.66	
Exercised	(82,083)	4.67	
Expired or Forfeited	(149,333)	3.68	
Outstanding at December 31, 2020	<u>2,633,175</u>	<u>\$ 3.09</u>	<u>6.53</u>
Granted	1,100,500	17.23	
Exercised	(739,956)	3.36	
Expired or Forfeited	(170,085)	8.58	
Outstanding at December 31, 2021	<u>2,823,634</u>	<u>\$ 7.67</u>	<u>7.95</u>
Granted	442,000	5.45	
Exercised	(145,185)	2.56	
Expired or Forfeited	(314,776)	9.27	
Outstanding at December 31, 2022	<u>2,805,673</u>	<u>\$ 7.80</u>	<u>7.28</u>

As of December 31, 2022, there were 1,493,707 options that were fully-vested and exercisable at a weighted average exercise price of \$6.88 per share. The weighted average remaining contractual term on the vested options is 6.3 years. The unvested balance of 1,311,966 options as of December 31, 2022, are exercisable at a weighted average exercise price of \$8.83 per share. The weighted average remaining contractual term on the unvested options is 8.4 years.

As of December 31, 2021, there were 1,069,639 options that were fully-vested and exercisable at a weighted average exercise price of \$5.70 per share. The weighted average remaining contractual term on the vested options is 6.6 years. The unvested balance of 1,753,995 options as of December 31, 2021, are exercisable at a weighted average exercise price of \$9.62 per share. The weighted average remaining contractual term on the unvested options is 8.8 years.

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As of December 31, 2020, there were 1,251,241 options that were fully-vested and exercisable at a weighted average exercise price of \$4.17 per share. The weighted average remaining contractual term on the vested options is 4.5 years. The unvested balance of 1,381,934 options as of December 31, 2020 were exercisable at a weighted average exercise price of \$2.16 per share. The weighted average remaining contractual term on the vested options was 9.3 years.

The aggregate intrinsic value of the options exercised during the year ended December 31, 2022, 2021 and 2020 was approximately \$14,732,088, \$13,697,906 and \$869,177, respectively.

The aggregate intrinsic value of the options outstanding as of December 31, 2022, 2021 and 2020 was approximately \$2,093,164, \$9,314,887 and 16,444,695, respectively.

The Black-Scholes-Merton option pricing model was used to estimate the fair value of share-based awards under FASB ASC Topic 718. The Black-Scholes-Merton option pricing model incorporates various and highly subjective assumptions, including expected term and share price volatility.

The expected term of options granted was estimated to be the average of the vesting term, historical exercise and forfeiture rates, and the contractual life of the option. The share price volatility at the grant date is estimated using historical stock prices based upon the expected term of the options granted. The risk-free interest rate assumption is determined using the rates for U.S. Treasury zero-coupon bonds with maturities similar to those of the expected term of the award being valued. We have never paid cash dividends on our common stock and do not anticipate paying cash dividends on our common stock in the foreseeable future. Therefore, the assumed expected dividend yield is zero.

The following summary table shows the assumptions used to compute the fair value of stock options granted, excluding LTIP, during 2022, 2021 and 2020 and their estimated value:

<u>December 31,</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>
<u>Assumptions for Black-Scholes:</u>			
Expected term in years	6.1	6.1 to 6.5	6.2 to 6.6
Volatility	85.44% to 87.09 %	82.8% to 86.0 %	73.3% to 76.8 %
Risk-free interest rate	2.18% to 3.95 %	0.96% to 1.25 %	0.41% to 0.55 %
Expected annual dividends	None	None	None
<u>Value of options granted:</u>			
Number of options granted	442,000	1,100,500	1,481,000
Weighted average fair value per share	\$ 4.04	\$ 12.40	\$ 1.08
Fair value of options granted	\$ 1,783,710	\$ 13,642,976	\$ 1,602,267

Under FASB ASC Topic 718, "Compensation – Stock Compensation", the Company has elected to account for forfeitures as they occur.

Unrecognized stock-based compensation expense was \$8,295,237 as of December 31, 2022, relating to a total of 1,311,966 unvested stock options under the Company's stock option plans. This stock-based compensation expense is expected to be recognized over a weighted average period of approximately 2.5 years.

During the year ended December 31, 2022, the Company issued 88,650 shares of common stock to its independent board members as part of their annual retainer for services covering the period of July 2022 to June 2023. The fair market value on the date of award of the stock issued was \$5.64, resulting in an aggregate fair value of approximately \$500,000. The unamortized portion is included in Prepaid Expenses and Other Assets on our consolidated balance sheet. The fair market value of these awards is expensed over twelve (12) months, beginning on July 1, 2022.

During the year ended December 31, 2022, the Company issued 200,000 shares of common stock to its Chief Operating Officer. The fair market value on the date of award of the stock issued was \$5.64, resulting in an aggregate fair value of approximately \$1,128,000. The fair market value of this award is expensed over a forty-two (42) month vesting period, which began June 15, 2022.

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For the years ended December 31, 2022, 2021 and 2020, the Company recorded total stock-based compensation expense, including stock awards but excluding awards under the Company's LTIP, of \$4,645,026, \$4,047,444, and \$2,805,842, respectively.

Note 15 – Long-term Incentive Plan

On March 17, 2021, the Company granted options to purchase a total of 5,784,000 shares of common stock to its officers and certain other members of its management team. The options were granted under the Company's existing 2014 Incentive Stock Plan. The options have an exercise price of \$19.00, with 375,000 options vesting immediately and the remaining portion vesting upon the achievement of certain equity market capitalization milestones, and revenue and EBITDA operational milestones. For the years ended December 31, 2022 and 2021, the Company recorded non-cash stock-based compensation expense of \$11,130,527 and \$13,255,388, respectively, for options that vested or are probable to vest. There was no stock-based compensation expense related to the Company's LTIP in the year ended December 31, 2020.

The fair value of option grants was calculated using a Monte Carlo simulation for the equity market capitalization tranches and the Black-Scholes-Merton option pricing method for the operational milestone tranches. As of December 31, 2022, we had \$17,209,931 of total unrecognized stock-based compensation expense for the portion of options tied to equity market capitalization milestones and the portion of options tied to operational milestones that were considered probable of achievement, all of which will be recognized over a service period of up to three to four years. The probabilities of the milestone achievements are subject to catch-up adjustments in each instance where an equity market capitalization milestone is achieved or when an operational milestone becomes probable to be achieved or is achieved. Compensation costs could be reversed in subsequent periods if an awardee leaves the Company prior to the expiration of the option life for market capitalization milestone or performance award vesting of a performance award no longer determined to be probable. If such milestones are achieved earlier in their expected service periods, the remaining unrecognized compensation expense related to that particular milestone would be accelerated and recognized in full during the period where that achievement is affirmed by the Board of Directors. As of December 31, 2022, and going forward, should all of the operational milestones which are currently not yet deemed probable of achievement become probable of achievement or are achieved, then the Company could ultimately recognize up to an additional \$34.1 million in non-cash stock-based compensation expense at such time.

The unvested remaining equity market and operational milestones under the LTIP with their total related option grants and criteria achievement weightings of the options available for meeting a target are shown in the following table. Of the total 5,409,000 unvested options outstanding as of December 31, 2022, there are 2,704,500 options unvested for the achievement of Equity Market Capitalization targets, 1,893,150 unvested options for the achievement of annual Revenue targets, and 811,350 unvested options for the achievement of annual EBITDA Margins Before Non-Cash Charges targets.

Award Potential	Criteria Achievement Weighting		
	50% of Options Available	35% of Options Available	15% of Options Available
Options Available (Subject to Vesting)	Equity Market Capitalization Target	Last Twelve Months Revenue Target	Last Twelve Months EBITDA Margin before Non-Cash Charges Target
686,000	\$ 2,000,000,000	\$ 25,000,000	0.0%
686,000	3,000,000,000	50,000,000	2.0%
686,000	4,000,000,000	100,000,000	4.0%
686,000	5,000,000,000	200,000,000	6.0%
586,000	6,000,000,000	300,000,000	8.0%
586,000	7,000,000,000	450,000,000	10.0%
561,000	8,000,000,000	675,000,000	12.0%
491,000	9,000,000,000	1,000,000,000	14.0%
441,000	10,000,000,000	1,500,000,000	16.0%
<u>5,409,000</u>			

Note 16 — Right-of-Use Assets and Liabilities

The Company has signed lease agreements, with the largest being for its office and manufacturing facility in the West Henrietta, New York area under an operating lease that commenced October 3, 2015, and was set to expire on October 3, 2020. This lease has an original five-year term with an option by the Company to renew for two additional three-year terms at pre-agreed to lease rates. On June 25, 2020, the Company exercised the first of two renewal terms, extending our current lease term to January 31, 2024.

In October 2022, we leased an additional 12,000 square feet for our new waveguide manufacturing facility adjacent to our existing facility in West Henrietta, New York. This lease has an original three-year term, expiring on November 30, 2025, with an option by the Company to renew for two additional one-year terms at pre-agreed to lease rates. This lease commenced on December 1, 2022, and monthly base rent lease payments are \$9,503 plus additional rent of \$2,587.

Operating lease costs under our operating leases totaled \$659,045, \$630,085 and \$559,975 for the years ended December 31, 2022, 2021 and 2020, respectively.

Certain leases provide for increases in future minimum annual rental payments as defined in the lease agreements. The leases generally also include real estate taxes and common area maintenance charges in the annual rental payments. Short-term leases are leases having a term of twelve (12) months or less. The Company recognizes short-term leases on an as-incurred basis and does not record a related lease asset or liability for such leases.

As none of our leases provide an implicit interest rate, we use our incremental borrowing rate to determine our discount rate at lease inception based upon the information available at commencement in determining the present value of lease payments. As of December 31, 2022, the weighted average discount rate was 7.1% and the weighted average remaining lease term was 1.8 years.

Future lease payments under operating leases as of December 31, 2022 were as follows:

2023	\$ 697,651
2024	191,120
2025	132,982
Total Future Lease Payments	1,021,753
Less: Imputed Interest	(65,588)
Total Lease Liability Balance	<u>\$ 956,165</u>

Note 17 — Employee Benefit Plans

The Company has a Section 401(k) Savings Plan which covers employees who meet certain age and length of service requirements. Effective July 1, 2018, the Company's Plan was amended to include a 100% match by the Company on all eligible employee salary deferrals. The Company's matching contribution is limited to 3% of covered employee's annual salary. Total 401(k) matching expense for the years ended December 31, 2022, 2021 and 2020 totaled \$262,726, \$280,660 and \$148,131, respectively.

Note 18 — Litigation

We are not currently involved in any actual or pending legal proceedings or litigation that we consider to be material, and we are not aware of any such material proceedings contemplated by or against us or involving our property.

Note 19 — Geographic and Other Financial Information (Unaudited)

Geographic Financial Information (Unaudited)

Geographical revenue information, based on ship-to destination of the customers for the three years ended December 31, 2022, 2021 and 2020 is as follows (in thousands):

By Continent and Region:

	Fiscal Year					
	2022		2021		2020	
	Revenue	% of Total	Revenue	% of Total	Revenue	% of Total
North America	\$ 4,738	40 %	\$ 5,003	38 %	\$ 4,531	40 %
Europe	3,532	30 %	4,683	36 %	3,290	28 %
Asia-Pacific	3,411	29 %	2,960	22 %	3,383	29 %
Others	155	1 %	519	4 %	377	3 %
Total Revenues	\$ 11,836	100 %	\$ 13,165	100 %	\$ 11,581	100 %

By Country:

	Fiscal Year					
	2022		2021		2020	
	Revenue	% of Total	Revenue	% of Total	Revenue	% of Total
US	\$ 4,592	39 %	\$ 4,767	36 %	\$ 4,364	38 %
Japan	1,735	15 %	2,078	16 %	2,502	22 %
Netherlands	1,508	13 %	1,052	8 %	631	5 %
Others	4,001	33 %	5,268	40 %	4,084	34 %
Total Revenues	\$ 11,836	100 %	\$ 13,165	100 %	\$ 11,581	100 %

Countries listed in the above table were those with revenues greater than 10% for the year ended December 31, 2022. The Company does not maintain significant amounts of long-lived assets outside of the United States.

Note 20 — Quarterly Financial Information (Unaudited)

The following table summarizes our unaudited quarterly financial information for the periods shown below (in thousands, except per share data):

	Fiscal Year 2022			
	December 31,	September 30,	June 30,	March 31,
Revenue	\$ 2,898	\$ 3,427	\$ 3,008	\$ 2,503
Gross profit (loss)	(126)	868	262	479
Net loss	(10,759)	(9,477)	(10,022)	(10,506)
Net loss per share, basic and diluted	(0.17)	(0.15)	(0.16)	(0.16)
Net loss attributable to common stockholders	(10,759)	(9,477)	(10,022)	(10,506)

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	<u>December 31,</u>	<u>Fiscal Year 2021</u>		
		<u>September 30,</u>	<u>June 30,</u>	<u>March 31,</u>
Revenue	\$ 3,314	\$ 3,019	\$ 2,917	\$ 3,915
Gross profit	(12)	363	359	860
Net loss	(11,493)	(10,488)	(9,245)	(9,151)
Net loss per share, basic and diluted	(0.17)	(0.17)	(0.15)	(0.17)
Net loss attributable to common stockholders	(11,493)	(10,488)	(9,245)	(9,151)

	<u>December 31,</u>	<u>Fiscal Year 2020</u>		
		<u>September 30,</u>	<u>June 30,</u>	<u>March 31,</u>
Revenue	\$ 4,233	\$ 2,779	\$ 3,037	\$ 1,532
Gross profit	371	16	464	(252)
Net loss	(3,590)	(4,761)	(4,239)	(5,362)
Net loss per share, basic and diluted	(0.09)	(0.13)	(0.13)	(0.18)
Net loss attributable to common stockholders	(4,120)	(5,281)	(4,746)	(5,861)

VUZIX CORPORATION

Schedule II — Valuation and Qualifying Accounts (in thousands)

Description	Balance at Beginning of Period	Charged to Expenses	Deductions	Balance at End of Period
For the Year Ended December 31, 2020				
Allowances deducted from assets				
Doubtful Accounts	\$ —	\$ —	\$ —	\$ —
Inventory	4,788	1,274	(2,176)(a)	3,886
Total allowances deducted from assets	<u>\$ 4,788</u>	<u>\$ 1,274</u>	<u>\$ (2,176)</u>	<u>\$ 3,886</u>
For the Year Ended December 31, 2021				
Allowances deducted from assets				
Doubtful Accounts	\$ —	\$ —	\$ —	\$ —
Inventory	3,886	520	(3,279)(b)	1,127
Total allowances deducted from assets	<u>\$ 3,886</u>	<u>\$ 520</u>	<u>\$ (3,279)</u>	<u>\$ 1,127</u>
For the Year Ended December 31, 2022				
Allowances deducted from assets				
Doubtful Accounts	\$ —	\$ —	\$ —	\$ —
Inventory	1,127	290	—	1,417
Total allowances deducted from assets	<u>\$ 1,127</u>	<u>\$ 290</u>	<u>\$ —</u>	<u>\$ 1,417</u>

- (a) Deductions in 2020 primarily related to the disposal of raw components related to the discontinuance of production of our original M300, all of which was fully provisioned for as of December 31, 2019.
- (b) Deductions in 2021 primarily related to the disposal of finished goods related to the discontinuance of sales and marketing activities related to our M300 series products, which had been previously provisioned for.

Exhibit Index

3.1(1)	Amended and Restated Certificate of Incorporation
3.2(11)	Amended and Restated Bylaws
3.3(2)	Amendment to Amended and Restated Certificate of Incorporation
3.4(3)	Amendment to Amended and Restated Certificate of Incorporation
3.5(4)	Certificate of Designation of Series A Preferred Stock
4.1 (9)	Description of the Registrant's Securities
10.1(5)**	Form of Indemnification Agreement by and between the registrant and each director and executive officer
10.2(5)**	Employment Agreement dated as of August 1, 2007 by and between the registrant and Paul Travers
10.3(5)**	Employment Agreement dated as of August 1, 2007 by and between the registrant and Grant Russell
10.4(6)	Shared Services Agreement, dated as of June 15, 2012, by and between Vuzix Corporation and TDG Acquisition Company LLC
10.5(6)	Reseller Agreement, dated as June 15, 2012, by and between Vuzix Corporation and TDG Acquisition Company LLC.
10.6(6)	Restrictive Covenants Agreement, dated as June 15, 2012, by and between Paul Travers and TDG Acquisition Company LLC
10.7(7)	2014 Equity Incentive Plan
10.9 (10) †	Amendment No. 1 to agreements with TDG Acquisition Company, LLC
10.10* #	License Agreement, dated December 16, 2022
10.11* #	Stock Purchase Agreement, dated December 16 2022
10.12* #	Shareholders Agreement, dated December 16, 2022
14.1(8)	Code of Ethics
21.1*	Subsidiaries
23.1*	Consent of Freed Maxick, CPAs, P.C.
31.1*	Certification of CEO as required by Rule 13a-14 or 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes Oxley Act of 2002
31.2*	Certification of CFO as required by Rule 13a-14 or 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes Oxley Act of 2002
32.1***	Section 1350 CEO Certification
32.2***	Section 1350 CFO Certification
101*	The following materials, formatted in inline XBRL (Extensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Income, (iii) Consolidated Statements of Cash Flows, and (iv) Notes to Consolidated Financial Statements, tagged as blocks of text
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

† Confidential treatment granted as to certain portion

* Filed herewith.

** Indicates management contract or compensatory arrangement.

*** Furnished herewith.

Portions of this agreement have been omitted.

- (1) Filed as an exhibit to Amendment No. 3 to the Registration Statement on Form S-1 filed October 16, 2009 and incorporated herein by reference.
- (2) Filed as an exhibit to the Current Report on Form 8-K filed February 7, 2013 and incorporated herein by reference.
- (3) Filed as an exhibit to the Current Report on Form 8-K filed June 30, 2014 and incorporated herein by reference.
- (4) Filed as an exhibit to the Current Report on Form 8-K filed January 2, 2015 and incorporated herein by reference.
- (5) Filed as an exhibit to the S-1 filed July 2, 2009 and incorporated herein by reference.

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- (6) Filed as an exhibit to the Current Report on Form 8-K filed June 21, 2012 and incorporated herein by reference.
- (7) Filed with Definitive Proxy Statement on April 30, 2014 and incorporated herein by reference.
- (8) Filed as exhibit to 10-K filed March 30, 2016 and incorporated herein by reference.
- (9) Filed as exhibit to Form 10-K filed March 16, 2020 and incorporated herein by reference.
- (10) Filed as exhibit to Form 8-K filed October 10, 2018 and incorporated herein by reference.
- (11) Filed as exhibit to Form 8-K filed April 30, 2021 and incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 1st day of March, 2023.

VUZIX CORPORATION

/s/ Paul Travers

Paul Travers

Chief Executive Officer

POWER OF ATTORNEY

KNOW BY ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints jointly and severally, Paul Travers and Grant Russell, and each one of them, his or her attorneys-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Paul Travers</u> Paul Travers	President, Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	March 1, 2023
<u>/s/ Grant Russell</u> Grant Russell	Chief Financial Officer, Executive Vice-President and Director <i>(Principal Financial and Accounting Officer)</i>	March 1, 2023
<u>/s/ Edward Kay</u> Edward Kay	Director	March 1, 2023
<u>/s/ Timothy Harned</u> Timothy Harned	Director	March 1, 2023
<u>/s/ Azita Arvani</u> Azita Arvani	Director	March 1, 2023
<u>/s/ Emily Nagle Green</u> Emily Nagle Green	Director	March 1, 2023
<u>/s/ Raj Rajgopal</u> Raj Rajgopal	Director	March 1, 2023

Certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the registrant if publicly disclosed.

LICENSE AGREEMENT

This License Agreement (“**Agreement**”) is entered into as of the Effective Date (as defined below) by and between Vuzix Corporation, a Delaware corporation having its place of business at 25 Hendrix Road, Suite A, West Henrietta, New York 14586 (“**Vuzix**”), Atomistic SAS, a simplified stock company formed under the laws of France with a place of business at 3 Boulevard de Belfort, 59000 Lille, France (“**Atomistic**”) and each of Jonathan Sachs (“**JS**”) and Jerry Woodall (“**JW**”) only with regard to Sections 1, 6.1, 6.2, 6.5(a), 10, 11 and 13. Vuzix and Atomistic are referred to herein collectively as “**Companies**.” The Companies, JS and JW are referred to herein collectively as “**Parties**.”

RECITALS

WHEREAS, Vuzix desires to enter into an arrangement whereby it would license certain technology from Atomistic and Atomistic UK for developmental and commercial products, and Atomistic directly and on behalf of Atomistic UK desires to grant to Vuzix an exclusive worldwide right and license to such technology; and

WHEREAS, Vuzix desires to work with Atomistic and fund progress toward the development of a custom design of a backplane and Atomistic directly and through Atomistic UK desires to progress development toward a backplane.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein, Vuzix, Atomistic (for itself and for Atomistic UK) and, as limited for JS and JW to Sections 1, 6.1, 6.2, 6.5(a), 10, 11 and 13 as listed in the preamble and on the signature page, hereby agree as follows:

1. Definitions. In addition to any terms defined elsewhere in this Agreement, the following terms will have the meanings set forth below:

1.1 “**Abandoned Patent**” will have the meaning set forth in Section 7.2.

1.2 “**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such first Person.

1.3 “**Anti-Corruption Laws**” means, both collectively and separately, any anti-corruption, anti-bribery or similar governmental ethics and transparency laws that have particular jurisdiction, including, without limitation, the US Foreign Corrupt Practices Act of 1977 (the “FCPA”) and the UK Bribery Act 2010.

1.4 “**Applicable Laws**” means all laws, ordinances, rules, and regulations applicable to this Agreement or the activities contemplated hereunder.

1.5 “**Assigning Party**” will have the meaning set forth in Section 13.9.

1.6 “**Atomistic Indemnified Parties**” will have the meaning set forth in Section 9.2(a).

1.7 “**Atomistic UK**” means Atomistic Ltd. (Company Number 13607578), a private limited company formed under the laws of England and Wales and a wholly-owned subsidiary and Affiliate of Atomistic.

1.8 [**]

1.9 “**Confidential Information**” means any information communicated by one party hereto to the other, which, if in written or other tangible form, is marked as proprietary or confidential by the disclosing party or, if orally disclosed, is declared confidential by the disclosing party at the time of disclosure, in each case as further clarified in Section 11.

1.10 “**Conflict Minerals**” means cassiterite, columbite-tantalite, gold, and wolframite; their derivatives including tantalum, tin, and tungsten; and, any other mineral, derivative, or ore that the Organization for Economic Co-operation and Development (OECD), United States Securities and Exchange Commission (SEC), United States government, or United States Secretary of State considers to be directly or indirectly financing conflict in the Covered Countries.

1.11 “**control**” (including, the terms “**controlling**,” “**controlled by**,” and “**under common control with**”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities, by contract, or otherwise.

1.12 “**Covered Countries**” means the Democratic Republic of Congo (**DRC**) and any adjoining country that shares an internationally recognized border with the DRC.

1.13 “**Disability**” [**] entitled to receive benefits for “total disability,” “long term disability” or similarly categorized disability under the terms of any law or under any policy of disability income insurance which may be maintained [**].

1.14 “**Effective Date**” means December 16th, 2022, the date this Agreement was executed and became binding upon the Parties.

1.15 “**Field**” means (a) uLED or uLaser based on [**].

1.16 “**Granted License**” will have the meaning set forth in Section 2.1.

1.17 “**Improvements**” means any new data, process, manufacture, improvement, discovery, claim, formula, trade secret, technology or know-how based on the Licensed Technology.

1.18 “**Indemnified Party**” will have the meaning set forth in Section 9.3(a).

1.19 “**Indemnifying Party**” will have the meaning set forth in Section 9.3(a).

1.20 “**Intellectual Property Rights**” means any and all common law and statutory rights in, arising out of, or associated with the following, throughout the world: patents, utility models, and applications therefor and all reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations and continuations-in-part thereof and equivalent or similar rights in inventions and discoveries anywhere in the world, including invention disclosures, rights associated with trade secrets, confidential and proprietary information and know-how, industrial designs and any registrations and applications, copyrights, copyright registrations and applications therefor and all other rights corresponding thereto, database rights, mask works, mask work registrations and applications therefor and any equivalent

or similar rights in semiconductor masks, layouts, architectures or topology, moral and economic rights of authors and inventors, however denominated and any similar or equivalent rights to any of the foregoing.

1.21 “**Jointly Own**” means that each owner thereof is free to exploit such rights or property and authorize others to do so, with no obligation to account to the other party or owner, for profits or otherwise, subject, in the case of Atomistic and Atomistic UK, to any Granted License hereunder.

1.22 “**Licensed Patents**” means all U.S. and international patents (including, without limitation, Provisional Patents, originals, divisions, continuations, continuations in part or reissues) and U.S. and international patent applications in the Field [**] that, at any time during the Term of this Agreement, are owned by Atomistic, Atomistic UK or to which either has the right to grant licenses anywhere in the world.

1.23 “**Licensed Technology**” means all Technology in the Field [**] and all Intellectual Property Rights therein that, at any time during the Term of this Agreement, are owned by Atomistic, Atomistic UK or to which either has the right to grant licenses anywhere in the world. Licensed Technology includes, without limitation, any rights of Atomistic and/or Atomistic UK in any Jointly Owned Improvements. Licensed Technology does not include Licensed Patents.

1.24 “**Licensed Products**” means any product or service that is composed of or that includes Licensed Technology or Licensed Patents.

1.25 [**]

1.26 “**Person**” means any individual, corporation, limited or general partnership, limited liability company, limited liability partnership, trust, association, joint venture, or other entity or group.

1.27 “**Provisional Patents**” means all U.S. and international provisional patent applications that, at any time during the Term of this Agreement, are owned by Atomistic, Atomistic UK or to which either has the right to grant licenses anywhere in the world.

1.28 “**Restated Certificate**” means the amended by-laws filed by Atomistic with the Registry of Trade and Companies of Lille Métropole on or prior to the Effective Date.

1.29 “**Royalties**” means all consideration received or booked as revenue by Atomistic or any Subsidiary, including without limitation, royalty payments, milestone payments, upfront payments, development payments, earn-outs, consulting payments, related to or associated with:

(a) the sale, transfer, license or other grant of rights to or of the Licensed Technology and Licensed Patents (“**License Royalties**”); and

(b) the sale, transfer, lease or disposition of any products or services composed of or including Licensed Technology and/or which would infringe the Licensed Technology or Licensed Patents (“**Product Royalties**”).

1.30 “**Shareholders’ Agreement**” means that certain shareholders’ agreement that was executed and became binding upon the Parties as of the Effective Date.

1.31 “**Stock Purchase Agreement**” means that certain stock purchase agreement that was executed and became binding upon the Parties as of the Effective Date.

1.32 “**Subsidiary**” means any Person that is ultimately controlled by Atomistic.

1.33 “**Technology**” means any and all of the following in the Field: works of authorship, computer programs, source code and executable code, whether embodied in software, firmware or otherwise, assemblers, applets, compilers, user interfaces, application programming interfaces, protocols, architectures, documentation, annotations, comments, designs, files, records, schematics, test methodologies, test vectors, emulation and simulation tools and reports, hardware development tools, models, tooling, prototypes, breadboards and other devices, data, data structures, databases, data compilations, data sets, data derived, arrangement, organization, manner of aggregation, criteria, labels, objects, images, sounds, collections, inventions (whether or not patentable), invention disclosures, discoveries, Improvements, technology, content, proprietary and confidential ideas and information, know-how and information maintained as trade secrets, tools, concepts, insights, input, output, outcomes, results, predictions, translations, analysis, visualizations, techniques, methods, processes, formulae, patterns, features, algorithms and specifications, customer lists and supplier lists and any and all instantiations or embodiments of the foregoing.

1.34 “**Third Party Claim**” will have the meaning set forth in Section 9.1(a).

1.35 “**Transaction Agreements**” means this Agreement, the Shareholders’ Agreement, the Stock Purchase Agreement, the Restated Certificate and any other agreements, instruments or documents entered into in connection with this Agreement.

1.36 “**uLED**” is an inorganic micro light emitting diode.

1.37 “**uLaser**” is an inorganic micro light emitting laser diode.

1.38 “**U.S.**” means the United States of America.

1.39 “**Vuzix Indemnified Parties**” will have the meaning set forth in Section 9.1(a).

2. License Grant.

2.1 Grant. Subject to the terms and conditions of this Agreement, Atomistic for itself and Atomistic UK hereby grants to Vuzix, and Vuzix hereby accepts, an exclusive, sub-licensable (the duration of which shall be limited according to Section 5.5(c)), transferable (to the extent permitted in Section 13.9) worldwide, fully-paid up and royalty-free, perpetual (except if this license terminates as provided in Section 5.4 or as contemplated in Section 5.6) license under the Licensed Technology and Licensed Patents to develop, have developed, create derivative works, have created derivative works, make, have made, process, use, market, distribute, sell, offer for sale, promote and import Licensed Products during the Term of this Agreement (the “**Granted License**”). Atomistic and its Affiliates will retain the right to use the Licensed Technology and the Licensed Patents solely to perform continued development in the Field including any and all obligations Atomistic and/or Atomistic UK may have in any related project with Vuzix.

2.2 Reservation of Rights; No Implied Licenses. All rights not granted herein by Atomistic are reserved.

3. Payments.

3.1 Installment Payments. In consideration of the Granted License, efforts by the Company and any Subsidiary toward reaching Milestone 4 (as this term is defined in the Stock Purchase

Agreement) and Milestone 5 (as this term is defined in the Stock Purchase Agreement) and other rights of Vuzix in this Agreement, as long as this Agreement has not been previously terminated, Atomistic is not then in default of any of its obligations under this Agreement and no party (other than Vuzix) is in default of its obligations under the Stock Purchase Agreement, Vuzix has paid or will pay Atomistic the following amounts within the following time periods, or at such other times as agreed in writing by Vuzix and Atomistic:

- (a) \$18,500,000, which amount was paid prior to the Effective Date;
- (b) \$2,000,000 within ten (10) business days of January 1, 2023;
- (c) \$6,000,000 within ten (10) business days of April 1, 2023;
- (d) \$1,500,000 within ten (10) business days of July 1, 2023;
- (e) \$1,000,000 within ten (10) business days of October 1, 2023; and
- (f) \$1,000,000 within ten (10) business days of December 31, 2023.

3.2 Granted License Renewal. Beginning on January 1, 2024 for a period of six (6) months ending on June 30, 2024, a grace period shall be granted to Vuzix during which time the Granted License paid for in Section 3.1 above will remain in full force and effect, to provide it sufficient time to consider if it wishes to renew (but for the avoidance of any doubt Vuzix has no such obligation) the Granted License for a period of twelve (12) months beginning on July 1, 2024 in such amount and in such manner as agreed in writing between Vuzix and Atomistic whereupon Vuzix will be obligated to make all payments as per such written agreement (the “**Initial Renewal**”). If the Granted License has not been terminated, then on or before each one (1) year anniversary following the Initial Renewal (with no grace period) the Granted License may be renewed for a period of twelve (12) months in such amount and in such manner as agreed in writing between Vuzix and Atomistic whereupon Vuzix will be obligated to make all payments as per such written agreement (a “**Subsequent Renewal**”) (where the Initial Renewal and any Subsequent Renewal are a “**Granted License Renewal**”).

3.3 Currencies. Unless a different currency is specified, all payments under this Agreement will be made in United States dollars (“\$”).

3.4 Withholding Taxes. Vuzix may withhold appropriate tax from any payment to be made to Atomistic under this Agreement provided that such withholding is required by Applicable Laws and Vuzix submits the amounts withheld to the applicable tax authorities. In such event Vuzix will furnish Atomistic with proof of payment of such tax together with official or other appropriate evidence issued by the applicable government authority. In such event Vuzix will appropriately adjust the payments set forth in Section 3 so that the amount of such payments minus the amount of the taxes withheld by Vuzix is equal to the amounts set forth in Section 3.

3.5 Acceleration. For so long as Vuzix is required to make payments due according to Section 3, Vuzix may accelerate and pre-pay its payment obligations under this Agreement at any time in its sole discretion.

4. Ownership and Use.

4.1 Subject to Section 4.3(b), Atomistic will own all right, title and interest in and to any and all Intellectual Property Rights which existed prior to the date of this Agreement or which it

develops after the date hereof, including in the Field, which in the case of Licensed Technology and Licensed Patents is subject to the Granted License.

4.2 Vuzix will own all right, title and interest in and to any Improvements that are conceived, generated, or first reduced to practice solely by Vuzix and any of its Affiliates' employees, agents or contractors. Atomistic will own all right, title and interest in and to any Improvements that are conceived, generated, or first reduced to practice solely by Atomistic employees, agents or contractors, and such Improvements will be subject to the Granted License.

4.3 Vuzix and Atomistic will Jointly Own all right, title and interest (including all Intellectual Property Rights) in and to (a) any Improvements that are jointly conceived, generated, or reduced to practice by Vuzix employees, agents or contractors, and Atomistic employees, agents or contractors during the Term as a result of the activities contemplated under this Agreement, subject to the Granted License in Jointly Owned Improvements (whether patented or unpatented); and (b) [**] regardless of whether it was jointly conceived, generated, or reduced to practice by Vuzix employees, agents or contractors, and Atomistic employees, agents or contractors during the Term or independently by Atomistic except that Vuzix shall own exclusively [**] (the "**Design Elements**") and Atomistic will retain the right to use the Design Elements for its development with no restrictions or limitations, financial or otherwise. Should the Granted License be terminated according to Section 5.4 then Atomistic shall have a fully paid-up, royalty-free, irrevocable, perpetual and non-exclusive right to use and sublicense the Design Elements.

5. Term and Termination.

5.1 Term. The term of this Agreement will commence as of the Effective Date and will continue (unless terminated sooner as set forth below) until the later of (i) twenty-five (25) years from the Effective Date, or (ii) the last Licensed Patent expires in every jurisdiction, at which point the licenses granted hereunder will be deemed fully paid-up, royalty-free, irrevocable, and perpetual and non-exclusive (the "**Term**").

5.2 Termination by Atomistic. Atomistic may terminate this Agreement upon written notice to Vuzix in the event that:

(a) Vuzix has failed to pay any amounts when due under Section 3, or as otherwise agreed in writing by the Companies, within thirty (30) days following receipt by Vuzix of written notice from Atomistic demanding the payment of such amount;

(b) Vuzix has failed to perform any other material obligation under this Agreement, and has failed to cure such non-performance within sixty (60) days following receipt by Vuzix of written notice from Atomistic specifying in reasonable detail the nature of such failure; or

(c) A voluntary agreement is approved, or an administration order is made, or a receiver or administrative receiver is appointed over any of Vuzix's assets or undertaking or a resolution or petition to wind up Vuzix is passed or presented (other than for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or if any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order or Vuzix ceases to carry on business; or if Vuzix suffers any event in a foreign jurisdiction analogous to or comparable with any of the foregoing.

5.3 Termination by Vuzix. Vuzix may terminate this Agreement as follows:

(a) if Atomistic has failed to perform any material obligation under this Agreement, and has failed to cure such non-performance within sixty (60) days following receipt by Atomistic of written notice from Vuzix specifying in reasonable detail the nature of such failure;

(b) if Atomistic, Atomistic UK, JS or JW fail to perform any material obligation under the Transaction Agreements that are not cured within any applicable cure periods in such agreements; or

(c) upon the death or Disability [**]

5.4 Termination of Granted License. Atomistic may terminate the Granted License as follows:

(a) If Vuzix fails to make any payment when due under Section 3, or as otherwise agreed in writing by the Companies, within thirty (30) days following receipt by Vuzix of written notice from Atomistic demanding the payment of such amount;

(b) If Vuzix does not agree a Granted License Renewal for the Licensed Technology under Section 3.2, then Atomistic may terminate the Granted License effective on the July 1st (first day of July) immediately following the applicable June 30th (last day of June) contemplated by Section 3.2; or

(c) Vuzix breaches its obligations under Section 2 of the Stock Purchase Agreement, which breach is not cured within thirty (30) days following receipt by Vuzix of written notice under the Stock Purchase Agreement of such breach.

5.5 Certain Effects of Termination.

(a) Vuzix will have no obligation to pay any amounts under Section 3 for any payments having a payment date that are after the effective date of a termination by Vuzix under Section 5.3; and

(b) If Atomistic terminates the Granted License under Section 5.4(b), Atomistic will pay Vuzix:

(i) [**] License Royalties according to the provisions set forth on Appendix A;

(ii) [**] royalty rate agreed to by the Companies of all Product Royalties according to the provisions set forth on Appendix A. If the Companies are unable to agree on the royalty rate in this Section 5.5(b)(ii), they will engage a third-party having expertise and knowledge of the royalty rates for sales of products such as those that are subject to the Product Royalties to set the applicable royalty rate and that third-party's determination will be binding on the Companies which will split any fees incurred for the third-party; and

(iii) when Atomistic chooses to terminate its business operations associated with work in the Field, Vuzix will pay Atomistic within thirty (30) days of being notified of its actual, documented and necessary out-of-pocket costs to reduce or cease its and any Subsidiary operations and activities directly associated with work in the Field and to pay severance to terminated employees after such termination (assuming that such development efforts or the services of such employees do not resume whether as employees or contractors other than by those who remain that are required to manage

the affairs of the business), which process must be completed within six (6) months after such a termination or such additional period of time necessary to comply with Applicable Law.

(c) If Atomistic terminates the Granted License under Section 5.4 then any sublicenses granted by Vuzix in connection with the exercise of Vuzix's right to have made, have developed and have created derivative works will automatically and immediately terminate.

5.6 Survival. Termination or expiration will not relieve Vuzix or Atomistic from any obligations accrued as of the date of such termination or expiration. The rights and obligations of Vuzix and Atomistic under Sections 3, 5.5(b)(iii), 5.6, 6.4, 7, 8, 9, 10 and 11, will survive termination or expiration of this Agreement. Upon expiration or termination of this Agreement by Atomistic, the Granted License will immediately terminate. The Granted License will survive termination by Vuzix under Section 5.3.

6. Warranties, Representations and Covenants.

6.1 Representations and Warranties of the Parties. Each of the Parties severally and only with regard to themselves (for only this Section 6.1 each a "**Warrantor**") represents, warrants and covenants that:

(a) Authority. Such Warrantor possesses all right, title, interest, and authority necessary to enter into this Agreement, perform its obligations hereunder and grant the rights embodied herein and that it is not aware of any legal impediment that would inhibit its ability to perform its obligations under this Agreement.

(b) No Conflicts. That the execution, delivery, and performance of this Agreement by such Warrantor does not: (i) conflict with, or constitute a breach of, any order, judgment, agreement or instrument to which such Warrantor is a party or is otherwise bound; or (ii) require the consent of any person or entity (or if such consent is required, such Warrantor warrants that such consent has been sought and granted prior to the Effective Date).

(c) Anti-Corruption. That such Warrantor has not and will not:

(i) violate or violated any Anti-Corruption Laws; and

(ii) directly or indirectly made or make any offer, payment, promise to pay, or authorize payment, or offer a gift, promise to give, or authorize the giving of anything of value to any government official or any other person while knowing or having reason to know that all or a portion of such money, gift or thing of value will be offered, paid or given, directly or indirectly, to any government official, for the purpose of (1) improperly influencing an act or decision of the government official in his or her official capacity, (2) improperly inducing the government official to do or omit to do any act in violation of the lawful duty of such official, (3) securing an improper advantage, or (4) inducing the government official to use their influence to affect or influence any act or decision of a government or instrumentality, in order to assist that Warrantor or any of its affiliates in obtaining or retaining business. If a Warrantor learns or comes to have reason to know of any payment or transfer (or any offer or promise to pay or transfer) in connection with this Agreement that would violate Anti-Corruption Laws, it shall immediately disclose it to the other Warrantors.

6.2 Representations and Warranties of Atomistic, JS and JW. Each of Atomistic, JS and JW represent, warrant and covenant severally and only with regard to themselves the following:

(a) Compliance with Laws. Each of them will comply with all Applicable Laws.

(b) Ownership of and Right to Use Intellectual Property. There are no third party joint owners and Atomistic owns the entire right, title and interest in and to the Licensed Patents and Licensed Technology, free of any lien, contractual commitment or other encumbrance; and that no licenses have been issued by Atomistic, Atomistic UK, JS or JW to any other party to permit any third-party to make, have made, use, sell, offer to sell or import products containing the Licensed Patents, Licensed Technology or any Technology in the Field.

(c) No Claims. There have been no claims made against Atomistic, Atomistic UK, JS or JW asserting the invalidity, unenforceability, abuse or misuse of any of the Licensed Technology and Licensed Patents, and, to their knowledge, no grounds for any such claims exist. Neither Atomistic nor Atomistic UK, nor JS nor JW has made any claim of any violation or infringement or misappropriation by others of Atomistic's rights in the Licensed Technology, or the Licensed Technology or Licensed Patents. Neither Atomistic nor Atomistic UK, nor JS nor JW has received any written notice that any of them is in conflict with or infringing upon the asserted rights of others in connection with the Licensed Technology, or the Licensed Technology or Licensed Patents.

(d) Third Party Intellectual Property. To the best of its knowledge, there are no patent or other Intellectual Property Rights owned or controlled by any third party that would prevent Vuzix from making, using, selling, offering for sale or importing the Licensed Products pursuant to this Agreement.

(e) No Conflicting Licenses. No licenses, non-assertions or covenants not to sue under the Licensed Technology or Licensed Patents, and no rights to make, have made, use, sell, offer for sale, promote or import products containing the Licensed Technology or Licensed Patents, have been or will be granted by any of them during the Term of this Agreement and as long as the Granted License has not been terminated under Section 5.4.

(f) No Receipt of Government Support. No research support was received from any government body relating to the research or development of the Licensed Technology or Licensed Patents.

6.3 Representations and Warranties of Atomistic. Atomistic represents and warrants the following:

(a) Written Assignments. All employees, independent contractors, (including JS and JW) of Atomistic and Atomistic UK have or will execute and UK Atomistic has executed written assignments expressly assigning to Atomistic all right, title and interest to any and all intellectual property in the Field.

(b) Government Official. Unless disclosed to Vuzix in a separate written statement, none of its employees, directors, officers or principals is a government official with jurisdiction. Atomistic shall notify Vuzix in writing within ten (10) days if at any time during the term of this Agreement any of its employees, directors, officers or principals is named, appointed, or otherwise becomes a government official.

6.4 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 6 (WARRANTIES), EACH OF ATOMISTIC, JS, JW AND VUZIX MAKE NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE.

6.5 Covenants.

(a) Restrictions. During the Term of this Agreement, as long as the Granted License has not been terminated under Section 5.2 or Section 5.4 and except for such use as is required for Atomistic to perform its obligations under this Agreement, Atomistic, JS and JW will not directly or indirectly:

(i) provide research, development or other services to any Person in the Field;

(ii) [**]

(iii) engage in research and development in the Field other than (1) in connection with this Agreement or (2) in and through Atomistic and Atomistic UK;

(iv) grant to any Person any license, covenant not to sue, non-assertion covenant or other right to or under any Licensed Technology, any Licensed Patent or Technology in the Field;

(v) [**]

(vi) sell, assign or transfer to any Person Licensed Technology, any Licensed Patent or Technology in the Field; and

(vii) make, have made, sell or offer any product, component or subassembly composed of or including any Licensed Technology and/or which would infringe the Intellectual Property Rights in the Field of Atomistic.

(b) Invention Assignments. Atomistic will have all former, existing, and new employees, independent contractors, including JS and JW, execute written assignments expressly assigning to Atomistic all right, title and interest to any and all Intellectual Property Rights that are (i) encompassed by the Licensed Technology and Licensed Patents and (ii) conceived, developed, invented, created, or reduced to practice in the Field during the term of their employment or relationship with Atomistic.

(c) Use of Third-Party Intellectual Property Rights. Atomistic and Atomistic UK shall not knowingly cause their respective employees and contractors to include, embed or incorporate into any Technology developed or licensed under this Agreement any Intellectual Property Rights owned or controlled by any third-party, including any open source technology, without Vuzix's prior consent.

7. Patent Preparation, Filing, Prosecution, Maintenance, Marking and Indexing. Unless and until the Granted License is terminated:

7.1 Responsibility. Atomistic is responsible for preparing, filing, prosecuting, and maintaining the Licensed Patents, including any interferences, oppositions, reissues or reexaminations (all such actions collectively, "**Prosecution**" or to "**Prosecute**"). Atomistic will provide Vuzix with any Prosecution-related filings at least 15 days in advance of filing, and keep Vuzix apprised of the status of Licensed Patents and Prosecution matters. Atomistic will prepare a patent prosecution plan and strategy with respect to Technology in the Field, which plan it will update and provide to Vuzix prior to filing any applications. If Vuzix desires for Atomistic to Prosecute corresponding foreign counterpart(s) of any Licensed Patent in any jurisdiction(s) in which Atomistic has not filed or has decided not to file such

corresponding foreign counterpart(s), Atomistic will Prosecute the foreign counterpart(s) of the corresponding Licensed Patent in the jurisdiction(s) requested by Vuzix if, and only if, Vuzix pays Atomistic the out-of-pocket costs and expenses for Prosecuting the foreign counterpart(s) in such jurisdictions.

7.2 Abandonment. If Atomistic desires to abandon any patent or patent application that is part of the Licensed Patents (an “**Abandoned Patent**”), it will provide reasonable written notice to Vuzix and provide Vuzix the opportunity, at Vuzix’s expense, to assume responsibility for preparing, filing, prosecuting, and maintaining such Abandoned Patent, and, in such case, Atomistic will assign all right, title and interest in and to such Abandoned Patent to Vuzix.

7.3 Cooperation. Vuzix and Atomistic will cooperate in preparing, filing, prosecuting, and maintaining any patent applications and patents (including Jointly Owned Improvements) developed jointly by Vuzix and Atomistic during the Term of this Agreement.

7.4 Patent Prosecution and Maintenance Costs. Atomistic will pay for all costs associated with procuring and maintaining any Licensed Patent other than those costs in Section 7.3, which Vuzix shall bear, and as contemplated by the last sentence of Section 7.1.

8. Infringement of Intellectual Property. Unless and until the Granted License is terminated:

8.1 Notice; Enforcement Actions. If Atomistic becomes aware of any claim for infringement or threatened infringement of any of the Licensed Patents, then Atomistic will give written notice to Vuzix within thirty (30) days of becoming aware of such infringement or threat. Vuzix will have the right, but not the obligation, at its expense to request that Atomistic bring an enforcement action and take any other reasonable steps to enforce the Licensed Patents, which steps may include the negotiation of appropriate settlements and cross-licenses (which cross-licenses will be subject to the terms of this Agreement as a sub-license). Atomistic will have the right to approve any settlement, cross-license, or similar arrangement, such approval not to be unreasonably withheld or delayed. In deciding whether or not to bring an action or take other steps to defend, Vuzix will be entitled to consider strategic and financial factors that are critical to Vuzix’s business. Atomistic hereby agrees to be joined as a party to any such action. Atomistic may retain its own counsel at its own expense or may elect to be represented in the enforcement action by Vuzix’s counsel. If Vuzix does not initiate a response to any infringement claim within ninety (90) days after it has received written notice thereof, Atomistic may request that Vuzix commence an infringement action or other appropriate action or response. If Vuzix declines to do so or fails to respond to Atomistic’s request within sixty (60) days after receipt thereof, then Atomistic will have the right to undertake such action itself at its own expense. Vuzix will have the right to approve any settlement, cross-license, or similar arrangement, such approval not to be unreasonably withheld or delayed.

8.2 Distribution of Amounts Paid. In any legal proceeding requested to be brought by Vuzix and funded solely by Vuzix, Vuzix will retain [**] of any proceeds and Vuzix will pay Atomistic [**] of any amounts recovered as a result of the proceeding. If a proceeding is brought by Atomistic and funded solely by Atomistic and the Granted License has not been terminated, Atomistic will retain [**] of any proceeds and Atomistic will pay Vuzix [**] of any amounts recovered as a result of the proceeding. Any direct costs borne by either Vuzix or Atomistic in bringing an action will be allocated between to Vuzix and Atomistic in proportion to their share of the recovery under this Section 8.2.

9. Indemnification.

9.1 Atomistic Indemnification.

(a) Indemnity. Atomistic will indemnify, defend and hold harmless Vuzix, its Affiliates, and their directors, officers, agents and employees (collectively, the “**Vuzix Indemnified Parties**”) from and against all claims, demands, losses, liabilities, damages, costs and expenses (including reasonable attorneys’ fees and any costs of settlement) incurred by the Vuzix Indemnified Parties resulting from or arising in connection with any claim, suit, action or proceeding brought by a third party (a “**Third Party Claim**”) brought against any such Vuzix Indemnified Party based on:

- (i) a breach of any covenants, representations or warranties made by Atomistic hereunder;
- (ii) any act or omission constituting recklessness, gross negligence or willful misconduct on the part of

Atomistic.

(b) Limitations on Atomistic Indemnification. Atomistic will have no obligation to indemnify, defend or hold harmless the Vuzix Indemnified Parties in connection with any Third Party Claim to the extent such Third Party Claim is covered by Vuzix’s obligations under Section 9.2, or arises from: (i) a Vuzix Indemnified Party’s breach of any of Vuzix’s covenants, obligations, agreements, representations or warranties hereunder; or (ii) any act or omission constituting recklessness, negligence or willful misconduct on the part of any of the Vuzix Indemnified Parties.

9.2 Vuzix Indemnification.

(a) Indemnity. Vuzix will indemnify, defend and hold harmless Atomistic, its Affiliates, and their directors, officers, agents and employees (collectively, the “**Atomistic Indemnified Parties**”) from and against all claims, demands, losses, liabilities, damages, costs, and expenses (including reasonable attorneys’ fees and any costs of settlement) incurred by the Atomistic Indemnified Parties resulting from or arising in connection with a Third Party Claim brought against any such Atomistic Indemnified Party based on:

- (i) a breach of any of any covenants, representations or warranties made by Vuzix hereunder;
- (ii) any act or omission constituting recklessness, gross negligence or willful misconduct on the part of

Vuzix.

(b) Limitations on Vuzix Indemnification. Vuzix will have no obligation to indemnify, defend or hold harmless the Atomistic Indemnified Parties in connection with any Third Party Claim to the extent such Third Party Claim is covered by Atomistic’s obligations under Section 9.1, or arises from: (i) an Atomistic Indemnified Party’s breach of any of Atomistic’s covenants, obligations, agreements, representations or warranties hereunder; or (ii) any act or omission constituting recklessness, gross negligence or willful misconduct on the part of any of the Atomistic Indemnified Parties.

9.3 Indemnification Procedure.

(a) Notification and Cooperation. The party seeking indemnification hereunder (the “**Indemnified Party**”) will: (i) promptly notify in writing the party obligated to indemnify (the “**Indemnifying Party**”) of any claim, action or proceeding of a third party for which the Indemnified Party seeks indemnification; and (ii) cooperate fully with the Indemnifying Party and its legal representatives in the investigation of any such claim, action or proceeding. The Indemnified Party’s failure to comply with its obligations under this Section 9.3 will not constitute a breach of this Agreement nor relieve the Indemnifying Party of its indemnification obligations hereunder, except to the extent, if any, that the

Indemnifying Party's defense or settlement of the affected claim, action or proceeding was actually and materially impaired thereby.

(b) Defense. The Indemnifying Party will conduct, at its own expense, the defense of any and all such claims, charges, suits or other actions by a third party, and the Indemnified Party may, at its own expense, assist in such defense if it so chooses, provided that the Indemnifying Party will control such defense and all negotiations relative to the settlement of any such claim. Notwithstanding the foregoing, either party may elect to assume the defense of any Third Party Claim against, as the case may be, the Atomistic Indemnified Parties or the Vuzix Indemnified Parties and such assuming party will reimburse the other party for all reasonable expenses (including reasonable attorneys' fees which may include, without limitation, an allocation for in-house counsel) as such expenses are incurred, relating to the defense of such Third Party Claim. Neither party will settle or admit liability with respect to any such claims, charges, suits or other actions which could result in liability to the other party without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed.

10. Limitation of Liability.

10.1 NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NO PARTY, NOR THEIR RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, WILL HAVE ANY LIABILITY TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES SUCH AS LOSS OF OPPORTUNITY, USE, REVENUE OR PROFIT, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, EVEN IF SUCH DAMAGES WERE FORESEEABLE, EXCEPT FOR ANY DAMAGES ARISING FROM BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT AND EXCEPT FOR ANY DAMAGES ARISING FROM BREACH OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS.

10.2 No party to this Agreement excludes or limits their liability in respect of the death of, or personal injury caused to, any person by negligence or for fraudulent misrepresentation by such party or any other liability which by law such party to this Agreement can limit or exclude.

11. Confidentiality.

11.1 Nondisclosure and Nonuse Obligations. During the Term of this Agreement, and thereafter following expiration or termination hereof, each party will maintain all Confidential Information of the other parties disclosed to it on or after June 4, 2021 in trust and confidence and will not disclose any Confidential Information of the other parties to any third party or use any Confidential Information of the other parties except to the extent required to enjoy its rights or comply with its obligations under this Agreement. Confidential Information will be disclosed only to employees, agents, Affiliates, and consultants who have a need for such information and who are bound by obligations of nondisclosure and non-use at least as restrictive as those set forth herein. Each party will be responsible for any disclosure or use of the Confidential Information by such employees, agents, Affiliates, and consultants. Each party will protect the other parties' Confidential Information using not less than the same standard of care with which it treats its own Confidential Information, but at all times will use at least reasonable care.

11.2 Exceptions. Confidential Information will not include any information which:

- (a) is now, or lawfully becomes, generally known or available to the public through no fault of the recipient;

- (b) is known by the receiving party at the time of receiving such information without there having been a breach of any obligations of confidentiality by any person;
- (c) is hereafter lawfully furnished to the receiving party by a third party, as a matter of right and without restriction on disclosure;
- (d) is independently developed by the receiving party without any breach of this Section 11 as evidenced by its written records; or
- (e) is the subject of a written permission to disclose provided by the disclosing party.

11.3 Authorized Disclosure. Notwithstanding any other provision of this Agreement, each party may disclose Confidential Information of another party if such disclosure is required: (a) by an order of a court or other governmental body, or any political subdivision thereof or arbitral panel with jurisdiction over the disclosing party; or (b) by Applicable Laws or regulation (including, without limitation, to comply with any applicable stock exchange disclosure requirements), but only to the extent that any such disclosure is necessary. With respect to any order of a court or other governmental body, the disclosing party will first have given written notice to the other party hereto, will have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued and will cooperate with the other party to minimize the scope and content of such disclosure. With respect to disclosure required by Applicable Laws or regulations (including, without limitation, any applicable stock exchange disclosure requirements), the disclosing party will first give written notice to the other party hereto and will, to the extent practicable, allow the other party sufficient time to comment on the content of such disclosure and will consult with the other party with respect to the comments of such other party.

11.4 Obligations at End of Term. Each party agrees, at the request of any other party, upon the expiration or termination of this Agreement under Section 5.2 or Section 5.3, to destroy all originals and copies of the other party's Confidential Information and to certify in writing such destruction to the other party; provided, however (a) that the receiving party may keep one copy of the other party's Confidential Information in a secure location, solely for purposes of enforcing and determining such party's rights and obligations under this Agreement and (b) in the event of a termination under Section 5.3 Vuzix may retain the Company's Confidential Information to exercise its rights under the Granted License.

11.5 Injunctive Relief. The Parties agree that any breach of the restrictions contained in Section 11 may cause irreparable harm to the non-breaching party entitling the non-breaching party to seek injunctive or other preliminary relief in addition to all other legal remedies.

12. Publicity. All publicity, press releases and other announcements regarding this Agreement or the transactions contemplated hereby will be reviewed in advance by, and subject to the written approval of the Companies; provided, however, that either Vuzix or Atomistic may, without the written consent of the other, disclose the terms of this Agreement insofar as required to comply with Applicable Laws (including, without limitation, any applicable stock exchange disclosure requirements). The disclosing party will consult with the other with respect to the comments of the other and the Companies will cooperate to minimize the scope and content of such disclosure.

13. Miscellaneous.

13.1 Bankruptcy. The Granted License for all purposes of Section 365(n) of Title XI of the United States Code ("Title XI"), are licenses of rights to intellectual property as defined in Title XI. During the Term of this Agreement, Atomistic will create and maintain current copies to the extent

practicable of all such intellectual property. If a bankruptcy proceeding is commenced by or against Atomistic under Title XI, Vuzix will be entitled to a copy of any and all such intellectual property, and the same, if not in the possession of Vuzix, will be promptly delivered to it (a) upon Vuzix's written request following the commencement of such bankruptcy proceeding, unless Atomistic, or its trustee or receiver, elects within thirty (30) days to continue to perform all of its obligations under this Agreement, or (b) if not delivered as provided under Section 13.1(a) above, upon Vuzix's request following the rejection of this Agreement by or on behalf of Atomistic. If Vuzix has taken possession of all applicable embodiments of the intellectual property of Atomistic pursuant to this Section 13.1 and the trustee in bankruptcy of Atomistic does not reject this Agreement, Vuzix will return such embodiments upon request. If Atomistic seeks or involuntarily is placed under Title XI and the trustee rejects this Agreement as contemplated under 11 U.S.C. 365(n)(1), Vuzix hereby elects pursuant to Section 365(n) to retain all rights granted to Vuzix under this Agreement to the extent permitted by law.

13.2 Notices. All notices required or permitted hereunder will be given in writing to the following addresses and will be deemed given (a) when received if sent by an internationally recognized express courier service, or (b) on the date sent by email if sent during normal business hours of the recipient or on the next business day if sent outside of normal business hours of the recipient:

To Atomistic:	Atomistic SAS 3 Boulevard de Belfort 59000 Lille France Attn: Jonathan Sachs Email: [**]
To JS:	Jonathan Sachs [**]
To JW:	Jerry Woodall [**]
To Vuzix:	Vuzix Corporation 25 Hendrix Road West Henrietta, New York 14586 Attn: Legal Department Email: legal@vuzix.com
Copy to:	Harter Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604 Attn: Thomas R. Anderson, Esq. Email: tanderson@hselaw.com

13.3 Captions and Section References. The titles, headings or captions in this Agreement do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions and therefore will not be considered in the interpretations, construction or application of this Agreement.

13.4 Severability. If any term or provision of this Agreement will be found to be invalid, illegal or otherwise unenforceable, such finding will not affect the other terms or provisions of this Agreement, or the whole of this Agreement, but such term or provision will be deemed modified to the

extent necessary to render such term or provision enforceable, and the rights and obligations of the Parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties set forth in this Agreement.

13.5 Amendment. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement will be effective unless made in a writing that expressly references this Agreement and is signed on behalf of the Parties hereto by their duly authorized representatives.

13.6 Waiver. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such or other term, provision or condition of this Agreement.

13.7 Force Majeure. No party will be liable hereunder to the other party nor will be in breach for failure to perform its obligations caused by circumstances beyond the control of the party, including, but not limited to: acts of nature; fires; earthquakes; floods; riots; wars; civil disturbances; sabotage; accidents; shortages or government actions. In the case of any such event, the affected party will promptly notify the other parties, and will keep the other parties informed of the event in writing specifying the extent to which its performance will likely be affected. The party affected will exert reasonable diligent efforts to eliminate, cure or overcome any such cause and resume performance as soon as practicable.

13.8 Benefits and Binding Nature of Agreement. This Agreement will be binding upon and will inure to the benefit of the Parties hereto and their respective successors and assigns permitted under this Agreement.

13.9 Assignment; Change in Control. The rights under this Agreement may not be assigned by the Companies (the “**Assigning Party**”) without the written consent of the other except (a) to any Affiliate of the Assigning Party or (b) to any party which acquires substantially all of the assets and business of the Assigning Party to which this Agreement pertains; provided that, in the event of any such permitted assignment, the Assigning Party will remain primarily responsible for all of its obligations and agreements set forth herein, notwithstanding such assignment and that, in the case of an acquisition of a controlling interest in Atomistic, the acquirer of such a controlling interest will assume responsibility for fulfilling Atomistic’s obligations under this Agreement.

13.10 Entire Agreement. This Agreement sets forth the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes and terminates all previous agreements, memoranda or letters of proposal or intent between the Parties hereto in connection with the subject matter hereof entered into prior to the Effective Date.

13.11 Governing Law and Forum. This Agreement and all claims related to it, its execution or the performance of the Parties under it, will be construed and governed in all respects according to the laws of the State of New York. The Parties agree that all actions or proceedings arising in connection with this Agreement will be tried and litigated exclusively in the courts located in the Western District of New York. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section 13.11. Each party consents to the jurisdiction of such courts and waives any right it may have to challenge the jurisdiction of such court under the law of any jurisdiction, including asserting the doctrine of forum non-conveniens or similar doctrine under any law, or to object to venue with respect to any proceeding brought in accordance with this Section 13.11 on any grounds or any law.

13.12 Dispute Resolution. If any dispute arises between the Parties with respect to the interpretation or breach of this Agreement, any party may notify the others of the dispute in writing and the Parties will attempt to resolve the dispute through discussions. If such Parties are unable to resolve the dispute within thirty (30) days after the date written notice of the dispute is delivered, any party may seek such other remedy, at law or in equity, as it may deem necessary or appropriate.

13.13 Counterparts. This Agreement may be executed in counterparts and signed electronically by means of a reliable identification process implemented by DocuSign® (www.docusign.com). For purposes hereof, a facsimile or scanned copy of this Agreement, including the signature page hereto, will be deemed to be an original. Notwithstanding the foregoing, the Parties will deliver original execution copies of this Agreement to one another as soon as practicable following execution thereof.

13.14 Duty to Comply. The Parties shall in the performance of this Agreement comply with all Applicable Laws, executive orders, regulations, ordinances, rules, proclamations, demands, and requisitions of all applicable state, local, national, or other governmental authority which may now or hereafter govern performance hereunder including, without limitation, all laws, executive orders, regulations, ordinances, rules, and proclamations.

13.15 U. S. Export Control. Neither Vuzix or Atomistic will use, distribute, transfer or transmit any Licensed Products or technical information (even if incorporated into other products) provided under this Agreement except in compliance with relevant export laws and regulations (the "**Export Laws**"). Neither Vuzix or Atomistic will, directly or indirectly, export or re-export the Licensed Products to any country, or to a national of any country that is in the then current list of prohibited countries specified in the applicable Export Laws. The obligations stated above in this clause will survive the expiration, cancellation or termination of this Agreement or any other related agreement.

13.16 Conflict Minerals. Atomistic agrees to comply with and follow policies relating to Conflict Minerals, in compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act. In the event these policies require disclosure of party's business relationship for compliance, then any applicable confidentiality obligations set forth in this or any other agreement are expressly waived with respect to such disclosures.

13.17 Language. All correspondence between the Parties shall be conducted in English.

13.18 Independent Manufacturing and Design. Atomistic hereby acknowledges that Vuzix engages in independent and concurrent manufacturing and design relating to electronics, optics, displays, computers, software and related matters. This Agreement and any disclosures hereunder shall not limit such manufacturing, designing, licensing and selling activities involving technology or ideas similar in nature to that disclosed by Atomistic, Atomistic UK, JS and JW hereunder or prevent Vuzix from undertaking similar efforts or discussions with third parties, including competitors of Atomistic, provided that Vuzix complies with the obligations of confidentiality in this Agreement and does not misappropriate the Confidential Information of Atomistic or any of its subsidiaries. Except as specifically set forth in Section 6.5(a) and otherwise under this Agreement, this Agreement and any disclosures hereunder shall not limit the manufacturing, designing, licensing and selling activities of Atomistic or Atomistic UK involving technology or ideas similar in nature to that disclosed by Vuzix hereunder or prevent Atomistic or Atomistic UK from undertaking similar efforts or discussions with third parties, including competitors of Vuzix, provided that Atomistic or Atomistic UK comply with the obligations of exclusivity and confidentiality in this Agreement and do not misappropriate the Confidential Information of Vuzix.

13.19 Independent Contractors. The Companies are independent contractors. Nothing in this Agreement is intended to establish or authorize either party as an agent, partner, legal representative, joint venture, franchisee, employee, or servant of the other for any purpose. Neither of the Companies nor any of their employees are entitled to participate in any of the other's benefit plans, including but not limited to stock option plans, stock participation plans, profit sharing, retirement or pension plan contributions or savings or medical plans. Neither of the Companies will make any contract, agreement, warranty, or representation on behalf of the other, or incur any debt or other obligation in the name of the other, or act in any manner that has the effect of making one of the Companies the apparent agent of the other. Neither of the Companies will assume liability for, or be deemed liable as a result of, any such action by the other. Neither Atomistic or Vuzix will be liable by reason of any act or omission of the other in the conduct of its business or for any resulting claim or judgment.

13.20 No Benefit to Others. The provisions of this Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and they shall not be construed as conferring any rights in any other persons except as otherwise provided in this Agreement.

13.21 **Former License Agreement**. The Companies and the Founders entered into a development and license agreement dated May 12th, 2022 (the "**Former License Agreement**"). The Companies and the Founders agree to definitively and irrevocably terminate the Former License Agreement in all its provisions with immediate effect, automatically and without any formalities, as the date of execution of this Agreement. The Companies and each Founder confirm that it/they has/have no outstanding claims against the Companies, any Subsidiary, any of their directors, officers, employees or consultants, each Founder and/or any other party in connection therewith.

[Signatures on next page.]

IN WITNESS WHEREOF, the Companies, and as limited for JS and JW to Sections 1, 6.1, 6.2, 6.5(a), 10, 11 and 13 as listed in the preamble and on this signature page, have caused this Agreement to be executed as of the Effective Date.

Atomistic SAS

By: _____

Name: Jonathan Sachs

Title: President

Jonathan Sachs only with regard to Sections 1, 6.1, 6.2, 6.5(a), 10, 11 and 13.

Jerry Woodall only with regard to Sections 1, 6.1, 6.2, 6.5(a), 10, 11 and 13.

Vuzix Corporation

By: _____

Name: Paul Travers

Title: President & CEO

APPENDIX A
Royalty Provisions

[**]

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Certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the registrant if publicly disclosed.

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this “**Agreement**”) is made as of the Effective Date (as defined below) between and among Vuzix Corporation, a Delaware corporation having its place of business at 25 Hendrix Road, Suite A, West Henrietta, New York 14586 (“**Vuzix**”), Atomistic SAS, a simplified stock company formed under the laws of France with a place of business at 3 Boulevard de Belfort, 59000 Lille, France (the “**Company**”) and each of Jonathan Sachs (“**JS**”) and Jerry Woodall (“**JW**”) (each a “**Founder**” and together the “**Founders**”). Vuzix, the Company and each Founder are referred to herein individually as a “**Party**” and collectively as “**Parties**.”

The parties hereby agree as follows:

1. Definitions.

1.1 Defined Terms Used in this Agreement. In addition to the terms defined elsewhere in this Agreement the following terms used in this Agreement will be construed to have the meanings set forth or referenced below:

(a) “**Affiliate**” means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer, director or trustee of such Person, or any venture capital fund or registered investment company now or hereafter existing that is controlled by one or more general partners, managing members or investment advisers of, or shares the same management company or investment adviser with, such Person.

(b) “**Atomistic UK**” means Atomistic Ltd. (Company Number 13607578), a private limited company formed under the laws of England and Wales.

(c) “**Backplane**” has the meaning ascribed to it in the License Agreement.

(d) “**Change of Control Transaction**” means any of the following or combination of the following in one or a series of related transactions: (i) the sale, lease, transfer or other disposition of all or substantially all of Vuzix’s assets in one transaction or a series of related transactions; (ii) the merger or consolidation of Vuzix with or into another entity (except a merger or consolidation in which the holders of capital stock of Vuzix immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the capital stock of Vuzix or the surviving or acquiring entity); (iii) the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a Person or group of affiliated Persons (other than an underwriter of Vuzix’s securities), of Vuzix’s securities if, after such transfer, such Person or group of affiliated Persons would hold 50% or more of the outstanding voting stock of Vuzix (or the surviving or acquiring entity); provided, however, that a transaction shall not constitute a Change of Control Transaction if its sole purpose is to change the state of Vuzix’s incorporation or to create a holding company that will be owned in substantially the same proportions by the Persons who held Vuzix’s securities immediately prior to such transaction.

(e) “**Code**” means the Internal Revenue Code of 1986, as amended.

(f) “**Company Common Stock**” means the ordinary stock, 0.01 € par value

per share, of the Company.

(g) “**Company Intellectual Property**” means all patents, patent applications, registered and unregistered trademarks, trademark applications, registered and unregistered service marks, service mark applications, tradenames, copyrights, trade secrets, domain names, mask works, information and proprietary rights and processes, similar or other intellectual property rights, subject matter of any of the foregoing, tangible embodiments of any of the foregoing, licenses in, to and under any of the foregoing, and any and all such cases as are necessary to the Company in the conduct of the Company’s business as now conducted and as presently proposed to be conducted, including with respect to the License Agreement.

Parties. (h) “**Effective Date**” means December 16th, 2022, the date this Agreement was executed and became binding upon the

(i) “**Epitaxy Plan**” means [**].

(j) “**Field**” has the meaning ascribed to it in the License Agreement.

(k) “**Foundation Materials**” means [**].

(l) “**Granted License**” has the meaning ascribed to it in the License Agreement.

(m) “**Key Employee**” means each Founder and any executive-level employee (including division director and vice president-level positions) as well as any employee or consultant who either alone or in concert with others develops, invents, programs or designs any Company Intellectual Property.

of the Effective Date. (n) “**License Agreement**” means that certain license agreement that was executed and became binding upon the Parties as

(o) “**uLED**” means a micro light emitting diode developed in the Field by the Company.

(p) “**Milestone**” means the occurrence of any of the following:

1. [**]
2. [**]
3. [**]
4. [**]
5. [**]
6. [**]
7. [**]
8. [**]
9. [**]

10. [**]

- (q) “**Person**” means any individual, corporation, partnership, trust, limited liability company, association or other entity.
- (r) “**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.
- (s) “**Series A Preferred Stock**” means the series A preferred stock 0.01 € par value per share, of the Company.
- (t) “**Series B Preferred Stock**” means the Series B1 Preferred Stock and Series B2 Preferred Stock.
- (u) “**Series B1 Preferred Stock**” means the series B1 preferred stock 0.01 € par value per share, of the Company.
- (v) “**Series B2 Preferred Stock**” means the series B2 preferred stock 0.01 € par value per share, of the Company.
- (w) “**Shares**” means the shares of Company Common Stock, Series A Preferred Stock and Series B Preferred Stock.
- (x) “**Shareholders’ Agreement**” means that certain shareholders’ agreement, that was executed and became binding upon the Parties as of the Effective Date, in the form of Exhibit A attached to this Agreement.
- (y) “**Transaction Agreements**” means this Agreement, the Shareholders’ Agreement, the License Agreement, the Restated Certificate (as defined below) and any other agreements, instruments or documents entered into in connection with this Agreement.
- (z) “**Vuzix Common Stock**” means the common stock registered under the Securities Act, \$0.001 par value per share, of Vuzix.

2. Purchase and Sale of Series B Preferred Stock.

2.1 Sale of Series B Preferred Stock.

- (a) Epitaxy Plan and Foundation Sales and Purchase. Subject to the terms and conditions of this Agreement after the fourth (4th) month anniversary of the Effective Date:
 - 1. Following presentation to the Company’s Board of Directors (as defined in Section 6.4 below) of the Epitaxy Plan by the Company, Vuzix will (A) pay \$2,000,000 [**] assigning to Vuzix 2,000 shares of Series B [**]; and (B) pay \$500,000 [**] assigning to Vuzix 500 shares of Series B [**]; and
 - 2. Following presentation to the Company’s Board of Directors (as defined in Section 6.4 below) of the Foundation Materials by the

Company, Vuzix will (A) issue 368,000 shares of Vuzix Common Stock [**] assigning to Vuzix 4,782 shares of Series B [**]; and (B) issue 92,000 shares of Vuzix Common Stock [**] assigning to Vuzix 1,194 shares of Series B [**]; provided, however that:

- a) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is between \$8 and \$13 per share of Vuzix Common Stock, Vuzix will issue and/or pay [**] shares of Vuzix Common Stock (based on such 10-day VWAP for Vuzix Common Stock) and/or cash that total \$4,784,000 [**] and \$1,196,000 [**] in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion; and
- b) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is less than \$8 per share of Vuzix Common Stock, Vuzix will issue and/or pay the value of shares of Vuzix Common Stock that total 598,000 shares of Vuzix Common Stock multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**] 149,500 shares multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**] in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion.

(b) Milestone Sales and Purchases.

1. Milestone 1 and Milestone 2. Within ten (10) days following the individual achievement, as agreed between the Company and Vuzix (for the avoidance of any doubt in the case of disagreement the Company may seek recourse as per Section 7.13 and ultimately Section 7.12 below) of each of Milestone 1 and Milestone 2 (for the avoidance of any doubt there can be up to a total of two (2) separate and distinct Milestone Closings according to this Section 2(b)1) Vuzix will (A) issue 172,000 shares of Vuzix Common Stock [**] assigning to Vuzix 2,236 shares of Series B [**]; and (B) issue 43,000 shares of Vuzix Common Stock [**] assigning to Vuzix 559 shares of Series B [**]; provided, however that:
 - a) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is between \$8 and \$13 per share of Vuzix Common Stock, Vuzix will issue and/or pay [**] shares of Vuzix Common Stock (based on such 10-day VWAP for Vuzix Common Stock) and/or cash that total \$2,236,000 [**] and \$559,000 [**] in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion.
 - b) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is less than \$8 per share of Vuzix Common Stock, Vuzix will issue and/or pay the

value of shares of Vuzix Common Stock that total 279,500 shares of Vuzix Common Stock multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**] and 69,875 shares multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**], in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion.

2. Milestone 3 through Milestone 10. Within ten (10) days following the individual achievement, as agreed between the Company and Vuzix (for the avoidance of any doubt in the case of disagreement the Company may seek recourse as per Section 7.13 and ultimately Section 7.12 below) of each of Milestone 3 through Milestone 10 (for the avoidance of any doubt there can be up to a total of eight (8) separate and distinct Milestone Closings according to this Section 2(b)2) Vuzix will (A) issue 86,000 shares of Vuzix Common Stock [**] assigning to Vuzix 1,118 shares of Series B [**]; and (B) issue 21,500 shares of Vuzix Common Stock [**] assigning to Vuzix 280 shares of Series B [**]; provided, however that:
 - a) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is between \$8 and \$13 per share of Vuzix Common Stock, Vuzix will issue and/or pay [**] shares of Vuzix Common Stock (based on such 10-day VWAP for Vuzix Common Stock) and/or cash that total \$1,118,000 [**] and \$279,500 [**] in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion.
 - b) if the 10-day VWAP for Vuzix Common Stock immediately prior to the date such shares are issued is less than \$8 per share of Vuzix Common Stock, Vuzix will issue and/or pay the value of shares of Vuzix Common Stock that total 139,750 shares of Vuzix Common Stock multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**] and 34,398 shares multiplied by 10-day VWAP for Vuzix Common Stock at the time of issuance [**], in such proportion of shares of Vuzix Common Stock and/or cash as determined by Vuzix in its sole discretion.
3. Milestone Closings. Each issuance or payment by Vuzix and the corresponding transfer of shares [**] under this Section 2.1(b) shall be referred to as a “Milestone Closing” and multiple instances of a Milestone Closing shall be referred to as “Milestone Closings”.
4. Conditions of Milestone Closings.
 - a) A Milestone Closing may only occur after the fourth (4th) month anniversary of the Effective Date.
 - b) A Milestone Closing with respect to a Milestone only occurs

once upon the first achievement and acceptance of such Milestone.

- c) The order of each Milestone Closing is at the sole discretion of the Company and may occur at any time and in any sequence independent of the order enumerated in Section 1.1(p).
- d) So long as Vuzix has made all payments no later than the dates specified for each such payment in Section 3 of the License Agreement (for the avoidance of any doubt the due date as stipulated in Section 3 of the License Agreement and is not to be interpreted to be extended to include any cure period that may begin as a result of Vuzix receiving from the Company any notice according to Section 5.2(a) of the License Agreement or Section 5.4(a) of the License Agreement) then Vuzix may at any time in its sole discretion elect to accelerate any Milestone Closing by waiving all requirements for the achievement any remaining Milestone.

(c) Delivery of Certificates.

- 1. As a requirement for the completion of each purchase and sale of shares of Series B Preferred Stock in Section 2.1(a) and Section 2.1(b), [**] a share transfer form (*ordre de mouvement*) duly completed in favor of Vuzix and a Cerfa tax form no.2759 for registration purposes with the relevant French tax authorities, and the Company will deliver to Vuzix a copy of the updated share transfer register (*registre de mouvements de titres*) and individual shareholders accounts (*comptes individuels d'associés*) providing for the transfer of ownership in the shares of Series B Preferred Stock being purchased by Vuzix [**].
- 2. For each purchase and sale of shares of Series B Preferred Stock in Section 2.1(a) and Section 2.1(b) Vuzix will deliver [**] certificates representing that number of shares of Vuzix Common Stock issued hereunder.

2.2 Additional Consideration.

(a) “**Valuation Milestone**” shall mean and be achieved if within five (5) years after the Effective Date, Vuzix either (i) engages in a Change of Control Transaction for an implied equity value of at least US \$3,500,000,000 or (ii) attains a market capitalization for its publicly traded Vuzix Common Stock of at least US \$3,500,000,000 (based on a trailing 10-day VWAP).

(b) If the Valuation Milestone is achieved prior to the Granted License terminating or the License Agreement terminating or after Vuzix owns at least 25,250,000 shares of Company Common Stock according to the terms in the Restated Certificate, then:

- 1. Vuzix will issue or pay [**] as applicable
 - a) immediately prior to closing of the Change of Control

Transaction contemplated by Section 2.2(a)(i) either (i) 15% of the number of shares of Vuzix Common Stock issued [**] under Section 2.1 subject to adjustment in Section 2.2(b)2 or (ii) the cash equivalent represented by such additional shares contemplated by this Section 2.2(b)1a, in each case in exchange for (A) [**] assigning to Vuzix 3,030 shares of Series B [**]; and (B) [**] assigning to Vuzix 758 shares of Series B [**]; or

b) within ten (10) business days in the event contemplated by Section 2.2(a)(ii), 15% of the number of shares of Vuzix Common Stock issued [**] under Section 2.1, subject to adjustment in Section 2.2(b)2, in exchange for (A) [**] assigning to Vuzix 3,030 shares of Series B [**]; and (B) [**] assigning to Vuzix 758 shares of Series B [**].

2. If any cash was paid according to Section 2.1 by Vuzix [**], then the number of shares of Vuzix Common Stock issued according to Section 2.1 as used in the calculation for Section 2.2(b)1 shall be increased by an implied number of shares determined by dividing the amount of cash paid by Vuzix [**] on any date by either (a) if the 10-day VWAP for Vuzix Common Stock used in Section 2.1 was between \$8 and \$13, then the smaller of such amount per share of Vuzix Common Stock or the 10-day VWAP for Vuzix Common Stock immediately prior to the occurrence or acceleration of the Milestone Event or (b) if the 10-day VWAP for Vuzix Common Stock used in Section 2.1 was less than \$8 per share, then the smaller of \$8 per share of Vuzix Common Stock or the 10-day VWAP for Vuzix Common Stock immediately prior to the occurrence or acceleration of the Milestone Event.

(c) Delivery of Certificates.

1. For the purchase and sale of shares Series B Preferred Stock in Section 2.2(b) [**] a share transfer form (*ordre de mouvement*) duly completed in favor of Vuzix and a Cerfa tax form no.2759 for registration purposes with the relevant French tax authorities, and the Company will deliver to Vuzix a copy of the updated share transfer register (*registre de mouvements de titres*) and individual shareholders accounts (*comptes individuels d'associés*) providing for the transfer of ownership in the Series B Preferred Stock being purchased by Vuzix [**].

2. For the purchase and sale of Series B Preferred Stock in Section 2.2(b) Vuzix will deliver [**] certificates representing that number of shares of Vuzix Common Stock issued hereunder.

(d) Acceleration. Provided Vuzix owns at least 25,250,000 shares of Company Common Stock then it may at any time thereafter, in its sole discretion, elect to accelerate the Valuation Milestone contemplated by Section 2.2(a) by waiving all requirements for the achievement of the Valuation Milestone and issuing the shares of Vuzix Common Stock contemplated by Section 2.2(b).

(e) No Multiple Issuances or Payments. The Valuation Milestone may only be achieved once for purposes of the issuance of shares contemplated by Section 2.2(b) and once the share issuance or payment by Vuzix contemplated by Section 2.2(b) has been made [**] will have no further rights under this Section 2.2.

2.3 Vuzix Stock Split Adjustment. If Vuzix shall at any time effect a recapitalization, reclassification, stock split or other similar transaction such that each share of Vuzix Common Stock shall be changed into a larger or smaller number of shares then upon the effective date thereof, the number of shares of Vuzix Common Stock [**] per Section 2.1 or Section 2.2 [**] shall be increased or decreased in direct proportion to the increase or decrease in the number of shares of Vuzix Common Stock by reason of such recapitalization, reclassification or similar transaction, and the \$13 and \$8 figures stated in Section 2.1 or Section 2.2 shall be proportionally increased or decreased.

2.4 Estate Rights. [**] prior to the achievement of a Milestone, [**] will be entitled to receive any consideration due hereunder upon achievement of such a milestone, even if the milestone is achieved by Vuzix [**].

3. Representations and Warranties of the Company. The Company hereby represents and warrants to Vuzix on the Effective Date and as of the date of each Milestone Closing the following matters set forth in this Section 3: Except for Sections 3.2, 3.3, 3.4, 3.5, 3.8(a), 3.11 and 3.17 all references to Company in this Section 3 shall be deemed to include Atomistic UK.

3.1 Organization, Good Standing, Corporate Power and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all requisite corporate power and authority to carry on its business as now conducted and as presently proposed to be conducted. The Company is duly qualified to transact business and is in good standing in each jurisdiction in where it is required to so qualify.

3.2 Capitalization. The share capital of the Company consists, immediately prior to the Effective Date, of:

1. 29,038 shares of Company Common Stock were issued and outstanding. All of the outstanding shares of Company Common Stock have been duly authorized, are fully paid and nonassessable and were issued in compliance with all applicable federal and state securities laws.
2. [**] Series B1 Preferred Stock were issued and outstanding. The rights, privileges and preferences of the Series B1 Preferred Stock are as stated in the Restated Certificate.
3. [**] Series B2 Preferred Stock were issued and outstanding. The rights, privileges and preferences of the Series B2 Preferred Stock are as stated in the Restated Certificate.

(b) None of the Company's stock purchase agreements or stock option documents contains a provision for acceleration of vesting (or lapse of a repurchase right) or other changes in the vesting provisions or other terms of such agreement or understanding upon the occurrence of any event or combination of events. The Company has never adjusted or amended the exercise price of any stock options previously awarded, whether through amendment, cancellation, replacement grant, repricing, or any other means. Except as set forth in the Shareholders' Agreement or Restated Certificate, the

Company has no obligation (contingent or otherwise) to purchase or redeem any of its capital stock.

3.3 Subsidiaries. Other than any subsidiary which is wholly-owned by the Company, the Company does not currently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, limited liability company, association, or other business entity.

3.4 Authorization. All corporate action required to be taken by the Company's Board of Directors (as defined in Section 6.4 below) and stockholders in order to authorize the Company to enter into the Transaction Agreements at the Effective Date has been taken. All action on the part of the officers of the Company necessary for the execution and delivery of the Transaction Agreements, the performance of all obligations of the Company under the Transaction Agreements to be performed as of the Effective Date has been taken prior to or on the Effective Date. The Transaction Agreements, when executed and delivered by the Company, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally, or (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

3.5 Valid Issuance of Shares. The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable state and federal securities laws and liens or encumbrances created by or imposed by a purchaser. The Shares will be issued in compliance with all applicable laws. The Company Common Stock issuable upon conversion of the shares of Series A Preferred Stock in accordance with the terms of the Restated Certificate, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Transaction Agreements, applicable federal and state securities laws and liens or encumbrances created by or imposed by a purchaser. The Company Common Stock issuable upon conversion of the shares of Series A Preferred Stock will be issued in compliance with all applicable laws.

3.6 Governmental Consents and Filings. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any governmental authority is required on the part of the Company in connection with the consummation of the transactions contemplated by this Agreement.

3.7 Litigation. As of the Effective Date there is no claim, action, suit, proceeding, arbitration, complaint, charge or investigation pending or to the Company's knowledge, currently threatened (i) against the Company or any officer, director or Key Employee of the Company or (ii) that questions the validity of the Transaction Agreements or the right of the Company to enter into them, or to consummate the transactions contemplated by the Transaction Agreements. As of the Effective Date neither the Company nor, to the Company's knowledge, any of its officers, directors or Key Employees is a party or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality (in the case of officers, directors or Key Employees) such as would affect the Company. As of the Effective Date there is no action, suit, proceeding or investigation by the Company pending or which the Company intends to initiate. The foregoing includes, without limitation, actions, suits, proceedings or investigations pending or threatened in writing (or any basis therefor known to the Company) involving the prior employment of any of the Company's employees, their services provided in connection with the Company's business, any information or techniques allegedly proprietary to any of their former employers or their obligations under any agreements with prior employers.

3.8 Compliance with Other Instruments. The Company is not in violation or default (a) of any provisions of its Restated Certificate, (b) of any instrument, judgment, order, writ or decree, under any note, indenture or mortgage, or (c) under any lease, agreement, contract or purchase order to which it is a party or by which it is bound, or (v) of any provision of applicable law. The execution, delivery and performance of the Transaction Agreements and the consummation of the transactions contemplated by the Transaction Agreements will not result in any such violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either (i) a default under any such provision, instrument, judgment, order, writ, decree, contract or agreement; or (ii) an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, forfeiture, or nonrenewal of any material permit or license applicable to the Company.

3.9 Agreements; Actions.

(a) Except for the Transaction Agreements, there are no agreements, understandings, instruments, contracts or proposed transactions to which the Company is a party or by which it is bound that involves the license of any patent, copyright, trademark, trade secret or other proprietary right to or from the Company in the Field.

(b) The Company has not declared or paid any dividends, or authorized or made any distribution upon or with respect to any class or series of its capital stock other than the Series B1 Preferred Stock.

(c) The Company is not a guarantor or indemnitor of any indebtedness of any other Person.

(d) The Company has not engaged in the past twelve (12) months in any discussion with any representative of any Person, other than Vuzix, regarding (i) a sale or exclusive license of all or substantially all of the Company's assets, or (ii) any merger, consolidation or other business combination transaction of the Company with or into another Person.

3.10 Certain Transactions.

(a) Other than as approved by the Board of Directors or agreements regarding payment for services on reasonable arm's length terms, there are no agreements, understandings or proposed transactions between the Company and any of its officers, directors, consultants or Key Employees, or any Affiliate thereof.

(b) The Company is not indebted, directly or indirectly, to any of its directors, officers or employees or to their respective spouses or children or to any Affiliate of any of the foregoing, other than in connection with expenses or advances of expenses incurred in the ordinary course of business or in setting up the business of the Company or any of the Company's subsidiaries, or employee relocation expenses and for other customary employee payroll and benefits made generally available to all employees. Other than as approved by the Board of Directors, none of the Company's directors, officers or employees, or any members of their immediate families, or any Affiliate of the foregoing are, directly or indirectly, indebted to the Company or, have any (i) material commercial, industrial, banking, consulting, legal, accounting, charitable or familial relationship with any of the Company's customers, suppliers, service providers, joint venture partners, and licensees, (ii) direct or indirect ownership interest in any firm or corporation with which the Company has a business relationship except that directors, officers, employees or stockholders of the Company may own stock in (but not exceeding two percent (2%) of the outstanding capital stock of) publicly traded companies that may compete with the Company; or (iii) financial interest in any contract with the Company other than the Transaction Documents or agreements regarding payment

for services as an officer, employee or consultant.

(c) [**]

3.11 Rights of Registration and Voting Rights. Except as contemplated in the Shareholders' Agreement, no stockholder of the Company has entered into any agreements with respect to the voting of capital shares of the Company.

3.12 Property. The Company Intellectual Property in the Field that the Company owns is free and clear of all mortgages, deeds of trust or French trust ("*fiducie*"), liens, loans and encumbrances, except for statutory liens for the payment of current taxes that are not yet delinquent and encumbrances and liens that arise in the ordinary course of business and do not materially impair the Company's ownership or use of such property. With respect to the property and assets it leases, the Company is in compliance with such leases and holds a valid leasehold interest free of any liens, claims or encumbrances other than those of the lessors of such property or assets.

3.13 Employee Matters.

(a) None of its employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would materially interfere with such employee's ability to promote the interest of the Company or that would conflict with the Company's business. Neither the execution or delivery of the Transaction Agreements, nor the carrying on of the Company's business by the employees of the Company, nor the conduct of the Company's business as now conducted and as presently proposed to be conducted, will conflict with or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any contract, covenant or instrument under which any such employee is now obligated.

(b) The Company is not delinquent in payments to any of its employees, consultants [**] or independent contractors for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the date hereof or amounts required to be reimbursed to such employees, consultants or independent contractors. The Company has complied in all material respects with all applicable employment law, including those related to wages, hours, worker classification and collective bargaining. The Company has withheld and paid to the appropriate governmental entity or is holding for payment not yet due to such governmental entity all amounts required to be withheld from employees of the Company and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

(c) To the Company's knowledge, no Key Employee intends to terminate employment with the Company or is otherwise likely to become unavailable to continue as a Key Employee. The Company does not have a present intention to terminate the employment of any of the foregoing.

3.14 Tax Returns and Payments. There are no taxes due and payable by the Company which have not been timely paid. There are no accrued and unpaid taxes of the Company which are due, whether or not assessed or disputed. The Company has duly and timely filed all tax returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to taxes for any year.

3.15 Employee Agreements. Each Key Employee of the Company has executed or will execute an agreement with the Company regarding confidentiality and proprietary information substantially in the form or forms delivered to the counsel for Vuzix (the "**Confidential Information Agreements**").

No current or former Key Employee has excluded works or inventions from his or her assignment of inventions in the Field pursuant to such Key Employee's Confidential Information Agreement. Each current and former Key Employee has executed or will execute an agreement to not compete in the Field. The Company is not aware that any of its Key Employees is in violation of any agreement covered by this Section 3.15.

3.16 Permits. The Company has all franchises, permits, licenses and any similar authority necessary for the conduct of its business, the lack of which could reasonably be expected to have a material adverse effect. The Company is not in default in any material respect under any of such franchises, permits, licenses or other similar authority.

3.17 Corporate Documents. The Restated Certificate of the Company is in the form provided to Vuzix. The minute books of the Company contains minutes of all meetings of directors and stockholders and all actions by written consent without a meeting by the directors and stockholders since the date of incorporation and accurately reflects in all material respects all actions by the directors (and any committee of directors) and stockholders with respect to all transactions referred to in such minutes.

3.18 Disclosure. The Company has made available to Vuzix all the information reasonably available to the Company that Vuzix has requested for deciding whether to acquire the Shares. No representation or warranty of the Company contained in this Agreement and no certificate furnished or to be furnished to Vuzix at the Effective Date contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made.

4. Representations and Warranties of Founders. Each of the Founders, severally and not jointly, represents and warrants to Vuzix on the Effective Date and as of the date on which they are being issued Vuzix Common Stock under this Agreement as follows:

4.1 Conflicting Agreements. Such Founder is not, as a result of the nature of the business now conducted or presently proposed to be conducted by the Company or for any other reason, in violation of (a) any fiduciary or confidential relationship, (b) any term of any contract or covenant (either with the Company or with another entity) relating to employment, patents, assignment of inventions, confidentiality, proprietary information disclosure, non-competition in the Field, or (c) any other contract or agreement, or any judgment, decree or order of any court or administrative agency binding on the Founder and relating to or affecting the right of such Founder to be employed by or serve as a director or consultant to the Company. No such relationship, term, contract, agreement, judgment, decree or order conflicts with such Founder's obligations to use his or her best efforts to promote the interests of the Company nor does the execution and delivery of this Agreement, nor such Founder's carrying on the Company's business as a director, officer, consultant or Key Employee of the Company, conflict with any such relationship, term, contract, agreement, judgment, decree or order.

4.2 Litigation. There is no action, suit or proceeding, or governmental inquiry or investigation, pending or, to such Founder's knowledge, threatened against such Founder, and, to such Founder's knowledge, there is no basis for any such action, suit, proceeding, or governmental inquiry or investigation.

4.3 Stockholder Agreements. Except as contemplated by or disclosed in the Transaction Agreements, such Founder is not a party to and has no knowledge of any agreements, written or oral, relating to the acquisition, disposition or voting of the securities of the Company.

4.4 Assignment of Intellectual Property. Each Founder has assigned to the Company

works or inventions in the Field.

4.5 Prior Legal Matters. Such Founder has not been (a) subject to voluntary or involuntary petition under the federal bankruptcy laws or any state insolvency law or the appointment of a receiver, fiscal agent or similar officer by a court for his or her business or property; (b) convicted in a criminal proceeding or named as a subject of a pending criminal proceeding (excluding traffic violations and other minor offenses); (c) subject to any order, judgment, or decree (not subsequently reversed, suspended, or vacated) of any court of competent jurisdiction permanently or temporarily enjoining him or her from engaging, or otherwise imposing limits or conditions on his or her engagement in any securities, investment advisory, banking, insurance, or other type of business or acting as an officer or director of a public company; or (d) found by a court of competent jurisdiction in a civil action or by the Securities and Exchange Commission or the Commodity Futures Trading Commission to have violated any federal or state securities, commodities or unfair trade practices law, which such judgment or finding has not been subsequently reversed, suspended, or vacated.

4.6 [**]

4.7 [**]

4.8 Foreign Investors. If a Founder is not a United States person (as defined by Section 7701(a)(30) of the Code), it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Vuzix Common Stock or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the sale of Shares of Vuzix Common Stock, (ii) any foreign exchange restrictions applicable to such sale, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the sale, holding, redemption, sale, or transfer of the Vuzix Common Stock. The Founder's subscription and payment for and continued beneficial ownership of the Shares will not violate any applicable securities or other laws of the Founder's jurisdiction.

4.9 No General Solicitation. Neither the Founder, nor any of its officers, directors, employees, agents, stockholders or partners has either directly or indirectly, including, through a broker or finder (a) engaged in any general solicitation, or (b) published any advertisement in connection with the offer and sale of the Shares.

5. Representations and Warranties of Vuzix. Vuzix hereby represents and warrants to the Company and the Founders that:

5.1 Authorization. Vuzix has full power and authority to enter into the Transaction Agreements. The Transaction Agreements to which Vuzix is a party, when executed and delivered by Vuzix, will constitute valid and legally binding obligations of Vuzix, enforceable in accordance with their terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and any other laws of general application affecting enforcement of creditors' rights generally, and as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

5.2 Purchase Entirely for Own Account. This Agreement is made with the Company in reliance upon Vuzix's representation to the Company, which by Vuzix's execution of this Agreement, Vuzix hereby confirms, that the Shares to be acquired by Vuzix will be acquired for investment for Vuzix's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that Vuzix has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, Vuzix further represents that Vuzix does not presently have any contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participations to

such Person or to any third Person, with respect to any of the Shares. Vuzix has not been formed for the specific purpose of acquiring the Shares.

5.3 Disclosure of Information. Vuzix has had an opportunity to discuss the Company's business, management, financial affairs and the terms and conditions of the offering of the Shares with the Company's management and has had an opportunity to review the Company's facilities. The foregoing, however, does not limit or modify the representations and warranties of the Company in Section 3 of this Agreement or the right of Vuzix to rely thereon.

5.4 Restricted Securities. Vuzix understands that the Shares have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of Vuzix's representations as expressed herein. Vuzix understands that the Shares are restricted securities under applicable U.S. federal and state securities laws and that, pursuant to these laws, Vuzix must hold the Shares indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. Vuzix acknowledges that the Company has no obligation to register or qualify the Shares, or the Company Common Stock into which it may be converted, for resale. Vuzix further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Shares, and on requirements relating to the Company which are outside of Vuzix's control, and which the Company is under no obligation and may not be able to satisfy.

5.5 No Public Market. Vuzix understands that no public market now exists for the Shares, and that the Company has made no assurances that a public market will ever exist for the Shares.

5.6 Legends. Vuzix understands that the Shares and any securities issued in respect of or exchange for the Shares, may be notated with one or all of the following legends:

(a) "The shares represented hereby have not been registered under the securities act of 1933, and have been acquired for investment and not with a view to, or in connection with, the sale or distribution thereof. No such transfer may be effected without an effective registration statement related thereto or an opinion of counsel in a form satisfactory to the company that such registration is not required under the securities act of 1933."

(b) Any legend set forth in, or required by, the other Transaction Agreements.

(c) Any legend required by the securities laws of any state to the extent such laws are applicable to the Shares represented by the certificate, instrument, or book entry so legended.

6. Conditions to Vuzix's Obligations at the Effective Date. The obligations of Vuzix to purchase Series B Preferred Stock following the fourth (4th) month anniversary of the Effective Date is subject to the fulfillment, on or before the Effective Date, of each of the following conditions, unless otherwise waived:

6.1 Representations and Warranties. The representations and warranties of the Company contained in Section 3 and the representations and warranties of the Founders in Section 4 will be true and correct in all respects as of the Effective Date.

6.2 Performance. The Company and the Founders will have performed and complied with all covenants, agreements, obligations and conditions contained in the Transaction Agreements that are required to be performed or complied with on or before the Effective Date.

France
Attn: Jonathan Sachs
Email: [**]

To The Founders: Jonathan Sachs
[**]

Jerry Woodall
[**]

To Vuzix: Vuzix Corporation
25 Hendrix Road
West Henrietta, New York 14586
Attn: Legal Department
Email: legal@vuzix.com

Copy to: Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604
Attn: Thomas R. Anderson
Email: tanderson@hselaw.com

7.4 Captions and Section References. The titles, headings or captions in this Agreement do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions and therefore will not be considered in the interpretations, construction or application of this Agreement.

7.5 Severability. If any term or provision of this Agreement will be found to be invalid, illegal or otherwise unenforceable, such finding will not affect the other terms or provisions of this Agreement, or the whole of this Agreement, but such term or provision will be deemed modified to the extent necessary to render such term or provision enforceable, and the rights and obligations of the Parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties set forth in this Agreement.

7.6 Amendment. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement will be effective unless made in a writing that expressly references this Agreement and is signed on behalf of the Parties hereto by their duly authorized representatives.

7.7 Waiver. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such or other term, provision or condition of this Agreement.

7.8 Force Majeure. No Party will be liable hereunder to any other Party nor will be in breach for failure to perform its obligations caused by circumstances beyond the control of any Party, including, but not limited to: acts of nature; fires; earthquakes; floods; riots; wars; civil disturbances; sabotage; accidents; shortages or government actions. In the case of any such event, the affected Party will promptly notify the other Parties, and will keep the other Parties informed of the event in writing specifying the extent to which its performance will likely be affected. The Party affected will exert reasonable diligent efforts to eliminate, cure or overcome any such cause and resume performance as soon as practicable.

7.9 Benefits and Binding Nature of Agreement. This Agreement will be binding upon and will inure to the benefit of the Parties hereto and their respective successors and assigns permitted under this Agreement.

7.10 Assignment; Change in Control. The rights under this Agreement may not be assigned by any Party (the “**Assigning Party**”) without the written consent of the other Parties except (a) to any Affiliate of the Assigning Party, (b) to any Person which acquires substantially all of the assets and business of Vuzix [**] or any successor Person who holds such Shares provided such Person signs a deed of adherence to the Shareholders’ Agreement.

7.11 Entire Agreement. This Agreement sets forth the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes and terminates all previous agreements, memoranda or letters of proposal or intent between the Parties hereto in connection with the subject matter hereof entered into prior to the Effective Date.

7.12 Governing Law and Forum. This Agreement and all claims related to it, its execution or the performance of the Parties under it, will be construed and governed in all respects according to the laws of the State of New York. The Parties agree that all actions or proceedings arising in connection with this Agreement will be tried and litigated exclusively in the courts located in the Western District of New York. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section 7.12. Each Party consents to the jurisdiction of such courts and waives any right it may have to challenge the jurisdiction of such court under the law of any jurisdiction, including asserting the doctrine of forum non-conveniens or similar doctrine under any law, or to object to venue with respect to any proceeding brought in accordance with this Section 7.12 on any grounds or any law.

7.13 Dispute Resolution. If any dispute arises between the Parties with respect to the interpretation or breach of this Agreement, a Party may notify another Party of the dispute in writing and the Parties will attempt to resolve the dispute through discussions between the competent respective officers or the Founders as the case may be. If such individuals are unable to resolve the dispute within thirty (30) days after the date written notice of the dispute is delivered, a Party may seek such other remedy, at law or in equity, as it may deem necessary or appropriate.

7.14 Counterparts. This Agreement may be executed in counterparts and signed electronically by means of a reliable identification process implemented by DocuSign® (www.docusign.com). For purposes hereof, a facsimile or scanned copy of this Agreement, including the signature page hereto, will be deemed to be an original. Notwithstanding the foregoing, the Parties will deliver original execution copies of this Agreement to one another as soon as practicable following execution thereof.

7.15 Limitations. Except for fraud or intentional misrepresentation, (a) the aggregate liability of the Company under this Agreement to Vuzix shall be limited to the amount received by the Company under the License Agreement and [**] shall be limited to the return of any Vuzix Common Stock or other consideration received [**].

7.16 Former Stock Purchase Agreement. The Company, Vuzix and the Founders entered into a stock purchase agreement dated 12 May 2022 (the “**Former Stock Purchase Agreement**”). The Company, Vuzix and the Founders agree to definitively and irrevocably terminate the Former Stock Purchase Agreement in all its provisions with immediate effect, automatically and without any formalities, as of the date of execution of this Agreement. The Company, Vuzix, and each Founder confirm that it/he

has no outstanding claims against the Company, any Subsidiary, Vuzix, any of their directors, officers, employees or consultants, each Founder and/or any other party in connection therewith.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Atomistic SAS

By:

Name: Jonathan Sachs

Title: President

Jonathan Sachs

Jerry Woodall

Vuzix Corporation

By:

Name: Paul Travers

Title: President & CEO

Shareholders' Agreement

Certain identified information has been excluded from the exhibit because it is both (i) not material and (ii) would likely cause competitive harm to the registrant if publicly disclosed.

On December 16th, 2022

Between

Jonathan Sachs

Jerry Woodall

and

Vuzix Corporation

SHAREHOLDERS' AGREEMENT

relating to ATOMISTIC

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THIS SHAREHOLDERS' AGREEMENT IS ENTERED BY AND BETWEEN:

(1) **Dr. Jonathan Sachs**, [**],

(hereafter referred to as "**Jonathan Sachs**")

(2) **Dr. Jerry Woodall**, [**],

(hereafter referred to as "**Jerry Woodall**")

(Jonathan Sachs and Jerry Woodall being hereafter individually referred to as a "**Founder**" and collectively as the "**Founders**")

OF THE FIRST PART,

AND:

(3) **Vuzix Corporation**, a company incorporated under the laws of the state of Delaware, having its place of business located at 25 Hendrix Road, Suite A, West Henrietta, New York 14586, represented by Paul Travers, duly authorized,

(hereafter referred to as "**Vuzix**")

OF THE SECOND PART,

(Jonathan Sachs, Jerry Woodall and Vuzix are hereafter collectively referred to as the "**Parties**" and individually as a "**Party**")

IN THE PRESENCE OF:

(4) **Atomistic**, a French *société par actions simplifiée*, the registered office of which is located at 3 boulevard de Belfort – 59000 Lille, France, registered with the registry of commerce and companies of Lille Métropole under number 902 801 950, represented by Dr. Jonathan Sachs, duly authorized, which is entering into this Agreement for the purposes of accepting the rights granted to it and acknowledging the obligations imposed on it pursuant to this Agreement,

(hereinafter referred to as the "**Company**")

WHEREAS:

- A. The share capital of the Company is set forth in Schedule A hereto.
- B. In this context, the Parties have agreed to enter into this Agreement which purpose is described in ARTICLE 2.

NOW IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE 1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Agreement, the terms listed hereafter shall have the following meaning:

Affiliate	means, for any Party, (i) any fund or investment firm which controls such Party or which is managed (including through a delegation, as the case may be) by the same manager as such Party or by a manager Controlled by, Controlling or under the same Control as the manager of such Party (an “ Affiliate Fund ”) and (ii) any Entity Controlled by, Controlling or under the same Control as such Party or such Affiliate Fund or as the manager or investment advisor of such Party or such Affiliate Fund.
Agreement	means this shareholders’ agreement, as amended or supplemented from time to time by way of amendment.
Anti-Corruption Laws	means the anti-bribery provisions of the French criminal code, anti-bribery legislation enacted by member states of the European Union and by signatories implementing the OECD Convention Combating Bribery of Foreign Officials, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and other similar laws and regulations.
Board of Directors	means the “ <i>comité de surveillance</i> ” of the Company, as defined in the By-laws.
Business Sale	means, other than to or with Vuzix, the sale (<i>vente</i>), transfer or other disposition of all or substantially all of the Company’s assets in one transaction or a series of related transactions, it being understood that any Business Sale will result in a Liquidation pursuant to Article 14.3.
By-laws	has the meaning ascribed to it in Article 4.1.
Call Options	means the Call Option and the Vuzix Call Option.
Control	means (a) the direct or indirect holding of at least a majority of the share capital and/or voting rights of an Entity, (b) the right to appoint or cause the appointment of a majority of the board of directors (or similar governing body) of an Entity, or (c) the right to manage or direct the

management of the assets of an Entity on a discretionary basis.

Effective Date	means December 16 th , 2022, the date this Agreement was executed and became binding upon the Parties and the Company.
Entity	means any legal entity, company, corporation, group, investment fund, de facto company, association, partnership, or any similar organization, whether governmental or private, having or not a separate legal personality.
Fair Market Value	means the fair market value (<i>valeur vénale</i>) of a Share (on a non-diluted basis) (i) determined by the Permitted Transferor and the Permitted Transferee or (ii), if the Permitted Transferor and the Permitted Transferee do not agree on such valuation, to be determined by an independent expert appointed, upon request of the most diligent Party concerned, by order of the president of the commercial court (tribunal de commerce) of Paris, ruling in a summary form (<i>forme des référés</i>) and without appeal, as set forth in article 1592 of the French civil code; the appointed expert shall, within thirty (30) days of his appointment, deliver his report to the concerned Permitted Transferor and the relevant Permitted Transferee; the expert's fees shall be borne equally by the concerned Permitted Transferor and the concerned Permitted Transferee; it being specified that if the expert shall not be available, refuse or will otherwise not be in a position to carry out its mission as set forth here above, the concerned Party(ies) shall appoint an alternative expert under the same conditions as abovementioned.
Field	has the meaning ascribed to it in the License Agreement.
GAAP	means generally accepted accounting principles in the United States as in effect from time to time.
Granted License	has the meaning ascribed to it in the License Agreement. [**]
License Agreement	means that certain license agreement that was executed by and became binding upon the Parties and the Company as of the Effective Date.
Liquidation	means the winding up, amicable liquidation or dissolution of the Company (excluding any judicial liquidation).
Liquidation Event	means (i) the Business Sale; (ii) the Merger; (iii) the Sale or (iv) the Liquidation.

Merger	means, other than to or with Vuzix, the merger of the Company with or into another entity (except a merger or consolidation in which the holders of capital stock of the Company immediately prior to such merger or consolidation continue to hold more than 50% of the voting power of the capital stock of the Company or the surviving or acquiring entity).
Ordinary Shares	means the ordinary stock (<i>actions ordinaires</i>) 0.01€ par value, of the Company. [**]
Permitted Transfer	means (a) the Call Option, (b) the Vuzix Call Option, (c) any Transfer of Securities according to the SPA and (d) any Transfer by a Permitted Transferor of Shares [**].
Permitted Transferee	means the transferee of a Permitted Transfer.
Permitted Transferor	means the transferor of Shares to a Permitted Transferee.
Person	means any natural person and/or Entity.
President	means the <i>président</i> of the Company within the meaning of article L. 227-6, §1, of the French Commercial Code.
Sale	means, other than to or with Vuzix, the sale (<i>vente</i>) and/or contribution (<i>apport</i>), in one transaction or a series of related transactions, to a Person or group of affiliated Persons of 100% of the Securities.
Securities or Security	means, now and in the future: <ul style="list-style-type: none"> (a) the Shares; (b) the <i>valeurs mobilières donnant accès au capital</i> or other securities giving the right, immediately or on a due date, to subscribe or otherwise acquire Shares, including but not limited to stock options (<i>options de souscription ou d'achat d'actions</i>), redeemable shares, warrants and founders' warrants (<i>bons de souscription de parts de créateur d'entreprise</i>); (c) the subscription rights attached to the Shares as well as to the securities mentioned in (b) above, in the event of an issue of Shares, <i>valeurs mobilières donnant accès au capital</i> or other securities giving a right, immediately or on a due date, to subscribe or otherwise acquire Shares; and (d) any rights to receive free Shares, <i>valeurs mobilières donnant accès au capital</i> as well as to the securities mentioned in paragraph (b) above, which any of the Parties hold or may hold, for any reason

whatsoever.

Series A Preferred Stock	means the series A preferred stock 0.01 € par value per share, of the Company (<i>Actions de Préférence A</i>).
Series B Preferred Stock	means together the Series B1 Preferred Stock and the the Series B2 Preferred Stock.
Series B1 Preferred Stock	means the series B1 preferred stock 0.01 € par value per Share, of the Company (<i>Actions de Préférence B1</i>).
Series B2 Preferred Stock	means the series B2 preferred stock 0.01 € par value per Share, of the Company (<i>Actions de Préférence B2</i>).
Shares	means the shares issued or to be issued by the Company irrespective of class or category (including the Ordinary Shares, the Series A Preferred Stock and the Series B Preferred Stock).
SPA	means that certain stock purchase agreement that was executed by and became binding upon the Parties and the Company as of the Effective Date.
Shareholders	means the holders of one or several Shares.
Subsidiary	means any company and/or undertaking and/or contractual or <i>de facto</i> venture, directly or indirectly, controlled by the Company within the meaning of article L. 233-3 of the French commercial code.
Terms and Conditions	means the terms and conditions of the Series A Preferred Stock and Series B Preferred Stock set forth in the By-laws.
Third Party	means any individual or legal entity other than a Party or the Company.
Transfer	means any transaction resulting or which may result at a later date (<i>e.g.</i> , the granting of a put or call option or a pledge) in a transfer of ownership of Securities (<i>propriété, nue-propriété ou usufruit</i>) for any reason whatsoever (including but not limited to sales, gratuities, contributions, partial contributions of assets, mergers, de-mergers, transfers as a result of death or any combination of these methods of transfer of ownership).

1.2 Pursuant to this Agreement and unless the context requires otherwise:

- (a) references to Articles and Schedules are references to articles of, and schedules to, this Agreement, and the words “hereof”, “herein” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

- (b) headings are inserted for convenience only, in order to facilitate the reading of the Agreement and shall not affect the construction of the Agreement;
- (c) the terms “including”, “includes”, “including in particular” or any similar terms shall be construed as having an illustrative purpose and shall not restrict the meaning of any terms following immediately such terms;
- (d) references to a legal provision shall include such provision as amended from time to time;
- (e) a reference to a document refers to this document, as amended, supplemented or replaced by any means whatsoever;
- (f) meanings ascribed to terms defined herein shall be equally applicable to the singular and plural forms of such terms and to their other grammatical forms;
- (g) French legal terms appearing in italics in this Agreement shall prevail, as to their meaning, over the English terms, and over any other possible French translation of those English terms, to which such French legal terms are referring;
- (h) any statement which refers to the “best efforts” or “best endeavors” of a Party with respect to a given matter means that such Party has an “*obligation de moyens*” with respect to such matter;
- (i) the provisions of articles 640 to 642 of the French civil procedure code shall be applied to calculate any period of time for the purposes of this Agreement.

ARTICLE 2. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to set out the rights and obligations of the Parties and the terms and conditions they have agreed to comply with for the duration of this Agreement in pursuing their common objectives through the Company, it being specified that unless otherwise expressly specified herein, the Parties are acting severally and not jointly (*non solidairement*).

ARTICLE 3. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Parties:

3.1 for the Parties who are legal entities, that:

- a) it is legally incorporated or formed and in good standing under French law or the laws of the jurisdiction where it is established and that its legal representative has full powers and authority to sign and implement this Agreement; and

b) the execution and implementation of this Agreement has been validly authorized by such Party's competent bodies, does not and will not result in a breach, termination or amendment of any term or condition of any other contract or deed to which such Party is a party and that this Agreement is not contrary to any term of any such contracts or deeds.

3.2 for the Parties who are natural persons, that:

a) he or she has the capacity to sign and implement this Agreement; and

b) the execution and implementation of this Agreement does not and will not result in a breach, termination or amendment of any term or condition of any other contract or deed to which such Party is a party and that this Agreement is not contrary to any term of any such contracts or deeds.

3.3 for all Parties, pursuant to French and other relevant laws and regulations against money laundering (*réglementation sur la lutte contre le blanchiment de capitaux*), that:

a) the funds used by such a Party in order to acquire Shares have not come from unlawful activities, including but not limited within the meaning of title VI (*obligations relatives à la lutte contre le blanchiment de capitaux*), Book V of the French *code monétaire et financier*, or violations of Anti-Corruption Laws or Sanctions,

b) it has neither favored by any means a deceitful justification of the origin of the assets or income of any offence's perpetrator (*auteur d'un délit ou d'un crime*) whose offence provided the offence's perpetrator a direct or indirect benefit, nor helped a transaction aiming at the investment, concealment or conversion of the direct or indirect benefit of any offence, and

c) it is not and is not acting for or on behalf of a Sanctioned Person.

ARTICLE 4. GOVERNANCE

4.1 As to the administration and management of the Company, each Party irrevocably undertakes to comply with the provisions of this Agreement as well as the by-laws (*statuts*) of the Company (the "**By-laws**"), as amended from time to time in accordance with the provisions of this Agreement, it being expressly agreed that, in the event of a conflict between the By-laws and this Agreement, this Agreement shall prevail among the Parties.

4.2 The Company shall be administered by the President and, as the case may be, any General Manager (*Directeur Général*).

With regard to Third Parties, the President has the widest possible powers to act in all circumstances in the name and on behalf of the Company, without prejudice of the prerogatives of the Board of Directors described in Article 4.4 and 4.10 below or the powers of the body of shareholders of the Company pursuant to the By-laws.

[**]

4.3 The Board of Directors shall be composed at all time of two (2) members as follows:

- i. one (1) member who shall be appointed by a majority of the holders of the Ordinary Shares (the “**OS Director**”);
- ii. one (1) member who shall be appointed by Vuzix (the “**Vuzix Director**”).

4.4 The Company undertakes that none of the decisions listed below will be taken by the President, the Managing Director (*Directeur général*) as the case may be or any officer or legal representative of the Company or its Subsidiaries in the name thereof, without the prior approval of the Board of Directors including the positive vote of the Vuzix Director [**]:

i. [**]

ii. [**]

iii. [**]

iv. [**]

v. [**]

vi. [**]

vii. [**]

viii. [**]

ix. [**]

x. [**]

xi. [**]

xii. [**]

xiii. [**]

xiv. [**]

xv. [**]

xvi. [**]

xvii. [**]

xviii. [**]

xix. [**]

xx. [**]

[**]

- 4.5 [**]
- 4.6 Each Party agrees that no adverse changes to the rights (including economic rights), preferences and privileges of the Series A Preferred Stock and the Series B Preferred Stock may be made without the prior approval of the holders of such Shares and notably:
[**]
- 4.7 The Parties undertake to vote or cause to vote in favor of any shareholders' resolution and more generally to take any action required to effect and implement the provisions of this ARTICLE 4.
- 4.8 The convening notices will be sent at least 5 days in advance (except in emergencies), by any means, on the initiative of the President.
The quorum required for any meeting of the Board of Directors upon first summons (*convocation*) (the "**First Meeting**") shall include at least the Vuzix Director (present or represented). In case such quorum is not met, the meeting may be adjourned to a new meeting to be held no less than three (3) days after the First Meeting with the same agenda, at which no quorum other than the OS Director (present or represented) shall be required.
- 4.9 The Board of Directors may also deliberate by means of teleconference, videoconference or any other method of remote meeting, with the persons participating in the meeting in this manner being deemed to be present for the calculation of quorum and majority.
- 4.10 [**] the Board of Directors shall meet quarterly to discuss:
[**]
- 4.11 No remuneration is paid for the duties of a member of the Board of Directors.

ARTICLE 5. NOTICE OF TRANSFERS; PERMITTED TRANSFERS; CALL OPTIONS

- 5.1 For ten (10) years after the date of this Agreement, so long as the Granted License has not been terminated or the License Agreement has not been terminated during this period, the Founders may not Transfer any Shares [**] without the prior written consent of Vuzix and the Company will not recognize any Transfer in violation of this provision, which Transfer will be deemed null and void and of no force or effect.
- 5.2 Notwithstanding Article 5.1, a Permitted Transferor may make Permitted Transfers without the consent of the other Parties provided that (a) the Permitted Transferor provides the other Parties written notice of such transfer, and (b) such Permitted Transfer complies with ARTICLE 11. Each Party will provide the other Parties with written notice of any other transfers permitted by this Agreement.
- 5.3 As from the date Vuzix owns at least 25,250,000 Ordinary Shares (the "**Call Option Trigger Date**"), Vuzix shall have the right, upon its sole option, within three hundred sixty five (365) days following the Call Option Trigger Date (the "**Call**

Option Period”), to purchase all Ordinary Shares [**] (the “**Option Securities**”) in accordance with the provisions of this Article 5.3 (the “**Call Option**”).

Vuzix accepts the benefit of the Call Option as an irrevocable promise to sell [**].

The sale price of the Option Securities under the Call Option shall be equal to EUR one (1 €) per share.

Vuzix shall have the right to exercise the Call Option anytime within the Call Option Period by issuing a notice to the Company [**] of its desire to exercise such Call Option (the “**Call Option Exercise Notice**”).

Should Vuzix exercise the Call Option pursuant to the terms and conditions set forth above, the transfer of the Option Securities shall be completed by the delivery of the share transfer forms and other documents (duly completed and executed) required for the transfer of ownership and the registration of the transfer in the Company’s share transfer register, in exchange for payment of the corresponding price, at the latest thirty (30) days after the Call Option Exercise Notice (the “**Call Option Completion Date**”).

The payment of the sale price of the Option Securities by Vuzix shall be made by wire transfer, in immediately available funds [**] the details of which will be provided [**] prior to the Call Option Completion Date.

If the Call Option is not exercised during the Call Option Period, such Call Option is automatically void.

- 5.4 As from the 5th anniversary of the date of this Agreement, in the event that (i) the Valuation Milestone (as defined in the SPA) has not been achieved or accelerated according to section 2.2(a) or section 2.2(d) respectively of the SPA at this date and that (ii) Vuzix owns at least 25,250,000 Ordinary Shares upon conversion of 25,250 shares of Series A Preferred Stock, Vuzix shall have the right, upon its sole option, to purchase (a) 3,030 shares of Series B [**] and (b) 758 shares of Series B [**] (the “**Vuzix Call Option**”) in accordance with the provisions of this Article 5.4 (the “**Vuzix Call Option**”).

Vuzix accepts the benefit of such undertaking as an irrevocable promise to sell [**].

Vuzix shall exercise the Vuzix Call Option [**] within three hundred sixty five (365) days following the later to occur of (i) the date of payment by the Company of the dividends declared for the financial year ending before the 5th anniversary of the date of this Agreement or (ii) the Call Option Trigger Date (the “**Vuzix Call Option Period**”), a notice indicating its decision to exercise the Vuzix Call Option pursuant to this Article 5.4. In such case, [**] shall be bound to Transfer to Vuzix all [**] Series B Preferred Stock [**] for EUR ten (10 €) per share, within ten (10) days as from the notice from Vuzix [**].

The transfer of the shares of Series B Preferred Stock to Vuzix shall be completed by the delivery of the share transfer forms and other documents (duly completed and executed) required for the transfer of ownership and the registration of the

transfer in the Company's share transfer register, in exchange for payment of the corresponding price (the "**Vuzix Call Option Completion Date**").

The payment of the sale price of the Vuzix Option Securities by Vuzix shall be made by wire transfer, in immediately available funds [**] prior to the Vuzix Call Option Completion Date.

If the Vuzix Call Option is not exercised during the Vuzix Call Option Period, such Vuzix Call Option is automatically void.

ARTICLE 6. INFORMATION TO VUZIX

- 6.1 In addition to the rights granted to them by applicable laws and regulations, the Company and the Founders, within the limit of their respective powers, undertake that Vuzix shall be provided with the following financial statements with respect to the Company and its Subsidiaries, if any:
- i. as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year of the Company (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and (iii) a statement of stockholders' equity as of the end of such year, if requested by Vuzix, the Company will appoint a statutory auditor and all such financial statements will be audited, the cost of which audit will be borne by Vuzix;
 - ii. as soon as practicable, but in any event within forty-five (45) days after the end of each quarter of each fiscal year of the Company, unaudited statements of income and cash flows for such fiscal quarter, and an unaudited balance sheet as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end adjustments; and (ii) not contain all notes thereto that may be required in accordance with GAAP);
 - iii. with respect to the financial statements called for in paragraph (i) of this Article 6.1, an instrument executed by the chief financial officer (if there is one) or the accountants for the Company certifying that such financial statements were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (except as otherwise set forth in paragraph (ii) of this Article 6.1) and fairly present the financial condition of the Company and its results of operation for the periods specified therein.
- 6.2 Such other information relating to the financial condition, business, prospects, or corporate affairs of the Company as any shareholder of the Company may from time to time reasonably request.
- 6.3 If, for any period, the Company has any Subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the

consolidated and consolidating financial statements of the Company and all such consolidated Subsidiaries.

- 6.4 In addition, the Company shall allow reasonable inspection of its properties and books and financial records by Vuzix, provided that Vuzix (and/or, as the case may be, its advisor) enters into customary non-disclosure agreements with respect to the information that may be provided to them on such inspection, and being specified that:
- i. the fees and expenses of each such inspection shall be borne by Vuzix unless such inspection is made necessary because of a continued breach of the obligations under this ARTICLE 6 for more than sixty (60) days after notification of such breach to the Company, in which case such fees and expenses shall be borne by the Company, up to 20,000 € per financial year;
 - ii. the Company shall be informed at least five (5) business days in advance of any inspection; and
 - iii. such inspection shall be exercised during normal business hours.

ARTICLE 7. CORPORATE SOCIAL RESPONSIBILITY - ESG

The Company acknowledges that Vuzix and its Affiliates make their investments and monitor their shareholdings in consideration of the environmental, social, corporate and the good corporate governance standards, such as:

- use of the natural resources;
- environmental impact;
- employment;
- social dialogue;
- human resources;
- attention paid to people;
- relationship with suppliers and clients;
- relationship with the region and stakeholders in general;
- governance; or
- management.

The Company undertakes to make its best efforts to adopt a progress-making approach so that the Company and its Subsidiaries, as the case may be, operate their business in a way which reconciles economic interest and corporate social responsibility.

ARTICLE 8. DURATION AND TERMINATION OF THIS AGREEMENT

- 8.1 This Agreement is entered into for a period of fifteen (15) years as from its execution. At the end of this first period of fifteen (15) years, this Agreement shall be automatically renewed for periods of five (5) years. On any renewal, any Party may terminate its participation to this Agreement, by notifying such decision to the other Parties at least six (6) months in advance.
- 8.2 This Agreement will terminate as to any specific Party, on the date when such Party shall cease to hold any Shares or Security, save that (i) this shall not relieve that Party and the Company from any liabilities or obligations whatsoever in respect of matters, undertakings or conditions which shall have been done or not have been done, observed or performed by that Party prior to such termination, and (ii) provisions of ARTICLE 10 shall continue to bind that Party and the Company for a two (2) year period after the termination of this Agreement.

ARTICLE 9. ATTORNEY

- 9.1 In order to guarantee the exercise of the rights which the Parties mutually grant to each other and to give full effect to this Agreement, the Parties agree to designate, jointly and irrevocably, the Company as their common attorney in charge of administrating this Agreement (the “**Attorney**”).

The Company is entering into this Agreement specifically to accept this power of attorney of common interest, in accordance with the following provisions. For the purpose of article 1161 of the French civil code, each Party represented for the purpose of this Agreement has expressly authorized, as the case may be, its attorney to act as representative of any other Party.

- 9.2 As the administrator of this Agreement, especially empowered by the Parties for the duration of this Agreement as provided in Article 9.1:
- i. only the Attorney will be allowed to deal with and, as the case may be, to enforce the transfer orders (*ordres de mouvement*) issued by the Parties and relating to the Securities;
 - ii. the Attorney shall be bound to check the conformity of such transfer orders to the undertakings subscribed in this Agreement;
 - iii. the Attorney shall register a transfer order only after ensuring that the procedures provided for in this Agreement have been complied with and that the execution of the transfer order may be completed;
 - iv. the Attorney shall ensure that (i) the shareholders of the Company holding 5% and less of the Shares on a non-fully diluted basis and (ii) the holders of options or warrants to subscribe or purchase Shares or other Securities execute a short-form shareholders' agreement;

Consequently, the Parties hereby grant to the Attorney all powers to execute the short-form shareholders' agreement in the name and on behalf of all Parties;

- v. the Attorney shall record adhesions to this Agreement as provided for in ARTICLE 11 (*New parties to this Agreement*);
- vi. the Attorney will collect by all means the unanimous decisions of the Parties relating to the amendment, modification or waiver of any of the provisions hereof and will implement, as the case may be, the resulting changes to this Agreement.

9.3 This power of attorney shall apply to all of the Securities held by the Parties.

ARTICLE 10. CONFIDENTIALITY

10.1 Each Party undertakes to consider as strictly confidential and not to divulge, sell or transfer to any Third Party, this Agreement and any documents or information which it may acquire or to which it may have access in the course of its relationship with or responsibilities in the Company concerning, in particular, the activities, products, clients, the strategy, the development, the commercial or partnership agreements and the financial situation of the Company or its Subsidiaries unless made:

- with the prior consent of the Parties (for this Agreement) and of the Company (for any document or information relating thereto),
- as required by the applicable mandatory laws or regulations,
- to the directors, managers, employees or professional advisers of a Party, provided that it be necessary to the performance by such Party of its obligations and undertakings or to the exercise of its rights in relation to the Company and provided that the director, manager, employee or professional adviser referred to above be subject to a customary confidentiality agreement or similar confidentiality obligation, which the Party concerned will make sure of, it being specified that the persons representing funds or investment firms which are Parties may communicate to the competent bodies of the companies managing such funds the information required to allow them to make decisions upon matters relating to the Company. In addition, the said managing companies may communicate the information required under applicable laws and regulatory or pursuant to their respective bona fide internal policies to the shareholders, partners or members of the relevant fund or investment firms, provided that the managing companies, shareholders, partners or members of the relevant fund or investment firms referred to above be subject to a customary confidentiality agreement or similar confidentiality obligation, which the Party concerned will make sure of,
- regarding the existence of any *pacte de préférence* granted pursuant to this Agreement (but excluding its content), in accordance with article 1123 of the French civil code, to a Third Party by any Party who benefits from such *pacte de préférence*, but only in order to and to the extent necessary to preserve its

right, being provided that such Party shall previously inform the Company of any request to this effect, or

- with the prior authorization of Vuzix, to a *bona fide* potential investor subject to a customary confidentiality agreement, which the Party concerned will make sure of.

10.2 Information will not be regarded as confidential, however, if:

- it is in the public domain due to a third party and not because of the negligence of the Party concerned;
- it is available through other sources without breach of any confidentiality undertaking.

ARTICLE 11. NEW PARTIES TO THIS AGREEMENT

Should a Party decide to Transfer one or more of its Shares or other Securities to a Third Party if and as permitted hereby, such Party undertakes to require the Third Party to, and such Transfer shall be conditioned upon:

- The written agreement by said Third Party (i) to adhere to and be bound by this Agreement and the SPA and become a Party for purposes of this Agreement and the SPA and the said Third Party shall accede to this Agreement and the SPA with the same quality, rights and obligations as the transferor of the Shares except for rights and obligations that are by their nature strictly personal to the transferor.
- The execution by said Third Party of deeds of adherence to this Agreement and the SPA as confirmation that such transferee shall be bound by all the terms and conditions of this Agreement and the SPA.

For this purpose, the Parties grant to the Company, an irrevocable power to record such adhesion in their name and on their behalf.

Accordingly, the mere signature by the Company of a copy of this Agreement signed also by said Third Party shall be deemed signed by all Parties.

The Company shall also have all powers to modify this Agreement, but only to the extent required to insert therein the name of the Third Party, and all the Parties shall be bound by the modifications so made.

A copy of the amended Agreement shall then be sent by the Company to each of the Parties.

If the Third Party does not execute a deed of adherence to each of this Agreement and the SPA on the Transfer date at the latest, the Parties irrevocably instruct the Attorney not to register the Transfer of Securities to the Third Party in the individual shareholders' accounts until a deed of adherence to each of this Agreement and the SPA signed by such Third Party has been secured.

ARTICLE 12. NOTICES

12.1 All notices and other communications required or authorized hereunder shall be in writing and validly made if either delivered via courier or sent by registered letter (return receipt requested), facsimile or e-mail (provided that it be confirmed by same day registered letter, return receipt requested or courier on expedited basis for notices sent across international boundaries) to the registered office or residence of the Party concerned as specified in the above recitals.

Any change in address or representative for purposes hereof shall be notified by the Party concerned to the other Parties as provided above.

12.2 Notices and other communications delivered via courier shall be deemed to be received as of their date of delivery, as evidenced by the delivery receipt.

Notices and other communications sent by registered mail, return receipt requested, shall be deemed to be received as of their date of first presentation to the addressee.

Notices and other communications sent by facsimile or e-mail shall be deemed to be received as of the date thereof, provided that they be confirmed by same day registered letter, return receipt requested or courier on expedited basis for notices sent across international boundaries.

ARTICLE 13. APPLICABLE LAW AND JURISDICTION

This Agreement shall be governed as to its validity, interpretation and performance by the laws of France.

Any dispute arising in connection with this Agreement and its exhibits or as a result or consequence thereof not otherwise settled shall be subject to the exclusive jurisdiction of the Paris commercial courts.

ARTICLE 14. PREFERENTIAL ALLOCATION IN THE EVENT OF A LIQUIDATION EVENT

14.1 Pursuant to the Terms and Conditions, in cases where the Company is the subject of a Liquidation Event, the Parties agree to proceed with a specific distribution of the overall consideration resulting for them from such Liquidation Event.

14.2 For the purposes hereof, the “**Amount for Allocation**” in respect of a Liquidation Event will be (a) the Proceeds of the Transfer in the event of a Sale or (b) the Liquidation Proceeds in the event of a Liquidation (including the Liquidation resulting from a Business Sale pursuant to Article 14.3) or (c) the Merger Shares in the event of a Merger, it being understood that:

- (i) the Amount for Allocation used for the application of the Allocation Key (as defined below) in respect of a Sale will be equal to the total Transfer price effectively received by the Parties participating to the Sale (the “**Transfer Proceeds**”), it being specified that if the Transfer Proceeds include a part

whose payment is deferred or conditional on the occurrence of one or more events (the “**Price Supplement**”), the Parties undertake to apply the principles described in the Terms and Conditions and this Article 14 to the allocation of the Price Supplement between them;

- (ii) the Amount for Allocation used for the application of the Allocation Key in respect of a Liquidation will be equal to the proceeds of the Liquidation available after settlement of all liabilities, payment of the liquidation costs of the Company, and repayment of the par value of all the outstanding Securities and, more generally, after any other priority payment made by the Company imposed by the law and the applicable regulations (the “**Liquidation Proceeds**”);
- (iii) in respect of a Merger, the shares newly issued to the Parties participating in the Merger (the “**Merger Shares**”) by the corporation benefiting the contribution or the surviving corporation, as the case may be, in exchange for the Shares transferred to it by the Parties participating in the Merger would be allocated *mutatis mutandis* as described in the Allocation Key.

14.3 In the event that a Business Sale occurs, the Parties undertake to vote or cause to vote in favor of a Liquidation to be completed within ninety (90) days of said Business Sale, and the proceeds from such liquidation shall be allocated as described in Article 14.4.

14.4 The allocation of the Amount for Allocation will be made according to the following (the “**Allocation Key**”):

- (i) in first place, the Amount for Allocation will be distributed between all the Parties participating to the Transaction, in proportion to the number of Shares held by each of them irrespective of their class, up to an amount per Share equal to five (5) percent of the Amount for Allocation;
- (ii) in second place, the balance of the Amount for Allocation after payment of the amounts referred to in (i) above will be allocated to those Shareholders holding Series A Preferred Stock participating in the Liquidation Event, up to a total amount equal to forty-nine (49) percent of the Amount for Allocation irrespective of the number of shares of Series A Preferred Stock, and after deduction of the amounts referred to in (i) above paid in respect of each Series A Preferred Stock that they hold (the “**Preference A Amount**”);
- (iii) in third place, the balance of the Amount for Allocation after payment of the amounts referred to in (i) and (ii) above will be allocated to those Shareholders holding Series B Preferred Stock participating in the Liquidation Event (irrespective of their class) up to an amount per share of Series B Preferred Stock held by each of them equal to (i) the Preference A Amount divided by (ii) the total number of outstanding shares of Series A Preferred Stock, it being understood that, in the event that there would be no outstanding Series A Preferred Stock on the completion date of the Liquidation Event, the balance of the Amount for Allocation after payment of the amounts referred to in (i) and (ii) above will be allocated to those

Shareholders holding Series B Preferred Stock participating in the Liquidation Event (irrespective of their class) up to an amount per share of Series B Preferred Stock held by each of them equal to the subscription price of the shares of Series B Preferred Stock;

(iv) finally, the remaining Amount for Allocation, if any, after payments of the amounts referred to in (i) to (iii) above, will be allocated among those Shareholders holding Ordinary Shares participating in the Liquidation Event pro rata based on the number of Ordinary Shares they hold.

- 14.5 If, at one of the stages of the Allocation Key mentioned above, the fraction of the Amount for Allocation is insufficient to serve fully the relevant financial rights, the distribution of the available fraction will be made pro rata of the total financial rights of each holder of the Company's Securities in respect of the relevant stage, in relation to all of the financial rights to be served in respect of this stage.
- 14.6 Each Party undertakes to take all reasonable actions within its respective powers to apply and comply with the provisions of this Article 14. In particular, any Transfer contract giving rise to the application of the Allocation Key shall contain any stipulation required to allow the proceeds to be allocated in accordance with the above.

ARTICLE 15. MISCELLANEOUS PROVISIONS

- 15.1 Except as otherwise expressly set forth herein, all references to a number of days shall be to calendar days.
- 15.2 In the event any of the provisions hereof were held to be null or inapplicable, in any form and for any reason, the Parties undertake to consult each other to remedy the cause of such nullity, so that, except where impossible, this Agreement remains in full force without disruption.
- 15.3 The Parties undertake to communicate, execute and deliver any information and any document, as well as to take any action or decision which may be necessary to the performance of this Agreement.
- 15.4 The Parties and the Company acknowledge that, pursuant to the terms of this Agreement, they are bound by certain undertakings to Transfer Securities. As a consequence, and in accordance with article 1124 of the French civil code, each Party and the Company acknowledges that in case of any withdrawal or non-performance of a Transfer subsequent to the exercise of an option or an undertaking to Transfer Securities, it will not prevent the underlying agreement to be valid.

Each Party and the Company further agrees that if a Party defaults in the execution of any such undertakings hereunder (before or after the exercise of the right to purchase Securities by the other Parties), the allocation of damages to the other Parties will not be an appropriate and sufficient remedy.

Each Party and the Company acknowledges that, accordingly, (i) the beneficiary of any option or right hereunder shall, in any case, be entitled to pursue specific performance (*exécution forcée*) without prejudice to any additional compensation (*dommages et intérêts complémentaires*) and (ii) by exception to article 1221 of the French civil code, there exists no physical, legal nor moral obstacle that would prevent such specific performance (*exécution forcée*) to take place and (iii) each Party and the Company may in any case be entitled to pursue specific performance (*exécution forcée*) even if an obvious disproportion between the cost of the performance of its obligation for the debtor and the interest of the beneficiary (for the purpose of article 1221 of the French civil code) would result from such specific performance (*exécution forcée*).

- 15.5 Each Party and the Company declares to assume all the risks arising from an unpredictable change of circumstances (*changement de circonstances imprévisible*) as a result of which implementing this Agreement would become excessively onerous for such Party and acknowledges that the valuation of the Shares or Securities may vary in the future. As a consequence, each Party waives its right to make any claim under article 1195 of the French civil code, in particular with respect to any variation of the value of the Shares.
- 15.6 This Agreement will benefit to and be binding on the heirs, legatees, assignees, and legal representatives of each of the Parties.
- 15.7 The Parties and the Company declare that they have sought counsel from their respective own lawyers and/or other advisors and have therefore been able to independently assess the scope of their rights and obligations under this Agreement. No advisor or lawyer shall be deemed to be the sole draftsman (*rédacteur unique*) of this Agreement *vis-à-vis* all the Parties.
- 15.8 This Agreement sets forth the entire agreement between the Parties and the Company hereto pertaining to the subject matter hereof and supersedes and terminates all preliminary agreements, signed agreements, memoranda or letters of proposal or intent between the Parties and the Company hereto, in connection with the subject matter hereof entered into prior to the Effective Date.
- 15.9 Vuzix, Jonathan Sachs and Jerry Woodall entered into a shareholders' agreement dated May 12th, 2022 in order to determine the specific rules of governance and the conditions upon which they intend to comply [**] (the "**Former Shareholders' Agreement**"). Vuzix, Jonathan Sachs and Jerry Woodall agree to definitively and irrevocably terminate the Former Shareholders' Agreement in all its provisions with immediate effect, automatically and without any formalities, as the date of execution of this Agreement. Each of Vuzix, Jonathan Sachs and Jerry Woodall confirm that it/he has no outstanding claims against the Company, any of its directors, officers, employees or consultants, Jonathan Sachs, Jerry Woodall and/or any party in connection therewith.

ARTICLE 16. ELECTRONIC SIGNATURE

16.1 The Parties and signatories of the Agreement acknowledge and agree:

- (i) that the Agreement is entered into in writing in electronic form, in accordance with the terms of article 1366 of the French Civil Code, and signed electronically by means of a reliable identification process implemented by DocuSign® (www.docuSign.com), guaranteeing the link between each signature and this Agreement in accordance with the provisions of article 1367 of the French Civil Code;
- (ii) that the signature of this Agreement via the affixing of an electronic signature is performed with full knowledge of the technology used to that end, of its terms of use and of provisions of articles 1366 and 1367 of the French Civil Code, and thus irrevocably and unconditionally waive any right he/she/it would have to make any claim or initiate legal proceedings directly or indirectly in relation to the reliability of such electronic signature process and/or evidence of his/her/its intention to enter into this Agreement in such respect;
- (iii) that the Agreement has the same enforceability as a hard-copy written document pursuant to the provisions of article 1366 of the French Civil Code and the Agreement shall be validly invoked to evidence such enforceability;
- (iv) that (i) the requirement of having one original copy of the Agreement per Party shall be deemed to be fulfilled if the Agreement electronically signed is established and stored pursuant to articles 1366 and 1367 of the French Civil Code and (ii) this process allows each Party to be provided with a copy of the Agreement on a material format or to have access to a copy of the Agreement, pursuant to the provisions of article 1375 of the French Civil Code;
- (v) to designate Paris (France) as the place of signature of the Agreement; and
- (vi) that the Agreement shall take effect on the Effective Date.

[Signature pages follow]

Executed as of the Effective Date, via DocuSign, by:

Dr. Jonathan Sachs

Dr. Jerry Woodall

Vuzix Corporation

Atomistic

duly represented by Mr. Paul Travers

duly represented by Dr. Jonathan Sachs

Schedule A

The capital of the Company immediately prior to the date of this Agreement consists of:

1. 29,038 Ordinary Shares [**];

[**]

2. 29,038 shares of Series B Preferred Stock [**];

[**]

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-252673, 333-231932, 333-209304, and 333-202045) and on Form S-8 (No. 333-252959) of our report dated March 1, 2023, relating to the consolidated financial statements and effectiveness of internal control over financial reporting of Vuzix Corporation appearing in this Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ Freed Maxick CPAs, P.C.

Buffalo, New York
March 1, 2023

**CERTIFICATION PURSUANT TO
SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Paul Travers, certify that:

1. I have reviewed this Annual Report on Form 10-K of Vuzix Corporation;
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(s) 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 generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of 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 the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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.

/s/ Paul Travers

Paul Travers
Chief Executive Officer

Date: March 1, 2023

**CERTIFICATION PURSUANT TO
SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Grant Russell, certify that:

1. I have reviewed this Annual Report on Form 10-K of Vuzix Corporation;
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(s) 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 generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of 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 the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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.

/s/ Grant Russell

Grant Russell

Chief Financial Officer

Date: March 1, 2023

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

In connection with the Annual Report of Vuzix Corporation (“Vuzix”) on Form 10-K for the fiscal year ended December 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Paul Travers, Chief Executive Officer of Vuzix, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

/s/ Paul Travers

Paul Travers
Chief Executive Officer

Date: March 1, 2023

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

In connection with the Annual Report of Vuzix Corporation (“Vuzix”) on Form 10-K for the fiscal year ended December 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Grant Russell, Chief Financial Officer of Vuzix, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

/s/ Grant Russell

Grant Russell
Chief Financial Officer

Date: March 1, 2023
