

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

**FORM 10-K**

(Mark one)

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

For the fiscal year ended December 31, 2023

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-34170



**MicroVision, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or Other Jurisdiction  
of Incorporation or Organization)

**91-1600822**

(I.R.S. Employer  
Identification Number)

**18390 NE 68th Street**

**Redmond, Washington 98052**

(Address of Principal Executive Offices, including Zip Code)

**(425) 936-6847**

(Registrant's Telephone Number, including Area Code)

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, \$0.001 par value per share	MVIS	The Nasdaq Stock Market LLC

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

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

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

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

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

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

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

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

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

The aggregate market value of common stock held by non-affiliates of the registrant as of June 30, 2023 was approximately \$859.3 million (based upon the closing price of \$4.58 per share for the registrant's common stock as reported by the Nasdaq Global Market on that date).

The number of shares of the registrant's common stock outstanding as of February 26, 2024 was 195,267,385.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's definitive Proxy Statement to be filed with the Securities and Exchange Commission pursuant to Regulation 14A in connection with the registrant's 2024 Annual Meeting of Shareholders (the "2024 Proxy Statement") are incorporated herein by reference in Part III of this Annual Report on Form 10-K to the extent stated herein.

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MICROVISION, INC.  
ANNUAL REPORT ON FORM 10-K  
FOR THE YEAR ENDED DECEMBER 31, 2023

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## PART I.

### Preliminary Note Regarding Forward-Looking Statements

*This Annual Report contains forward-looking statements, within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and is subject to the safe harbor created by those sections. Such statements may include, but are not limited to, projections of revenues, income or loss, capital expenditures, plans for product development and cooperative arrangements, acquisition activity and related integration efforts, technology development by third parties, future operations, financing needs or plans of MicroVision, Inc. (“we,” “our,” or “us”), as well as assumptions relating to the foregoing. The words “anticipate,” “could,” “would,” “believe,” “estimate,” “expect,” “goal,” “may,” “plan,” “project,” “will,” and similar expressions identify forward-looking statements. Factors that could cause actual results to differ materially from those projected in our forward-looking statements include risk factors identified below in Item 1A.*

### ITEM 1. BUSINESS

#### Overview

MicroVision, Inc. is a global developer and supplier of lidar hardware and software solutions focused primarily on automotive lidar and advanced driver-assistance systems (ADAS) markets where we can deliver safe mobility at the speed of life. We offer a suite of light detection and ranging, or lidar, sensors and perception and validation software to automotive OEMs, for ADAS and autonomous vehicle (AV) applications, as well as to complementary markets for non-automotive applications including industrial, robotics and smart infrastructure. Our long history of developing and commercializing the core components of our lidar hardware and related software, combined with the experience of the team acquired from Ibeo Automotive Systems (Ibeo) with automotive-grade qualification, gives us a compelling advantage as a development and commercial partner.

Founded in 1993, MicroVision, Inc. is a pioneer in laser beam scanning, or LBS technology, which is based on our patented expertise in micro-electromechanical systems, or MEMS, laser diodes, opto-mechanics, electronics, algorithms and software and how those elements are packaged into a small form factor. Throughout our history, we have combined our proprietary technology with our development expertise to create innovative solutions to address existing and emerging market needs, such as augmented reality microdisplay engines; interactive display modules; consumer lidar components; and, most recently, automotive lidar sensors and software solutions for the automotive market.

In January, 2023, we acquired certain strategic assets of Germany-based Ibeo, which was founded in 1998 as a lidar hardware and software provider. Ibeo developed and launched the first lidar sensor to be automotive qualified for serial production with a Tier 1 automotive supplier and that is currently available in passenger cars by premium OEMs. Ibeo developed software solutions, including perception and validation software, which are also used by premium OEMs. In addition, Ibeo sold its products for non-automotive uses such as industrial, smart infrastructure and robotics applications.

For the automotive market, our integrated solution combines our MEMS-based dynamic-range lidar sensor and perception software, to be integrated on our custom ASIC, targeted for sale to premium automotive OEMs and Tier 1 automotive suppliers. Our ADAS solution is intended to leverage edge computing and custom ASICs to enable our hardware and perception software to be integrated into an OEM’s ADAS stack.

In addition to our dynamic-range and long-range MAVIN sensor and perception software solution for the automotive market, our product suite includes our short-range flash-based MOVIA lidar sensor, for automotive and industrial applications, including smart infrastructure, robotics, and other commercial segments. Also, our validation software tool, the MOSAIK suite, is used by OEMs and other customers including Tier 1s for validating vehicle sensors for ADAS and AV applications. The tool includes software that automates the manual data classification or annotation process, significantly reducing the time and resources required by OEMs to validate their ADAS and AV systems.

In the recent past, we developed micro-display concepts and designs for use in head-mounted augmented reality, or AR, headsets and developed a 1440i MEMS module supporting AR headsets. We also developed an interactive display solution targeted at the smart speakers market and a small consumer lidar sensor for use indoors with smart home systems.

We completed the acquisition of assets from Ibeo Automotive Systems GmbH, which we refer to throughout this report as Ibeo, on January 31, 2023 pursuant to the terms and subject to the conditions of the Asset Purchase Agreement, dated December 1, 2022, and amended as of January 31, 2023, by and between our wholly owned subsidiary, MicroVision GmbH organized under the laws of The Federal Republic of Germany, and Ibeo for a purchase price of EUR 15.0 million, or approximately \$16.3 million, subject to potential reduction on the terms set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the purchase price also included advanced funds to Ibeo so that it could continue its operations while in insolvency during the period between signing and closing. Specifically, we advanced to Ibeo EUR 3.9 million, or approximately \$4.1 million in December 2022; EUR 2.7 million, or approximately \$3.0 million in January 2023; and EUR 0.6 million, or approximately \$0.7 million in February 2023 shortly after the closing. These fund advances included amounts related to headcount reductions carried out by Ibeo management, decreasing the number of employees to transfer in connection with the acquisition to approximately 250 employees. These headcount reduction costs of approximately EUR 2.3 million, or approximately \$2.5 million, were reimbursed to MicroVision by way of deduction from the purchase price in accordance with the Asset Purchase Agreement.

Although our development and productization efforts are now solely focused on our lidar sensors and related software solutions, our revenue in the fiscal year ended December 31, 2023 was largely derived from one customer, Microsoft Corporation, related to components that we developed for a high-definition display system. Our arrangement with this customer generated royalty income, which will not continue in future periods.

To date, we have been unable to secure customers at the scale needed to successfully launch our products. We have incurred significant losses since inception and we expect to continue to incur significant losses in the near term. We have funded our operations to date primarily through the sale of common stock, convertible preferred stock, warrants, the issuance of convertible debt and, to a lesser extent, from development contract revenues, product sales and licensing activities.

MicroVision, Inc. was founded in 1993 as a Washington corporation and reincorporated in 2003 under the laws of the State of Delaware. Our headquarters is located at 18390 NE 68th Street, Redmond, Washington 98052, and our telephone number is (425) 936-6847.

Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports are available free-of-charge from the investor page of our website, accessible at [www.microvision.com](http://www.microvision.com), as soon as reasonably practicable after such material is electronically filed with the Securities and Exchange Commission (SEC). Copies of these filings may also be obtained by visiting the SEC's website, [www.sec.gov](http://www.sec.gov), which contains current, quarterly and annual reports, proxy and information statements and other information regarding issuers that file electronically.

### **Our Industry and Market Strategy**

We are developing lidar sensors and perception software to address the needs of the Level 2+, or L2+, and Level 3, or L3, advanced driver-assistance systems (ADAS) markets to be used in automotive safety and autonomous driving applications. Our micro-electromechanical systems, or MEMS-based high-speed lidar sensors, which we call MAVIN™, use our pioneering laser beam scanning (LBS) technology. Our solution-based development approach recognizes two key realities of the L2+ and L3 markets: that safety is mission critical and that OEMs require cost efficiency and integration adaptability. With these factors in mind, we believe that our best-in-class MAVIN lidar sensors support critical safety needs by providing the highest resolution at range and velocity of moving objects with a dynamic field of view while running at 30 hertz, thus enabling ADAS features, such as automatic emergency braking, forward collision warning, and automatic emergency steering, at higher speeds of operation than most competing products.

Moreover, we tailor our solution to meet the needs of OEMs, integrating our MEMS-based lidar and edge computing to support Highway Pilot capabilities up to 130km/h, save development cost and time for OEMs with no training required for our sensor-fused output, reduce system cost by requiring fewer and cheaper sensors and reduced processing, and enable seamless integration with an OEM's existing architecture. Our unique solution for the L2+ and L3 markets, we believe, has the potential to achieve our goal of enabling mission-critical safety systems while solving for OEMs' cost and integration objectives.

With this customer-centric approach, our go-to-market strategy depends on building partnerships with OEMs and Tier-1 automotive suppliers, as well as with silicon companies to support our solution on their compute platforms. Although we are working to establish direct marketing and co-development relationships with OEMs, we could also derive revenue directly from Tier-1 suppliers in the form of licensing revenue.

### **Our Technology and Competitive Strength**

We believe a significant competitive strength for us today is our long history of delivering LBS- and MEMS-based hardware and related firmware and software that meets reliability, predictability, and scalability standards of well-known OEMs and ODMs.

Core to our automotive lidar sensors, custom ASICs and perception software is proprietary technology that we have been developing, refining, productizing and protecting for nearly 30 years. Our patented LBS technology combines a MEMS scanning mirror, laser diode light sources, electronics, and optics that are controlled using our proprietary system control algorithms along with edge computing and machine learning in some systems. The MEMS scanning mirror is a key component of our technology system and is one of our core competencies. Our MEMS scanning mirror is a silicon device that oscillates in a precisely controlled closed loop pattern so that we can place a pixel of light at a precise point. This allows us to generate a projected image pixel-by-pixel for use in lidar sensing and display. Scanning modules with our technology can be designed to operate in one of three different modes: lidar sensing only, display and lidar sensing combined, and display only. We believe that our proprietary technology offers significant advantages over other lidar sensing systems and traditional displays.

Early applications of our proprietary technology included heads up displays for the U.S. military and automotive systems. The contemplated uses of our technology require incorporation of our components into the products of other companies or partners. Most recently, our technology can be found in a Microsoft heads up display product. In the past, we have worked with other global brands to incorporate our core technology into their consumer products.

The MAVIN DR, our dynamic-range automotive lidar sensor is designed to, and we believe can, meet or exceed OEM specifications, performing to 220 meters of range with an output resolution of up to 15.0 million points per second. Our hardware delivers a high point cloud density for a single-channel sensor as compared to competitive products. In addition to providing a low-latency, high-resolution point cloud at range, our sensor outputs axial, lateral, and vertical components of velocity of moving objects in the field of view at 30 hertz. This allows our solution to support a detailed understanding of the velocity of moving objects in real time, enabling fast and accurate path planning and maneuvering of the vehicle. Further, our proprietary scan locking feature ensures that our sensor is immune from interference from sunlight and from other lidar sensors.

### **Our Products and Revenue Strategy**

Following our acquisition of assets from Ibeo, our product suite includes our MEMS-based high-speed automotive lidar sensors, perception software, flash-based automotive lidar sensor, lidar sensors for non-automotive industrial markets, and reference and validation software. We also provide engineering services in connection with these hardware and software products.

Central to our development and commercialization efforts is our MAVIN DR dynamic view lidar system targeted for sale to automotive OEMs and Tier 1 automotive suppliers. MAVIN DR combines short-, medium- and long-range sensing and fields of view into one form factor. Dynamic range is key to enabling ADAS features at highway speeds. At speeds of up to 130 km/h (80 mph), ADAS systems need more time to make decisions and react in order to take proactive action and hence need resolution at range. Our MAVIN DR sensor produces an ultra-high-resolution point cloud showing drivable and non-drivable areas of the road ahead. With its low latency point cloud (30 hertz), we believe the MAVIN product line allows ADAS systems to respond more quickly, make split-second decisions and take action at high speeds.

Our perception software integrated with our automotive lidar hardware, and eventually ported into our digital ASIC, is also targeted for sale to automotive OEMs and Tier 1 automotive suppliers. This perception software, included in our acquisition of assets from Ibeo, was developed in collaboration with an OEM customer and successfully passed through that OEM's development qualification processes.

Also stemming from our acquisition of assets are our flash-based sensors, suitable for short- and mid-range use by customers in the automotive market, as well as non-automotive industrial markets. These solid-state sensors, comprising our MOVIA line of lidar sensors, are based on technology developed according to automotive-grade standards, featuring variable scan frequency, high resolution, a modular optics concept, and low power consumption. The availability of our MOVIA sensors support a revenue strategy that includes royalty revenues from automotive production, as well as sales in multiple markets including industrial, smart infrastructure, robotics, and commercial vehicles.

Our acquisition allows us to offer a system solution for validating vehicle sensors for ADAS and AV applications. This system, which we have branded MOSAIK, includes software that automates the manual data classification or annotation process. We believe the MOSAIK solution significantly reduces the time and resources required by OEMs to validate their ADAS and AV systems. In addition to the auto-annotation software, sales of this validation solution may include our lidar sensors.

### **Research and Development**

We believe our research and development efforts have earned us a leadership position in the field of lidar sensors, LBS technology and applications as applied to automotive, consumer electronics and other markets. Our ability to attract customers and grow revenue will depend on our ability to maintain our technology leadership, to continually improve performance, reduce costs, and ensure functional safety and flexible design. Our research and development teams as of December 31, 2023 were located in Redmond, Washington, Hamburg, Germany and Nuremberg, Germany and were comprised of approximately 270 engineering and technical staff in optics, software engineering, electrical engineering, product engineering, and MEMS design.

### **Sales and Marketing**

Our sales and marketing approach is account based, business-to-business targeting of automotive OEMs and Tier 1 suppliers and potential customers in several industrial markets. Our business development efforts are headed by executive management and business development representatives and are supported by engineers that assist customers during the design cycles of products. We have business development offices for our automotive and industrial solutions located in Germany and the United States. We engage potential customers directly, participate in trade shows, and maintain a website.

### **Manufacturing**

We continue to invest in our manufacturing capabilities, evaluating long-term Tier 1 relationships and establishing new relationships with contract manufacturers, as we drive toward our goal of serving as a Tier 1 supplier to automotive OEM customers. While our current partner is manufacturing limited volumes and we are not otherwise manufacturing our products at significant volume at this time, in the past, when we have produced products or components, our products were manufactured by a contract manufacturer based on our proprietary design, process, test, quality, and reliability standards and incorporated our LBS technology and included MEMS and ASICs that were produced to order by semiconductor foundries. Our past manufacturing has not been subject to seasonal variations as our shipments have been relatively small and were in the early stages of product introduction. In the future, depending on our customers' product mix, we may be affected by seasonal fluctuations which could affect working capital demands. Many of the raw materials used in our components are standard, although our MEMS, MEMS die, and ASICs have historically been manufactured to our specifications by separate single-source suppliers.

## **Competitive Conditions**

Many companies are attempting to develop lidar sensors and ADAS solutions; the competitive landscape is highly crowded and rapidly evolving. We compete with pureplay lidar developers, some of which have recently completed de-SPAC transactions raising significant capital. Some of these companies have announced partnerships with OEMs, Tier 1 suppliers, and contract manufacturers that, even if nonexclusive, may appear more credible than we do in the marketplace. We also face competition from OEMs and Tier 1 suppliers that have internally developed lidar sensors. All of these OEMs and Tier 1s are significantly larger, more well-resourced, have long operating histories and enjoy relevant brand recognition. Many lidar developers are also building ADAS solutions with which our solution competes. Our competitors may succeed in developing innovative technologies and products that could render our technology or products commercially infeasible or technologically obsolete.

The lidar sensing industry has been characterized by rapid and significant technological advances. Our LBS technology system and products may not be competitive with such advances, and we may not have sufficient funds to invest in new technologies, products or processes. Although we believe our technology system and products could deliver higher performance and have other advantages, manufacturers of competing technologies may develop improvements to their technology that could reduce or eliminate the anticipated advantages of our products.

## **Intellectual Property and Proprietary Rights**

We create intellectual property from three sources: internal research and development activities, technology acquisitions, and performance on development contracts. The inventions covered by our patent applications generally relate to systems controls in our LBS technology, component miniaturization, power reduction, feature enhancements, specific implementation of various system components, and design elements to facilitate mass production. Protecting these key-enabling technologies and components is a fundamental aspect of our strategy to penetrate diverse markets with unique products. As such, we intend to continue to develop our portfolio of proprietary and patented technologies at the system, component, and process levels.

We believe our extensive patent portfolio is the largest, broadest, and earliest filed LBS technology portfolio. We currently have over 700 issued patents and pending patents worldwide, including approximately 330 patents we acquired in the acquisition from Ibeo in January 2023. As our technology develops, we periodically review our patent portfolio and eliminate patents that are deemed of low value. Due to this ongoing portfolio management practice, the number of patents in our portfolio will vary at any given time.

Since our inception in 1993, we have acquired through portfolio purchases, patents that grant us exclusive rights to various LBS technologies. From time to time some of these patents may expire or be abandoned to better utilize resources expended to maintain and generate new intellectual property.

Our ability to compete effectively in automotive lidar or any other market we may enter may depend, in part, on our ability and the ability of our licensors to maintain the proprietary nature of these technologies.

We also rely on unpatented proprietary technology. To protect our rights in these areas, we require all employees, and where appropriate, contractors, consultants, advisors and collaborators, to enter into confidentiality and non-compete agreements. There can be no assurance, however, that these agreements will provide meaningful protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use, misappropriation or disclosure of such trade secrets, know-how or other proprietary information.

We have registered the name “MAVIN™,” “MOVIA™,” “MOSAIK™,” “SAFE MOBILITY AT THE SPEED OF LIFE,” “PicoP®” and “MicroVision®” with the United States Patent and Trademark Office and in various foreign countries.

## **Our Employees, People Operations and Workplace Safety**

At the end of fiscal year 2023, throughout our global offices, we had approximately 340 predominantly full-time employees. We do not hire seasonal workers and none of our employees are represented by a labor union or works council.

Our principal objectives with respect to our workforce are to attract, retain, motivate, and reward our employees to achieve positive results for our customers and for MicroVision. To achieve these objectives, our employee benefit programs seek to (i) support skill building and prepare our employees for advancement through continuous learning, (ii) reward our employees through compensation awards and resources intended to motivate our employees and promote well-being, and (iii) continuously identify opportunities for development through regular employee input and engagement. We offer competitive compensation and benefits.

We also strive for continuous improvement in diversity and inclusivity among our employees, management, and board of directors, and seek to promote job opportunities to a diverse pool of qualified candidates. We are also committed to providing an inclusive work environment free of discrimination or harassment of any kind, supported by policies, communications, and reporting and resolution resources.

Protecting the safety, health, and well-being of our employees is also a key priority and we have implemented policies and practices to support this. Throughout the COVID-19 pandemic, we remained focused on the health and safety of our employees by implementing appropriate safety protocols.

We work with third party independent experts in the field of laser safety to assist in meeting safety specifications. In addition, we monitor developments in the area of permissible laser exposure limits as established by International Electrotechnical Commission (IEC) and others. Independent experts have concluded that laser exposure to the eye resulting from use of LBS devices under normal operating conditions would be below the calculated maximum permissible exposure level set by the IEC.

### **ITEM 1A. RISK FACTORS**

*You should carefully consider the risks described below together with the other information set forth in this report, which could materially affect our business, financial condition and future results. The risks described below are not the only risks facing our company. Risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and operating results.*

## **Risk Factors Related to Our Business**

### **We have a history of operating losses and expect to incur significant losses in the future.**

We have had substantial losses since our inception. We cannot assure you that we will ever become or remain profitable.

- As of December 31, 2023, we had an accumulated deficit of \$765.4 million.
- We had an accumulated deficit of \$586.2 million from inception through December 31, 2020, a net loss of \$43.2 million in 2021, a net loss of \$53.1 million in 2022, and a net loss of \$82.8 million in 2023.

The likelihood of our success must be considered in light of the expenses, difficulties and delays frequently encountered by companies formed to develop and commercialize new technologies. In particular, our operations to date have focused primarily on research and development of our LBS technology system, including products built around that technology such as our automotive lidar sensor, and development of demonstration units. We are unable to accurately estimate future revenues and operating expenses based upon historical performance.

We cannot be certain that we will succeed in obtaining development revenue or commercializing our technology or products at scale. In light of these factors, we expect to continue to incur significant losses and negative cash flow at least through 2024 and likely thereafter. There is significant risk that we will not achieve positive cash flow at any time in the future.

### **We will require additional capital to fund our operations at the level necessary to implement our business plan. Raising additional capital will dilute the value of current shareholders' investment in us.**

Based on our current operating plan, we anticipate that we have sufficient cash and cash equivalents to fund our operations for at least the next 12 months. We will, however, require additional capital to fund our operating plan past that time. We will seek to obtain additional capital through the issuance of equity or debt securities, development revenue, product sales and/or licensing activities. There can be no assurance that any such efforts to obtain additional capital would be successful.

We are currently focused on developing and commercializing our automotive lidar solution. This involves introducing new technologies into an emerging market which creates significant uncertainty about our ability to accurately project the amounts and timing of revenue, costs and cash flows. Our capital requirements will depend on many factors, including, but not limited to, the commercial success of our technologies, the rate at which OEMs introduce systems incorporating our products and technologies and the market acceptance and competitive position of such systems. Our expenses have increased significantly as a result of the January 2023 Ibeo acquisition and related headcount increase. If revenues continue to be less than we anticipate, if the mix of revenues and the associated margins vary from anticipated amounts, or if expenses exceed the amounts budgeted, we may require additional capital earlier than expected to fund our operations. In addition, our operating plan provides for the development of strategic relationships with suppliers of components, products and systems, and equipment manufacturers that may require additional investments by us.

Additional capital may not be available to us or, if available, may not be available on terms acceptable to us or on a timely basis. Raising additional capital may involve issuing securities with rights and preferences that are senior to our common stock and may dilute the value of our current shareholders' investment in us. If adequate capital resources are not available on a timely basis, we may consider limiting our operations substantially and we may be unable to continue as a going concern. This limitation of operations could include reducing investments in our research and development projects, staff, operating costs, and capital expenditures which could jeopardize our ability to achieve our business goals or satisfy our customer requirements.



## **Risks Related to our Financial Statements and Results**

### **Our revenue is generated from a small number of customers, and losing a significant customer will have a negative impact on our revenue.**

In 2023, one commercial customer, Customer A accounted for \$4.6 million in revenue, representing 63% of our total revenue, a second commercial customer accounted for \$0.8 million in revenue, representing 11% of our total revenue and a third commercial customer accounted for \$0.4 million in revenue, representing 5% of our total revenue. In 2022, Customer A accounted for \$0.7 million in revenue, representing 100% of our total revenue. No revenue was recognized from this customer during the second half of 2022 or for the first three quarters of 2023 as no shipments of our components were reported by the customer during that period. In 2021, Customer A accounted for \$2.5 million in revenue, representing 100% of our total revenue. Subsequent to fiscal year 2023, we do not expect to recognize further revenue from Customer A, which will negatively affect our future revenue.

### **We have, in the past, identified a material weakness in our internal controls.**

In the second quarter of 2021, we identified a material weakness in the controls that support our determination of the grant date of equity awards. If we identify further material weaknesses in our internal controls, our failure to establish and maintain effective disclosure controls and procedures and internal control over financial reporting could result in material misstatements in our financial statements and a failure to meet our reporting obligations. Any such failure could cause investors to lose confidence in the accuracy of our financial reports, harm our reputation and adversely affect the market price of our common stock.

The audit of our internal controls over financial reporting for fiscal year 2024 will include controls of our subsidiary, MicroVision GmbH, which became a significant subsidiary upon the closing of our acquisition of assets from Ibeo in 2023. Accordingly, our internal control environment will become more complex and, therefore, the risk of a material weakness in internal controls will be higher.

### **Our stock price has fluctuated in the past, has recently been volatile and may be volatile in the future, and as a result, investors in our common stock could incur substantial losses.**

Our stock price has fluctuated significantly in the past, has recently been volatile, and may be volatile in the future. Over the 52-week period ending February 26, 2024, our common stock has traded at a low of \$1.82 and a high of \$8.20. We may continue to experience sustained depression or substantial volatility in our stock price in the foreseeable future unrelated to our operating performance or prospects. For the fiscal year ended December 31, 2023, we incurred a loss per share of \$(0.45).

As a result of this volatility, investors may experience losses on their investment in our common stock. The market price for our common stock may be influenced by many factors, including the following:

- investor reaction to our business strategy;
- the success of competitive products or technologies;
- strategic developments;
- the timing and results of our development and commercialization efforts with respect to our lidar sensors and ADAS solutions;
- changes in regulatory or industry standards applicable to our technologies;
- variations in our or our competitors' financial and operating results;
- developments concerning our collaborations or partners;
- developments or disputes with any third parties that supply, manufacture, sell or market any of our products;
- developments or disputes concerning patents or other proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our technology;
- actual or perceived defects in any of our products, if commercialized, and any related product liability claims;
- our ability or inability to raise additional capital and the terms on which we raise it;
- declines in the market prices of stocks generally;
- trading volume of our common stock;
- sales of our common stock by us or our stockholders;
- general economic, industry and market conditions; and
- the effects of other events or factors, including war, terrorism and other international conflicts, public health issues including health epidemics or pandemics, such as the COVID-19 outbreak, and natural disasters such as fire, hurricanes, earthquakes, tornados or other adverse weather and climate conditions, whether occurring in the United States or elsewhere.

Since the price of our common stock has fluctuated in the past, has suffered recent declines and may be volatile in the future, investors in our common stock could incur substantial losses. In the past, following periods of volatility in the market, securities class-action litigation has often been instituted against companies. Such litigation, if instituted against us, could result in substantial costs and diversion of management's attention and resources, which could materially and adversely affect our business, financial condition, results of operations and growth prospects. There can be no guarantee that our stock price will remain at current levels or that future sales of our common stock will not be at prices lower than those sold to investors.

Additionally, securities of certain companies have in the past few years experienced significant and extreme volatility in stock price due to short sellers of shares of common stock, known as a "short squeeze." These short squeezes have caused extreme volatility in both the stock prices of those companies and in the market, and have led to the price per share of those companies to trade at a significantly inflated rate that is disconnected from the underlying value of the company. Many investors who have purchased shares in those companies at an inflated rate face the risk of losing a significant portion of their original investment, as in many cases the price per share has declined steadily as interest in those stocks have abated. There can be no assurance that our shares will not be subject to a short squeeze in the future, and investors may lose a significant portion or all of their investment if they purchase our shares at a rate that is significantly disconnected from our underlying value.

**If we are unable to maintain our listing on The Nasdaq Global Market, it could become more difficult to sell our stock in the public market.**

Our common stock is listed on The Nasdaq Global Market. To maintain our listing on this market, we must meet Nasdaq's listing maintenance standards. If we are unable to continue to meet Nasdaq's listing maintenance standards for any reason, our common stock could be delisted from The Nasdaq Global Market. If our common stock were delisted, we may seek to list our common stock on The Nasdaq Capital Market, the NYSE American or on a regional stock exchange or, if one or more broker-dealer market makers comply with applicable requirements, the over-the-counter (OTC) market. Listing on such other market or exchange could reduce the liquidity of our common stock. If our common stock were to trade in the OTC market, an investor would find it more difficult to dispose of, or to obtain accurate quotations for the price of, the common stock.

A delisting from The Nasdaq Global Market and failure to obtain listing on another market or exchange would subject our common stock to so-called penny stock rules that impose additional sales practice and market-making requirements on broker-dealers who sell or make a market in such securities. Consequently, removal from The Nasdaq Global Market and failure to obtain listing on another market or exchange could affect the ability or willingness of broker-dealers to sell or make a market in our common stock and the ability of purchasers of our common stock to sell their securities in the secondary market.

On February 26, 2024, the closing price of our common stock was \$2.09 per share.

**Our lack of financial resources relative to our competitors may limit our revenues, potential profits, overall market share or value.**

Our products and solutions compete with other pureplay lidar developers, many of which have recently gone public through de-SPAC transactions and therefore have substantially greater financial resources than we have. We also face competition from OEMs and Tier 1 suppliers that have internally developed lidar sensors. All of these OEMs and Tier 1s are significantly larger, more well-resourced, have long operating histories and enjoy relevant brand recognition. Because of their greater resources, our competitors may develop or commercialize products more quickly than us and have access to more entrenched sales channels. This imbalance in financial resources and access could result for us in reduced revenues, lower margins or loss of market share, any of which could reduce the value of our business. Additionally, for a variety of reasons, customers may choose to purchase from suppliers that have substantially greater financial or other resources than we have.

## **Risks Related to Our Operations**

**Difficulty in qualifying a contract manufacturer, Tier 1 partner, or foundry for our products, or experiencing changes in our supply chain, could cause delays that may result in lost future revenues and damaged customer relationships.**

Historically, we have relied on single or limited-source suppliers to manufacture our products. Establishing and maintaining a relationship with a contract manufacturer, automotive Tier 1 partner, or foundry is a time-consuming process, as our unique technologies may require significant manufacturing process adaptation to achieve full manufacturing capacity. To the extent that we are not able to establish or maintain a relationship with a contract manufacturer, Tier 1 partner, or foundry in a timely manner or at prices or on other terms that are acceptable to us, we may be unable to meet contract or production milestones. Moreover, changes in our supply chain could result in increased cost and delay and subject us to risks and uncertainties regarding, but not limited to, product warranty, product liability and quality control standards. The loss of any single or limited-source supplier, the failure of any of these suppliers to perform as expected or the disruption in the supply chain of components from these suppliers could cause significant delays in product deliveries, which could result in lost future revenues and damaged customer relationships.

**Historically, we have been dependent on third parties to develop, manufacture, sell and market products incorporating our technology.**

Our business strategy for commercializing our technology in products has historically included entering into development, manufacturing, licensing, sales and marketing arrangements with OEMs, ODMs and other third parties. These arrangements reduce our level of control over production and distribution and may subject us to risks and uncertainties regarding, but not limited to, product warranty, product liability and quality control standards.

We cannot be certain that we will be able to negotiate arrangements on acceptable terms, if at all, or that these arrangements will be successful in yielding commercially viable products. If we cannot establish or maintain these arrangements, we would require additional capital to undertake such activities on our own and would require extensive manufacturing, sales and marketing expertise that we do not currently possess and that may be difficult to obtain.

In addition, we could encounter significant delays in introducing our products and technology or find that the development, manufacture or sale of products incorporating our technology would not be feasible. To the extent that we enter into development, manufacturing, licensing, sales and marketing or other arrangements, our revenues will depend upon the performance of third parties. We cannot be certain that any such arrangements will be successful.

**We could face lawsuits related to our use of LBS technology or other technologies, which would be costly, and any adverse outcome could limit our ability to commercialize our technology or products.**

We are aware of several patents held by third parties that relate to certain aspects of light scanning displays, 3D sensing products, and other technologies that are core to our sensor hardware. These patents could be used as a basis to challenge the validity, limit the scope or limit our ability to obtain additional or broader patent rights of our patents. A successful challenge to the validity of our patents could limit our ability to commercialize our technology or products incorporating our LBS technology and, consequently, materially reduce our ability to generate revenues. Moreover, we cannot be certain that patent holders or other third parties will not claim infringement by us with respect to current and future technology. Because U.S. patent applications are held and examined in secrecy, it is also possible that presently pending U.S. applications could eventually be issued with claims that could be infringed by our products or our technology.

The defense and prosecution of a patent suit would be costly and time-consuming, even if the outcome were ultimately favorable to us. An adverse outcome in the defense of a patent suit could subject us to significant costs, require others and us to cease selling products incorporating our technology, require us to cease licensing our technology or require disputed rights to be licensed from third parties. Such licenses, if available, would increase our operating expenses. Moreover, if claims of infringement are asserted against our future co-development partners or customers, those partners or customers may seek indemnification from us for any damages or expenses they incur.

**If we fail to manage expansion effectively, our revenue and expenses could be adversely affected.**

Our ability to successfully offer products incorporating our technologies and implement our business plan in a rapidly evolving market requires an effective planning and management process. The growth in business and relationships with customers and other third parties has placed, and will continue to place, a significant strain on our management systems and resources. We will need to continue to improve our financial and managerial controls, reporting systems and procedures, and will need to continue to train and manage our work force. We continue to strengthen our compliance programs, including our compliance programs related to product certifications (in particular, certifications applicable to the automotive market), export controls, privacy and cybersecurity and anti-corruption. We may not be able to implement improvements in an efficient or timely manner and may discover deficiencies in existing controls, programs, systems and procedures, which could have an adverse effect on our business, reputation and financial results.

**We target customers that are large companies with substantial negotiating power and potentially competitive internal solutions; if we are unable to sell our products to these customers, our prospects will be adversely affected.**

Our potential customers, automotive OEMs in particular, are large, multinational companies with substantial negotiating power relative to us and, in some instances, may have internal solutions that are competitive to our products. These large, multinational companies also have significant resources, which may allow them to acquire or develop competitive technologies either independently or in partnership with others. Accordingly, even after investing significant resources to develop a product, we may not secure a series production award or, even after securing a series production award, may not be able to commercialize a product on profitable terms. If our products are not selected by these large companies or if these companies develop or acquire competitive technology or negotiate terms that are disadvantageous to us, it will have an adverse effect on our business prospects.

**Our technology and products may be subject to environmental, health and safety regulations that could increase our development and production costs.**

Our technology and products could become subject to environmental, health and safety regulations or amendments that could negatively impact our ability to commercialize our technology and products. Compliance with any such current or new regulations would likely increase the cost to develop and commercialize products, and violations may result in fines, penalties or suspension of production. If we become subject to any environmental, health, or safety laws or regulations that require us to cease or significantly change our operations to comply, our business, financial condition and operating results could be adversely affected.

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

At various times in our history, including in the recent past, general worldwide economic conditions have experienced downturns due to slower economic activity, concerns about inflation, increased energy costs, decreased consumer confidence, reduced corporate profits and capital spending, and adverse business conditions. Any continuation or worsening of global economic and financial conditions could materially adversely affect: (i) our ability to raise, or the cost of, needed capital, (ii) demand for our current and future products, and (iii) our ability to commercialize products. Additionally, the outbreaks of wars or infectious diseases, as recently experienced, may cause an unexpected deterioration in economic conditions. We cannot predict the timing, strength, or duration of any economic slowdown or subsequent economic recovery, worldwide, regionally or in the automotive or technology industries.

**Because we have recently expanded and plan to continue expanding our international operations and using foreign suppliers and manufacturers, our operating results could be harmed by economic, political, regulatory and other factors in foreign countries.**

During 2021, we established an office in Germany and on January 31, 2023 we completed our acquisition of certain assets of Ibeo, with the result that we now have more employees and operations in Germany than in the U.S. In addition, we currently use foreign suppliers and partners and plan to continue to do so to manufacture current and future components and products, where appropriate. These international operations are subject to inherent risks, which may adversely affect us, including, but not limited to:

- Political and economic instability, international terrorism and the outbreak of war, such as Russia's invasion and continuing war against Ukraine and the ongoing conflict in Gaza;
- High levels of inflation, as has historically been the case in a number of countries in Asia;
- Burdens and costs of compliance with a variety of foreign laws, regulations and sanctions;
- Foreign taxes and duties;
- Changes in tariff rates or other trade, tax or monetary policies;
- Changes or volatility in currency exchange rates and interest rates;
- Global or regional health crises, such as COVID-19 or other epidemics; and
- Disruptions in global supply chains.

**We have recently and may in the future make acquisitions. If we fail to successfully select, execute or integrate our acquisitions, then our business, results of operations and financial condition could be materially adversely affected.**

On December 1, 2022, we entered into an Asset Purchase Agreement to acquire certain assets from Ibeo Automotive Systems GmbH. We expended significant management time and effort, as well as capital, identifying, evaluating, negotiating, and executing this transaction and, since the closing of the acquisition on January 31, 2023, we have invested additional time and capital working to integrate our new Hamburg- and Detroit-based teams and operations. We cannot guarantee that these integration efforts will be successful, that the goals of the acquisition will be realized, or that the increase to our operating expenses or cash requirements will be manageable.

In the future, we may again undertake acquisitions to add new products and technologies, acquire talent, gain new sales channels or enter into new markets or sales territories. In addition to possible stockholder approval, we may need approvals and licenses from relevant government authorities for the acquisitions and to comply with any applicable laws and regulations, which could result in increased delay and costs, and may disrupt our business strategy if we fail to do so. Furthermore, acquisitions and the subsequent integration of new assets, businesses, key personnel, customers, vendors and suppliers require significant attention from our management and could result in a diversion of resources from our existing business, which in turn could have an adverse effect on our operations. Acquired assets or businesses may not generate the financial results we expect. Acquisitions could result in the use of substantial amounts of cash, potentially dilutive issuances of equity securities, the occurrence of significant goodwill impairment charges, amortization expenses for other intangible assets and exposure to potential unknown liabilities of the acquired business. Moreover, the costs of identifying and consummating acquisitions may be significant.

Before our acquisition of assets from Ibeo, we had no experience with acquisitions or the integration of acquired technology and personnel. Failure to successfully identify, complete, manage and integrate acquisitions could materially and adversely affect our business, financial condition and results of operations and could cause our stock price to decline.

**Our suppliers' or manufacturing partners' facilities could be damaged or disrupted by a natural disaster or labor strike, either of which would materially affect our financial position, results of operations and cash flows.**

A major catastrophe, such as an earthquake, monsoon, flood, infectious disease including the COVID-19 virus, or other natural disaster, labor strike, or work stoppage at our suppliers' or manufacturers partners' facilities or our customers, could result in a prolonged interruption of our business. A disruption resulting from any one of these events could cause significant delays in product shipments and the loss of sales and customers, which could have a material adverse effect on our financial condition, results of operations, and cash flows.

**If we are unable to obtain effective intellectual property protection for our products, processes and technology, we may be unable to compete with other companies.**

Intellectual property protection for our products, processes and technology is important and uncertain. If we do not obtain effective intellectual property protection for our products, processes and technology, we may be subject to increased competition. Our commercial success will depend, in part, on our ability to maintain the proprietary nature of our key technologies by securing valid and enforceable patents and effectively maintaining unpatented technology as trade secrets.

We protect our proprietary technology by seeking to obtain United States and foreign patents in our name, or licenses to third party patents, related to proprietary technology, inventions, and improvements that may be important to the development of our business. However, our patent position involves complex legal and factual questions. The standards that the United States Patent and Trademark Office and its foreign counterparts use to grant patents are not always applied predictably or uniformly and can change.

Additionally, the scope of patents is subject to interpretation by courts and their validity can be subject to challenges and defenses, including challenges and defenses based on the existence of prior art. Consequently, we cannot be certain as to the extent to which we will be able to obtain patents for our new products and technology or the extent to which the patents that we already own, protect our products and technology. Reduction in scope of protection or invalidation of our licensed or owned patents, or our inability to obtain new patents, may enable other companies to develop products that compete directly with ours on the basis of the same or similar technology.

We also rely on the law of trade secrets to protect unpatented know-how and technology to maintain our competitive position. We try to protect this know-how and technology by limiting access to the trade secrets to those of our employees, contractors and partners, with a need-to-know such information and by entering into confidentiality agreements with parties that have access to it, such as our employees, consultants and business partners. Any of these parties could breach the agreements and disclose our trade secrets or confidential information, or our competitors might learn of the information in some other way. If any trade secret not protected by a patent were to be disclosed to or independently developed by a competitor, our competitive position could be negatively affected.

**We could be subject to significant product liability claims that could be time-consuming and costly, divert management attention and adversely affect our ability to obtain and maintain insurance coverage.**

We could be subject to product liability claims if any of the product applications are alleged to be defective or cause harmful effects. For example, because some of the scanning modules incorporating our LBS technology could scan a low power beam of colored light into the user's eye, the testing, manufacture, marketing and sale of these products involve an inherent risk that product liability claims will be asserted against us.

Additionally, any misuse of our technology or products incorporating our technology by end users or third parties that obtain access to our technology, could result in negative publicity and could harm our brand and reputation. Product liability claims or other claims related to our products or our technology, regardless of their outcome, could require us to spend significant time and money in litigation, divert management time and attention, require us to pay significant damages, harm our reputation or hinder acceptance of our products. Any successful product liability claim may prevent us from obtaining adequate product liability insurance in the future on commercially desirable or reasonable terms. An inability to obtain sufficient insurance coverage at an acceptable cost or otherwise to protect against potential product liability claims could prevent or inhibit the commercialization of our products and technology.

**Our operations could be adversely impacted by information technology system failures, network disruptions, or cyber security incidents.**

We rely on information technology systems to process, transmit, store, and protect electronic data between our employees, customers, manufacturing partners and suppliers. Our systems and the third parties we rely on for related services are vulnerable to actual or attempted cybersecurity incidents, such as attacks by hackers, acts of vandalism, malware, social engineering, denial or degradation of service attacks, computer viruses, software bugs or vulnerabilities, supply chain attacks, phishing attacks, ransomware attacks, misplaced or lost data, human errors, malicious insiders or other similar events. Such systems are also susceptible to other disruptions due to events beyond our control, including, but are not limited to, natural disasters, power loss, and telecommunications failures. Our system redundancy may be inadequate and our disaster recovery planning may be ineffective or insufficient to account for all eventualities.

As security incidents have become more prevalent across industries we will need to continually examine, modify and update our systems. These updates or improvements may require implementation costs. In addition, we may not be able to monitor and react to all developments in a timely manner. The measures we do adopt may prove ineffective.

Any failure, or perceived failure, by us to comply with current and future regulatory or customer-driven privacy, data protection, and information security requirements, or to prevent or mitigate cyber incidents, could harm our business and expose us to potential litigation, liability, remediation costs, investigation costs, loss of revenue, damage to our reputation and loss of customers. While we maintain insurance coverage to address certain aspects of cyber risks, such insurance coverage may be insufficient to cover all losses or all claims that may arise, should such an event occur.

We, and certain of our third-party vendors, collect and store personal information in connection with human resources operations and other aspects of our business. While we obtain assurances that any third parties we provide data to will protect this information and, where we believe appropriate, monitor the protections employed by these third parties, there is a risk the confidentiality of data held by us or by third parties may be compromised and expose us to liability for such breach.

**Loss of any of our key personnel could have a negative effect on the operation of our business.**

Our success depends on our executive officers and other key personnel and on the ability to attract and retain qualified new personnel. Achievement of our business objectives will require substantial additional expertise in the areas of sales and marketing, research and product development and manufacturing. Competition for qualified personnel in these fields is intense, and the inability to attract and retain additional highly skilled personnel, or the loss of key personnel, could hinder our ability to compete effectively in the automotive or technology markets and adversely affect our business strategy execution and results of operations.

**Risks Related to Development for the Automotive Industry.**

**If our products and solutions are not selected for inclusion in ADAS systems by automotive OEMs or automotive Tier 1 suppliers, our future prospects will be materially and adversely affected.**

Automotive OEMs and Tier 1 suppliers design and develop ADAS technology over several years, undertaking extensive testing and qualification processes prior to selecting a product such as our lidar sensors and software for use in a particular system, product or vehicle model because such products will function as part of a larger system or platform and must meet certain other specifications. We have invested and will continue to invest significant time and resources to have our products considered and possibly selected by OEMs or Tier 1 suppliers for use in a particular system, product or vehicle model, which is known as a “series production win” or a “series production award.” In the case of ADAS technology, a series production award would mean that our lidar sensor and/or ADAS solution had been selected for use in a particular vehicle model. However, if we are unable to achieve a series production award with respect to a particular vehicle model, we may not have an opportunity to supply our products to the automotive OEM for that vehicle model for a period of many years. In many cases, this period can be as long as five to seven or more years. If our products are not selected by an automotive OEM or our suppliers for one vehicle model or if our products are not successful in that vehicle model, it is unlikely that our product will be deployed in other vehicle models of that OEM. If we fail to win a significant number of vehicle models from one or more of automotive OEMs or their suppliers, our future business prospects will be materially and adversely affected.

**The complexity of our products and the limited visibility into the various environmental and other conditions under which potential customers may use the products could result in unforeseen delays or expenses from undetected defects, errors or reliability issues in hardware or software which could reduce the market adoption of our products, damage our reputation with prospective customers, expose us to product liability and other claims, and adversely affect our operating costs.**

Our products are highly technical and complex and require high standards to manufacture and may experience defects, errors or reliability issues at various stages of development. We may be unable to timely manufacture or release products, or correct problems that have arisen or correct such problems to the customer’s satisfaction. Additionally, undetected errors, defects or security vulnerabilities could result in serious injury to the end users or bystanders of technology incorporating our products, inability of customers to commercialize technology incorporating our products, litigation against us, negative publicity and other consequences. These risks are particularly prevalent in the highly competitive ADAS market. These problems may also result in claims, including class actions, against us that could be costly to defend. Our reputation or brand may be damaged as a result of these problems and potential customers may be reluctant to buy our products, which could adversely affect our financial results.

**Adverse conditions in the automotive industry or the global economy more generally could have adverse effects on our results of operations.**

While we make our strategic planning decisions based on the assumption that the markets we are targeting will grow, our business is dependent, in large part on, and directly affected by, business cycles and other factors affecting the global automobile industry and global economy generally. Automotive production and sales are highly cyclical and depend on general economic conditions and other factors, including consumer spending and preferences, changes in interest rates and credit availability, consumer confidence, fuel costs, fuel availability, environmental impact, governmental incentives and regulatory requirements, and political volatility, especially in energy-producing countries and growth markets. In addition, automotive production and sales can be affected by our automotive OEM customers' ability to continue operating in response to challenging economic conditions and in response to labor relations issues, regulatory requirements, trade agreements and other factors. The volume of automotive production in North America, Europe and the rest of the world has fluctuated, sometimes significantly, from year to year, and we expect such fluctuations to give rise to fluctuations in the demand for our products. Any significant adverse change in any of these factors may result in a reduction in automotive sales and production by our automotive OEM customers and could have a material adverse effect on our business, results of operations and financial condition.

**Developments in alternative technology may adversely affect the demand for our lidar technology.**

Significant developments in alternative technologies, such as cameras and radar, may materially and adversely affect our business prospects in ways we do not currently anticipate. Existing and other camera and radar technologies may emerge as OEMs' preferred alternative to our solution, which would result in the loss of competitiveness of our lidar solution. Our R&D efforts may not be sufficient to adapt to these changes in technology and our solution may not compete effectively with these alternative systems.

**ADAS features may be delayed in adoption by OEMs, which would negatively impact our business prospects.**

The ADAS market is fast evolving and there is generally a lack of an established regulatory framework. Vehicle regulators globally continue to consider new and enhanced emissions requirements, including electrification, to meet environmental and economic needs as well as pursue new safety standards to address emerging traffic risks. To control new vehicle prices, among other concerns, OEMs may need to dedicate technology and cost additions to new vehicle designs to meet these emissions and safety requirements and postpone the consumer cost pressures of new ADAS features. As additional safety requirements are imposed on vehicle manufacturers, our business prospects may be materially impacted.

**Because the lidar and ADAS markets are rapidly evolving, it is difficult to forecast customer adoption rates, demand, and selling prices for our products and solutions.**

We are pursuing opportunities in rapidly evolving markets, including technological and regulatory changes, and it is difficult to predict the timing and size of the opportunities. For example, lidar-based ADAS solutions require complex technology and because these automotive systems depend on technology from many companies, commercialization of ADAS products could be delayed or impaired on account of certain technological components of ours or others not being ready to be deployed in vehicles. In addition, the selling prices we are able to ultimately charge in the future for the products we are currently developing may be less than what we currently project. Our future financial performance will depend on our ability to make timely investments in the correct market opportunities. If one or more of these markets experience a shift in prospective customer demand, our products may not compete as effectively, if at all, and they may not be designed into commercialized products. Given the evolving nature of the markets in which we operate, it is difficult to predict customer demand or adoption rates for our products, selling prices or the future growth of our target markets. If demand does not develop or if we cannot accurately forecast it, the size of our markets, inventory requirements or future financial results will be adversely affected.

**Because lidar is new in the markets we are seeking to enter, our market forecasts may not materialize as anticipated.**

Our market opportunity estimates and growth forecasts are subject to significant uncertainty and are based on assumptions and estimates that may not materialize as anticipated. These forecasts and estimates relating to the expected size and growth of the markets for lidar-based technology may prove to be inaccurate. Even if these markets experience the forecasted growth we anticipate, we may not grow our business at similar rates, or at all. Our future growth is subject to many factors, including market adoption of our products, which is subject to many risks and uncertainties. Accordingly, we cannot assure you that these forecasts will not be materially inaccurate.



## ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

## ITEM 1C. CYBERSECURITY

### Risk Management and Strategy

#### **Our Cybersecurity Processes**

We continue to strengthen our cybersecurity measures to safeguard our information systems based on industry standards. Our measures include policies to promote internal compliance by our employees, policies and procedures to regularly evaluate the security of our information systems and implementation of third-party products, including intrusion prevention and detection solutions, multifactor identification and anti-virus software, to help detect and protect against potential cybersecurity threats. We educate our staff on cybersecurity matters with periodic risk awareness information, phishing awareness campaigns, and training materials. Moreover, given the rapid growth of our global operations in 2023 due to the Ibeo acquisition, and our expectations for near- and long-term strategic growth, our Information Technology, or IT, team is prioritizing enhancements to our response system and continuity plans.

A key dimension to the security and effectiveness of our information system is our compliance with standards that are unique to the industries in which we operate. For instance, it is critical that our information system achieves TISAX certification. Established by the German Association of the Automotive Industry, Trusted Information Security Assessment Exchange, or TISAX, is a globally recognized assessment and exchange mechanism for information security in the automotive industry. Automotive OEMs rely on the TISAX label to ensure that suppliers and partners have a solid information security management system in place. To successfully complete the TISAX assessment process in our German and U.S. operations, we are actively evaluating our cybersecurity measures and seeking enhancements, including engaging a third-party auditor and global standardization of our cybersecurity training program, to ensure a comprehensive and robust system.

We evaluate our third-party information system providers, as well as any other provider that may have access to our data, for their maturity and reliability, and as a matter of policy we choose to only work with reputable vendors.

#### **Risks from Cybersecurity Threats**

We have not encountered cybersecurity incidents that have materially affected or are reasonably likely to materially affect us, including our operations or financial condition. Any material cybersecurity incident could have a material impact on our operations by causing a disruption to our ability to function as a global organization, by interrupting our internal and external communications and reporting or managing our operations. Refer to “Item 1A. Risk Factors” in this annual report on Form 10-K, including “Our operations could be adversely impacted by information technology system failures, network disruptions, or cybersecurity breaches,” for additional discussion about cybersecurity-related risks.

### Governance

#### **Board of Directors and Audit Committee**

With delegated authority from our Board of Directors and in accordance with its charter, our Audit Committee is charged with the oversight of enterprise risk, including risk related to cybersecurity threats. Our Audit Committee Chair is expected to report regularly to our Board of Directors about our Audit Committee’s oversight of enterprise risk. Beginning in 2024, our Audit Committee Chair will report quarterly to our Board of Directors specifically about our cybersecurity incident management and governance.

Management, and specifically our Chief Financial Officer, reports to our Audit Committee on cybersecurity, including initiatives and strategies, and incident reporting and any lessons learned. Beginning in 2024, our Chief Financial Officer will make this report on a quarterly basis. From time to time, management will also engage in informal discussions with members of the Audit Committee about our cybersecurity practices and risks, including informing our Audit Committee Chair in a timely manner about any cybersecurity incidents that management determines may have a significant impact on our operations or that may trigger any reporting obligations.

Our Audit Committee will conduct an annual review of our cybersecurity measures and the effectiveness of our risk management strategies.

### **Management**

Anubhav Verma, joined MicroVision in 2021 as our Chief Financial Officer. He is an experienced risk management professional and currently oversees the Company's accounting and finance strategies, including risk management. Mr. Verma also oversees our IT team and, with regular communication with the team, is responsible for approving the IT budget, hiring of IT personnel, including third-party consultants, and approving cybersecurity processes and other cybersecurity-related matters. Although we do not currently employ a chief information security officer, we are working with an outside consulting firm that is serving in this role and assisting our internal team with the primary responsibility of overseeing our cybersecurity measures and risks.

The day-to-day responsibility for assessing, monitoring and managing our cybersecurity risks resides with our IT team. Across the IT team we have employees who have in-depth knowledge and decades of cybersecurity industry experience, including prior experience with developing and overseeing cybersecurity policies and processes for companies required to comply with NIST SP800-171, cybersecurity standards for companies that store sensitive unclassified information on behalf of the United States government, and former Ibeo employees having experience with TISAX compliance. Yet, we recognize the evolving and increasing threat that cybersecurity will have on our operations. As part of our long-term growth strategy, we expect to establish a dedicated cybersecurity team to oversee our cybersecurity risk management.

The IT Team Director regularly meets with the Chief Financial Officer and as appropriate the Chief Executive Officer to discuss cybersecurity risks. This ensures that management is informed about our current cybersecurity measures and aware of any potential risks facing our operations. In the event of a cybersecurity incident, we have put in place a reporting structure to inform the Chief Financial Officer, Chief Executive Officer and General Counsel promptly of any incident so that they may assess the appropriate response to the incident and any reporting concerns that may be triggered by the incident.

### **ITEM 2. PROPERTIES**

In September 2021, we entered into a lease on approximately 16,681 square feet of space located in Redmond, Washington that we use primarily for general office space. The lease provides for an initial term of 128 months that commenced November 1, 2021.

In September 2021, we entered into a second lease on approximately 36,062 square feet of space located in Redmond, Washington that we use primarily for product testing and lab space. The lease provides for an initial term of 120 months and commenced on December 1, 2022.

In April 2022, we entered into a lease on approximately 3,533 square feet of space located in Nuremberg, Germany that we use primarily for general office space for business development activities. The lease provides for a term of 60 months that commenced May 1, 2022.

In September 2022, we entered into a second lease on approximately 3,810 square feet of space located in Nuremberg, Germany that we use primarily for product testing for engineering and development activities. The lease provides for a term of 60 months that commenced November 15, 2022.

In connection with our January 2023 acquisition of assets from Ibeo, we assumed three leases in Hamburg, Germany covering approximately 45,208 square feet of office space, garages to house test and demonstration vehicles, space for IT network equipment, and long-range laser testing space.

In December 2023, we entered into a lease on approximately 60,000 square feet of space located in Hamburg, Germany that we will use primarily for general office space and product testing. This lease is intended to replace the office space described in the immediately preceding paragraph. The lease provides for a term of 60 months and will commence on the date the property is delivered to us, which is expected to occur between August 1, 2024 and December 31, 2024.

We believe that our facilities are adequate to meet our needs for the immediate future, and that, should it be needed, suitable additional or substitute space will be available to accommodate any such expansion of our operations. For a further description of our leased properties, see Note 11, Leases, of the notes to our consolidated financial statements included elsewhere in this Annual Report, which is incorporated by reference in response to this item.

### **ITEM 3. LEGAL PROCEEDINGS**

We are subject to various claims and pending or threatened lawsuits in the normal course of business. We are not currently party to any other legal proceedings that management believes are reasonably possible to have a material adverse effect on our financial position, results of operations or cash flows.

### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

### **ITEM 4A. EXECUTIVE OFFICERS OF THE REGISTRANT**

Executive officers are appointed by our Board of Directors and hold office until their successors are elected and duly qualified. The following persons serve as executive officers of MicroVision, Inc.:

Sumit Sharma, age 50, was appointed Chief Executive Officer in February 2020 and served as Chief Operating Officer from June 2018 to February 2020, after serving as Vice President of Product Engineering and Operations since February 2017 and Vice President and Senior Director of Operations since September 2015. Prior to MicroVision, from April 2015 to September 2015, he was a Product Development and Operations consultant at BlueMadison Consulting. From November 2013 to March 2015, he was the Senior Director, Advanced Manufacturing Operations and Technology Development at Jawbone. From March 2011 to October 2013, he was the Head of Manufacturing Operations for project GLASS at Google. Mr. Sharma has extensive experience in optics, wearable technology, product development and qualification for automotive industry. Mr. Sharma also has deep experience in global operations and developing strategic partnerships. A patent holder, Mr. Sharma received his baccalaureate degree in engineering from New Jersey Institute of Technology.

Anubhav Verma, age 38, joined MicroVision in November 2021 as Chief Financial Officer. Prior to MicroVision, from October 2016 to November 2021, he led several growth initiatives including M&A and Capital Market transactions as Senior Vice President Finance of Exela Technologies. From November 2013 to October 2016, he was an Investment Professional of HandsOn Global Management driving end-to-end M&A deals including post-merger integration along with several rounds of capital market financings. From July 2009 to October 2013, he advised several Fortune 500 companies as an Investment Banker at Credit Suisse in their New York and Mumbai offices. Mr. Verma has extensive experience in Mergers and Acquisitions (M&A), Capital Markets and Strategic Finance roles for publicly listed and privately held companies. Mr. Verma received a Bachelor of Technology degree in engineering and a Masters of Technology degree in engineering from the Indian Institute of Technology, Bombay.

Drew Markham, age 56, joined MicroVision in June 2021 as Vice President, General Counsel and Secretary. Before joining MicroVision, from January 2017 through June 2021, Ms. Markham was President at Avisé, a social purpose corporation, where she was a legal consultant to publicly traded technology companies. From January 2013 to December 2016, she was Vice President, Deputy General Counsel & Assistant Secretary at RealNetworks, Inc. From June 1999 to December 2012, she was an attorney with Wilson Sonsini Goodrich & Rosati. Ms. Markham received her Juris Doctor degree from the University of Washington School of Law and her Bachelor of Science degree in Accounting from the University of Florida.

## **PART II.**

### **ITEM 5. MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

#### **Market Information**

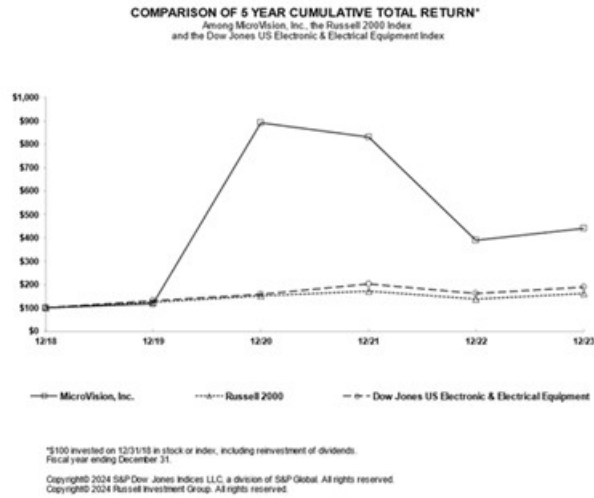
Our common stock began trading publicly on August 27, 1996. Our common stock trades on The Nasdaq Global Market under the ticker symbol “MVIS.” We have never declared or paid cash dividends on our common stock. We currently anticipate that we will retain all future earnings to fund the operations of our business and do not anticipate paying dividends on the common stock in the foreseeable future.

As of February 26, 2024, there were approximately 144 holders of record of 195,267,385 shares of common stock outstanding. As many of our shares of common stock are held by brokerages and institutions on behalf of shareholders, we are unable to estimate the total number of beneficial holders of our common stock represented by these record holders.

#### **Stock Performance Graph**

This performance graph shall not be deemed to be “soliciting material” or “filed” or incorporated by reference in future filings with the Securities and Exchange Commission, or subject to the liabilities of Section 18 of the Securities Exchange Act of 1934, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

The following graph shows a comparison from 2018 through 2023 of the cumulative total return for our common stock, the Russell 2000 Index and the Dow Jones US Electronic and Electrical Equipment Index. Our prior annual reports had included cumulative total return from the NASDAQ Electrical Components Index, however it is not included on this graph because the index has been discontinued. The comparisons in the graph are historical and are not intended to forecast or be indicative of possible future performance of our common stock.



**Recent Sales of Unregistered Securities**

On November 21, 2023, pursuant to subscription agreements dated as of November 14, 2023, between us and each of the purchasers, we sold in the aggregate 50,761 shares of our common stock, par value \$0.001 per share (“Common Stock”), at \$1.97 per share, for an aggregate purchase price of approximately \$0.1 million. The purchasers consisted of our Chief Executive Officer, Chief Financial Officer, General Counsel and certain members of our Board of Directors.

On March 13, 2023, pursuant to a subscription agreement dated as of March 13, 2023, we sold to our Chief Executive Officer 100,000 shares of Common Stock, at \$2.14 per share, for an aggregate purchase price of \$0.2 million.

The sales of our Common Stock described above were each undertaken in reliance upon an exemption from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”), pursuant to Section 4(a)(2).

**ITEM 6. RESERVED**

**ITEM 7. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion of our financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and the related notes included in Part II, Item 8 of this Form 10-K. The following discussion focuses on the results of our operations for the year ended December 31, 2023 compared to the year ended December 31, 2022. Similar discussion of the results of our operations for the year ended December 31, 2022 compared to the year ended December 31, 2021 can be found in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2022.

## Overview

Currently, our development and commercialization efforts are focused primarily on automotive lidar and advanced driver-assistance systems (ADAS) markets where we can deliver safe mobility at the speed of life. Our integrated solution combines our lidar sensors, including our MEMS-based dynamic-range and flash-based short/mid-range, with perception software, to be integrated on our custom ASIC, targeted for sale to premium automotive OEMs and Tier 1 automotive suppliers.

Although automotive lidar is our priority now, we have developed solutions for Augmented Reality, Interactive Displays, and Consumer Lidars. In the recent past, our strategy had been to sell AR displays or components, Interactive Displays, or Consumer Lidars to original equipment manufacturers (OEMs) and original design manufacturers (ODMs) for incorporation into their products.

We have incurred substantial losses since inception and expect to incur a significant loss during the fiscal year ending December 31, 2024. We have funded operations to date primarily through the sale of common stock, convertible preferred stock, warrants, the issuance of convertible debt and, to a lesser extent, from development contract revenues, product sales and licensing activities. There can be no assurance that additional capital will be available or that, if available, it will be available on terms acceptable to us on a timely basis. We cannot be certain that we will succeed in commercializing our technology or products.

### Key accounting policies and estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates and judgments that materially affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent liabilities. We evaluate our estimates on a continuous basis. We base our estimates on historical data, terms of existing contracts, our evaluation of trends in the consumer display and 3D sensing industries, information provided by our current and prospective customers and strategic partners, information available from other outside sources and on various other assumptions we believe to be reasonable under the circumstances. The results form the basis for making judgments regarding the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We believe the following key accounting policies require significant judgments and estimates used in the preparation of our consolidated financial statements.

## Business combination

Our business combination is accounted for under the acquisition method. We allocate the fair value of purchase consideration to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the acquisition date. The excess of the fair value of the underlying net assets acquired and liabilities assumed over the purchase consideration is included in bargain purchase gain in the Consolidated Statement of Operations. Such valuations require management to make significant estimates and assumptions, especially with respect to intangible assets.

## Intangible assets

Our intangible assets consist of acquired technology from the January 2023 Ibeo asset purchase and purchased patents. The estimated fair value of acquired technology was calculated through the income approach using the multi-period excess earnings and relief from royalty methodologies. The intangible assets are amortized using the straight-line method over their estimated period of benefit, ranging from one to seventeen years. Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. Recoverability of these assets is measured by comparison of their carrying values to the projected undiscounted net cash flows associated with the related intangible assets or group of assets over their remaining lives. Measurement of an impairment loss for our intangible assets is based on the difference between the fair value of the asset and its carrying value.

## Share-based compensation

We issue share-based compensation to employees in the form of stock options, restricted stock units (RSUs), and performance stock units (PSUs). We account for the share-based awards by recognizing the fair value of share-based compensation expense on a straight-line basis over the service period of the award, net of estimated forfeitures. The fair value of stock options is estimated on the grant date using the Black-Scholes option pricing model. The fair value of RSUs and non-executive PSUs is determined by the closing price of our common stock on the grant date or the period end date for the awards that are being measured by the service inception date. For performance-based awards, expense is recognized when it is probable the performance criteria will be achieved. If the likelihood becomes improbable that the performance criteria will be achieved, the expense is reversed. Executive PSUs that have market-based performance criteria are valued using a binomial option pricing model using the following inputs: stock price, volatility, and risk-free interest rates. Changes in estimated inputs or using other option valuation methods may result in materially different option values and share-based compensation expense.

## Leases

Significant judgment may be required when determining whether a contract contains a lease, the length of the lease term, the allocation of the consideration in a contract between lease and non-lease components, and the determination of the discount rate included in our office lease. We review the underlying objective of each contract, the terms of the contract, and consider our current and future business conditions when making these judgments.

## Results of Operations

### YEAR ENDED DECEMBER 31, 2023 COMPARED TO YEAR ENDED DECEMBER 31, 2022.

#### Revenue

	<u>2023</u>	<u>2022</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>				
Revenue	\$ 7,259	\$ 664	6,595	993.2

Revenues are recognized when control of the promised goods or services are transferred to our customers, in an amount that reflects the consideration that we expect to receive in exchange for those goods or services. We recognize revenue either at a point in time, or over time, depending upon the characteristics of the individual contract. If control of the deliverable(s) transfers over time, the revenue is recognized in proportion to the transfer of control. If control passes to the customer only upon completion and transfer of the asset, revenue is recognized at the completion of the contract.

In April 2017, we signed a contract with Microsoft Corporation to develop an LBS display system; the contract terminated effective December 31, 2023. Under the agreement, we received an upfront payment of \$10.0 million. In March 2020, Microsoft took over production of components that we had been producing for them. As a result, beginning in March 2020, we earned a royalty on each component shipped approximately equal to the gross profit we would have earned if we had continued to produce and ship the components. The increase in revenue for the year ended December 31, 2023 compared to the same period in 2022 was primarily due to the recognition of the remaining \$4.6 million of revenue as we believe the likelihood of further deliveries under the contract is remote. We do not expect to recognize any further revenue in connection with this contract.

The remaining increase in revenue during the twelve months ended December 31, 2023 compared to the prior year was primarily a result of customer contracts assumed in connection with our January 2023 acquisition of assets from Ibeo.

The revenue backlog during the twelve months ended December 31, 2023 was \$3.1 million as compared to \$0.0 million in 2022.

### Cost of revenue

	<u>2023</u>	<u>% of revenue</u>	<u>2022</u>	<u>% of revenue</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>						
Cost of revenue	\$ 2,772	38.2	\$ 100	n/a	\$ 2,672	2,672.0

Cost of revenue includes the direct and allocated indirect costs of products and services 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, overhead, and other costs associated with operating our manufacturing capabilities. Overhead includes the costs of procuring, inspecting and storing material, facility and other costs, and is allocated to cost of revenue based on the proportion of indirect labor which supported revenue activities.

Cost of revenue can fluctuate significantly from period to period, depending on the product mix and volume, the level of overhead expense and the volume of direct material purchased. The increase in cost of revenue for the twelve months ended December 31, 2023 compared to the same period in 2022 was primarily due to the amortization of intangible assets obtained in the acquisition of Ibeo assets of \$1.4 million. The increase in 2023 was also driven by materials and labor associated with the corresponding increase in revenue this year.

### Research and development expense

	<u>2023</u>	<u>2022</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>				
Research and development expense	\$ 56,707	\$ 30,413	\$ 26,294	86.5

Research and development expense consists of compensation related costs of employees and contractors engaged in internal research and product development activities, direct material to support development programs, laboratory operations, outsourced development and processing work, and other operating expenses. We assign our research and development resources based on the business opportunity of the available projects, the skill mix of the resources available and the contractual commitments we have made to our customers. We believe that a substantial level of continuing research and development expenses will be required to further develop our scanning technology.

The increase in research and development expense during the year ended December 31, 2023 compared to the same period in 2022 was primarily due to the Ibeo acquisition that resulted in higher salary and benefits expenses as a result of increased headcount of \$21.2 million, increased depreciation expenses of \$1.6 million, increased facilities and information technology expenses of \$1.6 million compared to the prior year.

### Sales, marketing, general and administrative expense

	<u>2023</u>	<u>2022</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>				
Sales, marketing, general and administrative expense	\$ 36,689	\$ 24,041	\$ 12,648	52.6

Sales, marketing, general and administrative expense includes compensation and support costs for marketing, sales, management and administrative staff, and for other general and administrative costs, including legal and accounting services, consultants and other operating expenses.

The increase in sales, marketing, general and administrative expense during the year ended December 31, 2023 as compared to the same period in 2022 was primarily due to the Ibeo acquisition that resulted in increased salary and benefits expenses as a result of increased headcount of approximately \$7.0 million, increased professional services of \$1.3 million incurred in connection with the Ibeo acquisition, increased non-cash compensation expense of \$1.1 million, increased depreciation expense of \$1.1 million and increased purchased labor of \$0.7 million.



### Bargain purchase gain, net of tax

	<u>2023</u>	<u>2022</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>				
Bargain purchase gain, net of tax	\$ 1,669	\$ -	\$ 1,669	-

During the twelve months ended December 31, 2023, we recorded a bargain purchase gain related to the acquisition of assets from Ibeo. The bargain purchase gain represents the excess of the fair value of the underlying net assets acquired and liabilities assumed over the purchase consideration paid in the transaction.

### Other income (expense), net

	<u>2023</u>	<u>2022</u>	<u>\$ change</u>	<u>% change</u>
<i>(In thousands)</i>				
Other income (expense), net	\$ 5,510	\$ 799	\$ 4,711	589.6

The increase in other income during the twelve months ended December 31, 2023 compared to the same period in 2022 is due to a payment of \$3.0 million as an incentive to terminate our previous building lease. The remainder of the increase is primarily due to income from investment securities.

### Income taxes

During the years ended December 31, 2023 and 2022, we recognized tax expense of \$1.1 million and \$0.0 million, respectively, mainly related to income in foreign jurisdictions offset, partially offset by a deferred income tax benefit generated by the reduction to a deferred tax liability created as a result of the acquisition of Ibeo in Q2 2023. The change in income tax expense during the year ended December 31, 2023 was largely the result of profitability in foreign jurisdictions related to the Ibeo acquisition. As of December 31, 2023, we had net operating loss carryforwards of approximately \$463.1 million for federal income tax reporting purposes. In addition, we have research and development tax credits of \$10.1 million. During 2023, \$23.1 million federal net operating losses and \$0.3 million general business credits expired unused. A majority of the net operating loss carryforwards and research and development credits available to offset future taxable income, if any, will expire in varying amounts from 2024 to 2043, if not previously used.

In certain circumstances, as specified in the Internal Revenue Code, a 50% or more ownership change by certain combinations of our shareholders during any three-year period would result in a limitation on our ability to use a portion of our net operating loss carryforwards.

We recognize interest accrued and penalties related to unrecognized tax benefits in tax expense. We did not have any unrecognized tax benefits at December 31, 2023 or at December 31, 2022.

### Liquidity and Capital Resources

We have incurred significant losses since inception. We have funded operations to date primarily through the sale of common stock, convertible preferred stock, warrants, the issuance of convertible debt and, to a lesser extent, from development contract revenues, product sales, and licensing activities. At December 31, 2023, we had \$45.2 million in cash and cash equivalents and \$28.6 million in investment securities. We also have approximately \$19.0 million availability left on our existing \$35.0 million ATM facility that was put in place in the third quarter of 2023. Based on our current operating plan for 2024 and beyond, we anticipate that we have sufficient cash and cash equivalents to fund our operations for at least the next 12 months.

### *Operating activities*

Cash used in operating activities totaled \$67.1 million during 2023, compared to \$38.0 million in 2022. Cash used in operating activities resulted primarily from cash used to fund our net loss, after adjusting for non-cash charges such as share-based compensation, depreciation and amortization charges and changes in operating assets and liabilities. The changes in cash used in operating activities were primarily attributed to the Ibeo acquisition that resulted in increased operating expenses to support the development of our lidar sensors. During the second half of 2023, we made a payment of \$3.1 million to our contract manufacturing partner in connection with the buildup of MOVIA sensor inventory for direct sales to both automotive and non-automotive customers. Moreover, we expect to make additional payments to this partner totaling approximately \$6.2 million over the first six months of 2024 in line with agreed-upon deliveries.

### *Investing activities*

Cash provided by investing activities totaled \$21.8 million in 2023, compared to cash used in investing activities of \$38.1 million in 2022. During the twelve months ended December 31, 2023, we purchased short-term investment securities totaling \$41.7 million and sold short-term investment securities totaling \$76.7 million. During the twelve months ended December 31, 2022, we purchased short-term investment securities totaling \$90.2 million and sold short-term investment securities totaling \$60.6 million. Purchases of property and equipment during the twelve months ended December 31, 2023 and 2022 were \$2.0 million and \$4.4 million, respectively. During the twelve months ended December 31, 2023, we made payments totaling \$11.2 million related to the acquisition of Ibeo assets. We expect to make the final payment related to the Ibeo acquisition of approximately \$3.0 million and we expect restricted cash of \$3.3 million to be released from escrow to Ibeo during the first quarter of 2024. In 2022, operating funds advanced to Ibeo during the pre-closing period totaling \$4.1 million were included in cash used in investing activities.

### *Financing activities*

Cash provided by financing activities totaled \$72.4 million in 2023, compared to \$14.3 million in 2022. During the year ended December 31, 2022, we made principal payments under long-term debt totaling \$0.4 million related to the loan under the Paycheck Protection Program of the 2020 CARES Act (PPP) administered by the Small Business Administration compared to \$0.5 million in the prior year. Proceeds received from stock option exercises totaled \$0.3 million during 2023 compared to \$0.7 million during 2022.

The following is a list of our financing activities during 2023 and 2022.

- In August 2023, we entered into a \$35.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement, we are able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$35.0 million through Craig-Hallum. As of December 31, 2023, we had completed sales under such sales agreement, having sold 6.1 million shares for net proceeds of \$15.5 million. As of December 31, 2023, we have approximately \$19.0 million available under this ATM agreement.
- In June 2023, we entered into a \$45.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement, we were able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$45.0 million through Craig-Hallum. As of June 30, 2023, we had completed sales under such sales agreement, having sold 10.9 million shares for net proceeds of \$43.9 million. No further shares are available for sales under this agreement.
- In June 2021, we entered into a \$140.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement we were able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$140.0 million through Craig-Hallum. As of December 31, 2022, we had issued 8.3 million shares of our common stock for net proceeds of \$81.8 million under this ATM agreement. During the quarter ended March 31, 2023, we issued 5.0 million shares of our common stock for net proceeds of \$12.5 million under the agreement. The sales agreement was terminated in June 2023.

Our capital requirements will depend on many factors, including, but not limited to, the rate at which OEMs and other potential customers introduce products incorporating our technology and the market acceptance and competitive position of such products. Our ability to raise capital will depend on numerous factors, including the following:

- Perceptions of our ability to continue as a going concern;
- Market acceptance of products incorporating our technology;
- Changes in evaluations and recommendations by any securities analysts following our stock or our industry generally;
- Announcements by other companies in our industry;
- Changes in business or regulatory conditions;
- Announcements or implementation by our competitors of technological innovations or new products;
- The status of particular development programs and the timing of performance under specific development agreements;
- Economic and stock market conditions;
- The cost of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- Our ability to establish cooperative development or licensing arrangements; or
- Other factors unrelated to our company or industry.

If we are successful in establishing OEM co-development arrangements, we may receive full or partial funding for certain non-recurring engineering costs for technology development and/or product development. Nevertheless, we expect our capital requirements to remain high as we expand our activities and operations with the objective of commercializing our technology.

### Contractual obligations

The following table lists our contractual obligations as of December 31, 2023 (in thousands):

Contractual Obligations	Payments Due By Period				Total
	< 1 year	1-3 years	3-5 years	> 5 years	
Open purchase obligations *	\$ 10,414	\$ 320	\$ -	\$ -	\$ 10,734
Minimum payments under finance leases	-	-	-	-	-
Minimum payments under operating leases <sup>+</sup>	2,951	6,819	6,686	8,527	24,983
	<u>\$ 13,365</u>	<u>\$ 7,139</u>	<u>\$ 6,686</u>	<u>\$ 8,527</u>	<u>\$ 35,717</u>

\* Open purchase obligations represent commitments to purchase materials, capital equipment, maintenance agreements and other goods used in the normal operation of our business.

+ Minimum payments under operating leases included payments associated with the forward-starting lease of MicroVision GmbH with a target commencement date of August 1, 2024.

### Recent accounting pronouncements

See Note 2, "Summary of significant accounting policies," in the Notes to the consolidated financial statements found in Part II, Item 8 of this Form 10-K.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

### Interest Rate and Market Liquidity Risks

As of December 31, 2023, all of our cash and cash equivalents have variable interest rates; however, we believe our exposure to market and interest rate risks is not material. Due to the generally short-term maturities of our investment securities, we believe that the market risk arising from our holdings of these financial instruments is not significant. We do not believe that inflation has had a material effect on our business, financial condition or results of operations; however, we do anticipate our labor costs to increase as a result of inflationary pressures.

Our investment policy generally directs that the investment managers should select investments to achieve the following goals: principal preservation, adequate liquidity, and return. As of December 31, 2023, our cash and cash equivalents are comprised of short-term highly rated (A rated securities and above) money market savings accounts and our short-term investments are comprised of highly rated corporate and government debt securities (A rated securities and above). The values of cash and cash equivalents and investment securities, available-for-sale as of December 31, 2023, are as follows (in thousands):

	Amount	Percent
Cash and cash equivalents	\$ 45,167	61.2%
Less than one year	28,611	38.8
	<u>\$ 73,778</u>	<u>100.0%</u>

### Foreign Exchange Rate Risk

Our major contract and collaborative research and development agreements, product sales, and licensing activity payments are currently made in U.S. dollars or Euros. Changes in the relative value of the U.S. dollar to the Euro and other currencies may affect revenue and other operating results as expressed in U.S. dollars. In addition, our international subsidiary financial statements are denominated in Euros. As such, the consolidated financial statements will continue to remain subject to the impact of foreign currency translation as our international operations continue to expand. We may enter into foreign currency hedges to offset material exposure to currency fluctuations when we can adequately determine the timing and amounts of the exposure.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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## Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of  
MicroVision, Inc.

### *Opinion on the Financial Statements*

We have audited the accompanying consolidated balance sheets of MicroVision, Inc. (the “Company”) as of December 31, 2023 and 2022, the related consolidated statements of operations, comprehensive loss, shareholders’ equity (deficit) and cash flows for each of the three years in the period ended December 31, 2023, and the related notes and schedule (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (“PCAOB”), the Company’s internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 29, 2024, expressed an unqualified opinion on the Company’s internal control over financial reporting.

### *Basis for Opinion*

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures to respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated 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 consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### *Critical Audit Matters*

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the consolidated 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 consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### **Business Combination – Valuation of Acquired Intangible Assets**

As described in Note 3 to the consolidated financial statements, the Company acquired certain net assets of Ibeo Automotive Systems (Ibeo), a lidar hardware and software provider based in Hamburg, Germany for total consideration of approximately EUR 20.0 million or \$21.6 million, subject to settlement of working capital adjustments. The acquisition was accounted for as a business combination and included acquired intangible assets.

We identified the business combination, and in particular, the valuation of acquired intangible assets, as a critical audit matter because determining the fair value of acquired intangible assets required management to use complex valuation models based on underlying assumptions to estimate future cash flows. This, in turn, required significant and subjective auditor judgment, including the need to involve fair value specialists, in performing procedures and evaluating audit evidence obtained.

The primary procedures we performed to address this critical audit matter included:

- Testing the design, implementation, and operating effectiveness of internal controls over the valuation of acquired intangible assets, including controls surrounding the valuation methodology and selection of assumptions used in the determination of the fair value of acquired intangible assets.
- With the assistance of valuation specialists, testing the reasonableness of the valuation methodology, discount rate, royalty rate, contributory asset rate, internal rate of return, and weighted average cost of capital used to estimate the fair value of acquired intangible assets.
- Testing the significant assumptions used to estimate future cash flows by testing the underlying data to supporting the assumptions and comparing the assumptions to industry trends and subsequent results to evaluate the reasonableness of management’s estimates as of the date of the acquisition.

/s/ Moss Adams LLP

Seattle, Washington  
February 29, 2024

We have served as the Company’s auditor since 2012.

**MicroVision, Inc.**  
**Consolidated Balance Sheets**  
(In thousands)

	December 31,	
	2023	2022
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 45,167	\$ 20,536
Investment securities, available-for-sale	28,611	62,173
Restricted cash, current	3,263	-
Accounts receivable, net of allowances	949	-
Inventory	3,874	1,861
Advance to Ibeo	-	4,132
Other current assets	4,890	2,306
Total current assets	<u>86,754</u>	<u>91,008</u>
Property and equipment, net	9,032	6,830
Operating lease right-of-use asset	13,758	14,579
Restricted cash, net of current portion	961	1,418
Intangible assets, net	17,235	75
Other assets	1,895	1,086
Total assets	<u>\$ 129,635</u>	<u>\$ 114,996</u>
<b>Liabilities and shareholders' equity</b>		
<b>Current liabilities</b>		
Accounts payable	\$ 2,271	\$ 2,061
Accrued liabilities	8,640	2,058
Accrued liability for Ibeo business combination	6,300	-
Contract liabilities	300	4,601
Current portion of operating lease liability	2,323	1,846
Current portion of finance lease obligations	-	21
Other current liabilities	669	839
Total current liabilities	<u>20,503</u>	<u>11,426</u>
Operating lease liability, net of current portion	12,714	13,829
Other long-term liabilities	614	-
Total liabilities	<u>33,831</u>	<u>25,255</u>
Commitments and contingencies (Note 13)		
<b>Shareholders' equity</b>		
Preferred stock, par value \$0.001; 25,000 shares authorized; zero and zero shares issued and outstanding, respectively	-	-
Common stock, par value \$0.001; 310,000 shares authorized; 194,736 and 170,503 shares issued and outstanding at December 31, 2023 and 2022, respectively	195	171
Additional paid-in capital	860,765	772,221
Accumulated other comprehensive gain (loss)	210	(127)
Accumulated deficit	(765,366)	(682,524)
Total shareholders' equity	<u>95,804</u>	<u>89,741</u>
Total liabilities and shareholders' equity	<u>\$ 129,635</u>	<u>\$ 114,996</u>

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

**MicroVision, Inc.**  
**Consolidated Statements of Operations**  
(In thousands, except per share data)

	Year Ended December 31,		
	2023	2022	2021
Revenue	\$ 7,259	\$ 664	\$ 2,500
Cost of revenue	2,772	100	2
Gross profit	<u>4,487</u>	<u>564</u>	<u>2,498</u>
Research and development expense	56,707	30,413	24,111
Sales, marketing, general and administrative expense	36,689	24,041	22,256
Gain on disposal of fixed assets	(34)	-	-
Total operating expenses	<u>93,362</u>	<u>54,454</u>	<u>46,367</u>
Loss from operations	(88,875)	(53,890)	(43,869)
Bargain purchase gain, net of tax	1,669	-	-
Gain on debt extinguishment	-	-	692
Other income (expense), net	<u>5,510</u>	<u>799</u>	<u>(23)</u>
Net loss before taxes	\$ (81,696)	\$ (53,091)	\$ (43,200)
Income tax expense	<u>(1,146)</u>	<u>-</u>	<u>-</u>
Net loss	<u>\$ (82,842)</u>	<u>\$ (53,091)</u>	<u>\$ (43,200)</u>
Net loss per share - basic and diluted	<u>\$ (0.45)</u>	<u>\$ (0.32)</u>	<u>\$ (0.27)</u>
Weighted-average shares outstanding - basic and diluted	<u>182,802</u>	<u>165,958</u>	<u>160,662</u>

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

**MicroVision, Inc.**  
**Consolidated Statements of Comprehensive Loss**  
(In thousands)

	<b>Year Ended December 31,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
Net loss	\$ (82,842)	\$ (53,091)	\$ (43,200)
Other comprehensive loss			
Unrealized gain (loss) on investment securities, available-for-sale	153	(108)	(19)
Unrealized gain on translation	184	-	-
Comprehensive loss	<u>\$ (82,505)</u>	<u>\$ (53,199)</u>	<u>\$ (43,219)</u>

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



**MicroVision, Inc.**  
**Consolidated Statements of Shareholders' Equity (Deficit)**  
(In thousands)

	Common Stock		Additional paid-in capital	Subscriptions receivable	Accumulated other comprehensive loss	Accumulated deficit	Total shareholders' equity (deficit)
	Shares	Par value					
<b>Balance at December 31, 2020</b>	152,926	153	601,224	(6,135)	-	(586,233)	9,009
Share-based compensation expense	2,365	2	15,282	-	-	-	15,284
Exercise of options	1,518	2	2,652	-	-	-	2,654
Sales of common stock, net of issuance costs	7,554	7	122,884	6,135	-	-	129,026
Net loss	-	-	-	-	-	(43,200)	(43,200)
Other comprehensive loss	-	-	-	-	(19)	-	(19)
<b>Balance at December 31, 2021</b>	164,363	164	742,042	-	(19)	(629,433)	112,754
Share-based compensation expense	1,294	1	15,460	-	-	-	15,461
Exercise of options	525	1	725	-	-	-	726
Sales of common stock, net of issuance costs	4,321	5	13,994	-	-	-	13,999
Net loss	-	-	-	-	-	(53,091)	(53,091)
Other comprehensive loss	-	-	-	-	(108)	-	(108)
<b>Balance at December 31, 2022</b>	170,503	\$ 171	\$ 772,221	\$ -	(127)	\$ (682,524)	\$ 89,741
Share-based compensation expense	1,946	2	16,139	-	-	-	16,141
Exercise of options	191	-	175	-	-	-	175
Sales of common stock, net of issuance costs	22,096	22	72,230	-	-	-	72,252
Net loss	-	-	-	-	-	(82,842)	(82,842)
Other comprehensive gain	-	-	-	-	337	-	337
<b>Balance at December 31, 2023</b>	194,736	\$ 195	\$ 860,765	\$ -	210	\$ (765,366)	\$ 95,804

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

**MicroVision, Inc.**  
**Consolidated Statements of Cash Flows**  
(In thousands)

	Year Ended December 31,		
	2023	2022	2021
<b>Cash flows from operating activities</b>			
Net loss	\$ (82,842)	\$ (53,091)	\$ (43,200)
Adjustments to reconcile net loss to net cash used in operations:			
Depreciation and amortization	7,864	2,246	1,464
Impairment of property and equipment	12	64	882
Bargain purchase gain	(1,669)	-	-
Gain on disposal of fixed assets	(34)	-	-
Share-based compensation expense	16,141	15,461	15,284
Non-cash interest income	-	-	(10)
Inventory write-downs	76	87	48
Net accretion of premium on short-term investments	(1,275)	21	86
Gain on debt extinguishment	-	-	(692)
Change in:			
Accounts receivable	(949)	-	-
Inventory	(892)	(168)	(1,828)
Other current and non-current assets	(2,096)	(217)	(2,552)
Accounts payable	942	(1,737)	2,520
Accrued liabilities	6,571	888	675
Contract liabilities and other current liabilities	(6,452)	(293)	(1,319)
Operating lease liabilities	(2,500)	(1,280)	(762)
Other long-term liabilities	13	-	-
Net cash used in operating activities	<u>(67,090)</u>	<u>(38,019)</u>	<u>(29,404)</u>
<b>Cash flows from investing activities</b>			
Sales of investment securities	76,700	60,576	-
Purchases of investment securities	(41,710)	(90,158)	(32,825)
Purchases of property and equipment	(1,935)	(4,359)	(2,493)
Advance to Ibeo	-	(4,132)	-
Cash paid for Ibeo business combination	(11,233)	-	-
Net cash provided by (used in) investing activities	<u>21,822</u>	<u>(38,073)</u>	<u>(35,318)</u>
<b>Cash flows from financing activities</b>			
Principal payments under finance leases	(21)	(26)	(28)
Principal payments under long-term debt	-	(392)	(488)
Payments received on subscriptions receivable	-	-	6,135
Proceeds from stock option exercises	175	726	2,654
Net proceeds from issuance of common stock	72,284	13,999	122,891
Net cash provided by financing activities	<u>72,438</u>	<u>14,307</u>	<u>131,164</u>
Effect of exchange rate changes on cash and cash equivalents	267	-	-
Change in cash, cash equivalents, and restricted cash	27,437	(61,785)	66,442
Cash, cash equivalents, and restricted cash at beginning of period	21,954	83,739	17,297
Cash, cash equivalents, and restricted cash at end of period	<u>\$ 49,391</u>	<u>\$ 21,954</u>	<u>\$ 83,739</u>
<b>Supplemental schedule of non-cash investing and financing activities</b>			
Non-cash additions to property and equipment	<u>\$ -</u>	<u>\$ 764</u>	<u>\$ 550</u>
Accrued liability for Ibeo business combination	<u>\$ 6,300</u>	<u>\$ -</u>	<u>\$ -</u>
Acquisition of right-to-use asset operating lease	<u>\$ 1,338</u>	<u>\$ 10,184</u>	<u>\$ 5,097</u>
Accrued financing fees	<u>\$ (32)</u>	<u>\$ -</u>	<u>\$ -</u>
Currency gain in translation	<u>\$ 184</u>	<u>\$ -</u>	<u>\$ -</u>
Unrealized gain in investment securities, available-for-sale	<u>\$ 153</u>	<u>\$ (108)</u>	<u>\$ (19)</u>

The following table provides a reconciliation of the cash, cash equivalents, and restricted cash balances as of December 31, 2023, 2022 and 2021:

	Year Ended December 31,		
	2023	2022	2021
Cash and cash equivalents	\$ 45,167	\$ 20,536	\$ 82,647
Restricted cash	4,224	1,418	1,092
Cash, cash equivalents and restricted cash	<u>\$ 49,391</u>	<u>\$ 21,954</u>	<u>\$ 83,739</u>

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



**MicroVision, Inc.**  
**Notes to Consolidated Financial Statements**  
**For the year ended December 31, 2023**

## **1. THE COMPANY AND LIQUIDITY**

MicroVision, Inc. is developing and commercializing lidar sensors and software to be used in automotive safety and autonomous driving applications. Our dynamic-range lidar sensor uses our pioneering laser beam scanning (LBS) technology. Our LBS technology is based on our patented expertise in systems that include micro-electrical mechanical systems (MEMS), laser diodes, opto-mechanics, electronics, algorithms and software, and how those elements are packaged into a small form factor. This lidar sensor also utilizes edge computing and machine intelligence as part of the solution. Though automotive lidar is our priority now, we have developed solutions for Augmented Reality, Interactive Displays, and Consumer Lidars.

In the recent past, our strategy had been to sell AR displays or components, Interactive Displays, or Consumer Lidars to OEMs and ODMs for incorporation into their products. In fiscal years 2021 and 2022, our sole customer was Microsoft Corporation; in 2023, this customer accounted for a significant portion of our total revenue. Our arrangement with this customer generated royalty income; however, the volume of sales and resulting royalties from that arrangement were not significant. A few years ago, we shifted our focus to increase the value of the Company by completing development of our 1st Generation long-range lidar module to a level that would be ready to scale in the market. We believe our technology and designs for automotive lidar can be successful in the market, and our solutions will have features and performance that exceed those of competitors and will provide a sustainable strategic advantage in the market.

We completed the acquisition of Ibeo Automotive Systems GmbH (“Ibeo”) assets on January 31, 2023 pursuant to the terms and subject to the conditions of the Asset Purchase Agreement, dated December 1, 2022, and amended as of January 31, 2023, by and between our wholly owned subsidiary, MicroVision GmbH organized under the laws of The Federal Republic of Germany, and Ibeo for a purchase price of EUR 15.0 million, or approximately \$16.3 million, subject to potential reduction on the terms set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the purchase price also included advanced funds to Ibeo so that it could continue its operations while in insolvency during the period between signing and closing. Specifically, we advanced to Ibeo EUR 3.9 million, or approximately \$4.1 million in December 2022; EUR 2.7 million, or approximately \$3.0 million in January 2023; and EUR 0.6 million, or approximately \$0.7 million in February 2023 shortly after the closing. These fund advances included amounts related to headcount reductions carried out by Ibeo management, decreasing the number of employees to transfer in connection with the acquisition to approximately 250 employees. These headcount reduction costs of EUR 2.3 million, or approximately \$2.5 million, were reimbursed to MicroVision by way of deduction from the purchase price in accordance with the Asset Purchase Agreement.

We have incurred significant losses since inception and expect to incur a significant loss during the fiscal year ending December 31, 2024. We have funded our operations to date primarily through the sale of common stock, convertible preferred stock, warrants, the issuance of convertible debt and, to a lesser extent, from development contract revenues, product sales and licensing activities.

At December 31, 2023, we had total liquidity of \$73.8 million including \$45.2 million in cash and cash equivalents and \$28.6 million in short-term investment securities. As of December 31, 2023, we have approximately \$19.0 million available under an existing ATM agreement. Based on our current operating plan, we anticipate that we have sufficient cash and cash equivalents to fund our operations for at least the next 12 months. We will require additional capital to fund our operating plan past that time. We will seek to obtain additional capital through the issuance of equity or debt securities, product sales and/or licensing activities. There can be no assurance that any such efforts to obtain additional capital would be successful.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles of the United States requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from our estimates. We have identified the following areas where estimates and assumptions have been made in preparing the financial statements: business combinations, valuation of intangibles, revenue recognition, inventory valuation, valuation of share-based payments, income taxes, depreciable lives assessment and related disclosure of contingent assets and liabilities.

### Cash and cash equivalents and fair value of financial instruments

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the authoritative guidance establishes a three level fair value inputs hierarchy, and requires an entity to maximize the use of observable valuation inputs and minimize the use of unobservable inputs. We use market data, assumptions and risks we believe market participants would use in measuring the fair value of the asset or liability, including the risks inherent in the inputs and the valuation techniques.

Our financial instruments include cash and cash equivalents, investment securities, accounts receivable, accounts payable and accrued liabilities. The carrying value of our financial instruments approximates fair value due to their short maturities. Our cash equivalents are comprised of short-term highly rated (A rated securities and above) money market savings accounts.

Our short-term investment securities are primarily debt securities. The Company has classified its entire investment portfolio as available-for-sale. Available-for-sale securities are stated at fair value with unrealized gains and losses included in other comprehensive income (loss). Dividend and interest income are recognized when earned. Realized gains and losses are presented separately on the income statement.

### Principles of Consolidation

The consolidated financial statements include the accounts of MicroVision, Inc. and MicroVision GmbH. MicroVision GmbH is a wholly owned subsidiary of MicroVision, Inc. All material intercompany accounts and transactions have been eliminated in consolidation.

### Business Combination

Our business combination is accounted for under the acquisition method. We allocate the fair value of purchase consideration to the tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the acquisition date. The excess of the fair value of the underlying net assets acquired and liabilities assumed over the purchase consideration is included in bargain purchase gain in the Consolidated Statement of Operations. Such valuations require management to make significant estimates and assumptions, especially with respect to intangible assets.

### Foreign Currency Translation

The functional currency for our German operation is the Euro, which represents the currency of its primary economic environment. The results of operations for the German operation are translated from the local currency into U.S. dollars using the average exchange rates during each period. All assets and liabilities are translated using exchange rates at the end of each period, with foreign currency translation adjustments included as a component of other comprehensive loss. All equity transactions and certain assets are translated using historical rates. The consolidated financial statements are presented in U.S. dollars.

### Segment Information

We determine operating segments based on how our chief operating decision maker (“CODM”) manages the business, makes operating decisions around the allocation of resources, and evaluates operating performance. Our CODM is our Executive Management team, who reviews our operating results on a consolidated basis. We operate as one segment, which relates to sale and servicing of lidar hardware and software. The profitability of our product group is not a determining factor in allocating resources and the CODM does not evaluate profitability below the level of the consolidated company.

### Inventory

Inventory consists of raw materials, work in process and finished goods assemblies. Inventory is computed using the first-in, first-out (FIFO) method and is stated at the lower of cost and net realizable value. Management periodically assesses the need to account for obsolescence of inventory and adjusts the carrying value of inventory to its net realizable value when required.

### Intangible assets

Our intangible assets consist of acquired technology from the January 2023 Ibeo asset purchase and purchased patents. As part of the Ibeo asset acquisition, we acquired primarily two intangible assets in the form of Perception software and Reference software with a useful life of 15 years and 8 years, respectively. The estimated fair value of acquired technology was calculated through the income approach using the multi-period excess earnings and relief from royalty methodologies. The intangible assets are amortized using the straight-line method over their estimated period of benefit, ranging from one to seventeen years. Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. Recoverability of these assets is measured by comparison of their carrying values to the projected undiscounted net cash flows associated with the related intangible assets or group of assets over their remaining lives. Measurement of an impairment loss for our intangible assets is based on the difference between the fair value of the asset and its carrying value.

### Property and equipment

Property and equipment is stated at cost and depreciated over the estimated useful lives of the assets (two to five years) using the straight-line method. Our property and equipment may include assets related to future product lines. As our production needs change, we periodically assess the remaining estimated useful life of our production equipment. If necessary, we adjust the depreciation on our production equipment to reflect the remaining estimated useful life. Leasehold improvements are depreciated over the shorter of estimated useful lives or the lease term. Costs for repairs and maintenance are charged to expense as incurred and expenditures for major improvements are capitalized at cost. Gains or losses on the disposition of assets are reflected in the income statements at the time of disposal.

### Restricted cash

Restricted cash, current includes \$3.3 million related to the Ibeo asset acquisition that has been withheld from the Purchase Price and held in escrow for a maximum period of 13 months post-Closing as partial security for potential claims arising out of or in connection with the Asset Purchase Agreement.

In addition, as of December 31, 2023 and 2022, restricted cash, net of current portion was in money market savings accounts and serves as collateral for irrevocable letters of credit related to our facility lease agreements. The restricted cash balance at December 31, 2023 includes \$0.7 million related to a letter of credit that was issued in connection with a lease agreement entered into in September 2021 for our company headquarters in Redmond, Washington. The new lease commenced on December 1, 2022, and the required balance of the letter of credit periodically decreases over the term of the 120-month lease. The restricted cash balance also includes \$0.3 million related to a letter of credit that was issued in connection with a lease agreement entered into in September 2021 for our general office and lab space in Redmond, Washington, and the required balance of the letter of credit periodically decreases over the term of the 120-month lease.

### Leases

We determine if an arrangement is a lease at inception. On our balance sheet, our office lease is included in Operating lease right-of-use (ROU) asset, Current portion of operating lease liability and Operating lease liability, net of current portion. On our balance sheet, finance leases are included in Property and equipment, Current portion of finance lease obligations and Finance lease obligations, net of current portion.

ROU assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. For leases that do not provide an implicit rate, we use our incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. We use the implicit rate when readily determinable. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

Significant judgment may be required when determining whether a contract contains a lease, the length of the lease term, the allocation of the consideration in a contract between lease and non-lease components, and the determination of the discount rate included in our office lease. We review the underlying objective of each contract, the terms of the contract, and consider our current and future business conditions when making these judgments.

### Revenue recognition

The following is a description of principal activities from which we generate revenue. Revenues are recognized when control of the promised goods or services are transferred to our customers, in an amount that reflects the consideration that we expect to receive in exchange for those goods or services. We generate all of our revenue from contracts with customers.

We evaluate contracts based on the 5-step model as stated in Topic 606 as follows: (i) identify the contract, (ii) identify the performance obligations, (iii) determine the transaction price, (iv) allocate the transaction price, and (v) recognize revenue when (or as) performance obligations are satisfied.

A contract contains a promise (or promises) to transfer goods or services to a customer. A performance obligation is a promise (or a group of promises) that is distinct, as defined in the revenue standard.

The transaction price is the amount of consideration an entity expects to be entitled to from a customer in exchange for providing the goods or services. A number of factors should be considered to determine the transaction price, including whether there is variable consideration, a significant financing component, noncash consideration, or amounts payable to the customer. The determination of variable consideration will require a significant amount of judgment. In estimating the transaction price we will use either the expected value method or the most likely amount method.

The transaction price is allocated to the separate performance obligations in the contract based on relative standalone selling prices. Determining the relative standalone selling price can be challenging when goods or services are not sold on a standalone basis. The revenue standard sets out several methods that can be used to estimate a standalone selling price when one is not directly observable. Allocating discounts and variable consideration must also be considered. Allocating the transaction price can require significant judgement on our part.

Revenue is recognized when (or as) the customer obtains control of the good or service/performance obligations are satisfied. Topic 606 provides guidance to help determine if a performance obligation is satisfied at a point in time or over time. Where a performance obligation is satisfied over time, the related revenue is also recognized over time.

#### *Product revenue*

We sell our products to customers under a contract or by purchase order. We consider the sale of each individual item to be one performance obligation. The transaction price is generally either at stated product price per quantity or at a fixed amount at contract inception. Revenue is recognized under Topic 606 when the product is shipped to the customer because control passes to the customer at the point of shipment. Our product sales generally include acceptance provisions, however, because we generally can objectively determine that we have met agreed-upon customer specifications prior to shipment, control of the item passes at the time of shipment.

#### *License and royalty revenue*

We recognize revenue on upfront license fees at a point in time if the nature of the license granted is a right-to-use license, representing functional intellectual property with significant standalone functionality. If the nature of the license granted is a right-to-access license, representing symbolic intellectual property, which excludes significant standalone functionality, we recognize revenue over the period of time we have ongoing obligations under the agreement. We will recognize revenue from sales-based royalties on the basis of the quarterly reports provided by our customer as to the number of royalty-bearing products sold or otherwise distributed. In the event that reports are not received, we will estimate the number of royalty-bearing products sold by our customers.

#### *Contract revenue*

Our contract revenue in a particular period is dependent upon when we enter into a contract, the value of the contracts we have entered into, and the availability of technical resources to perform work on the contracts. We recognize contract revenue either at a point in time, or over time, depending upon the characteristics of the individual contract. If control of the deliverable(s) occur over time, the revenue is recognized in proportion to the transfer of control. If control passes to the customer only upon completion and transfer of the asset, revenue is recognized at the completion of the contract. In contracts that include significant customer acceptance provisions, we recognize revenue only upon acceptance of the deliverable(s).

We identify each performance obligation in our development contracts at contract inception. The contracts generally include product development and customization specified by the customer. In contracts with multiple performance obligations, we identify each performance obligation and evaluate whether the performance obligations are distinct within the context of the contract. Performance obligations that are not distinct at contract inception are combined.

Our development contracts are primarily fixed-fee contracts. If control of deliverables occurs over time, we recognize revenue on fixed fee contracts on the proportion of total cost expended (under Topic 606, the 'input method') to the total cost expected to complete the contract performance obligation. For contracts that require the input method for revenue recognition, the determination of the total cost expected to complete the performance obligations on fixed fee contracts involves significant judgment. We incorporate revisions to hour and cost estimates when the causal facts become known.

### *Cost of product revenue*

Cost of product revenue 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 capabilities 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. The cost of product revenue can fluctuate significantly from period to period, depending on the product mix and volume, the level of manufacturing overhead expense and the volume of direct material purchased.

### *Cost of contract revenue*

Cost of contract revenue includes both the direct and allocated indirect costs of performing on contracts and producing prototype units and evaluation kits. Direct costs include labor, materials and other costs incurred directly in producing prototype units and evaluation kits or performing on a contract. Indirect costs include labor and other costs associated with operating our research and development department and building our technical capabilities and capacity. Cost of contract revenue is determined by the level of direct and indirect costs incurred, which can fluctuate substantially from period to period.

Our overhead, which includes the costs of procuring, inspecting and storing material, and facility and depreciation costs, is allocated to inventory, cost of product revenue, cost of contract revenue, and research and development expense based on the level of effort supporting production or research and development activity.

### Concentration of credit risk and major customers and suppliers

#### *Concentration of credit risk*

Financial instruments that potentially subject us to a concentration of credit risk are primarily cash equivalents and accounts receivable. We typically do not require collateral from our customers. As of December 31, 2023, our cash and cash equivalents are comprised of short-term highly rated (A rated securities and above) money market savings accounts.

#### *Concentration of major customers and suppliers*

In 2023, one commercial customer (“Customer A”) accounted for \$4.6 million in revenue, representing 63% of our total revenue, a second commercial customer accounted for \$0.8 million in revenue, representing 11% of our total revenue and a third commercial customer accounted for \$0.4 million in revenue, representing 5% of our total revenue. In 2022, Customer A accounted for \$0.7 million in revenue, representing 100% of our total revenue. No revenue was recognized from Customer A during the second half of 2022 or the first three quarters of 2023 as no shipments of our components were reported by the customer during that period. In 2021, Customer A accounted for \$2.5 million in revenue, representing 100% of our total revenue. Subsequent to fiscal year 2023, we do not expect to recognize further revenue from Customer A, which will negatively affect our future revenue.

Typically, a significant concentration of our components and the products we have sold are manufactured and obtained from single or limited-source suppliers. The loss of any single or limited-source supplier, the failure of any of these suppliers to perform as expected, or the disruption in the supply chain of components from these suppliers could subject us to risks and uncertainties including, but not limited to, increased cost of sales, possible loss of revenues, or significant delays in product development or product deliveries, any of which could adversely affect our financial condition and operating results.

### Income taxes

Deferred tax assets and liabilities are recorded for differences between the financial statement and tax bases of the assets and liabilities that will result in taxable or deductible amounts in the future, based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is recorded for the amount of income tax payable for the period increased or decreased by the change in deferred tax assets and liabilities during the period.



### Net loss per share

Basic net loss per share is calculated using the weighted-average number of common shares outstanding during the periods. Net loss per share, assuming dilution, is calculated using the weighted-average number of common shares outstanding and the dilutive effect of all potentially dilutive securities, including common stock equivalents and convertible securities. Net loss per share, assuming dilution, is equal to basic net loss per share because the effect of dilutive securities outstanding during the periods, including options and warrants computed using the treasury stock method, is anti-dilutive.

The components of basic and diluted net loss per share were as follows (in thousands, except loss per share data):

	Year Ended December 31,		
	2023	2022	2021
Numerator:			
Net loss available for common shareholders	\$ (82,842)	\$ (53,091)	\$ (43,200)
Denominator:			
Weighted-average common shares outstanding	182,802	165,958	160,662
Net loss per share - basic and diluted	\$ (0.45)	\$ (0.32)	\$ (0.27)

During each of the years ended December 31, 2023, 2022 and 2021, we excluded the following securities from net loss per share as the effect of including them would have been anti-dilutive. The shares shown represent the number of shares of common stock which would be issued upon conversion in the respective years shown below (in thousands):

	Year Ended December 31,		
	2023	2022	2021
Options outstanding	752	945	1,533
Nonvested restricted stock units	9,983	8,866	2,625
	10,735	9,811	4,158

### Research and development

Research and development expense consists of compensation related costs of employees and contractors engaged in internal research and product development activities, direct material to support development programs, laboratory operations, outsourced development and processing work, and other operating expenses. We assign our research and development resources based on the business opportunity of the available projects, the skill mix of the resources available and the contractual commitments we have made to our customers. Research and development costs are expensed as incurred. We believe that a substantial level of continuing research and development expense will be required to further develop our technology.

### Share-based compensation

We issue share-based compensation to employees in the form of restricted stock units (RSUs), and performance stock units (PSUs) and stock options. We account for the share-based awards by recognizing the fair value of share-based compensation expense on a straight-line basis over the service period of the award, net of estimated forfeitures. The fair value of RSUs and non-executive PSUs is determined by the closing price of our common stock on the grant date. For performance-based awards, expense is recognized when it is probable the performance criteria will be achieved. If the likelihood becomes improbable that the performance criteria will be achieved, the expense is reversed. Executive PSUs that have market-based performance criteria are valued using a binomial option pricing model using the following inputs: stock price, volatility, and risk-free interest rates. Changes in estimated inputs or using other option valuation methods may result in materially different option values and share-based compensation expense. The fair value of stock options is estimated on the grant date using the Black-Scholes option pricing model.

The following table summarizes the amount of share-based compensation expense by line item on the Statement of Operations (in thousands):

	Year Ended December 31,		
	2023	2022	2021
Research and development expense	6,531	6,933	6,125
Sales, marketing, general and administrative expense	9,610	8,528	9,159
	<u>\$ 16,141</u>	<u>\$ 15,461</u>	<u>\$ 15,284</u>

#### Reclassifications

Certain reclassifications have been made to prior year financial statements to conform to classifications used in the current year. These reclassifications had no impact on net loss, shareholders' equity or cash flows, as previously reported.

### 3. BUSINESS COMBINATION

On January 31, 2023, we completed the acquisition of certain net assets of Ibeo, a lidar hardware and software provider based in Hamburg, Germany. The purpose of the acquisition was to acquire certain Ibeo assets, primarily intellectual property, and personnel, to enable us to expand our technology and product portfolio and diversify our revenue profile.

Total consideration related to this transaction was approximately EUR 20.0 million or \$21.6 million, consisting of approximately (i) EUR 7.0 million or \$7.6 million in cash paid at closing, (ii) EUR 6.6 million or \$7.1 million in cash advanced to Ibeo prior to closing, (iii) EUR 3.0 million or \$3.3 million held in escrow for 13 months to be available to cover properly established claims by MicroVision, (iv) EUR 0.6 million or \$0.7 million in costs paid on behalf of the seller, and (v) EUR 2.7 million or approximately \$3.0 million after calculating the deduction in purchase price agreed between both the parties. The remaining balance of approximately EUR 2.7 million is expected to be paid during the first quarter of 2024. In addition, we incurred \$0.6 million of acquisition-related costs associated with the acquisition during the twelve months ended December 31, 2023, which were included in Sales, marketing, general and administrative expense. We incurred \$0.5 million of acquisition-related costs associated with the acquisition during the three twelve months ended December 31, 2022.

The accrued liability for Ibeo business combination on our balance sheet in the amount of \$6.3 million includes \$3.3 million that was withheld from the Purchase Price and held in escrow for a maximum period of 13 months post-Closing as partial security for potential claims arising out of or in connection with the Asset Purchase Agreement is intended to be released and \$3.0 million holdback amount that is expected to be paid in first quarter of 2024.

The transaction has been accounted for as a business combination. The results of operations for the acquisition are included in our consolidated financial statements from the date of acquisition onwards.

The following table summarizes the final purchase price allocation to assets acquired and liabilities assumed (in thousands):

	Amount	Weighted Average Useful Life (in years)
Purchase consideration:		
Cash paid at closing <sup>(1)</sup>	\$ 8,245	
Payable to Ibeo <sup>(2)</sup>	6,246	
Advances to Ibeo <sup>(3)</sup>	7,120	
Total purchase consideration	<u>\$ 21,611</u>	
Inventory	\$ 1,197	
Other current assets	703	
Operating lease right-of-use asset	234	
Property and equipment, net	5,330	
Intangible assets:		
Acquired technology	17,987	13
Order backlog	26	1
Contract liabilities	(1,178)	
Operating lease liabilities	(234)	
Deferred tax liabilities	(785)	
Total identifiable net assets	<u>\$ 23,280</u>	
Bargain purchase gain <sup>(4)</sup>	(1,669)	

(1) Represents \$7.6 million in cash paid at closing and \$0.7 million in cash paid shortly after close.

(2) Recorded as accrued liability to Ibeo in our consolidated balance sheet. Pursuant to the terms of the Asset Purchase Agreement, \$3.3 million will be withheld from the Purchase Price and held in escrow for a maximum period of 13 months post-closing as partial security for potential claims arising out of or in connection with the Asset Purchase Agreement and \$3.0 million holdback amount is expected to be paid in first quarter of 2024.

(3) Represents \$4.1 million and \$3.0 million in cash advanced to Ibeo in December 2022 and January 2023, respectively.

(4) The bargain purchase gain represents the excess of the fair value of the underlying net assets acquired and liabilities assumed over the purchase consideration and is included in bargain purchase gain in the Consolidated Statement of Operations. The bargain purchase gain was attributable to the negotiation process with Ibeo during its insolvency proceedings resulting in cash consideration paid being less than the fair value of the net assets acquired.

The estimated fair value of acquired technology was calculated through the income approach using the multi-period excess earnings and relief from royalty methodologies. The estimated fair value of the order backlog was calculated through the income approach using the multi-period excess earnings methodology.

#### *Supplemental Unaudited Pro Forma Information*

The below unaudited pro forma financial information summarizes the combined results of operations for the Company and Ibeo as if the acquisition had been completed on January 1, 2022. The unaudited pro forma information presented below is for informational purposes only and is not necessarily indicative of our consolidated results of operations of the combined business had the acquisition actually occurred at the beginning of fiscal year 2022 or the results of our future operations of the combined businesses. Nonrecurring pro forma adjustments include:

- Recognition of the bargain purchase gain as if incurred in the first quarter of 2022;
- Acquisition-related costs of \$1.1 million are assumed to have been incurred on January 1, 2022.

The following table summarizes the unaudited pro forma results (in thousands):

	Year Ended December 31,	
	2023	2022
Total revenue	\$ 7,808	6,957
Net loss	(80,243)	(115,786)

#### **4. REVENUE RECOGNITION**

The following is a description of principal activities from which we generate revenue. Revenues are recognized when control of the promised goods or services are transferred to our customers, in an amount that reflects the consideration that we expect to receive in exchange for those goods or services. We generate all of our revenue from contracts with customers.

We evaluate contracts based on the 5-step model as stated in Topic 606 as follows: (i) identify the contract, (ii) identify the performance obligations, (iii) determine the transaction price, (iv) allocate the transaction price, and (v) recognize revenue when (or as) performance obligations are satisfied.

A contract contains a promise (or promises) to transfer goods or services to a customer. A performance obligation is a promise (or a group of promises) that is distinct, as defined in the revenue standard.

The transaction price is the amount of consideration an entity expects to be entitled to from a customer in exchange for providing the goods or services. A number of factors should be considered to determine the transaction price, including whether there is variable consideration, a significant financing component, noncash consideration, or amounts payable to the customer. The determination of variable consideration will require a significant amount of judgment. In estimating the transaction price we will use either the expected value method or the most likely amount method.

The transaction price is allocated to the separate performance obligations in the contract based on relative standalone selling prices. Determining the relative standalone selling price can be challenging when goods or services are not sold on a standalone basis. The revenue standard sets out several methods that can be used to estimate a standalone selling price when one is not directly observable. Allocating discounts and variable consideration must also be considered. Allocating the transaction price can require significant judgement on our part.

Revenue is recognized when (or as) the customer obtains control of the good or service/performance obligations are satisfied. Topic 606 provides guidance to help determine if a performance obligation is satisfied at a point in time or over time. Where a performance obligation is satisfied over time, the related revenue is also recognized over time.

### **Disaggregation of revenue**

The following table provides information about disaggregated revenue by timing of revenue recognition, (in thousands):

	<b>Year Ended December 31, 2023</b>			
	<b>Product revenue</b>	<b>License and royalty revenue</b>	<b>Contract revenue</b>	<b>Total</b>
Timing of revenue recognition:				
Products transferred at a point in time	\$ 1,019	4,888	1,106	\$ 7,013
Product and services transferred over time	-	-	246	246
Total	<u>\$ 1,019</u>	<u>\$ 4,888</u>	<u>\$ 1,352</u>	<u>\$ 7,259</u>
	<b>Year Ended December 31, 2022</b>			
	<b>Product revenue</b>	<b>License and royalty revenue</b>	<b>Contract revenue</b>	<b>Total</b>
Timing of revenue recognition:				
Products transferred at a point in time	\$ -	\$ 664	\$ -	\$ 664
Product and services transferred over time	-	-	-	-
Total	<u>\$ -</u>	<u>\$ 664</u>	<u>\$ -</u>	<u>\$ 664</u>
	<b>Year Ended December 31, 2021</b>			
	<b>Product revenue</b>	<b>License and royalty revenue</b>	<b>Contract revenue</b>	<b>Total</b>
Timing of revenue recognition:				
Products transferred at a point in time	\$ -	\$ 2,500	\$ -	\$ 2,500
Product and services transferred over time	-	-	-	-
Total	<u>\$ -</u>	<u>\$ 2,500</u>	<u>\$ -</u>	<u>\$ 2,500</u>

### Contract balances

The following table provides information about receivables, contract assets, and contract liabilities from contracts with customers (in thousands):

	<u>2023</u>	<u>December 31, 2022</u>	<u>2021</u>
Accounts receivable, net	\$ 949	\$ -	\$ -
Accrued liabilities	-	-	-
Contract liabilities	300	4,601	5,265

Under Topic 606, our rights to consideration are presented separately depending on whether those rights are conditional or unconditional. We present our unconditional rights to consideration as “accounts receivable” in our Balance Sheet.

Significant changes in the contract assets and the contract liabilities balances during the period are as follows (in thousands, except percentages):

	<u>December 31, 2023</u>	<u>December 31, 2022</u>	<u>\$ Change</u>	<u>% Change</u>
Contract assets	\$ 949	\$ -	\$ 949	-
Contract liabilities	(300)	(4,601)	4,301	93.5
Net contract assets (liabilities)	<u>\$ 649</u>	<u>\$ (4,601)</u>	<u>\$ 5,250</u>	<u>114.1</u>

In April 2017, we signed a contract with Microsoft Corporation to develop an LBS display system; the contract terminated effective December 31, 2023. Under the agreement, we received an upfront payment of \$10.0 million. As of December 31, 2022, we had applied \$5.4 million against the contract liability. During the year ended December 31, 2023, we applied the remaining \$4.6 million against the contract liability with this customer since we believe the likelihood of further deliveries under the contract is remote. We do not expect to recognize any further revenue in connection with this contract.

### Contract acquisition costs

We are required to capitalize certain contract acquisition costs consisting primarily of commissions paid when contracts are signed. We currently do not pay any commissions upon the signing of a contract; therefore, no commission cost has been incurred as of December 31, 2023.

In connection with our January 2023 acquisition of assets from Ibeo, we assumed contract liabilities totaling approximately \$1.2 million. During the twelve months ended December 31, 2023, we recognized revenue totaling \$1.0 million against the contract liability.

### Transaction price allocated to the remaining performance obligations

The following table provides information about the estimated timing of revenue recognition (in thousands):

	<u>2024</u>	<u>2025</u>
Revenue	\$ 300	\$ -

## 5. INVESTMENT SECURITIES, AVAILABLE-FOR-SALE AND FAIR VALUE MEASUREMENTS

Our investment securities, available-for-sale are comprised of corporate debt securities. The principal markets for the debt securities are dealer markets which have a high level of price transparency. The market participants for debt securities are typically large money center banks and regional banks, brokers, dealers, pension funds, and other entities with debt investment portfolios.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the authoritative guidance establishes a three level fair value inputs hierarchy and requires an entity to maximize the use of observable valuation inputs and minimize the use of unobservable inputs. We use market data, assumptions and risks we believe market participants would use in measuring the fair value of the asset or liability, including the risks inherent in the inputs and the valuation techniques. The hierarchy is summarized below.

Level 1 – Quoted prices in active markets for identical assets and liabilities at the measurement date that the reporting entity has the ability to access.

Level 2 – Observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.

Level 3 – Unobservable inputs for which there is little or no market data, which requires us to develop our own assumptions, which are significant to the measurement of the fair values.

The valuation inputs hierarchy classification for assets measured at fair value on a recurring basis are summarized below as of December 31, 2023 and 2022 (in thousands). These tables do not include cash held in our money market savings accounts.

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
<b>As of December 31, 2023</b>				
Assets				
Corporate debt securities	\$ -	\$ 8,471	\$ -	\$ 8,471
U.S. Treasury securities	-	20,140	-	20,140
	<u>\$ -</u>	<u>\$ 28,611</u>	<u>\$ -</u>	<u>\$ 28,611</u>

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
<b>As of December 31, 2022</b>				
Assets				
Corporate debt securities	\$ -	\$ 15,500	\$ -	\$ 15,500
U.S. Treasury securities	-	46,673	-	46,673
	<u>\$ -</u>	<u>\$ 62,173</u>	<u>\$ -</u>	<u>\$ 62,173</u>

Our short-term investments are summarized below as of December 31, 2023 and 2022 (in thousands).

	<u>Cost/ Amortized Cost</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Investment Securities, Available- For-Sale</u>
<b>As of December 31, 2023</b>				
Assets				
Corporate debt securities	\$ 8,466	\$ 6	\$ (1)	\$ 8,471
U.S. Treasury securities	20,119	21	-	20,140
	<u>\$ 28,585</u>	<u>\$ 27</u>	<u>\$ (1)</u>	<u>\$ 28,611</u>

	<u>Cost/ Amortized Cost</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Investment Securities, Available- For-Sale</u>
<b>As of December 31, 2022</b>				
Assets				
Corporate debt securities	\$ 15,538	\$ -	\$ (38)	\$ 15,500
U.S. Treasury securities	46,762	2	(91)	46,673
	<u>\$ 62,300</u>	<u>\$ 2</u>	<u>\$ (129)</u>	<u>\$ 62,173</u>

The maturities of the investment securities available-for-sale as of December 31, 2023 and 2022 are shown below (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
<b>As of December 31, 2023</b>				
Maturity date				
Less than one year	\$ 28,585	\$ 27	\$ (1)	\$ 28,611
<b>As of December 31, 2022</b>				
Less than one year	\$ 62,300	\$ 2	\$ (129)	\$ 62,173

The following table summarizes investments that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for more than 12 months as of December 31, 2023 and 2022 (in thousands):

	Less than Twelve Months		Twelve Months or Greater		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
<b>As of December 31, 2023</b>						
Corporate debt securities	\$ 1,488	\$ (1)	\$ -	\$ -	1,488	(1)
U.S. Treasury securities	1,486	-	-	-	1,486	-
	<u>\$ 2,974</u>	<u>\$ (1)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,974</u>	<u>\$ (1)</u>
<b>As of December 31, 2022</b>						
Corporate debt securities	\$ 12,295	\$ (38)	\$ -	\$ -	12,295	(38)
U.S. Treasury securities	34,530	(91)	-	-	34,530	(91)
	<u>\$ 46,825</u>	<u>\$ (129)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 46,825</u>	<u>\$ (129)</u>

## 6. INVENTORY

Inventory consists of the following (in thousands):

	December 31,	
	2023	2022
Raw materials	\$ 1,574	\$ 1,556
Work in process	305	305
Finished Goods	1,995	-
	<u>\$ 3,874</u>	<u>\$ 1,861</u>

## 7. PROPERTY AND EQUIPMENT

Property and equipment consists of the following (in thousands):

	December 31,	
	2023	2022
Production equipment	\$ 6,140	\$ 6,140
Leasehold improvements	3,843	3,789
Computer hardware and software/lab equipment	12,149	10,515
Office furniture and equipment	5,367	1,804
	<u>27,499</u>	<u>22,248</u>
Less: Accumulated depreciation	(18,467)	(15,418)
	<u>\$ 9,032</u>	<u>\$ 6,830</u>

Depreciation expense was \$3.1 million in 2023, \$0.7 million in 2022 and \$0.9 million in 2021.

## 8. INTANGIBLE ASSETS

The components of intangible assets were as follows:

As of December 31, 2023 (in thousands)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Weighted Average Remaining Period (Years)
Acquired technology	\$ 20,172	\$ 2,940	\$ 17,232	12
Backlog	26	23	3	-
	<u>\$ 20,198</u>	<u>\$ 2,963</u>	<u>\$ 17,235</u>	

As of December 31, 2022 (in thousands)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Weighted Average Remaining Period (Years)
Acquired technology	\$ 951	\$ 876	\$ 75	4
	<u>\$ 951</u>	<u>\$ 876</u>	<u>\$ 75</u>	

Amortization expense was \$2.1 million in 2023, \$0.0 million in 2022 and \$0.0 million in 2021.

The following table outlines our estimated future amortization expense related to intangible assets held at December 31, 2023 (in thousands):

Years Ended December 31,	Cost of Revenue	Research and Development Expense	Total
2024	\$ 1,548	584	\$ 2,132
2025	1,548	54	1,602
2026	1,548	25	1,573
2027	1,508	-	1,508
Thereafter	10,420	-	10,420
	<u>\$ 16,572</u>	<u>\$ 663</u>	<u>\$ 17,235</u>

## 9. ACCRUED LIABILITIES

Accrued liabilities consists of the following (in thousands):

	December 31,	
	2023	2022
Bonuses	\$ 1,359	\$ 537
Payroll and payroll taxes	3,704	766
Income taxes payable	2,111	-
Accrued professional fees	236	378
Liabilities to suppliers	885	130
Other	345	247
	<u>\$ 8,640</u>	<u>\$ 2,058</u>

In addition, the accrued liability for Ibeo business combination on our balance sheet in the amount of \$6.3 million includes \$3.3 million that was withheld from the Purchase Price and held in escrow for a maximum period of 13 months post-Closing as partial security for potential claims arising out of or in connection with the Asset Purchase Agreement and \$3.0 million holdback amount that is expected to be paid in first quarter of 2024.

## 10. COMMON STOCK

In August 2023, we entered into a \$35.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement, we are able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$35.0 million through Craig-Hallum. As of December 31, 2023, we had completed sales under such sales agreement, having sold 6.1 million shares for net proceeds of \$15.5 million. As of December 31, 2023, we have approximately \$19.0 million available under this ATM agreement.



In June 2023, we entered into a \$45.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement, we were able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$45.0 million through Craig-Hallum. As of June 30, 2023, we had completed sales under such sales agreement, having sold 10.9 million shares for net proceeds of \$43.9 million. No further shares are available for sales under this agreement.

In June 2021, we entered into a \$140.0 million ATM equity offering agreement with Craig-Hallum. Under the agreement we were able, at our discretion, to offer and sell shares of our common stock having an aggregate value of up to \$140.0 million through Craig-Hallum. As of December 31, 2022, we had issued 8.3 million shares of our common stock for net proceeds of \$81.8 million under this ATM agreement. During the quarter ended March 31, 2023, we issued 5.0 million shares of our common stock for net proceeds of \$12.5 million under the agreement. The sales agreement was terminated in June 2023.

## 11. SHARE-BASED COMPENSATION

We use the straight-line attribution method to allocate the fair value of share-based compensation awards over the requisite service period for each award. The valuation of and accounting for share-based awards includes a number of complex and subjective estimates. These estimates include, but are not limited to, the future volatility of our stock price, future stock option exercise behaviors, estimated employee turnover, and award forfeiture rates.

### Description of Incentive Plan

Our 2022 Incentive Plan has 20.0 million shares authorized, which includes 3.5 million shares not issued pursuant to any awards granted under the 2020 Incentive Plan. There were 9.4 million shares available for awards as of December 31, 2023.

### Options Valuation Methodology and Assumptions

We use the Black-Scholes option valuation model to determine the fair value of options granted and use the closing price of our common stock as the fair market value of our stock on that date.

We consider historical stock price volatilities, volatilities of similar companies and other factors in determining estimates of future volatilities.

We use historical lives, including post-termination exercise behavior, as the basis for estimating expected lives.

Risk-free rates are based on the U.S. Treasury Yield Curve, as published by the U.S. Treasury.

The following table summarizes the weighted-average valuation assumptions and weighted-average grant date fair value of options granted during the periods shown below:

Assumptions (weighted-average)	Year Ended December 31,		
	2023	2022	2021
Volatility	0%	0%	120%
Expected term (in years)	-	-	4.0
Risk-free rate	0.0%	0.0%	0.9%
Expected dividends	0.0%	0.0%	0.0%
Pre-vest forfeiture rate	0.0%	0.0%	8.5%
Grant date fair value of options granted	\$ -	\$ -	\$ 11.72

## Options Activity and Positions

The following table summarizes activity and positions with respect to options for the periods shown below (in thousands):

Options	Shares	Weighted-average exercise price	Weighted-average remaining contractual term (in years)	Aggregate intrinsic value
Outstanding as of December 31, 2020	3,281	1.51	6.6	\$ 12,784
Granted	8	14.04		
Exercised	(1,519)	1.75		
Forfeited or expired	(237)	1.23		
Outstanding as of December 31, 2021	1,533	1.37	5.6	\$ 5,645
Granted	-	-		
Exercised	(525)	1.38		
Forfeited or expired	(63)	3.00		
Outstanding as of December 31, 2022	945	1.26	5.7	\$ 1,137
Granted	-	-		
Exercised	(191)	0.92		
Forfeited or expired	(2)	0.28		
Outstanding as of December 31, 2023	752	\$ 1.35	4.6	\$ 1,083
Vested and expected to vest as of December 31, 2023	752	\$ 1.35	4.6	\$ 1,083
Exercisable as of December 31, 2023	752	\$ 1.35	4.6	\$ 1,083

The total grant date fair value of options vested during the years ended December 31, 2023, 2022 and 2021 was \$0, \$0.1 million and \$0.5 million, respectively. As of December 31, 2023, we have no unrecognized share-based compensation related to options.

## Restricted stock activity and positions

The following table summarizes activity and positions with respect to RSUs and PSUs for the three years ended December 31, 2023 (in thousands):

	Shares	Weighted-average price
Unvested as of December 31, 2020	1,983	\$ 0.76
Granted	4,179	12.92
Vested	(2,380)	3.11
Forfeited	(1,157)	11.97
Unvested as of December 31, 2021	2,625	13.05
Granted	9,180	2.46
Vested	(1,391)	9.16
Forfeited	(1,548)	6.42
Unvested as of December 31, 2022	8,866	3.85
Granted	3,491	3.89
Vested	(1,872)	6.98
Forfeited	(502)	7.47
Unvested as of December 31, 2023	9,983	\$ 3.09

In 2023, we issued 2.6 million PSUs to non-executive employees subject to the achievement of development goals. These shares are liabilities subject to mark-to-market accounting as the number of shares was not fixed when issued. One-third of these shares will vest in connection with 2023 achievement of the milestones and the remaining two-thirds will vest over two years from June 30, 2023.

In 2023, we issued 0.1 million shares for the partial achievement of internal performance milestones during the fourth quarter of 2022. These shares were valued based on the closing price of our common stock on the dates of grant and vest quarterly over two years. We had canceled 0.4 million PSUs in the fourth quarter of 2022 related to the same internal performance milestones.

In 2023, we issued 0.6 million time-based RSUs to non-executive employees for promotion, retention, and new hire grants. These shares were valued based on the closing price of our common stock on the dates of grant. These shares vest over three or four years from the date of grant.

In 2023, we issued 0.3 million time-based RSUs to independent directors for annual equity compensation. These shares were valued based on the closing price of our common stock on the dates of grant. These shares vest quarterly, with the final installment vesting the earlier of the one year anniversary of the grant date or the day before the next annual meeting.

In June 2022, we issued 6.0 million PSUs to our executive officers. The PSUs are subject to the achievement of performance goals and time-based vesting. The PSUs will become eligible to vest if the closing price of our common stock reaches or exceeds specified price thresholds for at least 20 consecutive trading days during the performance period through December 31, 2025. If the performance goals are met, the portion of the PSUs deemed earned will become subject to time-based vesting in equal quarterly installments over two years starting from the date on which the goal is achieved. These PSUs were valued using a Monte Carlo simulation model using the following inputs: stock price, volatility, and risk-free interest rates.

In 2022, we issued 2.4 million PSUs to non-executive employees subject to the achievement of development goals. These shares were valued based on the closing price of our common stock on the dates of grant. These shares vest quarterly over two years from the achievement of established performance criteria. We canceled 0.4 million PSUs in the fourth quarter of 2022 and re-issued 0.1 million PSUs in the first quarter of 2023 due to partial achievement of internal performance milestones.

In 2022, we issued 0.6 million time-based RSUs to non-executive employees for promotion, retention, and new hire grants. These shares were valued based on the closing price of our common stock on the dates of grant. These shares vest over three or four years from the date of grant.

In 2021, an equity award was granted to the Chief Executive Officer in the form of 1.2 million restricted stock units. These shares were valued based on the closing price of our common stock on the dates of grant. On the date of grant, 0.3 million shares vested immediately, 0.3 million vested in April 2022 and subsequent grants of 0.3 million RSUs will be made on an annual basis in each of April 2023 and April 2024.

In 2021, we issued 1.5 million shares of performance stock units to non-executive employees. These shares were valued based on the closing price of our common stock on the dates of grant. The shares vest one-eighth upon achievement of performance milestones with the remainder vesting quarterly over the following seven quarters. In 2021, 1.1 million of the performance stock units were canceled because of modifications to or failure to achieve performance milestones.

In 2021, we issued 1.1 million RSUs to non-executive employees for promotion, retention and new hire grants. These shares were valued based on the closing price of our common stock on the dates of grant. These shares vest annually over one to four years from the date of grant.

As of December 31, 2023, our unrecognized share-based compensation related to RSUs was \$5.0 million, which we plan to expense over the next 1.6 years, our unrecognized share-based compensation related to executive PSUs was \$5.1 million, which we plan to expense over the next 1.8 years, and our unrecognized share-based compensation related to the non-executive PSUs was \$3.3 million, which we plan to expense over the next 1.0 year.

## **12. LEASES**

We lease our office space and certain equipment under finance and operating leases. Our leases have remaining lease terms of one to ten years. Our office lease agreement includes both lease and non-lease components, which are accounted for separately. Our finance leases contain options to purchase the leased property. The depreciable life of assets and leasehold improvements are limited by the expected lease term, unless we are reasonably certain to exercise the purchase option.

In September 2021, we entered into an office lease with Redmond East Office Park LLC, a Washington limited liability company, pursuant to which we will lease approximately 16,681 square feet of space located in Redmond, Washington that we will use primarily for general office space. The lease provides for an initial term of 128 months that commenced November 1, 2021. Pursuant to the lease, annual base rent was approximately \$0.5 million for the first year and is subject to annual increases of 3.0%. In addition to base rent, we pay additional rent comprised of our proportionate share of any operating expenses, real estate taxes, and management fees. We have the option to extend the term for one ten-year renewal period, provided that the rent would be subject to market adjustment at the beginning of the renewal term. The total minimum lease payments related to this lease is \$6.4 million.

In September 2021, we entered into a second office lease with Redmond East Office Park LLC, pursuant to which we will lease approximately 36,062 square feet of space located in Redmond, Washington that we will use primarily for product testing and lab space. The lease provides for an initial term of 120 months that commenced on December 1, 2022. Pursuant to the lease, annual base rent will be approximately \$1.1 million for the first year and is subject to annual increases of 3.0%. In addition to base rent, we will pay additional rent comprised of our proportionate share of any operating expenses, real estate taxes, and management fees. We have the option to extend the term for one ten-year renewal period, provided that the rent would be subject to market adjustment at the beginning of the renewal term. The total minimum lease payments related to this lease are \$13.0 million. During the quarter ended June 30, 2023, we received a payment of \$3.0 million as an incentive to terminate our previous building lease. The gain is recorded as other income in our statement of operations.

In April 2022, we entered into an office lease with Universal-Investment-Gesellschaft mbH, a German investment company, pursuant to which we lease approximately 3,533 square feet of space located in Nuremberg, Germany that we use primarily for general office space for business development activities. The lease provides for a term of 60 months that commenced May 1, 2022. Pursuant to the lease, annual base rent is approximately \$76,000 per year. The total minimum lease payments related to this lease is approximately \$0.4 million.

In September 2022, we entered into a second office lease with Universal-Investment-Gesellschaft GmbH, a German investment company, pursuant to which we lease approximately 3,810 square feet of space located in Nuremberg, Germany that we use primarily for product testing for engineering and development activities. The lease provides for a term of 60 months that commenced November 15, 2022. Pursuant to the lease, annual base rent is approximately \$92,000 per year. The total minimum lease payments related to this lease is approximately \$0.5 million.

In connection with our January 2023 acquisition of assets from Ibeo, we assumed three leases in Hamburg, Germany covering approximately 51,000 square feet.

One lease is with IntReal International Real Estate Kapitalverwaltungsgesellschaft and covers approximately 5,511 square feet of space for IT network equipment through December 31, 2026. Pursuant to the lease, annual base rent is approximately \$65,000 per year. The total remaining minimum lease payments related to this lease are approximately \$0.3 million. During the quarter ended March 31, 2023, we recorded a right-of-use asset in the amount of \$0.2 million on our balance sheet. A second lease is with Neuer Holtigbaum and covers approximately 32,529 square feet of office space and long-range laser testing space through August 2023. During the quarter ended September 30, 2023, we amended this lease and extended until August 2024. The total remaining minimum lease payments related to this lease are approximately \$0.2 million. The third lease is with BG BAU Berufsgenossenschaft der Bauwirtschaft and covers approximately 13,127 square feet of garage space to house our test and demonstration vehicles through July 31, 2024. The total remaining minimum lease payments related to this lease are approximately \$0.1 million.

In December 2023, we entered into a lease on approximately 60,000 square feet of space located in central Hamburg in Germany. This lease is intended to replace the office space described in the immediately preceding paragraph. The lease provides for a term of 60 months and will commence on the date the property is delivered to us, which is expected to occur between August 1, 2024 and December 31, 2024.

The components of lease expense were as follows:

<i>(in thousands)</i>	Year Ended December 31,		
	2023	2022	2021
Operating lease expense	\$ 2,625	\$ 1,501	\$ 513
Finance lease expense:			
Amortization of leased assets	21	26	30
Interest on lease liabilities	-	2	3
Total finance lease expense	21	28	33
Total lease expense	\$ 2,646	\$ 1,529	\$ 546

Supplemental cash flow information related to leases was as follows:

<i>(in thousands)</i>	<b>Year Ended December 31,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
<b>Cash paid for amounts included in measurement of lease liabilities:</b>			
Operating cash flows from operating leases	\$ 2,500	\$ 1,280	\$ 762
Operating cash flows from finance leases	-	2	3
Financing cash flows from finance leases	21	26	28
<b>Right-of-use assets obtained in exchange for new lease obligations:</b>			
Operating leases	\$ 1,338	\$ 10,184	\$ 5,322

Supplemental balance sheet information related to leases was as follows:

<i>(in thousands)</i>	<b>December 31,</b>	
	<b>2023</b>	<b>2022</b>
<b>Operating leases</b>		
Operating lease right-of-use assets	\$ 13,758	\$ 14,579
Current portion of operating lease liability	2,323	1,846
Operating lease liability, net of current portion	12,714	13,829
Total operating lease liabilities	\$ 15,037	\$ 15,675
<b>Finance leases</b>		
Property and equipment, at cost	\$ 112	\$ 112
Accumulated depreciation	(97)	(80)
Property and equipment, net	\$ 15	\$ 32
Current portion of finance lease obligations	\$ -	\$ 21
Finance lease obligations, net of current portion	-	-
Total finance lease liabilities	\$ -	\$ 21
<b>Weighted Average Remaining Lease Term</b>		
Operating leases	8.4 years	13.1 years
Finance leases	-	0.5 years
<b>Weighted Average Discount Rate</b>		
Operating leases	4.6%	9.0%
Finance leases	0.0%	6.3%

As of December 31, 2023, maturities of lease liabilities were as follows:

<i>(in thousands)</i>	<b>Operating leases</b>	<b>Finance leases</b>
<b>Years Ended December 31,</b>		
2024	2,373	-
2025	2,019	-
2026	2,032	-
2027	1,971	-
Thereafter	9,663	-
Total minimum lease payments	18,058	-
Less: amount representing interest	(3,021)	-
Present value of lease liabilities	<u>\$ 15,037</u>	<u>\$ -</u>

### 13. COMMITMENTS AND CONTINGENCIES

#### Purchase commitments

During the quarter ended September 30, 2023, we entered into a \$9.3 million purchase commitment with a contract manufacturing partner for the production of MOVIA sensor inventory to support direct sales to both automotive and non-automotive customers. We made a payment of \$3.1 million during the third quarter and expect to make the remaining future payments by the end of the second quarter of 2024 based on an agreed sensor delivery schedule.

#### Litigation

We are subject to various claims and pending or threatened lawsuits in the normal course of business. We are not currently party to any legal proceedings that management believes are reasonably possible to have a material adverse effect on our financial position, results of operations or cash flows.

### 14. INCOME TAXES

Components of income (loss) before income taxes (in thousands):

	<b>Year Ended December 31,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
United States	\$ (86,730)	\$ (53,091)	\$ (43,200)
Foreign	5,034	-	-
Total	<u>\$ (81,696)</u>	<u>\$ (53,091)</u>	<u>\$ (43,200)</u>

Components of income tax expense (benefit) (in thousands):

	<b>Year Ended December 31,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
<b>Current</b>			
Federal	\$ -	\$ -	\$ -
State	-	-	-
International	2,061	-	-
Total Current Tax Expense	<u>2,061</u>	<u>-</u>	<u>-</u>
<b>Deferred</b>			
Federal	-	-	-
State	-	-	-
International	(915)	-	-
Total Deferred Tax Expense	<u>(915)</u>	<u>-</u>	<u>-</u>
Total Tax Expense	<u>\$ 1,146</u>	<u>\$ -</u>	<u>\$ -</u>

The effective tax rate of our provision (benefit) for income taxes differs from the Federal statutory rate as follows:

	<b>Year Ended December 31,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
Statutory rate	21.0%	21.0%	21.0%
Permanent Items and adjustments	0.1%	0.0%	0.0%
Compensation related	(0.4)%	(0.5)%	(8.2)%
Share-based compensation	(1.7)%	(2.2)%	25.1%
Net operating loss expiration	(6.3)%	(9.0)%	(16.2)%
Tax credits	1.0%	1.5%	1.4%
Change in valuation allowance	(15.0)%	(10.8)%	(23.1)%
Bargain Purchase gain	0.9%	0.0%	0.0%
Other	(1.0)%	0.0%	0.0%
Total	<u>(1.4)%</u>	<u>0.0%</u>	<u>0.0%</u>

Deferred tax assets are summarized as follows (in thousands):

	December 31,	
	2023	2022
Deferred tax assets		
Reserves	\$ 632	\$ 651
Net operating loss carryforwards	97,254	92,469
R&D credit carryforwards	10,114	9,628
Depreciation/amortization deferred	26,079	19,787
Operating lease liabilities	3,878	3,292
Other	7,833	7,360
Total deferred tax assets	<u>145,790</u>	<u>133,187</u>
Deferred tax liabilities:		
Operating lease right-of-use assets	(3,272)	(3,062)
Total deferred tax liabilities	<u>(3,272)</u>	<u>(3,062)</u>
Net valuation allowances	<u>(142,376)</u>	<u>(130,125)</u>
Deferred tax assets	<u>\$ 142</u>	<u>\$ -</u>

As of December 31, 2023, we maintained a valuation allowance of \$142.4 million for our deferred tax assets that we believe are not more likely than not to be realized.

As of December 31, 2023, we have net operating loss carryforwards of approximately \$463.1 million for federal income tax reporting purposes. In addition, we have research and development tax credits of \$10.1 million. During 2023, \$23.1 million federal net operating losses and \$0.3 million general business credits expired unused. A majority of the net operating loss carryforwards and research and development credits available to offset future taxable income, if any, will expire in varying amounts from 2024 to 2043, if not previously used.

Certain net operating losses arise from the deductibility for tax purposes of compensation under nonqualified stock options equal to the difference between the fair value of the stock on the date of exercise and the exercise price of the options. For financial reporting purposes, the tax effect of this deduction, when recognized, is accounted for as an income tax benefit.

In certain circumstances, as specified in the Internal Revenue Code, a 50% or more ownership change by certain combinations of our shareholders during any three-year period would result in limitations on our ability to use a portion of our net operating loss carryforwards.

We had no unrecognized tax benefits at December 31, 2023 or 2022.

We recognize interest accrued and penalties related to unrecognized tax benefits in tax expense. During the years ended December 31, 2023, 2022 and 2021 we recognized no interest or penalties.

We file income tax returns in the U.S. federal jurisdiction, Oregon and in Germany. Due to our operating loss and credit carryforwards, the U.S. federal statute of limitations remains open for 1998 and onward. Tax years 2022 and forward remain open in Germany.

## 15. RETIREMENT SAVINGS PLAN

We have a retirement savings plan that qualifies under Internal Revenue Code Section 401(k). The plan covers all qualified employees. Contributions to the plan are made at the discretion of our Board of Directors. During the years ended December 31, 2023, 2022 and 2021 we contributed \$0.5 million, \$0.4 million and \$0.3 million to the plan, respectively.

## ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

There have been no changes in or disagreements with accountants on accounting or financial disclosure matters during our fiscal years ended December 31, 2023, 2022 and 2021.

### ITEM 9A. CONTROLS AND PROCEDURES

(a) *Evaluation of Disclosure Controls and Procedures.* Our Chief Executive Officer (CEO) and the Chief Financial Officer (CFO) evaluated our disclosure controls and procedures (as defined in Rules 13a-15(e)) under the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), prior to the filing of this Form 10-K. Based upon that evaluation, our CEO and CFO concluded that, as of December 31, 2023, our disclosure controls and procedures were effective.

(b) *Management’s Report on Internal Control Over Financial Reporting.* Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f). Our management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on its evaluation under the framework in *Internal Control — Integrated Framework (2013)*, our management concluded that our internal control over financial reporting was effective as of December 31, 2023.

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

(d) *Changes in Internal Control Over Financial Reporting.* We completed the acquisition of Ibeo assets on January 31, 2023. As part of the asset acquisition, we are in the process of incorporating our controls and procedures with respect to MicroVision GmbH’s operations, and we will include internal controls with respect to their operations in our assessment of the effectiveness of our ICFR as of December 31, 2024. Other than changes related to incorporating our controls and procedures with respect to MicroVision GmbH, there was no change in our internal control over financial reporting during the period ended December 31, 2023 which has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.



## Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of  
MicroVision, Inc.

### ***Opinion on Internal Control over Financial Reporting***

We have audited Microvision Inc.'s (the "Company") internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control – Integrated Framework (2013) issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets of Microvision Inc. as of December 31, 2023 and December 31, 2022, the related consolidated statements of operations, comprehensive loss, changes in shareholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2023, and the related notes and schedule (collectively referred to as the "consolidated financial statements") and our report dated February 29, 2024, expressed an unqualified opinion on those consolidated financial statements.

### ***Basis for Opinion***

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting included in Item 9A. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

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

As discussed in Management's Report on Internal Control Over Financial Reporting, in January 2023, the Company acquired certain assets of IBEO Automotives (Microvision GmbH). For the purposes of assessing internal control over financial reporting, management excluded Microvision GmbH, whose financial statements constitute approximately 10% of the Company's consolidated total assets (excluding \$18 million of intangible assets, which were integrated into the Company's control environment) and approximately 5% of consolidated net loss as of and for the year ended December 31, 2023. Accordingly, our audit did not include the internal controls over the financial reporting of Microvision GmbH.

### ***Definition and Limitations of Internal Control Over Financial Reporting***

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

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

/s/ Moss Adams LLP

Seattle, Washington  
February 29, 2024

We have served as the Company's auditor since 2012.

**ITEM 9B. OTHER INFORMATION**

(a) None.

(b) During the three months ended December 31, 2023, none of our directors or officers (as defined in Rule 16a-1(f) under the Securities Exchange Act of 1934, as amended) adopted or terminated a Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement (as such terms are defined in Item 408 of Regulation S-K of the Securities Act of 1933, as amended).

**ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS**

None.

**PART III.****ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

Information regarding executive officers is included in Part I of this Annual Report on Form 10-K in Item 4A. The information required by this Item 10 of Form 10-K and not provided in Item 4A will be included under the caption “Proposal One – Election of Directors” and “Board of Directors & Governance Matters” in our 2024 Proxy Statement and is incorporated herein by reference. Our 2024 Proxy Statement will be filed with the SEC prior to our 2024 Annual Meeting of Shareholders.

**ITEM 11. EXECUTIVE COMPENSATION**

The information required by this Item 11 of Form 10-K will be included under the captions “Executive Compensation,” “Compensation Committee Interlocks and Insider Participation,” and “Director Compensation for 2023” in our 2024 Proxy Statement and are incorporated herein by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

Information as of December 31, 2023, regarding equity compensation plans approved and not approved by shareholders is summarized in the following table (in thousands, except per share data):

Plan Category	Equity Compensation Plan Information		
	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for further issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by shareholders			9,422
Options to purchase common stock	752	\$ 1.35	
Restricted stock units and performance stock units	9,983	-	
Equity compensation plans not approved by shareholders	-	-	-
Total	10,735		9,422

The other information required by this Item 12 of Form 10-K will be included under the caption “Information about MicroVision Common Stock” in our 2024 Proxy Statement and is incorporated herein by reference.

### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

The information required by this Item 13 of Form 10-K will be included under the captions “Certain Relationships and Related Transactions” and “Board of Directors & Governance Matters” in our 2024 Proxy Statement and are incorporated herein by reference.

### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information required by this Item 14 of Form 10-K will be included under the caption “Independent Registered Public Accounting Firm” in our 2024 Proxy Statement and is incorporated herein by reference.

## **PART IV.**

### **ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(A) Documents filed as part of this Annual Report on Form 10-K:

#### **1. Consolidated Financial Statements**

- Report of Independent Registered Public Accounting Firm
- Consolidated Balance Sheets as of December 31, 2023 and 2022
- Consolidated Statements of Operations for the years ended December 31, 2023, 2022 and 2021
- Consolidated Statements of Comprehensive Loss for the years ended December 31, 2023, 2022 and 2021
- Consolidated Statements of Shareholders’ Equity (Deficit) for the years ended December 31, 2023, 2022 and 2021
- Consolidated Statements of Cash Flows for the years ended December 31, 2023, 2022 and 2021
- Notes to Consolidated Financial Statements

2. Financial Statement Schedules

Schedule II

MicroVision, Inc.  
Valuation and Qualifying Accounts and Reserves Schedule  
(In thousands)

Year Ended December 31,	Balance at beginning of fiscal period	Additions		Deductions	Balance at end of fiscal period
		Charges to costs and expenses	Charges to other accounts		
<b>2021</b>					
Tax valuation allowance	\$ 114,407	\$ 9,973	\$ -	\$ -	\$ 124,380
<b>2022</b>					
Tax valuation allowance	\$ 124,380	\$ 5,745	\$ -	\$ -	\$ 130,125
<b>2023</b>					
Tax valuation allowance	\$ 130,125	\$ 12,252	\$ -	\$ -	\$ 142,377

All other schedules are omitted because they are not applicable, or because the information required is included in the consolidated financial statements and notes thereto.

### 3. Exhibits

The following exhibits are referenced or included in this Annual Report on Form 10-K.

Exhibit Number	Description
2.1	<a href="#">Asset Purchase Agreement, dated December 1, 2022, by and between Ibeo Automotive Systems GmbH and MicroVision GmbH<sup>(14)</sup></a>
2.2	<a href="#">Amendment Agreement, dated January 31, 2023, to the Asset Purchase Agreement, dated December 1, 2022, by and between Ibeo Automotive Systems GmbH and MicroVision GmbH<sup>(14)</sup></a>
3.1	<a href="#">Amended and Restated Certificate of Incorporation of MicroVision, Inc., as amended.<sup>(2)</sup></a>
3.2	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of MicroVision, Inc.<sup>(4)</sup></a>
3.3	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of MicroVision, Inc. dated June 7, 2018.<sup>(6)</sup></a>
3.4	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of MicroVision, Inc. dated October 8, 2020<sup>(8)</sup></a>
3.5	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of MicroVision, Inc. dated May, 18, 2023.<sup>(7)</sup></a>
3.6	<a href="#">Amended and Restated Bylaws of MicroVision, Inc.<sup>(5)</sup></a>
4.1	<a href="#">Form of Specimen Stock Certificate for Common Stock.<sup>(1)</sup></a>
4.2	<a href="#">Description of Common Stock<sup>(9)</sup></a>
10.1	<a href="#">2022 MicroVision, Inc. Incentive Plan.<sup>(13)*</sup></a>
10.2	<a href="#">Lease Agreement Concerning Office Premises between Victoria Immo Properties I S.à r.l., dated December 15, 2023 (covering approximately 60,000 square feet).</a>
10.3	<a href="#">Change of Control Severance Plan.<sup>(3)*</sup></a>
10.4	<a href="#">Employment Agreement between MicroVision, Inc. and Sumit Sharma dated April 8, 2021.<sup>(11)</sup></a>
10.5	<a href="#">At-the-Market Issuance Sales Agreement, dated August 29, 2023, by and between the Company and Craig-Hallum Capital Group LLC<sup>(10)</sup></a>
10.6	<a href="#">Lease Agreement between Redmond East Office Park LLC and MicroVision, Inc. dated September 24, 2021 (covering approximately 16,681 square feet).<sup>(12)</sup></a>
10.7	<a href="#">Lease Agreement between Redmond East Office Park LLC and MicroVision, Inc. dated September 24, 2021 (covering approximately 36,062 square feet).<sup>(12)</sup></a>
10.8	<a href="#">Form of Performance-Based Restricted Stock Unit Agreement<sup>(13)*</sup></a>
10.9	<a href="#">Form of Restricted Stock Unit Agreement<sup>(15)*</sup></a>
10.10	<a href="#">At-the-Market Issuance Sales Agreement, dated June 16, 2023, by and between the Company and Craig-Hallum Capital Group LLC<sup>(16)</sup></a>
21.1	<a href="#">List of Subsidiaries of the Registrant</a>
23.1	<a href="#">Consent of Independent Registered Public Accounting Firm – Moss Adams LLP.</a>
31.1	<a href="#">Principal Executive Officer Certification pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.2	<a href="#">Principal Financial Officer Certification pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1	<a href="#">Principal Executive Officer Certification pursuant to Rule 13a-14(b) or Rule 15d-14(b) and Section 1350, Chapter 63 of Title 18, United States Code (18 U.S.C. 1350), as adopted pursuant to Section 906 of Sarbanes-Oxley Act of 2002.</a>
32.2	<a href="#">Principal Financial Officer Certification pursuant to Rule 13a-14(b) or Rule 15d-14(b) and Section 1350, Chapter 63 of Title 18, United States Code (18 U.S.C. 1350), as adopted pursuant to Section 906 of Sarbanes-Oxley Act of 2002.</a>
97.1	<a href="#">Policy on Recoupment of Incentive Compensation</a>
101.INS	Inline XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document).
101.SCH	Inline XBRL Taxonomy Extension Schema.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101).

- (1) Incorporated by reference to the Company's Post-Effective Amendment to Form S-3 Registration Statement, Registration No. 333-102244.
- (2) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended September 30, 2009.
- (3) Incorporated by reference to the Company's Current Report on Form 8-K filed on May 24, 2022.
- (4) Incorporated by reference to the Company's Current Report on Form 8-K filed on February 17, 2012.
- (5) Incorporated by reference to the Company's Current Report on Form 8-K filed on July 14, 2023.
- (6) Incorporated by reference to the Company's Amendment No. 2 to Form S-1 Registration Statement, Registration No. 333-222857.
- (7) Incorporated by reference to the Company's Current Report on Form 8-K filed on May 19, 2023.
- (8) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended September 30, 2020.
- (9) Incorporated by reference to the Company's Form 10-K for the year ended December 31, 2020.
- (10) Incorporated by reference to the Company's Current Report on Form 8-K filed on August 29, 2023.
- (11) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended June 30, 2021.
- (12) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended September 30, 2021.
- (13) Incorporated by reference to the Company's Form S-8 filed on June 8, 2022.
- (14) Incorporated by reference to the Company's Current Report on Form 8-K filed on February 3, 2023.
- (15) Incorporated by reference to the Company's Form 10-K for the year ended December 31, 2022.
- (16) Incorporated by reference to the Company's Current Report on Form 8-K filed on June 16, 2023.

\* *Management contracts and compensatory plans and arrangements required to be filed as exhibits pursuant to Item 15(b) of this Annual Report on Form 10-K.*

#### **ITEM 16. FORM 10-K SUMMARY**

**None.**

## SIGNATURES

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

MicroVision, Inc.

By /s/ Sumit Sharma  
Sumit Sharma  
Chief Executive Officer and Director

Date: February 29, 2024

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Sumit Sharma and Anubhav Verma, jointly and severally, his or her attorneys-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any 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 of 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 following capacities on February 29, 2024.

<u>Signature</u>	<u>Title</u>
<u>/s/ Sumit Sharma</u> Sumit Sharma	Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ Anubhav Verma</u> Anubhav Verma	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
<u>/s/ Simon Biddiscombe</u> Simon Biddiscombe	Director
<u>/s/ Robert P. Carlile</u> Robert P. Carlile	Director
<u>/s/ Judy Curran</u> Judy Curran	Director
<u>/s/ Jeffrey Herbst</u> Jeffrey Herbst	Director
<u>/s/ Mark Spitzer</u> Mark Spitzer	Director
<u>/s/ Brian V. Turner</u> Brian V. Turner	Director

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**MIETVERTRAG ÜBER BÜORÄUME**  
**LEASE AGREEMENT CONCERNING OFFICE PREMISES**

---

zwischen / between

**VICTORIA IMMO PROPERTIES I S.À R.L.**

als Vermieter / as Landlord

und / and

**MICROVISION GMBH**

als Mieter / as Tenant

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ZWISCHEN:

- (1) **Victoria Immo Properties I S.à r.l.**  
1, rue Louvigny  
L-1946 Luxembourg

eingetragen im Handelsregister beim  
Registre de Commerce et des Sociétés  
Luxemburg unter B 227707

– nachfolgend "Vermieter" –

UND

- (2) **MicroVision GmbH**  
Neuer Höltigbaum 6  
22143 Hamburg

eingetragen im Handelsregister des  
Amtsgerichts Hamburg unter HRB 181525

– nachfolgend "Mieter" –,

Vermieter und Mieter nachfolgend auch  
gemeinsam als die "Parteien" und einzeln als eine  
"Partei" bezeichnet,

wird der folgende

### **MIETVERTRAG**

über Büroflächen nach den nachfolgenden  
Bedingungen geschlossen:

BETWEEN:

- (1) **Victoria Immo Properties I S.à r.l.**  
1, rue Louvigny  
L-1946 Luxembourg

registered with the Trade and Companies  
Register of Luxembourg (Registre de Com-  
merce et des Sociétés) under number B  
227707

– hereinafter referred to as "Landlord" –

AND

- (2) **MicroVision GmbH**  
Neuer Höltigbaum 6  
22143 Hamburg

registered in the commercial register of the  
district court Hamburg under HRB 181525

– hereinafter referred to as "Tenant" –,

hereinafter, Landlord and Tenant shall collectively  
be referred to as the "Parties" and individually as  
a "Party",

the following

### **RENTAL CONTRACT**

on office space is concluded under the following  
conditions:

## PRÄAMBEL

P.1 Der Vermieter ist Eigentümer der im Grundbuch des Amtsgerichts Hamburg, Band 54, Blatt 2096 (Gemarkung St. Georg Süd, Flurstück 2106) sowie Band 46, Blatt 1859 (Gemarkung St. Georg Süd, Flurstück 2072) eingetragenen Grundstücke, nachfolgend „Liegenschaft“ genannt. Die Liegenschaft wird unter der postalischen Anschrift: Amsinckstraße 63-71d, 20097 Hamburg geführt. Die Liegenschaft ist im Lageplan der Anlage P.1 farblich rot umrandet kenntlich gemacht und mit einem Bürogebäude bebaut.

P.2 Die Parteien sind sich ihrer Verantwortung für den Schutz der natürlichen Lebensgrundlagen und des Klimas im Interesse der künftigen Generationen bewusst; sie sind sich darüber einig, dass sie die Durchführung des Mietverhältnisses an möglichst nachhaltigen Kriterien ausrichten wollen. Es ist daher insbesondere der Wunsch der Parteien, bei der Bewirtschaftung und Nutzung des Mietgegenstandes mit Ressourcen und Energie schonend und sparsam umzugehen, Emissionen zu vermeiden und konstruktiv zusammenzuarbeiten, um auch innovative Wege zur Erreichung einer möglichst nachhaltigen, ressourcenschonenden und ökologischen Bewirtschaftung und Nutzung des Mietgegenstandes zu beschreiten. Dabei sollen ökonomische, ökologische und soziale Aspekte gleichermaßen berücksichtigt werden (zusammengefasst die „Nachhaltige Nutzung und Bewirtschaftung“). Die Parteien werden sich bemühen, ihre Mitarbeiter, Untermieter, Dienstleister (z. B. Property und/oder Facility Manager) und sonstige für die Nutzung und Bewirtschaftung der Immobilie

## PREAMBLE

P.1 The Landlord is the owner of the real properties entered in the land register of the District Court of Hamburg, volume 54, sheet 2096 (district St. Georg Süd, parcel 2106) and volume 46, sheet 1859 (district St. Georg Süd, parcel 2072), hereinafter referred to as the "Property". The Property is registered under the postal address: Amsinckstraße 63-71d, 20097 Hamburg. The Property is marked with a red outline on the site plan in Annex P.1 and is developed with an office building.

P.2 The Parties are aware of their responsibility for the protection of the natural foundations of life and the climate in the interest of future generations; they agree that they want to orient the performance of the lease to the most sustainable criteria possible. It is therefore the wish of the Parties in particular to use resources and energy sparingly and economically in the management and use of the Lease Object, to avoid emissions and to work together constructively in order to also pursue innovative ways of achieving the most sustainable, resource-conserving and ecological management and use of the Lease Object possible. In doing so, economic, ecological and social aspects shall be taken into account in equal measure (collectively referred to as "Sustainable Use and Management"). The Parties shall endeavor to encourage their employees, sublessees, service providers (e.g. property and/or facility managers) and other contractual partners relevant to the use and management of the Property to observe the aspects of Sustainable Use and Management.

maßgeblichen Vertragspartner zur Beachtung der Aspekte der Nachhaltigen Nutzung und Bewirtschaftung anzuhalten.

## 1. MIETGEGENSTAND

1.1 Der Vermieter vermietet auf der Liegenschaft an den Mieter:

1.1.1 Flächen im Erdgeschoss des Bürogebäudekomplexes (Eingänge Amsinckstraße 71c, 71d), bestehend aus der „Mietfläche 1“ mit einer Größe von ca. 555,44 m<sup>2</sup> (die zur alleinigen Nutzung durch den Mieter vorgesehene Fläche ist in dem als Anlage 1.1.1 beigefügten Plan rot umrandet gekennzeichnet).

1.1.2 Flächen im 5. Obergeschoss des Bürogebäudekomplexes (Eingänge Amsinckstraße 71, 71b, 71c, 71d), bestehend aus der „Mietfläche 2“ mit einer Größe von ca. 2.777,90 m<sup>2</sup> (die zur alleinigen Nutzung durch den Mieter vorgesehene Fläche ist in dem als Anlage 1.1.2 beigefügten Plan orange gekennzeichnet).

1.1.3 Flächen im 6. Obergeschoss des Bürogebäudekomplexes (Eingänge Amsinckstraße 71, 71b, 71c, 71d), bestehend aus der „Mietfläche 3“ mit einer Größe von ca. 1.647,06 m<sup>2</sup> (die zur alleinigen Nutzung durch den Mieter vorgesehene Fläche ist in dem als Anlage 1.1.3 beigefügten Plan orange gekennzeichnet).

1.1.4 Flächen im 6. Obergeschoss des Bürogebäudekomplexes (Eingänge Amsinckstraße 71b, 71c, 71d), bestehend aus der „Mietfläche 4“ mit einer Größe von ca. 559,00 m<sup>2</sup> (die zur alleinigen Nutzung durch den Mieter vorgesehene Fläche ist in dem als Anlage 1.1.3 beigefügten Plan rot umrandet gekennzeichnet).

## 1. LEASE OBJECT

1.1 The Landlord rents on the Property to the Tenant:

1.1.1 Areas on the **ground floor** of the office building complex (entrances at Amsinckstrasse 71c, 71d), consisting of the "Leased Area 1" with a size of **approx. 555,44 m<sup>2</sup>** (the space intended for sole use by the Tenant is marked with a red border in the plan attached as Annex 1.1.1).

1.1.2 Areas on the **5th floor** of the office building complex (entrances at Amsinckstraße 71, 71b, 71c, 71d), consisting of the "Leased Area 2" with a size of **approx. 2,777.90 m<sup>2</sup>** (the area intended for sole use by the Tenant is marked in orange in the plan attached as Annex 1.1.2).

1.1.3 Areas on the **6th floor** of the office building complex (entrances at Amsinckstraße 71, 71b, 71c, 71d), consisting of the "Leased Area 3" with a size of **approx. 1,647.06 m<sup>2</sup>** (the area intended for sole use by the Tenant is marked in orange on the plan attached as Annex 1.1.3).

1.1.4 Areas on the **6th floor** of the office building complex (entrances at Amsinckstraße 71b, 71c, 71d), consisting of the "Leased Area 4" with a size of **approx. 559.00 m<sup>2</sup>** (the area intended for sole use by the Tenant is marked with a red border in the plan attached as Annex 1.1.3).

- 1.1.5 **12 Stellplätze** für KFZ (Testfahrzeuge) belegen im 2. Untergeschoss des Bürogebäudekomplexes (Nrn. 557-568), in dem als **Anlage 1.1.5** beigefügten Plan rot umrandet gekennzeichnet, zur alleinigen Nutzung durch den Mieter.
- 1.1.5 **12 parking spaces** for motor vehicles (test vehicles) in the 2nd basement of the office building complex (no. 557-568), marked with a red border in the plan attached as **Annex 1.1.5**, for the sole use of the Tenant.
- 1.1.6 **4 Stellplätze** für KFZ (Testfahrzeuge) belegen im 2. Untergeschoss des Bürogebäudekomplexes (Nrn. 544-547), in dem als **Anlage 1.1.5** beigefügten Plan blau markiert gekennzeichnet, zur alleinigen Nutzung durch den Mieter.
- 1.1.6 **4 parking spaces** for motor vehicles (test vehicles) in the 2nd basement of the office building complex (no. 544-547), marked in blue color in the plan attached as **Annex 1.1.5**, for the sole use of the Tenant.
- 1.1.7 **75 Stellplätze** für KFZ (PKW) belegen im 2. Untergeschoss des Bürogebäudekomplexes (Nrn. 452-457, 462, 484-506, 496a, 511-543, 548-556, 569, 570) in dem als **Anlage 1.1.5** beigefügten Plan grün markiert gekennzeichnet, zur alleinigen Nutzung durch den Mieter.
- 1.1.7 **75 parking spaces** for motor vehicles (cars) in the 2nd basement of the office building complex (no. 452-457, 462, 484-506, 496a, 511-543, 548-556, 569, 570), marked in green color in the plan attached as **Annex 1.1.5**, for the sole use of the Tenant.
- 1.1.8 **7 Stellplätze** für KFZ (PKW) belegen im Außenbereich der Liegenschaft (Nrn. 13-19), in dem als **Anlage 1.1.8** beigefügten Lageplan farblich grünrot markiert gekennzeichnet, zur alleinigen Nutzung durch den Mieter.
- 1.1.8 **7 parking spaces** for motor vehicles (cars) in the outside area of the Property (no. 13-19), marked in green on the site plan attached as **Annex 1.1.8**, for the sole use of the Tenant.
- 1.2 Die vorstehend unter Ziffer 1.1.1 bis 1.1.4 aufgeführten Mietflächen haben eine Gesamtmietfläche von ca. **5.539,40 m<sup>2</sup>** („Gesamtmietfläche“), welche für Abrechnungszwecke maßgeblich ist, und werden nachfolgend gemeinsam mit den vorstehend unter Ziffer 1.1.5 bis 1.1.8 aufgeführten Stellplätzen insgesamt auch „Mietgegenstand“ genannt. In der Gesamtmietfläche sind anteilige Gemeinschaftsflächen im Gebäude (MF/G-2), d.h. Flächen innerhalb des Gebäudekomplexes, die von allen oder mehreren Mietern gemeinschaftlich genutzt werden, von insgesamt ca. 423,70 m<sup>2</sup> berücksichtigt (in den als Anlagen beigefügten Plänen farblich grau gekennzeichnet).
- 1.2 The Leased Areas listed above under Clauses 1.1.1 to 1.1.4 have a total leasable area of **approx. 5,539.40 m<sup>2</sup>** ("Total Rental Space"), which is decisive for settlement purposes, and are hereinafter together with the parking spaces listed above under Clauses 1.1.5 to 1.1.8 also referred to collectively as the "Lease Object. The Total Rental Space includes proportionate common areas in the building (MF/G-2), i.e. areas within the building complex which are used jointly by all or several tenants, totaling approx. 423,70 m<sup>2</sup> (marked in color gray in the plans attached as Annexes).

Die Gemeinschaftsflächen im Gebäudekomplex sowie sonstigen Freiflächen, Hofflächen und Verkehrswege im Außenbereich der Liegenschaft nutzt der Mieter gemeinschaftlich mit den übrigen Mietern im Gebäudekomplex.

1.3 Die Mietflächen des Mietgegenstands sowie Kfz-Stellplätze sind in den vorstehend aufgeführten Plänen der Anlagen jeweils im Einzelnen dargestellt und kenntlich gemacht. Im Übrigen gilt hinsichtlich der als Anlagen beigefügten Pläne Folgendes: Die Pläne aus den Anlagen sind Bestandteile des Mietvertrages und haben Geltung für diesen nur insoweit, als in ihnen die Lage des Mietgegenstandes im Gebäudekomplex und zu den angrenzenden Verkehrsflächen und gemeinschaftlichen Mietbereichen mit den übrigen Mietern im Gebäudekomplex aufgezeigt ist. Sämtliche anderen in den Plänen aufgeführten Details sind unverbindlich und enthalten keine Beschaffenheitsangaben oder zugesicherten Eigenschaften.

1.4 Die in Ziffer 1.1 bezeichneten Flächen wurden nach der "Richtlinie zur Berechnung der Mietfläche für gewerbliche Räume (MF/G), Stand 01.06.2017" der *Gesellschaft für immobilienwirtschaftliche Forschung e.V. (gif e.V.)* berechnet; eine Kurzübersicht ist diesem Mietvertrag als **Anlage 1.4** beigefügt. Eventuelle Abweichungen der tatsächlichen Größe von der Gesamtmietfläche sind unerheblich, soweit diese nicht mehr als 3% betragen. Eine proportionale Erhöhung oder Senkung der Miete gemäß Ziffer 5 und der flächenabhängigen Umlagen gemäß Ziffer 6 können die Parteien erst ab einer Flächenabweichung von mehr als 3% verlangen, sodann aber für den gesamten Betrag der Abweichung (und nicht nur für die Abweichung, die 3% überschreitet. Darüberhinausgehende Ansprüche können die

The Tenant uses the common areas in the building complex as well as other open areas, yard areas and traffic routes in the outside area of the Property jointly with the other tenants in the building complex.

1.3 The Leased Areas of the Lease Object as well as the parking spaces are shown in detail and identified in the plans set forth in the annexes listed above. In addition, the following applies with regard to the plans attached as annexes: The plans from the annexes are part of the Rental Contract and shall only apply to them insofar as they show the location of the Lease Object in the building complex and the adjacent traffic areas and common rental areas with the other tenants in the building complex of the Property. All other details listed in the plans are non-binding and do not contain any quality specifications or guaranteed properties.

1.4 The areas referred to in Clause 1.1 have been calculated in accordance with the "Guideline for the Calculation of Leasable Space for Commercial Premises (MF/G), as of June 1, 2017" issued by the *Gesellschaft für immobilienwirtschaftliche Forschung e.V. (gif e.V.)*; a brief overview is attached to this Rental Contract as **Annex 1.4**. Any deviations of the actual size from the Total Rental Space shall be insignificant insofar as they do not exceed 3%. The Parties may only demand a proportional increase or decrease of the rent pursuant to Clause 5 and of the area-dependent allocations pursuant to Clause 6 if an area deviation of more than 3%. In such case, the Parties may demand an adjustment for the entire amount of deviation (and not only for the deviation that exceeds 3%). The Parties may not assert any

Parteien im Falle von Flächenabweichungen nicht geltend machen.

1.5 Der Mieter hat den Mietgegenstand eingehend besichtigt und festgestellt, dass er für seinen Mietzweck grundsätzlich geeignet ist. Für die KFZ-Stellplätze gilt, dass der Mieter in eigener Verantwortung für eine Kennzeichnung sorgt und das Risiko einer unerlaubten Drittnutzung trägt. Die Nutzungsordnung für die Kfz-Stellplätze ist diesem Vertrag als **Anlage 1.5** beigefügt und wird vom Mieter beachtet.

1.6 Der Gebäudekomplex einschließlich des Mietgegenstandes entsprach bei seiner Errichtung in den Jahren 1994 bis 1996 den seinerzeitigen bautechnischen Anforderungen. Der Vermieter erklärt, dass nach seinem besten Wissen der Gebäudekomplex frei von Asbest ist. Der Mietgegenstand wird dem Mieter in diesem Zustand vorbehaltlich seiner allgemeinen Alterung zur Verfügung gestellt. Soweit nicht (a) zwingende gesetzliche Nachrüst-, Ertüchtigungs- oder sonstige Pflichten bestehen und/oder (b) Bauteile im Rahmen des Um- und Ausbaus des Mietgegenstands (vgl. nachstehende Ziffer 1.7) umgestaltet oder erneuert werden und/oder (c) sich aus der Baubeschreibung (Anlage 1.7a) etwas anderes ergibt, hat der Mieter keinen Anspruch darauf, dass der Mietgegenstand etwa in der Zwischenzeit oder zukünftig während der Mietzeit eingeführten strengeren oder verbesserten bautechnischen Anforderungen, insbesondere im Bereich des Schall- und Wärmeschutzes, genügt. Dem Mieter ist bekannt, dass der Mietgegenstand über die in Anlage 1.7a definierten und in Anlage 1.7b grafisch dargestellten Räumlichkeiten hinaus über keine Kühlungseinrichtung verfügt und es deshalb jahreszeitlich bedingt zu Innentemperaturen von über 26 Grad Celsius kommen kann. Vorgenannte Umstände wurden bei der

further claims in the event of deviations in area.

1.5 The Tenant has inspected the Lease Object in detail and determined that it is basically suitable for his rental purpose. For the parking spaces, the Tenant is responsible for ensuring that they are marked and bears the risk of unauthorized third-party use. The rules of use for the parking spaces are attached to this Rental Contract as **Annex 1.5** and will be observed by the Tenant.

1.6 The building complex, including the Lease Object, corresponded to the construction requirements at the time of its construction in the years 1994 to 1996. The Landlord declares that, to the best of his knowledge, the building complex is free of asbestos. The Lease Object will be provided to the Tenant in this condition subject to its general aging. Unless (a) there are mandatory statutory retrofitting/upgrading or other obligations and/or (b) components are redesigned or renewed as part of the conversion and expansion of Lease Object (see Clause 1.7 below) and/or (c) the building description (Appendix 1.7a) states otherwise, the Tenant shall not be entitled to claim that the Lease Object complies with any stricter or improved structural engineering requirements introduced in the meantime or in the future during the rental term, in particular in the area of noise and heat protection. The Tenant is aware that the Lease Object besides the rooms defined in Annex 1.7a and shown graphically in Annex 1.7b does not have cooling facilities and that it is therefore possible for internal temperatures to exceed 26 degrees Celsius due to the season. The aforementioned circumstances were taken into account when calculating the agreed rent. Insofar as this causes heating, this does not constitute a defect of the Lease Object that entitles the Tenant to warranty or damage claims.

Bemessung der vereinbarten Miete berücksichtigt. Sofern hierdurch bedingt Erwärmungen auftreten, stellt dies keinen Mangel des Mietgegenstandes dar, der den Mieter zu Gewährleistungs- oder Schadensersatzansprüchen berechtigt.

- 1.7 Der Mietgegenstand wird durch den Vermieter vor Übergabe ausgebaut. Der Umfang der vom Vermieter durchzuführenden Um- und Ausbaumaßnahmen ergibt sich aus der als Anlage 1.7a beigefügten Baubeschreibung und dem als Anlage 1.7b beigefügten Bauplänen. Die Baubeschreibung (Anlage 1.7a) und die Baupläne (Anlage 1.7b) wurden im Vorfeld mit dem Mieter abgestimmt. Änderungswünsche des Mieters wurden besprochen und – soweit vereinbart – aufgenommen; für darüber hinausgehende Änderungswünsche gelten die Regelungen in Ziffer 30.

Der Vermieter ist für alle das Grundstück und Gebäude betreffenden gesetzlichen oder behördlichen Genehmigungserfordernisse verantwortlich. Behördliche Anordnungen und Auflagen, die den Mietgegenstand in seiner Bausubstanz sowie den vermietetseitigen Um- und Ausbau betreffen (einschließlich Brandschutz) sind ebenfalls vom Vermieter zu erfüllen. Er hat diese jeweils selbst und auf eigene Kosten einzuholen. Der Vermieter ist verpflichtet, bei der Ausführung der Um- und Ausbaumaßnahmen alle gesetzlichen Bestimmungen und nach den anerkannten Regeln der Technik einschlägigen, technischen Vorschriften, insbesondere die den anerkannten Regeln der Technik entsprechenden DIN-Normen sowie VDE- und VDI-Normen, sowie etwaige behördliche (auch gewerbebehördliche und berufsgenossenschaftliche) Auflagen zu erfüllen und etwa benötigte Genehmigungen, Bescheinigungen und Prüfzeugnisse (z.B. von Sachverständigen) in Zusammenhang mit den

- 1.7 The Lease Object shall be extended by the Landlord prior to handover. The scope of the conversion and extension measures to be carried out by the Landlord is set out in the construction description attached as Annex 1.7a and the construction plans attached as Annex 1.7b. The construction description (Annex 1.7a) and the construction plans (Annex 1.7b) were agreed with the Tenant in advance. Any change requests of the Tenant were discussed and – to the extent agreed – incorporated; the provisions in Clause 30 shall apply to any Change Requests going beyond this.

The Landlord is responsible for any statutory or public authority's requirements concerning the property and the buildings. Official orders and requirements that affect the Lease Object in terms of its structure as well as the Landlord's renovation and expansion (including fire protection) must also be fulfilled by the Landlord. The Landlord has to comply with this obligation at its own risk and at its own expense. The Landlord is obligated when carrying out the conversion and expansion measures to comply with all statutory provisions and, in accordance with the acknowledged rules of technology, to comply with the relevant technical rules, in particular the DIN standards and VDE and VDI regulations in accordance with the recognized rules of technology and to meet all official requirements imposed (also of the business licensing authorities and of the German Employer's Liability Insurance Association) and to provide, at its own costs, any required permits, certificates and manufacturer's



Um- und Ausbaumaßnahmen auf seine Kosten selbst beizubringen.

- 1.8 Soweit für die Um- und Ausbaumaßnahmen gemäß Ziffer 1.7 und/oder den Mietzweck gemäß Ziffer 2 eine Baugenehmigung oder sonstige öffentlich-rechtliche Genehmigungen (u.a. Änderung Brandschutz aufgrund teilweiser Nutzungsänderungen etc.) erforderlich sind oder bestimmte Auflagen für die Fertigstellung der Um- und Ausbaumaßnahmen gemäß Ziffer 1.7 und/oder den Mietzweck gemäß Ziffer 2 zu erfüllen sind, wird der Vermieter diese unverzüglich auf eigene Kosten und Risiken beantragen bzw. erfüllen. Der Mieter verpflichtet sich, soweit seinerseits Informationen dem Vermieter hierzu zur Verfügung zu stellen sind, diese dem Vermieter auf dessen Aufforderung unverzüglich zur Verfügung zu stellen, z. B. hinreichend detaillierte Informationen zu den geplanten Nutzungen bereitzustellen.

Die Baubeschreibung (Anlage 1.7a) und die Baupläne (Anlage 1.7b) sind Bestandteil des Mietvertrages. Im Falle einer bautechnisch oder baurechtlich erforderlichen Änderung der geplanten Ausführung ist der Vermieter verpflichtet den Mieter unverzüglich zu informieren. Im Falle einer Nutzungsbeeinträchtigung der Mietsache für den Mieter erhält dieser das Recht, binnen zwei (2) Wochen nach entsprechender Information durch den Vermieter eigene Vorschläge zu unterbreiten, die der bautechnischen bzw. baurechtlichen Anforderlichkeit Genüge tun. Der Vermieter wird in diesem Fall um die Berücksichtigung der Vorschläge des Mieters bemüht sein.

certificates (for example from experts) in connection with the conversion and expansion measures.

- 1.8 To the extent that a building permit or other permits under public law for the conversion and expansion measures pursuant to Clause 1.7 and/or the purpose of lease pursuant to Clause 2 are required (including changes to fire protection due to partial changes in use, etc.) or if certain conditions must be met for the completion of the conversion and expansion measures in accordance to Clause 1.7 and/or the change in use pursuant to Clause 2, the Landlord shall apply for or fulfill these without delay at its own expense and risk. The Tenant undertakes, insofar as information is to be made available to the Landlord for this purpose, to make the information available to the Landlord without delay at the Landlord's request, e.g. to provide sufficiently detailed information on the planned uses.

The construction description (Annex 1.7a) and the construction plans (Annex 1.7b) are part of the Rental Contract. In the event of a change in the planned design required by construction engineering or building law, the Landlord is obliged to inform the Tenant immediately. In the event that the use of the Lease Object is impaired for the Tenant, the Tenant shall have the right to submit its own proposals within two (2) weeks after appropriate information by the Landlord, which satisfy the requirements of construction engineering or building law. In this case, the Landlord shall endeavor to take the Tenant's suggestions into account.

## 2. MIETZWECK

2.1 Die Vermietung der Mietflächen 1 bis 3 erfolgt zur Nutzung als Büro-, Servicefläche, Logistik, Messung von Lasertechnologie und elektrooptische Arbeitsbereiche einschließlich der damit im Zusammenhang stehenden sonstigen Nutzungen. Die Vermietung der Mietfläche 4 erfolgt zur Nutzung als Dachterrasse zum Aufenthalt von Personen. Die Kfz-Stellplätze gemäß Ziffern 1.1.5 bis 1.1.8 werden zur Abstellung von Personenkraftwagen vermietet.

2.2 Eine von dem gemäß Ziffer 2.1 vereinbarten Mietzweck abweichende Nutzung bedarf der vorherigen schriftlichen Zustimmung des Vermieters; der Vermieter darf seine Zustimmung nur aus wichtigem Grund verweigern oder verzögern.

Soweit der Mieter beabsichtigt, die in Ziffer 1.1.5 benannten und in Anlage 1.1.5 rot umrandet gekennzeichneten Stellplätze ganz oder teilweise zur Nutzung als Kfz-Werkstatt umzuwidmen, so stimmt der Vermieter einer solchen Umwidmung hiermit bereits zu. Sollten behördliche Genehmigungen für die Nutzung der in Ziffer 1.1.5 benannten und in Anlage 1.1.5 rot umrandet gekennzeichneten Stellplätze als Kfz-Werkstatt erforderlich sein, hat der Mieter diese Genehmigungen selbst und auf eigene Kosten einzuholen und dem Vermieter unaufgefordert vorzulegen. Auf Ziffern 2.4 sowie 12.1 wird verwiesen.

2.3 Der Vermieter ist dafür verantwortlich, dass die gemäß Ziffer 2.1 vereinbarte Nutzung des Mietgegenstands spätestens ab dem Spätesten Übergabetermin von der baurechtlichen Genehmigung umfasst ist. Sollten behördliche Genehmigungen für die Nutzung des Mietgegenstands im Rahmen des vereinbarten Mietzweckes erforderlich sein und auf die

## 2. PURPOSE OF LEASE

2.1 The Leased Areas 1 to 3 are rented for use as office and service spaces, logistics, measurement of laser technology and electrooptical working spaces including any associated other uses. The Leased Area 4 is for use as a roof terrace for people to stay. The parking spaces pursuant to Clauses 1.1.5 to 1.1.8 are rented out to park passenger cars.

2.2 Any use deviating from the purpose of lease defined in Clause 2.1 shall require Landlord's prior written consent; Landlord can only delay or withhold its consent for good reason (*wichtiger Grund*).

To the extent that the Tenant intends to reallocate the parking spaces named in Section 1.1.5 and marked with a red border in Annex 1.1.5 in whole or in part for use as a vehicle workshop, the Landlord hereby already agrees to such reallocation. If official permits or approvals are required for the use of the parking spaces named in Section 1.1.5 and marked with a red border in Annex 1.1.5 as a vehicle workshop, the Tenant must obtain these permits and approvals himself and at its own expense and present them to the Landlord without being asked. Reference is made to Clauses 2.4 and 12.1.

2.3 The Landlord is responsible that the agreed use of the Lease Object pursuant to Clause 2.1 is covered by the building permit at the latest as of the Latest Handover Date. Should official licences be required for the use of the Lease Object within the framework of the stipulated purpose of the lease and result from the Tenant's person or business operations, the Tenant shall

Person oder den Geschäftsbetrieb des Mieters zurückzuführen sein, hat der Mieter diese Genehmigungen selbst und auf eigene Kosten einzuholen.

- 2.4 Der Mieter verpflichtet sich, den Mietgegenstand nur für gesetzlich, behördlich und vertraglich zulässige Zwecke zu nutzen und insbesondere die für das Gewerbe des Mieters einschlägigen Umweltschutzvorschriften zu beachten. Dem Mieter ist es untersagt, im Mietgegenstand Geschäfte mit diskriminierendem und/oder rassistischem und/oder religiös fanatischem Inhalt zu betreiben. Der Betrieb einer Sekte oder eines Bordells oder eines ähnlichen, sittlich anstößigen Gewerbes sind verboten.

obtain such licences itself and at its own expense.

- 2.4 The Tenant undertakes to use the Lease Object only for legally, officially and contractually permissible purposes and in particular to observe the environmental protection regulations relevant to the Tenant's business. The Tenant is prohibited from conducting business with discriminatory and/or racist and/or religiously fanatical content in the Lease Object. The operation of a sect or a brothel or a similar, immoral business is prohibited.

### 3. ÜBERGABE

- 3.1 Der Vermieter hat dem Mieter den Mietgegenstand in vertragsgemäßem Zustand frühestens am **1. August 2024** („Frühester Übergabetermin“) und spätestens am **31. Dezember 2024** („Spätester Übergabetermin“) zu übergeben. Im Fall einer allein durch für den Vermieter verbindliche Änderungswünsche des Mieters (vgl. Ziffer 30.1 und 30.3) verursachten Verzögerung im Sinne der Ziffer 30.3 Satz 2 verschiebt sich der Späteste Übergabetermin entsprechend.
- 3.2 Der Vermieter ist verpflichtet, dem Mieter spätestens acht (8) Wochen vor dem Übergabemonat einen Vier-Wochen-Korridor, innerhalb dessen die Übergabe des Mietgegenstands erfolgen wird (wobei der Vier-Wochen-Korridor zwischen dem Frühesten Übergabetermin und dem Spätesten Übergabetermin liegen muss) mitzuteilen. Der genaue Tag der Übergabe, welcher innerhalb des mitgeteilten Vier-Wochen-Korridors liegen muss, ist dem Mieter sodann mindestens vier (4) Wochen vor der tatsächlichen Übergabe schriftlich und verbindlich für die Parteien mitzuteilen („Übergabetag“).
- 3.3 Erfolgt eine der Mitteilungen nach vorstehender Ziffer 3.2 nicht oder nicht vertragsgemäß, gilt der Späteste Übergabetermin als Übergabetag.
- 3.4 Wird der Übergabetag überschritten (d.h. unterbleibt am Übergabetag die Übergabe des gesamten Mietgegenstands an den Mieter), gilt Folgendes:
- 3.4.1 Wird der Übergabetag aus nicht vom Mieter zu vertretenden Gründen überschritten, ist der Vermieter dem Mieter zum Ersatz des diesem aufgrund der verzögerten Übergabe entstehenden Schaden verpflichtet. Der

### 3. HANDOVER

- 3.1 The Landlord must handover the Lease Object to the Tenant in the contractually agreed form at the earliest on **August 1, 2024** (“Earliest Handover Date”) and no later than **December 31, 2024** (“Latest Handover Date”). In the event of a delay caused solely by Tenant's Change Request(s) that are binding for the Landlord (cf. Clauses 30.1 and 30.3) within the meaning of Section 30.3 Sentence 2, the Latest Handover Date will be postponed accordingly.
- 3.2 The Landlord is obliged to provide the Tenant with a four-week corridor within which the handover of the Lease Object will take place no later than eight (8) weeks before the handover month (whereby the four-week corridor must be between the Earliest Handover Date and the Latest Handover Date). The exact day of handover, which must be within the communicated four-week corridor, must then be communicated to the Tenant by the Landlord in writing and bindingly for the Parties at least four (4) weeks before the actual handover (“Handover Day”).
- 3.3 If one of the notifications in accordance with Section 3.2 above is not made or not in accordance with the Contract, the Latest Handover Date is deemed to be the Handover Day.
- 3.4 If the Handover Date is exceeded (i.e. the complete Lease Object is not handed over to the Tenant on the Handover Day), the following applies:
- 3.4.1 If the Handover Day is exceeded for reasons for which the Tenant is not responsible, the Landlord is obliged to pay compensation to the Tenant for the damages suffered as a consequence of the delayed Handover. The Tenant's

Schadensersatzanspruch des Mieters entsteht nicht, sofern die Überschreitung des Übergabetags allein aufgrund höherer Gewalt erfolgt.

claim for damages does not arise if the Handover Day is exceeded solely due to force majeure.

- 3.4.2 Wird der Übergabetag aus nicht vom Mieter zu vertretenden Gründen um mehr als sechs (6) Monate überschritten, so hat der Mieter zusätzlich zum Schadensersatzanspruch nach vorstehender Ziffer 3.4.1 das Recht, von diesem Mietvertrag zurückzutreten. Wird der Rücktritt nicht spätestens innerhalb eines Monats nach Ablauf der vorstehenden sechsmonatigen Frist erklärt, erlischt das Rücktrittsrecht.
- 3.4.2 If the Handover Day is exceeded by more than six (6) months for reasons for which the Tenant is not responsible, the Tenant has the right to withdraw from this Rental Contract in addition to the claim for damages in accordance with Clause 3.4.1 above. If the withdrawal is not declared at the latest within one month after the expiry of the above six-month period, the right of withdrawal expires.
- 3.4.3 Liegt ein Fall der Überschreitung des Übergabetages aufgrund von höherer Gewalt vor, ist der Mieter erst zum Rücktritt von diesem Mietvertrag berechtigt, wenn der Übergabetag um mehr als acht (8) Monate überschritten wird. Wird der Rücktritt nicht spätestens binnen eines Monats nach Ablauf der vorstehenden achtmonatigen Frist erklärt, erlischt das Rücktrittsrecht.
- 3.4.3 If the Handover Day is exceeded due to force majeure, the Tenant is only entitled to withdraw from this Rental Contract if the Handover Day is more than eight (8) months is exceeded. If the withdrawal is not declared at the latest within one month after the expiry of the above eight-month period, the right of withdrawal expires.
- 3.5 Die Parteien sind sich einig, dass in Anbetracht der umfangreichen Um- und Ausbaumaßnahmen (vgl. Ziffer 1.7) gegebenenfalls auch eine sukzessive Übergabe von Teilbereichen des Mietgegenstandes erfolgen kann. Die Parteien werden sich dahingehend nach Baufortschritt und Sinn und Zweck für jede Partei entsprechend abstimmen und das Ergebnis entsprechender Abstimmung auf Verlangen einer Partei in einem dem Schriftformerfordernis der §§ 550, 578, 126 BGB entsprechenden Nachtrag zum Bestandteil dieses Vertrags machen.
- 3.5 The Parties agree that, in view of the extensive conversion and expansion measures (cf. Clause 1.7), if necessary, a gradual handover of parts of the Lease Object can also take place. The Parties will coordinate accordingly according to the progress of construction and the purpose and use for the Party and, at the request of one Party, make the result of the corresponding coordination part of this Contract in an addendum that complies with the written form requirement of §§ 550, 578, 126 BGB.
- 3.6 Die Parteien sind sich ferner einig, dass im Hinblick auf den Flächenbedarf des Mieters (ab dem Frühesten Übergabetermin) sowie in Anbetracht einer mit den Um- und Ausbaumaßnahmen (vgl. Ziffer 1.7)
- 3.6 The Parties also agree that, with regard to the Tenant's space requirements (from the Earliest Handover Date) and in view of a change of use permit (cf. Clause 1.8) associated with the conversion and expansion measures (cf. Clause

einhergehenden Nutzungsänderungsgenehmigung (vgl. Ziffer 1.8) gegebenenfalls auch alternative Flächen auf der Liegenschaft in entsprechender Größe der Gesamtmietfläche zur temporären Nutzung als Büro in Betracht kommen könnten (nachfolgend „Ersatzmietflächen“). Die Parteien werden sich dahingehend – auch unter Berücksichtigung des Baufortschritts der Um- und Ausbaumaßnahmen (vgl. Ziffer 1.7), des Stands des baurechtlichen Genehmigungsverfahrens (vgl. Ziffer 1.8) sowie nach Sinn und Zweck für jede Partei – entsprechend abstimmen und das Ergebnis entsprechender Abstimmung auf Verlangen einer Partei in einem dem Schriftformerfordernis der §§ 550, 578, 126 BGB entsprechenden Nachtrag zum Bestandteil dieses Vertrags machen.

3.7 Den Parteien steht ein beiderseitiges Sonderkündigungsrecht für diesen Mietvertrag zu, sofern die Nutzungsänderungsgenehmigung (vgl. Ziffer 1.8) von der zuständigen Behörde nicht bis spätestens neun (9) Monate nach dem Spätesten Übergabetermin vollzugsfähig erteilt wird („Sonderkündigungsrecht“). Der Vermieter hat den Mieter unverzüglich nach Versagung bzw. Erteilung der Nutzungsgenehmigung/-änderung schriftlich zu informieren. Das Sonderkündigungsrecht steht einer Partei nicht zu, wenn der Grund für die Nichterteilung der Nutzungsänderungsgenehmigung ausschließlich von ihr zu vertreten ist. Die Parteien stellen diesbezüglich klar, dass die Beantragung der Nutzungsänderung als solche von keiner Partei zu vertreten ist. Ein etwaig bestehendes Sonderkündigungsrecht der Parteien erlischt spätestens mit vollzugsfähiger Erteilung der Nutzungsänderungsgenehmigung für den Mietgegenstand. Rechte des Mieters nach Ziffer 3.4.1 bleiben hiervon unberührt.

1.7), alternative areas on the Property in a corresponding size of the Total Rental Space might also be available to the Tenant for temporary use as an office (hereinafter referred to as “Substitute Rental Areas”). The Parties will coordinate accordingly – also taking into account the progress of construction of the conversion and expansion measures (cf. Clause 1.7), the status of the building approval process (cf. Clause 1.8) as well as the purpose and use for each Party – and, at the request of one Party, will make the result of the corresponding coordination part of this Contract in an addendum that complies with the written form requirement of §§ 550, 578, 126 BGB.

3.7 The Parties are entitled to a mutual special right of termination for this Rental Contract if the change of use permit (cf. Clause 1.8) is not issued by the responsible authority in a valid manner by nine (9) months after the Latest Handover Date at the latest (“Special Right of Termination”). The Landlord must inform the Tenant in writing immediately after the usage permit/change has been refused or granted. A Party is not entitled to the Special Right of Termination if the reason for not granting the change of use permit is solely their responsibility. The Parties hereby clarify that no Party is responsible for the application of the change in use as such in the aforementioned sense. Any existing Special Right of Termination of the Parties expires at the latest when the change of use permit for the Lease Object is actually issued by the responsible authority in a valid manner. Any rights of the Tenant pursuant to Clause 3.4.1 shall remain unaffected.

- 3.8 Der Mieter ist berechtigt, zwei (2) Wochen vor dem Übergabetag Teilflächen des Mietgegenstands zu betreten, um die Installation seines Server-Kühlsystems im Hauptserverraum der Mietfläche 1 sowie auf den Stellplätzen Nr. 460 und 461 im 2. Untergeschoss der Liegenschaft vorzubereiten und zu erledigen. Der Mieter ist dabei verpflichtet, geeignete Vorkehrungen (z.B. Terminabstimmungen/-koordinierungen mit dem Vermieter bzw. dessen beauftragten Dienstleistern, Unterweisung von Mitarbeitern und Dienstleistern des Mieters bzgl. Verkehrssicherheit) zu treffen, um Beeinträchtigungen der fortdauernden Um- und Ausbauarbeiten am Mietgegenstand durch die (vorbereitenden) Installationsarbeiten des Mieters zu verhindern. Die Parteien werden sich diesbezüglich einvernehmlich abstimmen.
- 3.8 The Tenant is entitled to enter parts of the Lease Object two (2) weeks before the Handover Day in order to prepare and carry out the installation of his server cooling system in the main server room of the Leased Area 1 as well as on the parking spaces no. 460 and 461 in the 2nd basement of the Property. The Tenant is obliged to take appropriate precautions (e.g. scheduling/coordinates appointments with the Landlord or its commissioned service providers, instructing the Tenant's employees and service providers regarding traffic safety) to prevent disruptions to the ongoing conversion and expansion works in the Lease Object due to the Tenant's (preparatory) installation work. The Parties will reach an agreement in this respect.
- 3.9 Bei der Übergabe der einzelnen Mietflächen des Mietgegenstandes ist von den Parteien ein Protokoll zu fertigen, in dem alle beanstandeten erkennbaren Mängel sowie erkennbare erforderliche Restarbeiten zu den Um- und Ausmaßnahmen gemäß Ziffer 1.7 und die Anzahl und die Nummern der übergebenen Schlüssel bzw. Schlüsselkarten schriftlich festgehalten werden („Übergabeprotokoll“). Spätere Einwendungen wegen solcher erkennbaren Mängel oder Restarbeiten, die im Übergabeprotokoll nicht aufgeführt sind und die der Mieter aufgrund Fahrlässigkeit nicht erkannt hat, sind ausgeschlossen, es sei denn, sie entstehen erst oder werden erst nach der Übergabe erkennbar. Das Übergabeprotokoll ist von beiden Parteien zu unterzeichnen und auf schriftliches Verlangen einer Partei in einem dem Schriftformerfordernis des §§ 550, 578, 126 BGB entsprechenden Nachtrag zum Bestandteil dieses Vertrags zu machen.
- 3.9 Upon handover of the individual leased areas of the Lease Object, the Parties shall draw up a protocol in which all visible defects complained of as well as any visible necessary remaining work on the conversion and extension measures pursuant to Clause 1.7 and the quantity and the numbers of the keys or key cards handed over shall be recorded in writing ("Handover Protocol"). Subsequent objections due to such visible defects or residual work which are not listed in the Handover Protocol and which the Tenant did not recognize due to negligence shall be excluded, unless they only arise or are visible after the handover. The Handover Protocol shall be signed by both Parties and, at the written request of one Party, shall be made part of this Rental Contract in an addendum in accordance with the written form requirement of §§ 550, 578, 126 BGB.
- 3.10 Bei Übergabe vorhandene geringfügige Mängel, die den Geschäftsbetrieb des Mieters
- 3.10 Any immaterial defects evident at the time of handover shall not constitute sufficient

nicht mehr als nur unwesentlich beeinträchtigen und auch ohne eine mehr als nur unwesentliche Beeinträchtigung des Geschäftsbetriebes des Mieters behoben werden können, verzögern die Übergabe nicht. Sie sind jedoch dann unverzüglich vom Vermieter zu beheben.

grounds to delay the handover, provided that both their existence and any efforts to remedy them without significantly impairing the Tenant's business operations. Nevertheless, the Landlord should remedy any such defects without undue delay.

#### 4. MIETBEGINN UND MIETDAUER

4.1 Das Mietverhältnis beginnt für den Mietgegenstand am Tag der tatsächlichen Übergabe des gesamten Mietgegenstandes an den Mieter und endet nach Ablauf von **fünf (5) Jahren** gerechnet ab dem letzten Kalendertag des Monats, in den der Mietbeginn fällt (nachfolgend „Festlaufzeit“). Die Parteien werden den Tag der tatsächlichen Übergabe des Mietgegenstandes in einem formgerechten Nachtrag (§§ 550, 578, 126 BGB) zum Mietvertrag festhalten.

4.2 Der Mieter hat das zweimalige Recht, die Verlängerung der Festlaufzeit um jeweils drei (3) Jahre zu erklären (jeweils "Option"). Die jeweilige Option muss jeweils spätestens zwölf (12) Monate bevor das Mietverhältnis endet gegenüber dem Vermieter schriftlich ausgeübt werden; in diesem Fall verlängert sich die Festlaufzeit des Mietverhältnisses automatisch um (jeweils) drei (3) Jahre.

4.3 Nach Ablauf der – ggfls. aufgrund Ausübung der Option(en) gemäß Ziffer 4.2 verlängerten – Festlaufzeit endet das Mietverhältnis automatisch, ohne dass es einer Kündigung bedarf.

4.4 Setzt der Mieter den Gebrauch des Mietgegenstands nach Ablauf der Mietzeit fort, so gilt das Mietverhältnis nicht als stillschweigend verlängert; § 545 BGB findet keine Anwendung.

#### 4. COMMENCEMENT OF LEASE AND LEASE TERM

4.1 The tenancy for the Lease Object commences upon actual delivery of the complete Lease Object to the Tenant and ends after **five (5) years** have elapsed, calculated from the last calendar day of the month in which the tenancy commences (hereinafter referred to as "Fixed Term"). The Parties will record the day of the actual handover of the Lease Object in a formal addendum (§§ 550, 578, 126 BGB) to the Rental Contract.

4.2 The Tenant has twice the right to declare an extension of Fixed Term for three (3) years each time (each an "Option"). The respective Option must be exercised in writing to the Landlord no later than twelve (12) months before the lease ends; in this case, the Fixed Term is automatically extended by (each) three (3) years.

4.3 After the expiry of the Fixed Term – if applicable, extended due to the exercise of the Option(s) in accordance with Clause 4.2 – the Rental Contract ends automatically without the need for termination.

4.4 The tenancy shall not be deemed tacitly extended if the Tenant continues to use the Lease Object after expiration of the lease term; § 545 BGB shall not be applicable.



- 4.5 Auf Verlangen einer Partei werden die Parteien die Verlängerung der Festlaufzeit durch Ausübung der Option sowie das Ende der Mietzeit in einem schriftformkonformen Nachtrag zu diesem Mietvertrag festhalten.
- 4.5 At the request of one of the Parties, the Parties shall record the extension of the Fixed Term by exercising the Option and the end of the rental term in a written addendum to this Rental Contract.

5. MIETE

5. RENT

- 5.1 Die monatliche Miete beträgt anfänglich ab Mietbeginn:
- 5.1 The monthly rent shall initially from the lease commencement date amount to:

Grundmiete / Base Rent	106.439,50 EUR
Nebenkostenvorauszahlung / Prepayment incidental costs (Ziffer / Clause 6.9.1)	21.049,72 EUR
<b>Gesamtmonatsmiete (netto) / Total monthly rent (Net)</b>	<b>127.489,22 EUR</b>
Umsatzsteuer / VAT	24.222,95 EUR
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<b>Gesamtmonatsmiete (brutto) / Total Monthly Rent (Gross)</b>	<b>151.712,17 EUR</b>

- 5.2 Die Grundmiete ist pauschaliert und von der tatsächlichen Größe des Mietgegenstands unabhängig, soweit nicht die Größe des Mietgegenstands von der vertraglich angegebenen Gesamtmietfläche um mehr als drei (3) Prozent abweicht (vgl. Ziffer 1.4).
- 5.2 The Base Rent constitutes a lump sum and does not depend on the actual size of the Lease Object, unless the size of the Lease Object deviates from the contractually specified Total Rental Space by more than three (3) percent (cf. Clause 1.4).
- 5.3 Der Vermieter berechnet auf die Miete Umsatzsteuer in der gesetzlich jeweils geltenden Höhe, zurzeit neunzehn (19) Prozent (vgl. Ziffer 8).
- 5.3 Landlord charges VAT on the rent at the applicable statutory rate, i.e. currently nineteen (19) percent (cf. Clause 8).
- 5.4 Der Vermieter gewährt dem Mieter eine mietfreie Zeit von sechs (6) Monaten ab Mietbeginn (Ziffer 4.1). Für die Berechnung der mietfreien Zeit gilt § 188 Abs. 2 Satz 1 BGB entsprechend. Die Mietbefreiung gilt nicht für die Nebenkosten und die Nebenkostenvorauszahlungen. Diese sind auch während des mietfreien Zeitraums für den Mietgegenstand zu zahlen.
- 5.4 The Landlord grants the Tenant a rent-free period of six (6) months from the start of the rental period (Clause 4.1). § 188 (2) sentence 1 BGB applies accordingly to the calculation of the rent-free period. The exemption from rent does not apply to the ancillary costs and the advance payments for ancillary costs. These are also to be paid during the rent-free period for the Lease Object.
- 5.5 Die erste vom Mieter zu zahlende Gesamtmonatsmiete (brutto) ist zeitanteilig zu zahlen, sollte der Mietbeginn nicht auf einen Monatsersten fallen. Sollte eine sukzessive
- 5.5 The first Total Monthly Rent (Gross) to be paid by the Tenant shall be paid pro rata temporis if the commencement of the rental period does not fall on the first day of a month. If partial

Übergabe von Teilbereichen des Mietgegenstandes erfolgen (vgl. Ziffer 3.5), so sind sich die Parteien einig, dass der Mieter die monatliche Miete anteilig für die jeweilige Mietfläche zu zahlen hat. Sowohl Grundmiete als auch Nebenkostenvorauszahlung bemisst sich nach der tatsächlich übergebenden Mietfläche.

areas of the Lease Object are handed over gradually (see Clause 3.5), the Parties agree that the Tenant must pay the monthly rent pro rata for the respective leased area. Both the Base Rent and the advance payment for operating costs are based on the rental space actually handed over.

## 6. BETRIEBS- UND NEBENKOSTEN

6.1 Zusätzlich zur Zahlung der Miete trägt der Mieter die Betriebskosten gemäß Verordnung über die Aufstellung von Betriebskosten (Betriebskostenverordnung – BetrKV) in der jeweils geltenden Fassung. Die aktuell gültige Fassung ist diesem Vertrag als Anlage 6.1 beigelegt.

6.2 Der Mieter trägt neben den Betriebskosten gemäß Ziffer 6.1 die anteiligen Kosten der kaufmännischen und der technischen Objektverwaltung, (z.B. folgende Leistungen: Personalführung und Controlling; Durchführung von Mietflächenübergaben und -rücknahmen; Kontrolle des Gebäudezustands und der technischen Funktionen (mit Ausnahme von Dach und Fach); Nebenkostenmanagement (Erstellung von Budgets, Wirtschaftsplänen, Controlling). Der Mieter beteiligt sich an den vorgenannten Kosten der Immobilienverwaltung mit **pauschal drei (3) Prozent** der vom Mieter jeweils zu zahlenden tatsächlichen Jahresgrundmiete. Soweit in diesem Vertrag weitere Nebenkostentragungspflichten des Mieters vorgesehen sind, hat der Mieter auch diese weiteren Nebenkosten zu tragen.

6.3 Der Mieter trägt anteilig folgende Kosten, sofern diese während der Laufzeit des Mietvertrages für den Mietgegenstand tatsächlich anfallen und soweit nicht Leistungen betroffen sind, die ausschließlich

## 6. OPERATING AND ANCILLARY COSTS

6.1 In addition to paying the rent, the Tenant shall bear the operating costs in accordance with the German Ordinance on the Statement of Operating Costs (*Betriebskostenverordnung – BetrKV*) as amended from time to time. The currently valid version is attached to this Rental Contract as Annex 6.1.

6.2 In addition to the operating costs pursuant to Clause 6.1, the Tenant shall bear the pro rata costs of commercial and technical property management (e.g. the following services: Personnel management and controlling; execution of rental space transfers and redemptions; control of the building condition and technical functions (with the exception of roof and shed); ancillary cost management (preparation of budgets, economic plans, controlling). The Tenant contributes to the aforementioned property management costs with a **flat rate of three (3) percent** of the annual Base Rent to be paid by the tenant. Insofar as further ancillary cost obligations of the Tenant are provided in this Rental Contract, the Tenant shall also bear these additional ancillary costs.

6.3 The Tenant shall bear the following costs on a pro rata basis, insofar as they are actually incurred for the Lease Object during the term of the Rental Contract and insofar as services are not affected that relate exclusively to other

andere, von der Büronutzung durch den Mieter abgrenzbare Nutzungseinheiten betreffen:

Die Kosten des Betriebs, der Pflege, der Reinigung, der Wartung, der allgemeinen Instandhaltung (inkl. Schönheitsreparaturen) sowie der Instandsetzung der gemeinschaftlichen Flächen, Anlagen, technischen und sonstigen Einrichtungen (nachfolgend mangels konkreter Spezifizierung „Allgemeinflächen“ genannt) wie folgt:

- Die Kosten der Reinigung (inklusive Glasreinigung) der Allgemeinflächen sowie der Abfallbeseitigung auf den Allgemeinflächen;
- die Kosten der Außenreinigung der Fassade (einschließlich aller Glas- sowie Metallelemente) und außen liegender Glas- sowie Vordächer und eines etwaigen, außen liegenden Sonnenschutzes;
- die Kosten der Wartung, allgemeinen Instandhaltung und Instandsetzung von allen Oberflächen, z.B. Bodenbelägen, Glaselementen, abgehängten Decken etc. der Allgemeinflächen;
- die Kosten für den Betrieb, die Wartung, die allgemeine Instandhaltung und Instandsetzung der Klima-, Be- und Entlüftungsanlagen (einschließlich aller Bestandteile und Zubehörstücke) und aller sonstigen, zentralen oder der Allgemeinheit dienenden, technischen Anlagen, wie z. B. der Gebäudeleittechnik, der Sprech- und Lautsprecheranlagen, der Aufzüge und sonstigen Fördermittel, der technischen Überwachungssysteme, der Notstromversorgungstechnik, der Breitband-Kabeltechnik, der Informationstechnik;

units of use that can be demarcated from the Tenant's office use:

The costs of operation, upkeep, cleaning, servicing, general maintenance (including decorative repairs) and repair of the common-use areas, facilities, technical and other installations (hereinafter "Common Areas" due to lack of specification) as follows:

- The costs of cleaning (including glass cleaning) of the Common Areas and of waste disposal on the Common Areas;
- the costs of external cleaning of the façade (including all glass and metal elements) and external glass and projecting roofs and any external sun protection;
- the costs of servicing, general maintenance and repair of all surfaces, e.g. floor coverings, glass elements, suspended ceilings, etc. of the Common Areas;
- the costs of operation, servicing, general maintenance and repair of air conditioning, ventilation and air extraction systems (including all components and accessories) and all other technical facilities that are central or serve the general public, such as building control technology, intercom and loudspeaker systems, lifts and other means of transport, technical monitoring systems, emergency power supply technology, broadband cable technology, information technology;

- die Kosten für die regelmäßige Überprüfung, Wartung und die allgemeine Instandhaltung und ggf. die Ersatzbeschaffung der Feuerlöscher;
- die Kosten für den Betrieb, die regelmäßigen Prüfungen, die Wartung, die allgemeine Instandhaltung und die Instandsetzung der brand- und sicherheitstechnischen Einrichtungen, dazu zählen z. B. die Blitzschutzanlage, Störungs- und Brandmeldeanlagen mit Nebeneinrichtungen, die Sprinkleranlage, die Rauch- und Wärmeabzugsanlage, die Hydranten, Einbruchmelder, ELA-Anlagen, Feuerlöschtechnik, Überwachungskameras inklusive Aufzeichnungstechnik und Notrufanlagen und aller mechanischen bzw. automatischen Elemente wie Türen, Tore, Schranken, Brandschutztüren;
- die Kosten für den Betrieb, die Reinigung, die Wartung, die allgemeine Instandhaltung und Instandsetzung der allgemein zugänglichen Sanitäreinrichtungen inklusive der zugehörigen, gesamten Sanitärtechnik;
- die Kosten für Beleuchtungsmittel der Allgemeinflächen;
- die Kosten der Versorgung der Allgemeinflächen, Anlagen und Einrichtungen mit Wasser, Strom, Wärme, Kälte, Gas etc. einschließlich Wasseraufbereitung (inklusive Fett- und Ölabscheider), Kanalgebühren und der Kosten der Verbrauchserfassung;
- die Kosten für gemeinschaftliche Dekorationen, z. B. Pflanzen und Wasserflächen der Allgemeinflächen (deren Wartung, allgemeine Instandhaltung und Instandsetzung sowie etwa anfallende Betriebskosten, wie Strom, Wasser etc.);
- the costs of regular inspection, servicing and general maintenance and, if necessary, replacement of the fire extinguishers;
- the costs of operation, regular inspections, servicing, general maintenance and repair of the technical installations in terms of fire precaution and safety, including e.g. the lightning protection system, the malfunction and fire detection systems with ancillary installations, the sprinkler system, the smoke and heat outlet system, the hydrants, intrusion detection systems, PA systems, fire extinguishing technology, surveillance cameras including recording technology and emergency message systems and all mechanical and automatic elements such as doors, gates, barriers, fire doors;
- the costs of operation, cleaning, servicing, general maintenance and repair of all publicly accessible sanitary facilities including the associated entire sanitary technology;
- the lighting costs of the Common Areas;
- the costs of supplying the Common Areas, facilities and installations with water, electricity, heat, air-conditioning, gas, etc. including water treatment (including fat and oil separators), canal fees, costs of metering consumption;
- the costs of communal decorations, e.g. plants and water areas in the Common Areas (their servicing, general maintenance and repair and any incurred operating costs, such as electricity, water, etc.);

- die Kosten eines allgemeinen Sanitärzimmers (Reinigung, allgemeine Instandhaltung und Instandsetzung, Anschaffung von Verbandsmaterial, Prüfungskosten);
  - die Wartung, allgemeine Instandhaltung und Instandsetzung der Be- und Ausschilderung, der Informationsstände und der Beflagung sowie (bei den Informationsständen) die Personalkosten.
- 6.4 Die Belastung des Mieters mit Kosten für die allgemeine Instandhaltung und Instandsetzung (einschließlich Reparaturen, Ersatzbeschaffungen) von Allgemeinflächen, von gemeinschaftlichen Anlagen sowie von technischen und sonstigen Einrichtungen wird jährlich auf sieben (7) Prozent der vom Mieter jeweils zu zahlenden tatsächlichen Jahresgrundmiete (zzgl. USt.) beschränkt.
- 6.5 Der Mieter wird nicht mit Kosten der Wartung, der Überprüfung, der allgemeinen Instandhaltung und Instandsetzung von Dach und Fach belastet, auch sofern Bauteile, Anlagen und Einrichtungen von Dach und Fach vorstehend erfasst worden sein sollten. Im Sinne dieses Mietvertrages gehören folgende Bauteile, Anlagen und Einrichtungen zu „Dach und Fach“: Die gesamte Dachkonstruktion nebst Klempnerarbeiten und inkl. der Dacheindeckung und Schornsteine, einschließlich etwaiger Vor- und Nebendächer sowie Glasdächer und Zu- und Abgänge des Daches; die gesamte, tragende Konstruktion des Gebäudes inkl. der Gründung (Fundament); die Geschossdecken; die Fassadenkonstruktion inkl. etwaiger Fassadenverkleidung (also insbesondere Stahl- und Glaskonstruktionen inkl. aller in die Konstruktion eingesetzter Elemente), sowie alle in den Wänden, Böden und Decken verlaufenden Installationen, Ver- und Entsorgungsleitungen bis zu deren Austritt aus
- the costs of a communal sanitary room (cleaning, general maintenance and repair, purchase of bandaging material, inspection costs);
  - the servicing, general maintenance and repair of signage and labelling, of information booths and display of flags and the personnel costs (for information booths).
- 6.4 The burden on the Tenant in the form of general maintenance and repair costs (including overhaul, replacement) of Common Areas, communal facilities and technical and other installations shall be limited annually to seven (7) percent of the actual annual Base Rent (plus VAT) to be paid by the Tenant.
- 6.5 The Tenant shall not be burdened with costs of servicing, inspection, general maintenance and repair of Roof and Shed (Dach und Fach), even if components, facilities and installations of Roof and Shed (Dach und Fach) should have been covered above. For the purpose of this Rental Contract, "Roof and Shed (*Dach und Fach*)" shall include the following components, facilities and installations: the entire roof construction including roof cladding and chimneys, including any porches and side roofs as well as glass roofs and connections and outflows from the roof; the entire load-bearing construction of the building including substructure (foundation); the floor ceilings; the façade construction including any façade cladding (that is, in particular, steel and glass constructions including all elements inserted in the construction), as well as all installations, supply and disposal lines running in the walls, floors and corners up to their exit from the wall, floor or ceiling into the Lease Object and

der Wand, dem Boden oder der Decke in den Mietgegenstand und die gebäudeabschließenden Teile, Außenfenster und Außenfensterrahmen sowie sonstige in die Fassade eingelassene Glasflächen (die auch als Bestandteil der Fassade gelten); nicht zu „Dach und Fach“ gehören die in der Fassade eingesetzten Bauteile, Anlagen und Einrichtungen, die beweglich sind und dem Betreten oder der Anlieferung dienen, also Fenster, Türen, Tore, auch Rolltore, jeweils inkl. unbeweglicher Bauteile zur Verbindung mit dem Gebäude (z. B. den „unbeweglichen“ Rahmen von Fenstern, Türen, Toren und Rolltoren sowie dem „Gehäuse“ von Drehtüren).

6.6 Der Vermieter ist berechtigt, Bewirtschaftungsleistungen, deren Kosten auf den Mieter umgelegt werden, zur Förderung der Nachhaltigen Nutzung und Bewirtschaftung der Liegenschaft bzw. Mietgegenstandes in einer anderen, ökologischeren Art erbringen zu lassen als technisch und ökonomisch zwingend erforderlich, wobei die Kosten für die jeweilige ökologischere Ausführungsart lediglich **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen dürfen; das allgemeine Wirtschaftlichkeitsgebot findet daher nur insoweit Anwendung, als dass aus mehreren, gleich geeigneten und unter dem Gesichtspunkt der Nachhaltigen Nutzung und Bewirtschaftung gleichwertigen Ausführungsarten, der wirtschaftlicheren Ausführungsart der Vorzug zu geben ist, wobei die Belastung des Mieters mit etwaigen durch die Nachhaltige Nutzung und Bewirtschaftung verursachten Mehrkosten jährlich auf **drei (3) Prozent** der vom Mieter jeweils zu zahlenden tatsächlichen Jahresgrundmiete (zzgl. USt.) beschränkt ist.

the parts enclosing the building, exterior windows and exterior window frames as well as other glass surfaces embedded in the façade (which are also considered part of the façade); "Roof and Shed (*Dach und Fach*)" shall not include the components, facilities and installations inserted into the façade that are movable or serve access or delivery, that is, windows, doors, gates, also rolling gates, in each case including immovable components for connection to the building (e.g. the "immovable" frames of windows, doors, gates and rolling gates and the "casing" of revolving doors).

6.6 The Landlord is entitled to have management services, the costs of which are passed on to the Tenant, to promote the Sustainable Use and Management of the Property or the Lease Object in a different, more ecological way than technically and economically absolutely necessary, with the costs for the respective more ecological type of execution may only be **five (5) percent** above the cheapest non-ecological offer; the general principle of cost-effectiveness therefore only applies to the extent that preference is to be given to the more economical type of design from among several types of design that are equally suitable and of equal value from the point of view of Sustainable Use and Management, whereby the Tenant's burden of any additional costs caused by Sustainable Use and Management is limited to **three (3) percent** of the actual annual Base Rent (plus VAT) to be paid by the Tenant.

- 6.7 Für die gesamte Liegenschaft gibt es eine zentrale Heizungsanlage (Fernwärme). Durch diese werden auch die Räume im Mietgegenstand versorgt. Die Kosten des Betriebs der zentralen Heizungs- und Warmwasserversorgungsanlage werden zu 70% nach dem erfassten Verbrauch und zu 30% im Verhältnis der Gesamtmietfläche zu den Mietflächen der Liegenschaft umgelegt. Die weiteren Betriebs- und Nebenkosten, die von einem erfassten Verbrauch oder einer erfassten Verursachung durch die Mieter abhängen, sind ausschließlich nach einem Maßstab umzulegen, der dem unterschiedlichen Verbrauch oder der unterschiedlichen Verursachung Rechnung trägt. Die weiteren Betriebs- und Nebenkosten werden dabei im Zweifel im Verhältnis der Gesamtmietfläche zu den Mietflächen der Liegenschaft auf den Mieter umgelegt, sofern dieser die Kosten nicht direkt begleicht oder eigene Zählereinrichtungen zur Verbrauchsmessung vorhanden sind. Bei der Umlage der Betriebskosten werden nutzungsbedingte Zuschläge stets nutzergerecht innerhalb der Gesamtanlage verrechnet/umgelegt. Im Übrigen entscheidet der Vermieter nach billigem Ermessen (vgl. § 315 BGB) unter Wahrung des Grundsatzes der Gleichbehandlung der Mieter und unter Beachtung zwingender gesetzlicher Vorschriften, insbesondere unter Berücksichtigung des Verhältnisses der Gesamtmietfläche zu den Mietflächen der Liegenschaft, nach welchem Maßstab die Betriebskosten auf die Mieter der Liegenschaft zu verteilen sind. Der Vermieter kann durch Erklärung in Textform bestimmen, dass die Betriebskosten zukünftig abweichend von der getroffenen Vereinbarung ganz oder teilweise nach einem Maßstab umgelegt werden dürfen, der dem erfassten unterschiedlichen Verbrauch
- 6.7 There is a central heating system (district heating) for the entire property. This also supplies the rooms in the Lease Object. The costs of the operation of the central heating and hot water supply system shall be allocated 70% according to the recorded consumption and 30% in proportion of the Total Rental Space to the rental areas of the Property. The other operating and ancillary costs, which depend on a recorded consumption or a recorded cause by the tenants, are to be allocated exclusively according to a scale that takes into account the different consumption or the different cause. In case of doubt, the other operating and ancillary costs shall be apportioned to the Tenant in proportion to the total rental area of the Property, unless the Tenant pays the costs directly or has its own metering equipment for measuring consumption. When allocating the operating costs, usage-related surcharges shall always be charged/allocated on a user-related basis within the overall facility. In all other respects, the Landlord shall decide at his reasonable discretion (cf. § 315 BGB), in compliance with the principle of equal treatment of tenants and in compliance with mandatory statutory provisions, in particular taking into account the ratio of the Total Rental Space to the rental areas of the Property, according to which scale the operating costs are to be allocated to the tenants of the Property. The Landlord may determine by declaration in text form that the operating costs may be allocated in the future, in deviation from the agreement made, in whole or in part according to a scale that takes into account the recorded different consumption or the recorded different causation (§ 556a (2) BGB). The declaration must be made before the start of a billing period.

oder der erfassten unterschiedlichen Verursachung Rechnung trägt (§ 556a Abs. 2 BGB). Die Erklärung muss vor Beginn eines Abrechnungszeitraumes abgegeben werden.

6.8 Die Parteien werden sich bemühen, einander folgende Informationen, Unterlagen und Dokumente („Daten“) zur Verfügung zu stellen, die im Zusammenhang mit der Nachhaltigen Nutzung und Bewirtschaftung des Mietgegenstandes stehen („Nachhaltigkeitsinformationen“):

- Daten des Energie- und Wasserverbrauchs;
- Daten des Abfallaufkommens;
- Daten, die für die Ermittlung der CO<sub>2</sub>-Bilanz des Mietgegenstandes erforderlich sind (beispielsweise alle Informationen, die durch die jeweiligen Energielieferanten zur Verfügung gestellt werden).

Hierzu werden sich beide Parteien bemühen, einander regelmäßig die Nachhaltigkeitsinformationen, die mit vorhandenen Messeinrichtungen erhoben oder ohne weitere Messeinrichtungen ermittelt werden können, in geeigneter Form (soweit vorhanden elektronisch) und in angemessener Frist nach Aufforderung der jeweils anderen Partei zu übermitteln. Der Vermieter wird diese Daten in der Regel einmal jährlich beim Mieter abfragen, sofern er sie nicht selbst im Rahmen der üblichen Bewirtschaftung des Gebäudekomplexes ermittelt.

Die Parteien werden sich im Zusammenhang mit diesem Datenaustausch bestmöglich um die Wahrung der Interessen der jeweils anderen Partei bemühen und sind verpflichtet, die Erfüllung der jeweils anwendbaren gesetzlichen Anforderungen an Datenschutz, Datensicherheit und lauterer Wettbewerb sicherzustellen. Sollte zukünftig seitens einer Partei der Austausch weiterer Nachhaltigkeitsinformationen gewünscht

6.8 The Parties shall endeavor to provide each other with the following information, records and documents ("Data") related to the Sustainable Use and Management of the Lease Object ("Sustainability Information"):

- Data of energy and water consumption;
- Data of waste generation;
- Data necessary for determining the carbon footprint of the Lease Object (for example, all information provided by the respective energy suppliers),

For this purpose, both Parties shall endeavor to regularly provide each other with the Sustainability Information that can be collected with existing measuring devices or determined without further measuring devices in a suitable form (electronically, if available) and within a reasonable period of time upon request of the respective other Party. As a rule, the Landlord shall request this Data from the Tenant once a year, unless it determines it itself as part of the normal management of the building complex.

In connection with this data exchange, the Parties shall use their best efforts to protect the interests of the other Party and shall ensure compliance with the applicable legal requirements for data protection, data security and fair competition. Should the exchange of further Sustainability Information be desired by one of the Parties in the future, the Parties shall coordinate their efforts in this regard.



werden, werden sich die Parteien hierüber abstimmen.

- 6.9 Für die Nebenkostenabrechnung gelten die folgenden Bestimmungen:
- 6.9.1 Für die vorstehenden Betriebs- und Nebenkosten zahlt der Mieter eine angemessene monatliche Vorauszahlung. Als angemessene Vorauszahlung zahlt der Mieter monatlich **3,80 EUR/m<sup>2</sup>** (zzgl. USt.) ausgehend von der Gesamtmietfläche.
- 6.9.2 Der Vermieter ist berechtigt, nach billigem Ermessen gemäß § 315 BGB eine Anpassung der monatlichen Vorauszahlungen auf die Betriebs- und Nebenkosten vorzunehmen sowie die Abrechnungsart und den Umlageschlüssel für alle oder einzelne Betriebs- und Nebenkosten neu festzusetzen, soweit dies dem erfassten unterschiedlichen Gebrauch oder der erfassten unterschiedlichen Verursachung Rechnung trägt. Die geänderte Vorauszahlung ist in diesem Fall ab dem auf den Zugang der Anpassungs- bzw. Änderungsmitteilung folgenden Monat zu leisten.
- 6.9.3 Die Abrechnung der vom Vermieter verauslagten Betriebs- und Nebenkosten erfolgt jährlich bis 30.09. eines Jahres für den jeweils vorausgegangenen Abrechnungszeitraum. Abrechnungszeitraum ist der 1.10. eines Jahres bis 30.09. des Folgejahres. Mit Ablauf von drei (3) Monaten nach Zugang der Abrechnung sind Einwendungen gegen deren Richtigkeit ausgeschlossen, es sei denn den Mieter trifft kein Verschulden. Der Vermieter wird den Mieter mit der Abrechnung auf die Ausschlussfrist und die Folgen seines Schweigens hinweisen. Etwa sich aus der jährlichen Abrechnung
- 6.9 The following provisions apply to the invoicing of ancillary costs:
- 6.9.1 Tenant shall render an appropriate monthly advance payment for the aforementioned operating and ancillary costs. As an appropriate advance payment, the Tenant shall pay the amount of **3.80 EUR/m<sup>2</sup>** (plus VAT) per month, based on the Total Rental Space.
- 6.9.2 The Landlord shall be entitled to adjust the monthly advance payments for the operating and ancillary costs at its reasonable discretion in accordance with § 315 BGB and to re-determine the type of settlement and the allocation key for all or individual operating and ancillary costs, insofar as this takes into account the recorded different use or the recorded different causation. In this case, the amended advance payment shall be made as of the month following receipt of the notice of adjustment or amendment.
- 6.9.3 The operating and ancillary costs incurred by the Landlord are billed annually by September 30 of each year for the previous billing period. The billing period is October 1 of a year to September 30 of the following year. Objections to the accuracy of the statement are excluded three (3) months after receipt of the statement, unless the Tenant is not at fault. The Landlord will inform the Tenant of the cut-off period and the consequences of his silence with the settlement. Claims / reimbursement amounts resulting from the annual statement are due thirty (30) days after receipt of the statement.

- ergebende Forderungen / Erstattungsbeträge werden dreißig (30) Tage nach Zugang der Abrechnung fällig.
- 6.9.4 Der Vermieter ist berechtigt, fehlerhafte Abrechnungen im Nachhinein zu korrigieren. Berechtigten Belangen des Mieters ist hierbei, wo dies nach Treu und Glauben geboten erscheint, durch die Einräumung angemessener Zahlungsfristen Rechnung zu tragen.
- 6.9.5 Der Vermieter ist berechtigt, den Abrechnungszeitraum, auch für einzelne Kostenpositionen, durch einseitige Erklärung gegenüber dem Mieter umzustellen und im Falle der Veräußerung des Grundstücks auch Teilabrechnungen vorzunehmen.
- 6.9.6 Werden öffentliche Abgaben und/oder sonstige Kosten im Sinne der Betriebskostenverordnung neu eingeführt oder erhöhen sich diese, können diese Kosten ebenfalls vom Vermieter vom Zeitpunkt ihrer Entstehung an entsprechend den in diesem Vertrag getroffenen Regelungen zu den Nebenkosten umgelegt werden, wenn diese Kosten nach Gesetz oder aufgrund ihrer zweifelsfreien Zuordnung zur Risikosphäre des Mieters auf diesen im Rahmen der Nebenkosten umgelegt werden können. Sach- und Arbeitsleistungen des Vermieters, durch welche Nebenkosten erspart werden, dürfen mit dem marktüblichen Betrag angesetzt werden, der für eine gleichwertige Leistung eines Dritten, insbesondere eines Unternehmers, angesetzt werden könnte.
- 6.9.7 Endet das Mietverhältnis während des Abrechnungszeitraums, hat der Mieter keinen Anspruch auf Abrechnung vor dem in vorstehender Ziffer 6.9.3 genannten Zeitpunkt. Wird bei Mieterwechsel eine
- 6.9.4 Landlord shall be entitled to subsequently correct erroneous invoices. In this connection, Tenant's legitimate interests shall be accommodated where required in good faith by granting reasonable payment periods.
- 6.9.5 Landlord shall be entitled to change the accounting period, also for individual cost items, by unilateral declaration towards the Tenant and also to issue partial invoices in the event of a sale of the Property.
- 6.9.6 If public charges and/or other costs within the meaning of the German Ordinance on the Statement of Operating Costs are newly introduced or increase, these costs may also be allocated by Landlord (to the tenants) as of the date they are incurred, in accordance with the provisions regarding operating and ancillary costs agreed under this Rental Contract, if these costs can be passed on to the Tenant as ancillary costs by law or due to their unambiguous allocation to the Tenant's sphere of risk. Performance in kind or work done by Landlord causing ancillary costs to be saved may be charged in the market-standard amount that could have been charged for an equivalent service by a third party, particularly by a service provider.
- 6.9.7 If the tenancy ends during an accounting period, the Tenant shall not be entitled to be issued an invoice before the date specified above in Clause 6.9.3. If an interim reading

- Zwischenablesung vorgenommen, trägt der ausziehende Mieter die Kosten. Findet keine Zwischenablesung statt, sind die gesamten Kosten zeitanteilig aufzuteilen.
- 6.9.8 Bringt der Bürobetrieb des Mieters es mit sich, dass Verpackungsmaterial oder anderes die Müllgefäße besonders anfüllendes Material in größerem Umfang anfällt, so verpflichtet der Mieter sich, die Kosten für zusätzliche Müllgefäße zu tragen, die der Vermieter anfordern wird.
- 6.9.9 Werden für die Abfallbeseitigung getrennte Behälter zur Verfügung gestellt, ist der Mieter verpflichtet, diese entsprechend zu benutzen.
- 6.10 Der Mieter ist verpflichtet, soweit möglich und zulässig, mit Versorgungsträgern/Lieferanten Versorgungsverträge im eigenen Namen und auf eigene Rechnung abzuschließen. Die Parteien sind sich insofern einig und stellen klar, dass der Mieter die Versorgung des Mietgegenstandes mit Strom unmittelbar mit einem Versorgungsträger abstimmt und bei der Berechnung der vom Mieter an den Vermieter zu zahlenden Vorauszahlungen (Ziffer 6.9.1) keine entsprechenden Kosten berücksichtigt wurden.
- 6.11 Die Betriebs- und Nebenkosten sind im Übrigen ohne Rücksicht darauf zu zahlen, ob und in welchem Umfang der Mieter Anlagen/Dienstleistungen tatsächlich benutzt oder diese tatsächlich zur Verfügung stehen.
7. WERTSICHERUNG
- 7.1 Die Miete wird wie folgt wertgesichert:  
Hat sich der vom Statistischen Bundesamt veröffentlichte Verbraucherpreisindex für Deutschland (VPI) im Dezember eines Jahres gegenüber dem Stand zum Mietbeginn bzw.
- is carried out in the event of a change of tenants, the tenant moving out shall bear the costs. If no interim reading is carried out, the total costs are to be divided *pro rata temporis*.
- 6.9.8 If Tenant's office operations lead to large amounts of packing material or other bulky material that fills up the rubbish containers, Tenant undertakes to bear the costs for additional rubbish containers to be ordered by Landlord.
- 6.9.9 If separate containers are provided for rubbish removal, the Tenant shall be obligated to use them appropriately.
- 6.10 The Tenant shall be obliged, as far as possible and permissible, to conclude supply contracts with supply carriers/suppliers in its own name and for its own account. The Parties agree in this respect and clarify that the Tenant shall coordinate the supply of electricity to the Lease Object directly with a supply carrier and that no corresponding costs have been taken into account in the calculation of the advance payments to be paid by the Tenant to the Landlord (Clause 6.9.1).
- 6.11 The operating and ancillary costs are to be paid regardless of whether and to what extent the Tenant actually uses the facilities/services or if they are actually available.
7. VALUE PROTECTION
- 7.1 The rent shall be value-indexed as follows:  
If the consumer price index for Germany published by the Federal Statistical Office (CPI) has changed in December of a year by **more than five (5) Percent** compared to the level at

der jeweils letzten Mietanpassung nach dieser Ziffer um mehr als fünf (5) Prozent verändert, so ändert sich automatisch mit Wirkung zum 1. Januar des folgenden Jahres die Miete in dem gleichen prozentualen Verhältnis. Ändert sich in der Folgezeit der Index im Dezember eines Jahres erneut um mehr als fünf (5) Prozent gegenüber dem Stand zum Zeitpunkt der zuletzt vorgenommenen Anpassung der Miete nach dieser Ziffer, so ändert sich die Miete erneut automatisch mit Wirkung zum 1. Januar des folgenden Jahres in dem gleichen prozentualen Verhältnis. Basis für die Beurteilung der Indexveränderung und die Anpassung der Miete zu jedem Anpassungstichtag ist jeweils der Indexstand des dem Mietbeginn bzw. letzten Anpassungstichtag vorangegangenen Kalendermonats.

Im Falle einer Erhöhung hat der Vermieter, im Falle einer Ermäßigung der Mieter die Änderung unter Vorlage einer Berechnung mitzuteilen. Eine nicht oder nicht rechtzeitige Mitteilung bedeutet keinen Verzicht auf die Anpassung. Ein erhöhter Mietbetrag ist rückwirkend zu zahlen; im Falle einer Ermäßigung ist der Differenzbetrag rückwirkend zurückzuerstatten. Die Parteien geraten jedoch erst nach Zugang der jeweiligen Abrechnung sowie erfolgter Mahnung in Verzug.

- 7.2 Sollte rechtskräftig festgestellt sein, dass die Wertsicherungsklausel gegen das Gesetz über das Verbot der Verwendung von Preisklauseln bei der Bestimmung von Geldschulden (Preisklauselgesetz – PrKIG) verstößt und damit nach § 8 PrKIG unwirksam ist, so ist die unwirksame Wertsicherungsklausel in eine wirksame Leistungsvorbehaltsklausel umzudeuten. Auch dann soll Änderungsmaßstab die in Ziffer 7.1 genannte

the beginning of the lease or the respective last rent adjustment according to this Clause, the rent shall automatically change in the same percentage ratio with effect as of the 1 January of the following year. If the index subsequently changes again in December of a year by more than five (5) Percent compared to the level at the time of the last adjustment to the rent according to this Clause, the rent shall automatically change again in the same percentage ratio with effect as of the 1 January of the following year. The basis for the assessment of the change in the index and the adjustment of the rent on the adjustment date shall in each case be the index level of the calendar month preceding the commencement of the lease or adjustment date.

In the event of an increase, the Landlord, and in the event of a reduction, the Tenant shall notify the change by submitting a calculation. Failure to notify or failure to notify in due time shall not constitute a waiver of the adjustment. An increased amount of rent shall be paid retroactively; in the case of a reduction, the difference shall be refunded retroactively. However, the Parties shall only be in default after receipt of the respective statement of account and a reminder has been issued.

- 7.2 Should it be legally established that the value adjustment clause violates the Act on the Prohibition of the Use of Price Clauses in the Determination of Money Debts (*Preisklauselgesetz – PrKIG*) and is thus invalid pursuant to § 8 PrKIG, the invalid value adjustment clause shall be reinterpreted as a valid performance reservation clause. In this case, too, the change shall be based on the index change referred to in Clause 7.1, taking into account considerations of equity.

Indexveränderung – unter Einbeziehung von Billigkeitserwägungen – sein.

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| <p>7.3 Sollte der hier vereinbarte Verbraucherindex nicht mehr fortgeführt werden, so gilt ein dann gültiger Lebenshaltungskostenindex als vereinbart, der mit dem hier vereinbarten Index vergleichbar ist.</p> <p>7.4 Die Parteien gehen gemeinsam davon aus, dass die vorstehende Vereinbarung wirksam ist. Sollte sie wider Erwarten unwirksam sein, verpflichten sich die Parteien, eine Regelung zu treffen, die der vorstehenden Klausel wirtschaftlich am nächsten kommt.</p>  | <p>7.3 In the event that the consumer index agreed herein is no longer continued, a cost of living index then in effect shall be deemed to have been agreed which is comparable to the index agreed herein.</p> <p>7.4 The Parties jointly assume that the above agreement is effective. If, contrary to expectations, it should be ineffective, the parties undertake to agree on a provision that comes as close as possible to the above clause in economic terms.</p>   |
| <p>8. UMSATZSTEUER</p>   | <p>8. VAT</p>   |
| <p>8.1 Die Miete und die Betriebs-/Nebenkosten sind Nettobeträge. Der Vermieter übermittelt dem Mieter eine formell ordnungsgemäße Rechnung im Sinne des § 14 Umsatzsteuergesetz (UstG), in welchem er die jeweils geltende Umsatzsteuer gesondert ausweist.</p>   | <p>8.1 The rent and the operating/ancillary costs are net amounts. Landlord shall send the Tenant a formally correct invoice within the meaning of § 14 of the German Value Added Tax Act (<i>Umsatzsteuergesetz – UstG</i>), in which the applicable value added tax is shown separately.</p>  |
| <p>8.2 Der Vermieter optiert zur Umsatzsteuer (§ 9 Abs. 2 UStG). Der Mieter versichert, dass er Unternehmer im Sinne des Umsatzsteuergesetzes ist und den Mietgegenstand vollständig seinem Unternehmen zuordnen wird. Der Mieter verpflichtet sich, den Mietgegenstand ausschließlich zur Ausführung von Umsätzen zu verwenden, die den Vorsteuerabzug nicht ausschließen. Soweit und solange die Finanzbehörden im Rahmen des § 9 Abs. 2 UStG bezüglich des Begriffs der „ausschließlichen“ Verwendung für Umsätze, die den Vorsteuerabzug nicht ausschließen, eine unschädliche Bagatellgrenze anwenden (vgl. Abschnitt 9.2 Absatz 3 des Umsatzsteueranwendungserlasses), ist durch diese Bagatellgrenze zugleich der</p> | <p>8.2 The Landlord opts for VAT (§ 9 (2) UStG). The Tenant assures that he is an entrepreneur within the meaning of the German Value Added Tax Act and that he will completely assign the Lease Object to his company. The Tenant undertakes to use the Lease Object exclusively for the purpose of executing sales and/or services which do not exclude the deduction of input tax. Insofar as and as long as the tax authorities apply a harmless de minimis threshold in the context of § 9 (2) UStG regarding the concept of "exclusive" use for sales or services that do not preclude the deduction of input tax (see § 9.2 paragraph 3 of the VAT Application Decree, <i>Umsatzsteueranwendungserlasses</i>), this de minimis limit shall apply. At the same time, the concept of exclusivity is limited in the preceding provisions.</p> |

Ausschließlichkeitsbegriff in den vorstehenden Bestimmungen begrenzt.

- 8.3 Wenn und soweit der Mieter gegen die vorstehende Verpflichtung verstößt, hat der Mieter dem Vermieter sämtliche Schäden und Nachteile zu ersetzen. Darüber hinaus ändert sich in diesem Fall der Mietvertrag dergestalt, dass die vereinbarte Nettomiete um die dann jeweils gültige Umsatzsteuer zu erhöhen ist, mithin die so errechnete Bruttomiete als pauschaler Mietzins zu zahlen ist. Der Vermieter ist in diesem Fall nicht mehr zur gesonderten Ausweisung der Umsatzsteuer verpflichtet. Sollte das Fehlen der Optionsvoraussetzungen erst nachträglich bekannt werden, so ist der Vermieter berechtigt, die bisher ausgestellten Rechnungen derart zu berichtigen, dass der bisher vertragliche Bruttomietzins dem pauschalen monatlichen Mietzins entspricht. Erstattungsansprüche gegenüber dem Finanzamt wegen nicht mehr offen ausgewiesener Umsatzsteuer stehen ausschließlich dem Vermieter zu. Der Mieter hat insoweit keinen Erstattungsanspruch.
- 8.3 If and to the extent that the Tenant violates the above obligation, the Tenant shall reimburse the Landlord for all damages and disadvantages. In addition, in this case, the lease changes in such a way that the agreed net rent is to be increased by the then applicable value added tax, and thus the calculated gross rent is to be paid as a lump-sum rent. The Landlord is in this case no longer required to separate the VAT. Should the absence of the option requirements only become known later, the Landlord is entitled to correct the invoices issued so far in such a way that the previously agreed gross rent corresponds to the flat rate monthly rent. Reimbursement claims against the tax office due to no longer disclosed VAT are the sole responsibility of the Landlord. The Tenant has no claim for reimbursement.
- 8.4 Sofern der Mietgegenstand durch Dritte genutzt wird, haftet der Mieter für die Einhaltung des steuerlich unbedenklichen Verwendungszwecks durch den Dritten. Im Falle einer vom Vermieter genehmigten Untervermietung oder sonstigen Gebrauchsüberlassung an Dritte sind die Verpflichtungen aus vorstehender Ziffer 8.2 dem Dritten vom Mieter in Form eines echten Vertrages zugunsten des Vermieters aufzuerlegen.
- 8.4 If the Lease Object is used by third parties, the Tenant is liable for compliance with the intended use by the third party, which is to be fully subject to VAT, corresponding above Clause 8.2 of this Rental Contract. In the case of sublease or other transfer of use to third parties approved by the Landlord, the obligations of Clause 8.2 above shall be imposed on the third party by the Tenant in the form of a real contract in favour of the Landlord.
- 8.5 Der Mieter wird dem Vermieter auf jederzeitiges Verlangen unverzüglich sämtliche Unterlagen zur Verfügung stellen, die der Vermieter benötigt, um seiner Nachweispflicht nach § 9 Abs. 2 UStG
- 8.5 Tenant shall provide Landlord with such documents at Landlord's request at any time and without delay that permit Landlord to satisfy its duty to provide information to the tax authorities under § 9 (2) UStG.

gegenüber den Finanzbehörden nachzukommen.

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| <p><b>9. ZAHLUNG DER MIETE, VORAUSZAHLUNG BETRIEBS- UND NEBENKOSTEN</b></p> <p>9.1 Die Miete und die Vorauszahlungen auf die Betriebs- und Nebenkosten sind monatlich im Voraus zu entrichten und spätestens am 3. Werktag eines Monats fällig; Nachzahlungen (Forderungen / Erstattungsbeiträge) aus Nebenkostenabrechnungen jedoch erst dreißig (30) Tage nach Zugang der Abrechnung. Für die Rechtzeitigkeit der Zahlung kommt es nicht auf die Absendung, sondern auf die Gutschrift des geschuldeten Betrages an.</p> <p>9.2 Der Mieter hat die Gesamtmietzahlungen auf ein vom Vermieter angegebenes Konto zu zahlen, und zwar so rechtzeitig, dass sie dem Konto des Vermieters bis zur Fälligkeit gutgeschrieben werden.</p> <p>9.3 Bei Zahlungsverzug ist der Vermieter berechtigt, die gesetzlichen Verzugszinsen und für jede schriftliche Mahnung eine Gebühr von 5,00 EUR zu erheben. Dem Mieter steht es frei, den Nachweis zu erbringen, dass im konkreten Falle mit etwaigen Mahnungen kein oder ein geringerer Aufwand als die berechnete Pauschale entstanden ist. Die Geltendmachung eines weiteren Schadens durch den Vermieter bleibt vorbehalten.</p> <p>9.4 Befindet sich der Mieter mit der Zahlung der Miete in Verzug, ist der Vermieter berechtigt, Zahlungen nach seiner Wahl zunächst auf die Kosten und Zinsen des laufenden Jahres und dann auf die älteren Rückstände anzurechnen, es sei denn der Mieter hat eine anderweitige Bestimmung getroffen.</p> | <p><b>9. PAYMENT OF RENT, ADVANCE PAYMENT OPERATING AND ANCILLARY COSTS</b></p> <p>9.1 The rent and the advance payments for the operating and ancillary costs are to be paid monthly in advance and shall be due no later than on the 3<sup>rd</sup> working day of a month; subsequent payments from ancillary-costs statements, however, only thirty (30) days after receipt of the statement. The punctuality of the payment does not depend on the dispatch, but on the crediting of the amount owed.</p> <p>9.2 Tenant shall pay the total rent payments into an account specified by Landlord and, specifically, in such a timely manner as to have them credited to Landlord's account by the maturity date.</p> <p>9.3 In the case of default in payment, Landlord shall be entitled to charge the statutory default interest and a fee of 5.00 EUR for each written reminder. The Tenant shall be free to provide verification that in the concrete case with any reminders no expenditure accrued, or lower expenditure accrued than the calculated lump sum. Landlord reserves the right to assert claims for any additional loss.</p> <p>9.4 If the Tenant is in default in payment of the rent, Landlord at his choice shall be entitled first to set-off against the costs and interest of the current year and then against the older arrears, unless the Tenant has concluded a different provision.</p> |
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## 10. MIETSICHERHEIT

- 10.1 Der Mieter leistet dem Vermieter binnen vier (4) Wochen nach Abschluss dieses Mietvertrages eine Bankbürgschaft zur Absicherung aller Ansprüche des Vermieters gegen den Mieter aus diesem Mietvertrag in Höhe von sechs (6) Gesamtmonatsmieten (brutto), mithin **910.273,02 EUR** (in Worten: **neunhundertzehntausendzweihundertdreundsiebzig Euro und zwei Cent**). Die Bankbürgschaft muss von einer durch die Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) in Deutschland zugelassenen Bank bzw. Kreditinstitut ausgestellt sein. Der Bürge muss sich in den Bürgschaftsurkunde verpflichten, auf erstes Anfordern zu zahlen; der Bürge muss auf das Recht der Hinterlegung sowie auf die Einreden der Anfechtbarkeit und Aufrechenbarkeit – außer rechtskräftig festgestellte oder unbestrittene Forderungen – verzichten. Die Bankbürgschaft muss mindestens für die Dauer des Mietverhältnisses zuzüglich zwölf (12) Monate ausgestellt sein und darf für diese Zeit nicht kündbar sein.
- 10.2 Dem Mieter ist es auch gestattet, nach seinem freien Ermessen statt einer Bankbürgschaft gemäß Ziffer 10.1 eine Barkaution auf ein vom Vermieter zu benennendes insolvenzfestes Kautionskonto in entsprechender Höhe zu zahlen oder eine Bankbürgschaft mit einer Barkaution zu verbinden, sofern beide in Summe der Höhe gemäß Ziffer 10.1 entsprechen. Der Vermieter wird die Kaution getrennt von seinem sonstigen Vermögen halten. Der Mieter kann die gewährte Form der Mietsicherheit jederzeit Zug-um-Zug gegen eine andere nach diesem Vertrag zulässige Form der Mietsicherheit ersetzen.
- 10.3 Vorsorglich für den Fall, dass die Vereinbarung und/oder die Bürgschaft gemäß Ziffer 10.1

## 10. RENTAL SECURITY DEPOSIT

- 10.1 Within four (4) weeks after the conclusion of this Rental contract, Tenant shall provide Landlord with a bank guarantee to secure all claims of Landlord against Tenant arising from this Rental Contract in the amount of six (6) Total Monthly Rents (Gross), i.e. **910,273.02 EUR** (in words: **nine hundred ten thousand two hundred and seventy-three euros and two cent**). The bank guarantee must be issued by a bank or credit institution approved by the Federal Financial Supervisory Authority (BaFin) in Germany. The guarantor must undertake in the surety deed to pay on first demand; the guarantor must waive the right of deposit as well as the defenses of contestability and set-off – except for legally established or undisputed claims. The bank guarantee must be issued for at least the duration of the tenancy plus twelve (12) months and may not be terminable for this period.
- 10.2 Instead of a bank guarantee in accordance with Clause 10.1, the Tenant may – at its own free discretion – make a cash deposit in the same amount to a deposit account that is safe in case of an insolvency to be announced by the Landlord or to combine a bank guarantee with a cash deposit, provided that both total the amount in accordance with Section 10.1 are equivalent to. The Landlord shall keep the deposit payment separate from his other assets. The Tenant can replace the provided kind of rent security at any time against another kind of rent security that is permitted under this Rental Contract.
- 10.3 As a precautionary measure in the event that the agreement and/or the guarantee pursuant to



unwirksam sein sollte, ist der Mieter verpflichtet, dem Vermieter eine andere wirksame Bürgschaft oder eine vergleichbare Sicherheit zu stellen. Ziffer 10.2 bleibt unberührt.

- 10.4 Ändert sich die monatliche Grundmiete um mindestens zehn (10) Prozent nach oben oder nach unten, so ist die Mietsicherheit auf Verlangen einer Partei im entsprechenden Verhältnis anzupassen.
- 10.5 Die Höhe der Mietsicherheit verringert sich nach Ablauf des ersten Mietjahres auf fünf (5) Gesamtmonatsmieten (brutto), nach Ablauf des zweiten Mietjahres auf vier (4) Gesamtmonatsmieten (brutto) und nach Ablauf des dritten Mietjahres auf drei (3) Gesamtmonatsmieten (brutto), sofern der Mieter seinen Zahlungsverpflichtungen nach diesem Vertrag im jeweils vorangegangenen Mietjahr spätestens nach schriftlicher Aufforderung und angemessener Fristsetzung nachgekommen ist. Maßgeblich ist die jeweils zum Ablauf des ersten, zweiten, bzw. dritten Mietjahres geltende Gesamtmonatsmiete (brutto). Der Vermieter wird insofern auf schriftliche Anforderung des Mieters gegenüber der kontoführenden Bank bzw. Sparkasse entsprechende Freigabeerklärungen abgeben bzw. im Falle der Ziffer 10.2 entsprechende Mehrbeträge zur Auskehrung an den Mieter bringen.
- 10.6 Nach Beendigung der Mietzeit wird der Vermieter die Mietsicherheit innerhalb von drei (3) Monaten nach Räumung des Mietgegenstands an den Mieter herausgeben, sofern und soweit gegen den Mieter keinerlei Ansprüche aus dem Mietverhältnis bestehen. Sollten zu diesem Zeitpunkt nur noch Nachzahlungsverpflichtungen des Mieters aus der Nebenkostenabrechnung möglich erscheinen, erfolgt die Rückgabe der Sicherheit

Clause 10.1 should be ineffective, Tenant shall be obligated to provide Landlord with another effective guarantee or comparable security. Clause 10.2 remains unaffected.

- 10.4 If the monthly Base Rent changes by at least ten (10) percent upwards or downwards, the rental security deposit shall be adjusted in the corresponding proportion at the request of a Party.
- 10.5 The amount of the rental security is reduced to five (5) Total Monthly Rents (Gross) after the end of the first rental year, to four (4) Total Monthly Rents (Gross) after the end of the second rental year and to three (3) Total Monthly Rents (Gross) after the end of the third rental year (3), provided that the Tenant fulfills his payment obligations according to this Rental Contract in the previous rental year at the latest after a written request and setting of a reasonable deadline. The decisive factor is the total monthly rent (gross) applicable at the end of the first, second or third rental year. In this respect, at the Tenant's written request, the Landlord will issue corresponding release declarations to the bank or savings bank holding the account or, in the case of Clause 10.2, will distribute the corresponding additional amounts to the Tenant.
- 10.6 After termination of the lease term, Landlord will surrender the rental security deposit to the Tenant within three (3) months after vacating the Lease Object if and to the extent no claims against the Tenant exist under the tenancy. Should only additional payment obligations of the Tenant under ancillary costs accounting appear to be possible at such point in time, surrender of the security deposit shall take place concurrently against provision of another appropriate security instrument.

Zug um Zug gegen Stellung einer anderen angemessenen Sicherheit.

**11. ZENTRALHEIZUNG, ELEKTRIZITÄT, WASSER, ABFALL**

11.1 Die Betriebszeiten für die Wärmeversorgung richten sich nach den von der zuständigen Hausverwaltung hierzu getroffenen Festlegungen, über die der vom Vermieter beauftragte Verwalter den Mieter auf entsprechende Anforderung des Mieters informiert.

11.2 Jede Partei hat, soweit sie für die Wärmeversorgung des Gebäudekomplexes / Mietgegenstandes zuständig ist, sich zu bemühen, dass mindestens **fünfundzwanzig (25) Prozent** des jährlichen Wärmebedarfs – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – durch erneuerbare Energien gedeckt werden. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen. Als erneuerbare Energien im Sinne dieser Vorschrift gelten die Energien im Sinne des § 2 Abs. 1, Abs. 2 Nr. 1 des Erneuerbare-Energien-Wärmegesetzes in der bei Abschluss dieses Mietvertrages gültigen Fassung sowie sonstige, in einschlägigen Bundesgesetzen etwa künftig als erneuerbare Energiequellen anerkannte Energiequellen. Etwaige während der Laufzeit dieses Mietvertrages eingeführte strengere gesetzliche Vorgaben zur Deckung des Wärmeenergiebedarfs durch erneuerbare Energien gelten vorrangig.

11.3 Die – unter Berücksichtigung der zwischen den Parteien abgestimmten Um- und Ausbaumaßnahmen vor Übergabe (vgl. Ziffer 1.7) – vorhandenen Leitungsnetze für

**11. CENTRAL HEATING, ELECTRICITY, WATER, WASTE**

11.1 The operating hours for the heat supply shall be governed by the specifications made in this regard by the responsible property management, of which the manager appointed by the Landlord shall inform the Tenant upon corresponding request by the Tenant.

11.2 Each Party shall, insofar as it is responsible for the heat supply of the building complex / Lease Object, endeavor that at least **twenty-five (25) percent** of the annual heat requirement – Insofar as not technically impossible (§ 275 (1) BGB analogously) or economically unreasonable – is covered by renewable energies. The Parties agree that measures are "economically unreasonable" if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer. Renewable energies within the meaning of this provision shall be deemed to be energies within the meaning of § 2 (1), (2) No. 1 of the German Renewable Energies Heat Act (*Erneuerbare-Energien-Wärme-gesetz - EEWärmeG*) in the version applicable at the time of conclusion of this Rental Contract as well as other energy sources which may be recognized as renewable energy sources in the future in relevant federal laws. Any stricter statutory requirements introduced during the term of this Rental Contract to cover the heat energy demand by renewable energy sources shall have priority.

11.3 The existing supply networks for electricity, gas and water – taking into account the conversion and expansion measures agreed between the Parties before handover (see Clause 1.7) –

Elektrizität, Gas und Wasser dürfen vom Mieter nur soweit in Anspruch genommen werden, dass keine Überlastung eintritt. Einen Mehrbedarf kann der Mieter durch Erweiterung der Zuleitungen auf eigene Kosten nach vorheriger Einwilligung des Vermieters decken.

11.4 Jede Partei hat, soweit sie für den Gebäudekomplex / Mietgegenstand elektrische Energie bezieht, sich zu bemühen, diese – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – zu mindestens **fünfundzwanzig (25) Prozent** aus erneuerbaren Energiequellen zu beziehen. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen. Als erneuerbare Energiequellen im Sinne dieser Vorschrift gelten die Energien im Sinne des § 3 Nr. 21 des Erneuerbare-Energien-Gesetzes in der bei Abschluss dieses Mietvertrages gültigen Fassung, sowie sonstige, in einschlägigen Bundesgesetzen etwa künftig als erneuerbare Energiequellen anerkannte Energiequellen. Etwaige während der Laufzeit dieses Mietvertrages eingeführte strengere gesetzliche Vorgaben zur Deckung des Bedarfs an elektrischer Energie durch erneuerbare Energien gelten vorrangig.

11.5 Wasser darf nur über den üblichen Bedarf (Trinkwasser, sanitäre Zwecke) aus den Wasserleitungen entnommen werden. Bei Wasserverbrauch für gewerbliche Zwecke hat der Mieter auf eigene Kosten einen Zwischenwasserzähler anzubringen und die Be- und Entwässerungskosten nach Angaben des Vermieters zu tragen, wenn nicht seitens des Mieters das Wasser direkt vom

may only be used by the Tenant to the extent that no overload occurs. The Tenant may cover any additional demand by extending the supply lines at its own expense with the prior consent of the Landlord.

11.4 Each Party shall, insofar as it obtains electrical energy for the building complex / Lease Object, endeavor to obtain at least **twenty-five (25) percent** of such energy from renewable energy sources – unless this is technically impossible (§ 275 (1) BGB analogously) or economically unreasonable. The Parties agree that measures are "economically unreasonable" if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer. Renewable energy sources within the meaning of this provision shall be the energies within the meaning of § 3 No. 21 of the Renewable Energy Sources Act (*Erneuerbare-Energien-Gesetz – EEG*) in the version applicable at the time of the conclusion of this Rental Contract, as well as other energy sources which may be recognized as renewable energy sources in the future in relevant federal laws. Any stricter statutory requirements introduced during the term of this lease to cover the demand for electrical energy by renewable energies shall have priority.

11.5 Water may only be taken from the water pipes for normal needs (drinking water, sanitary purposes). In the event of water consumption for commercial purposes, the Tenant shall install an intermediate water meter at its own expense and shall bear the supply and drainage costs as specified by the Landlord, unless the Tenant obtains the water directly from the water supply company.

Wasserversorgungsunternehmen bezogen wird.

11.6 Bei der Nutzung des Mietgegenstandes anfallender Abfall im Sinne des § 3 KrWG ist nach Papier, Metall, Glas, und Kunststoff (§ 14 KrWG, § 3 GewAbfV) sowie nach Holz und Textilien (§ 3 GewAbfV), Energiesparleuchtmittel (ElektroG), Batterien (§ 11 BattG), Drucker-/Tonerkartuschen, Verpackungsmaterialien mit „Grünem Punkt“ (oder sonstigen, ggf. künftig allgemein eingeführten Trennsystemen zugeordneten Materialien), Bioabfall (§ 11 KrWG, § 3 GewAbfV) und sonstigem Abfall zu trennen und zu entsorgen, wobei eine etwa weitergehende heute bestehende oder künftig eingeführte gesetzliche Pflicht zur Behandlung von Abfall vorrangig zu beachten ist. Der Vermieter ist berechtigt, die Lagerung nicht nach dieser Maßgabe getrennten Abfalls zu untersagen.

Der Vermieter hat für die Liegenschaft insgesamt und der Mieter für das Innere des Mietgegenstandes Müllsammelsysteme vorzuhalten, die die getrennte Sammlung und Entsorgung des Abfalls nach Satz 1 ermöglichen. Die Parteien werden etwaigen Dokumentationspflichten (z. B. nach Maßgabe des § 3 Abs. 3 GewAbfV) nachkommen und sich diesbezüglich vorher abstimmen.

11.7 Die Parteien werden sich bemühen, im wechselseitigen Einvernehmen die in Anlage 11.7 aufgenommenen Maßnahmen zur Einsparung von Energie und Wasser sowie Reduzierung von Abfällen umzusetzen sowie diese entsprechend zu dokumentieren.

11.6 Waste generated during the use of the Lease Object within the meaning of § 3 of the German Circular Economy Act (*Kreiswirtschaftungsgesetz – KrWG*) shall be separated and disposed according to paper, metal, glass and plastic (§ 14 KrWG), § 3 of the German Commercial Waste Ordinance (*Gewerbeabfallgesetz – GewAbfV*) as well as wood and textiles (§ 3 GewAbfV), energy-saving lamps (Electrical and Electronic Equipment Act (*Elektro- und Elektronikgerätegesetz – ElektroG*)), batteries (§ 11 of the German battery law (*Batteriegelgesetz – BattG*)), printer/toner cartridges, packaging materials with "Green Dot (*Grüner Punkt*)" (or other materials that may be assigned to generally introduced separation systems in the future), biowaste (§ 11 KrWG, § 3 GewAbfV) and other waste, whereby any further-reaching legal obligation to treat waste that may exist today or be introduced in the future shall be given priority. The Landlord shall be entitled to prohibit the storage of waste not separated in accordance with this provision.

The Landlord shall provide waste collection systems for the Property as a whole and the Tenant shall provide waste collection systems for the interior of the Lease Object which enable the separate collection and disposal of the waste pursuant to sentence 1. The Parties shall comply with any documentation obligations (e.g. in accordance with § 3 (3) GewAbfV) and shall coordinate their actions in this respect in advance.

11.7 The Parties shall endeavor to implement the measures for saving energy and water and reducing waste included in Annex 11.7 by mutual agreement and to document them accordingly.

## 12. BAULICHE VERÄNDERUNGEN NACH ÜBERGABE

12.1 Will der Mieter bauliche Veränderungen am Mietgegenstand vornehmen, dieses mit Einrichtungen versehen oder vorhandene Anlagen und Einrichtungen verändern, bedarf er der vorherigen schriftlichen Zustimmung des Vermieters. Der Mieter wird dem Vermieter geeignete Pläne über die geplanten Veränderungen vorlegen. Der Mieter ist verpflichtet, bei der Ausführung baulicher Maßnahmen alle gesetzlichen Bestimmungen und nach den anerkannten Regeln der Technik einschlägigen, technischen Vorschriften, insbesondere die den anerkannten Regeln der Technik entsprechenden DIN-Normen sowie VDE- und VDI-Normen, sowie etwaige behördliche (auch gewerbebehördliche und berufsgenossenschaftliche) Auflagen zu erfüllen und etwa benötigte Genehmigungen, Bescheinigungen und Prüfzeugnisse (z.B. von Sachverständigen) auf seine Kosten selbst beizubringen.

Der Vermieter darf die Zustimmung verweigern, wenn er berechnete Interessen gegen die bauliche Veränderung geltend machen kann. Derartige berechnete Interessen sind beispielsweise ein drohender Eingriff in die Statik des Gebäudes, ein drohender nicht nur unwesentlicher Wertverlust, Gefahren für die Sicherheit sowie eine fehlende (zusätzliche) Absicherung der möglichen Rückbaukosten.

Auf die ergänzenden Regelungen zur Nachhaltige Nutzung und Bewirtschaftung in Ziffer 29.4 wird verwiesen.

12.2 Die Regelung der Ziffer 12.1 gilt auch für Hinweisschilder und andere, besondere Einrichtungen sowie Anlagen entsprechend, die der Mieter außerhalb des Mietgegenstandes aufstellen möchte, mit folgender Maßgabe:

## 12. STRUCTURAL ALTERNATIONS AFTER HANDOVER

12.1 If the Tenant wishes to make structural changes to the Lease Object, add fixtures and fittings to it or change existing systems and facilities, it shall require Landlord's prior written approval. The Tenant will submit suitable plans on the planned alterations to Landlord. The Tenant is obligated when carrying out construction work to comply with all statutory provisions and, in accordance with the acknowledged rules of technology, to comply with the relevant technical rules, in particular the DIN standards and VDE and VDI regulations in accordance with the recognised rules of technology and to meet all official requirements imposed (also of the business licensing authorities and of the German Employer's Liability Insurance Association) and to provide, at its own costs, any required permits, certificates and manufacturer's certificates (for example from experts).

Landlord may refuse its consent if he is able to assert legitimate interests against the structural alteration. Examples of legitimate interests of this kind are impending interference in the statics of the building, impending – and more than – insignificant loss in value, safety risks and the absence of (additional) hedging of possible dismantling costs.

Reference is made to the supplementary regulations on Sustainable Use and Management in Clause 29.4.

12.2 The provision under Clause 12.1 shall also apply accordingly to signs and other special fixtures and fittings and equipment which the Tenant wishes to put up outside the Lease Object subject to the following proviso:

Der Mieter kann im Gebäudekomplex und im Eingangsbereich des Mietgegenstandes, an den hierfür vom Vermieter bestimmten Flächen, für seinen Betrieb Schilder anbringen: Art, Größe und Gestaltung der Schilder werden vom Vermieter einheitlich festgelegt. Detailwünsche des Mieters hinsichtlich der Gestaltung der Beschilderung im Hauseingangsbereich und im Bereich des Eingangs zur angemieteten Büroeinheit können in dem vom Vermieter vorgegebenen Rahmen betreffend Größe und Art der Beschilderung berücksichtigt werden.

In the building complex and in the entrance area of the Lease Object, the Tenant may set up signs for its business operation at the spaces specified for this purpose by Landlord: The type, size and position of the sign shall be uniformly determined by Landlord. Wishes of the Tenant regarding details of the design of the signs in the entrance area of the building and in the area of the entrance to the leased office unit can be taken into account within the limits regarding size and type of the signs which are set by Landlord.

12.3 Der Vermieter weist darauf hin, dass im Falle der Verlegung von Teppich- oder Kunststoffbelägen auf dem Estrich nur wasserlösliche Kleber verwendet werden dürfen. Andere Kleber sind vermietenseitig nicht gestattet. Die Beschichtung von Fußböden ist nur nach vorheriger Erlaubnis des Vermieters gestattet.

12.3 Landlord points out that if carpet or plastic coverings are laid on the screed, only water-soluble adhesives may be used. Other adhesives are not permitted by the Landlord. The coating of floors is only permitted with the prior permission of the Landlord.

12.4 Allen Auflagen, die sich aus den vom Mieter vorgesehenen oder vorgenommenen baulichen Maßnahmen oder aus der Benutzung des Mietgegenstands ergeben, hat der Mieter nachzukommen und eventuell geforderte Veränderungen auf seine Kosten ausführen zu lassen. Der Vermieter ist in dieser Hinsicht von allen Auflagen und berechtigten Kostenforderungen Dritter, gleich welcher Art, vom Mieter freizustellen. Erforderliche Konzessionen und Sondergenehmigungen sind vom Mieter umgehend zu beschaffen. Daraus resultierende Kosten und Risiken gehen zu Lasten des Mieters.

12.4 The Tenant shall comply with all the obligations arising from the Tenant's intended or implemented structural measures or from use of the Lease Object and shall have possibly requested changes carried out at his expense. In this regard, the Tenant shall indemnify Landlord from all requirements and justified costs – irrespective of their nature – claimed by third parties. Necessary licences and special permits must be procured by the Tenant immediately. Any additional costs and risks resulting therefrom shall be borne by the Tenant.

12.5 Der Vermieter darf Ausbesserungen und bauliche Veränderungen, die zur Erhaltung des Gebäudes oder der Mieträume, zur Abwendung drohender Gefahren oder zur Beseitigung von Schäden notwendig werden, nach vorheriger schriftlicher Ankündigung mit angemessener

12.5 The Landlord may carry out improvements and structural alterations that are required to maintain the building or the leased premises, avert any impending dangers or repair damage, even without the approval of the Tenant after prior written notification with a reasonable deadline.

Frist auch ohne Zustimmung des Mieters vornehmen. Dies gilt auch für Arbeiten und bauliche Maßnahmen, die zwar nicht notwendig sind, aber doch zweckmäßig erscheinen, insbesondere der Modernisierung des Gebäudes oder der Einsparung von Heizenergie dienen, wenn sie den Mieter nur unwesentlich beeinträchtigen. Bei Gefahr im Verzug steht dem Vermieter dieses Recht zu jeder Zeit – auch ohne vorherige Ankündigung – zu; er wird den Mieter jedoch unverzüglich hierüber informieren. Bei Wertverbesserungs- oder Energiesparmaßnahmen benachrichtigt der Vermieter den Mieter zwei (2) Monate vor Beginn der Maßnahme über deren Beginn und voraussichtliche Dauer. Soweit erforderlich, muss der Mieter bei Durchführung dieser Arbeiten in angemessenem Umfang mitwirken, z.B. durch vorübergehende Umräumung der Möbel, Entfernung von Einbauten usw. Verletzt der Mieter seine Mitwirkungspflicht schuldhaft, so haftet er dem Vermieter für etwa entstehende Mehrkosten. Der Vermieter ist verpflichtet, die Arbeiten zügig durchführen zu lassen und haftet dem Mieter für angemessene und nachgewiesene Kosten, Aufwendungen und Schäden, die diesem im Zusammenhang mit derartigen Maßnahmen entstehen. Minderungsrechte des Mieters im Zusammenhang mit derartigen Maßnahmen bleiben unberührt.

12.6 Im Fall etwaiger künftiger Modernisierungen des Gebäudekomplexes oder des Mietgegenstandes wird sich der Vermieter nach besten Kräften darum bemühen, eine dem dann bestehenden Stand der Technik entsprechende und eine Nachhaltige Nutzung und Bewirtschaftung ermöglichende Ausstattung des Gebäudekomplexes / Mietgegenstandes herzustellen. Im Fall etwaiger künftiger Baumaßnahmen auf Außenflächen der Liegenschaft wird sich der

This shall also apply with regard to work and construction measures that, although not necessary, are, however, expedient, in particular, measures serving to modernize the building or to save heating energy, provided they only marginally impair the Tenant. In the event of imminent danger, Landlord shall be entitled to this right at any time - even without prior notice; however, he will inform the Tenant of this immediately. In case of measures serving to improve value or save energy, Landlord shall notify the Tenant two (2) months before commencement of the measure of the proposed start date and likely duration. If necessary, the Tenant must cooperate in the execution of this work to an appropriate extent, e.g. by temporarily moving away furniture, removing built-ins etc. If the Tenant is responsible for a breach of his duty to cooperate, Tenant shall be liable towards Landlord for any additionally incurred costs. Landlord is obligated to have the work carried out speedily and shall be liable to the Tenant for reasonable and evidenced costs, expenses and damages incurred by the Tenant in connection with such measures. Tenant's rights to abate the rent in connection with such measures remain unaffected.

12.6 In the event of any future modernization of the building complex or the Lease Object, the Landlord will do his best to ensure that the building complex / Lease Object is equipped in accordance with the then existing state of the art and enables Sustainable Use and Management. In the event of any future construction work on the outside of the property, the Landlord will do his best to achieve the least possible surface scaling (e.g. by installing gratings).

Vermieter nach besten Kräften darum bemühen, eine möglichst geringe Oberflächenversiegelung zu erreichen (z.B. durch Einbau von Gittersteinen).

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| <p>12.7 Ein Kündigungsrecht des Mieters gemäß § 555e BGB wegen der Ankündigung oder der Durchführung von Modernisierungsmaßnahmen ist ausgeschlossen, es sei denn die Maßnahmen dauern länger als vier (4) Monate und beeinträchtigen den Mieter wesentlich. Weitere Kündigungsrechte des Mieters sowie Schadenersatz- und Minderungsrechte des Mieters bleiben unberührt.</p> | <p>12.7 A right of termination of the Tenant according to § 555e BGB because of the announcement or the implementation of modernization measures is excluded, unless the measures take longer than four (4) months and impede the Tenant significantly. Further termination rights of the Tenant as well as rights to abate the rent and to claim damage compensation remain unaffected.</p> |
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### 13. WERBEANLAGEN

### 13. ADVERTISING INSTALLATIONS

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| <p>13.1 Außerhalb des Mietgegenstandes ist es dem Mieter untersagt, Einrichtungen, Anlagen oder andere Gegenstände zu montieren, aufzustellen, zu lagern oder vorzuhalten. Ausnahmen bedürfen der schriftlichen Zustimmung des Vermieters. Im Falle einer Zustimmung des Vermieters gelten die Regelungen in Ziffer 12 entsprechend. Der Vermieter ist aus nachvollziehbarem Interesse dazu befugt, eine von ihm erteilte Zustimmung zu widerrufen.</p> | <p>13.1 Outside the Lease Object, the Tenant must not install, put up, store or hold available any fixtures and fittings, equipment or other objects. Any exceptions hereto shall require Landlord's prior written consent. If Landlord gives his consent, the provisions in Clause 12 shall apply accordingly. Landlord shall be entitled to revoke its consent for cause.</p> |
| <p>13.2 Im Übrigen ist der Mieter nicht berechtigt, ohne schriftliche Erlaubnis des Vermieters an der Außenfront des Hauses oder auf dessen Dach oder auf dem Mietgrundstück Einrichtungen irgendwelcher Art anzubringen. Die Außenfassade des Gebäudes ist nicht mitvermietet.</p>   | <p>13.2 With regard to the rest, the Tenant shall not be entitled to erect fixtures and fittings of any kind whatsoever on the external frontage of the building or on its roof or on the Property without Landlord's written consent. The exterior facade of the building complex is not included in the lease.</p>  |

### 14. INSTANDHALTUNG, INSTANDSETZUNG, ERNEUERUNG, WIEDERHERSTELLUNG

### 14. MAINTENANCE, REPAIR, RENEWAL, RESTORATION

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| <p>14.1 Bei der Festsetzung der Mietzinshöhe sind die nachstehenden Regelungen berücksichtigt worden. Es ist insbesondere berücksichtigt</p> | <p>14.1 The following provisions have been taken into account in determining the amount of the rent. In particular, it has been taken into account that</p> |
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worden, dass (i) während der Mietzeit keine der Parteien Schönheitsreparaturen im Mietgegenstand vornehmen muss, (ii) zum Ende der Mietzeit der Mieter Schönheitsreparaturen im Mietgegenstand vornehmen wird, und (iii) die Instandhaltung und Instandsetzung technischer Anlagen innerhalb des Mietgegenstandes, die dem Mietgegenstand dienen, vom Mieter auf eigene Kosten übernommen wird.

14.2 Schönheitsreparaturen, Instandhaltung und Instandsetzung werden für dieses Mietverhältnis wie folgt definiert:

14.2.1 „Schönheitsreparaturen“ umfassen alle Maßnahmen zur Erhaltung eines ansprechenden äußeren Erscheinungsbildes des betreffenden Gegenstands durch Beseitigung der Spuren des bestimmungsgemäßen Gebrauchs. Dazu gehören das Tapezieren, Anstreichen oder Kalken der Wände und Decken, das Streichen der Heizkörper einschließlich Heizrohre, der Innentüren einschließlich Rahmen sowie der Fenster und Außentüren von innen sowie die gründliche und fachgerechte Reinigung des Bodenbelags und ggf. eine erforderliche Erneuerung des Bodenbelags.

14.2.2 „Instandhaltung“ umfasst alle Maßnahmen, die erforderlich sind, um den Zustand zu erhalten, der den bestimmungsgemäßen Gebrauch der Liegenschaft/des Mietgegenstands ermöglicht, Schäden vorzubeugen sowie die durch Abnutzung, Alterung, Witterungseinwirkung und/oder Verschleiß entstehenden baulichen oder sonstigen Mängel ordnungsgemäß zu beseitigen. Instandhaltung schließt insbesondere die ordentliche Wartung, Inspektion und Pflege des betreffenden Gegenstands ein sowie den im Zuge solcher Maßnahmen normalen

(i) during the Fixed Term neither of the Parties shall have to carry out Cosmetic Repairs in the Lease Object, (ii) at the end of the Fixed Term the Tenant shall carry out Cosmetic Repairs in the Lease Object, and (iii) the Maintenance and Repair of technical installations within the Lease Object that serve the Lease Object shall be undertaken by the Tenant at its own expense.

14.2 Cosmetic repairs, Maintenance and Repair are defined as follows for this lease:

14.2.1 "Cosmetic repairs" shall include all measures to maintain an attractive external appearance of the object concerned by removing the traces of intended use. This includes wallpapering, painting or whitewashing of walls and ceilings, painting of radiators including heating pipes, interior doors including frames as well as windows and exterior doors from the inside as well as thorough and professional cleaning of the floor covering and any necessary replacement of the floor covering.

14.2.2 "Maintenance" shall include all measures required to maintain the condition that enables the intended use of the Property/Lease Object, to prevent damage and to properly remedy structural or other defects caused by wear and tear, aging, exposure to the weather and/or wear and tear. Maintenance includes, in particular, the proper servicing, inspection and care of the relevant item as well as the replacement of wearing parts / individual components of a specific system (e.g. regular replacement of fire detectors) as part of such measures in the normal course of business or in accordance with

bzw. nach Herstellerangaben oder DIN-Bestimmungen turnusmäßigen Austausch von Verschleißteilen / Einzelkomponenten einer bestimmten Anlage (z. B. turnusmäßiger Austausch von Brandmeldern).

manufacturer's instructions or DIN regulations.

14.2.3 „Instandsetzung“ umfasst alle Maßnahmen, die erforderlich sind, um den Zustand wiederherzustellen, der den bestimmungsgemäßen Gebrauch des betreffenden Gegenstands ermöglicht. Dazu gehören die Beseitigung von Schäden sowie die Wiederbeschaffung defekter Teile bzw. Komponenten eines bestimmten Gegenstands / einer bestimmten Anlage (z. B. Ersatzbeschaffung schadhafter Sanitärobjekte, Waschbeckenarmaturen, Beschläge oder Leuchtmittel), soweit es sich nicht nur um Instandhaltungen handelt. Zur Instandsetzung gehört auch die Ersatzbeschaffung eines Gegenstands / einer Anlage, sofern aus Sicht eines sorgfältig handelnden Kaufmanns eine Reparatur nicht mehr möglich oder eine Erneuerung wirtschaftlicher als eine Reparatur ist.

14.2.3 "Repair" shall include all measures required to restore the condition that enables the intended use of the item in question. This includes the repair of damage as well as the replacement of defective parts or components of a specific item / system (e.g. replacement of defective sanitary objects, washbasin taps, fittings or lamps), provided that this is not merely a matter of maintenance. Repairs also include the replacement of an item / system if, from the point of view of a prudent businessman, repair is no longer possible or replacement is more economical than repair.

14.3 Der Vermieter verpflichtet sich während der Mietzeit zur Instandhaltung und Instandsetzung der Allgemeinflächen (vgl. Ziffer 6.3) sowie von Dach und Fach (vgl. Ziffer 6.5) und der zentralen Haustechnik (einschl. zentraler technischer Anlagen, welche nicht ausschließlich den exklusiv dem Mieter zugänglichen Flächen des Mietgegenstands dienen), soweit letztere nicht nach diesem Vertrag dem Mieter obliegen (vgl. Ziffer 14.4).

14.3 The Landlord undertakes during the lease term to maintain and repair the Common Areas (cf. Clause 6.3) as well as the Roof and shed (cf. Clause 6.5) and the central building services (including central technical installations to which only the Tenant has exclusive access), insofar as the latter are not the responsibility of the Tenant under this Contract (cf. Clause 14.4).

14.4 Der Mieter hat auf seine Kosten die Instandhaltung und Instandsetzung auf den Mietflächen bzw. innerhalb der Mieträume des Mietgegenstandes vorzunehmen. Dies gilt auch für die technischen Einrichtungen (insbesondere elektrische und sanitäre

14.4 The Tenant shall carry out Maintenance and Repairs on the leased spaces or within the leased spaces of the Lease Object at its own expense. This shall also apply to the technical installations (in particular electrical and sanitary installations, etc.), insofar as these are located

Installationen usw.), soweit sich diese im oder am Mietgegenstand befinden und ausschließlich den exklusiv dem Mieter zugänglichen Flächen des Mietgegenstands dienen, sowie die beweglichen Teile der Fenster und die Instandsetzung der Fenster bei Glasbruch, soweit dieser nicht auf Material- oder Planungsfehler zurückzuführen ist. Die den Mietgegenstand abschließenden Türen sind zudem von außen zu reinigen. Die Verpflichtung zur Reinigung erstreckt sich auch auf Hinweisschilder und auf sonstige, vom Mieter außerhalb des Mietgegenstandes angebrachte/ vorgehaltene Einrichtungen und Anlagen. Beleuchtungskörper und Leuchtmittel innerhalb des Mietgegenstandes hat der Mieter auf eigene Kosten zu ersetzen (siehe hierzu auch Ziffer 14.10). Zu Klarstellung: Die Instandhaltungs- und Instandsetzungspflicht des Mieters gilt nicht, wenn die erforderlichen Maßnahmen nicht durch den Mietgebrauch veranlasst wurden oder nicht zumindest weitläufig mit dem üblichen Mietgebrauch zusammenhängen (bspw. bei Beschädigungen durch den Vermieter, Wasserschäden aus anderen Mieteinheiten, höhere Gewalt) oder sonst dem Risikobereich des Mieters zuzuordnen sind; in solchen Fällen führt der Vermieter die erforderlichen Maßnahmen durch.

14.5 Der Mieter hat die erforderlichen Schönheitsreparaturen innerhalb der ausschließlich der Nutzung des Mieters dienenden Räumen des Mietgegenstandes zum Ende der Mietvertragslaufzeit fachgerecht auf seine Kosten durchzuführen. Während der Laufzeit des Mietvertrages sind weder der Mieter noch der Vermieter zu Schönheitsreparaturen innerhalb der ausschließlich der Nutzung des Mieters dienenden Räumen des Mietgegenstandes verpflichtet, der Mieter ist jedoch berechtigt,

in or on the Lease Object and to which only the Tenant has exclusive access, as well as the movable parts of the windows and the repair of the windows in the event of broken glass, to the extent such broken glass does not result from a product or planning default. The doors closing off the Lease Object must also be cleaned from the outside. The obligation to clean shall also extend to signs and other equipment and installations installed/provided by the Tenant outside the Lease Object. Lighting fixtures and illuminants inside the Lease Object shall be replaced by the Tenant at its own expense (see also Clause 14.10). For clarification: The Tenant's Maintenance and Repair obligation shall not apply if the necessary measures were not caused by the use of the Lease Object or are not at least largely related to the usual use of the Lease Object (e.g. in the event of damage by the Landlord, water damage from other rental units, force majeure) or are otherwise attributable to the Tenant's sphere of risk; in such cases, the Landlord shall carry out the necessary measures.

14.5 The Tenant shall carry out the necessary Cosmetic Repairs within the rooms of the Lease Object exclusively used by the Tenant at the end of the term of the tenancy in a professional manner at its own expense. During the term of the Rental Contract, neither the Tenant nor the Landlord shall be obligated to make Cosmetic Repairs within the rooms of the Lease Object exclusively used by the Tenant; however, the Tenant shall be entitled to professionally perform such work at its own expense.

derartige Arbeiten auf eigene Kosten fachgerecht durchzuführen.

- 14.6 Der Bedarf für laufende Schönheitsreparaturen ist maßvoll, und zwar unter besonderer Berücksichtigung des Bestrebens der Parteien um die Nachhaltige Nutzung und Bewirtschaftung der Liegenschaft einschließlich des Mietgegenstandes, zu ermitteln. Bei Durchführung der Schönheitsreparaturen hat die zur Durchführung der Schönheitsreparaturen verpflichtete Partei ausschließlich emissionsfreie (soweit nicht möglich: emissionsarme), auf Grundlage einer Lebenszyklusbetrachtung als umwelt- und ressourcenschonend anzusehende Materialien einzusetzen. Als zulässige Materialien gelten insbesondere solche Materialien, die mit einem der Zertifikate „Der blaue Engel“, „EU Ecolabel“, „FSC“, „PEFC“ oder sonstigen Umweltsiegeln des Typs I im Sinne der ISO 14024 ausgezeichnet sind. Entsprechendes gilt, sofern der Mieter zur Endrenovierung verpflichtet ist.
- 14.6 The need for ongoing Cosmetic Repairs is to be determined in moderation, with particular consideration of the Parties' efforts to ensure the Sustainable Use and Management of the Property, including the Lease Object. When carrying out the Cosmetic Repairs, the Party obliged to carry out the Cosmetic Repairs must only use emission-free (if not possible: low-emission) materials that can be regarded as environmentally friendly and resource-saving on the basis of a life cycle assessment. Permitted materials are in particular those materials that have been awarded one of the certificates "Blue Angel (*Blauer Engel*)", "EU Ecolabel", "FSC", "PEFC" or other type I environmental seals within the meaning of ISO 14024. The same applies if the Tenant is obliged to carry out the final renovation.
- 14.7 Kommt eine Partei ihren Verpflichtungen zur Instandhaltung und Instandsetzung der Liegenschaft bzw. des Mietgegenstandes trotz schriftlicher Abmahnung der anderen Partei innerhalb einer gesetzten, angemessenen Frist nicht nach, ist die mahnende Partei berechtigt, die Arbeiten auf Kosten der anderen Partei vorzunehmen.
- 14.7 If a Party fails to comply with its obligations to Maintain and Repair the Property or the Lease Object within a reasonable period set by the other Party despite written warning by the other Party, the warning Party shall be entitled to carry out the work at the other Party's expense.
- 14.8 Der Mieter ist zudem zur Reinigung, Instandhaltung und Instandsetzung aller Anlagen, Einrichtungen, Armaturen, sonstigen Installationen und Leitungen verpflichtet, die er selbst eingebaut hat. Dies gilt auch für sämtliche, vom Mieter im Rahmen eigener, baulicher Maßnahmen selbst geschaffene Bausubstanz (sei die bauliche Maßnahme mit oder ohne Zustimmung des Vermieters ausgeführt worden), auch derjenigen, die im
- 14.8 The Tenant shall also be obliged to clean, Maintain and Repair all systems, equipment, fittings, other installations and lines which it has installed itself. This shall also apply to all building substance created by the Tenant itself within the scope of its own structural measures (whether the structural measure was carried out with or without the consent of the Landlord), including those created in the course of the realization of a Tenant's fit-out description.

Zuge der Realisierung einer Mietrausbaubeschreibung geschaffen wird.

14.9 Im Rahmen der Reinigung des Mietgegenstandes sowie des Gebäudekomplexes werden sich die Parteien bemühen, aus mehreren gleich wirksamen Reinigungsverfahren jeweils das umweltschonendere Verfahren anzuwenden – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen. Soweit für die regelmäßige Unterhaltsreinigung Reinigungsmittel verwendet werden, werden sich die Parteien bemühen – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – ökologisch unbedenkliche Reinigungsmittel zu verwenden, d.h. solche, die mit dem Umweltzeichen „Blauer Engel“ oder sonstigen Umweltsiegeln des Typs I im Sinne der ISO 14024 ausgezeichnet sind. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen.

Diese Vorgaben sollen den beauftragten Erbringern von Reinigungs- und/oder Facility Management-Leistungen entsprechend auferlegt werden.

14.10 Soweit die Parteien die Liegenschaft / den Mietgegenstand mit Leuchtmitteln auszustatten haben, haben sie – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – ausschließlich energiesparende Leuchtmittel (insbesondere Kompaktleuchtstoffleuchten

14.9 When cleaning the Lease Object and the building complex, the Parties will endeavor to use the more environmentally friendly method from among several cleaning methods that are equally effective – unless technically impossible (§ 275 (1) BGB analogously) or economically unreasonable. The Parties agree that measures are “economically unreasonable” if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer. Insofar as cleaning agents are used for regular maintenance cleaning, the Parties will endeavor to use – unless technically impossible (§ 275 (1) BGB analogously) or economically unreasonable – ecologically harmless cleaning agents, i.e. those that have been awarded the “Blue Angel (*Blauer Engel*)” eco-label or other type I eco-labels as defined by ISO 14024. The Parties agree that measures are “economically unreasonable” if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer.

These requirements should be imposed on the commissioned providers of cleaning and/or facility management services.

14.10 Insofar as the Parties have to equip the Property / Lease Object with lamps, they have – unless technically impossible (§ 275 (1) BGB analogously) or economically unreasonable – exclusively to use energy-saving light sources (in particular compact fluorescent lights or LED lights or other light sources that consume

oder LED-Leuchten oder zukünftig andere, besonders wenig elektrische Energie verbrauchende Leuchtmittel zu verwenden. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als fünf (5) Prozent über dem günstigsten nicht-ökologischen Angebot liegen.

14.11 Ist der Mietgegenstand insgesamt oder zu einem überwiegenden Teil durch ein vom Vermieter nicht zu vertretendes Ereignis zerstört, so ist der Vermieter – vorbehaltlich Ziffer 14.12 – verpflichtet, den Mietgegenstand unverzüglich nach seiner Zerstörung wiederherzustellen. Der Mieter ist in diesem Fall – vorbehaltlich Ziffer 14.12 – verpflichtet, das Mietverhältnis nach der Wiederherstellung des Mietgegenstands fortzusetzen. Vom Zeitpunkt der (ganz oder teilweisen) Zerstörung des Mietgegenstandes bis zum Abschluss des Wiederaufbaus und der anschließenden (erneuten) Übergabe des Mietgegenstandes ruhen die Rechte und Pflichten der Parteien (im Hinblick auf den zerstörten Teil des Mietgegenstands). Minderungsrechte des Mieters bleiben unberührt.

14.12 Ist der Mietgegenstand insgesamt oder zu einem überwiegenden Teil durch ein vom Vermieter nicht verschuldetes Ereignis zerstört, so ist der Vermieter nur dann zur Wiederherstellung des Mietgegenstands gemäß Ziffer 14.11 und der Mieter zur Fortsetzung des Mietverhältnisses gemäß Ziffer 14.11 verpflichtet, wenn die nach der voraussichtlichen Wiederherstellung verbleibende Festlaufzeit noch mehr als zwei (2) Jahre beträgt. Der Vermieter wird dem Mieter die voraussichtliche Wiederherstellungszeit unverzüglich, spätestens jedoch innerhalb von zwei (2)

particularly little electrical energy in the future. The Parties agree that measures are "economically unreasonable" if the costs for the respective more ecological type of execution are more than five (5) percent above the cheapest non-ecological offer.

14.11 If the Lease Object is destroyed in whole or in large part due to an event for which the Landlord is not responsible, the Landlord is – subject to Clause 14.12 – obliged to restore the Lease Object immediately after its destruction. In this case, the Tenant is – subject to Clause 14.12 – obliged to continue the Rental Contract after the Lease Object has been restored. The rights and obligations of the Parties (with regard to the destroyed part of the Lease Object) remain suspended from the time of the (full or partial) destruction of the Lease Object until the completion of the reconstruction and the subsequent (re-)handover of the Lease Object. Tenant's rights to reduce the rent remain unaffected.

14.12 If the Lease Object is destroyed in whole or in large part due to an event for which the Landlord is not responsible, the Landlord is only obliged to restore the Lease Object in accordance with Clause 14.11 and the Tenant to continue the rental agreement in accordance with Clause 14.11 if after the expected restoration remaining Fixed Term is more than two (2) years. The Landlord will inform the Tenant of the expected restoration time immediately, but at the latest within two (2) months after the destruction. If the Fixed Term remaining after the expected restoration is shorter than two (2)

Monaten nach der Zerstörung, mitteilen. Ist die nach der voraussichtlichen Wiederherstellung verbleibende Festlaufzeit kürzer als zwei (2) Jahre, können der Vermieter und der Mieter das Mietverhältnis innerhalb von drei (3) Monaten ab Eintritt des Ereignisses mit Wirkung für den Zeitpunkt der Zerstörung des Mietgegenstands unabhängig davon kündigen, ob der Mietgegenstand zu einem späteren Zeitpunkt wieder hergestellt wird oder nicht. Der Mieter ist zudem zur Kündigung des Mietverhältnisses berechtigt, wenn die voraussichtliche Wiederherstellungszeit mehr als zwölf (12) Kalendermonate beträgt.

Bei der Berechnung der verbleibenden Festlaufzeit bleiben die dem Mieter noch zustehenden Optionen (vgl. Ziffer 4.2), sofern diese zum Zeitpunkt der Zerstörung noch nicht wirksam vom Mieter erklärt wurden, unberücksichtigt.

14.13 Ist neben dem Mietgegenstand (insgesamt oder zu einem überwiegenden Teil) auch das Bürogebäude auf der Liegenschaft insgesamt oder zu einem überwiegenden Teil durch ein vom Vermieter nicht verschuldetes Ereignis zerstört, so gelten Ziffern 14.11 bis 14.12 mit der Maßgabe, dass der Vermieter statt der Wiederherstellung des Mietgegenstands auch berechtigt ist, sich für eine andere Bebauung zu entscheiden, sofern dem Mieter dabei eine dem Mietgegenstand gleichwertige Mietfläche (insbesondere hinsichtlich Gesamtmietfläche, Mietzweck, Qualität, Ausstattung etc.) geschaffen wird. Der Vermieter wird im Rahmen der Planung Vorstellungen und Vorschläge des Mieters in angemessenem Umfang berücksichtigen.

## 15. VERSICHERUNGEN

15.1 Der Mieter hat spätestens eine (1) Woche vor dem Übergabetag eine Haftpflichtversicherung sowie eine Glasbruch- und

years, the Landlord and the Tenant can terminate the Rental Contract within three (3) months from the occurrence of the event with effect from the time the Lease Object is destroyed, regardless of whether the Lease Object will be restored at a later date or not. The Tenant is also entitled to terminate the Rental Contract if the expected recovery time is more than twelve (12) calendar months.

When calculating the remaining Fixed Term, the Options still available to the Tenant (cf. Clause 4.2), if these have not yet been effectively declared by the Tenant at the time of destruction, are not taken into account.

14.13 If, in addition to the Lease Object (in its entirety or in large part), the office building on the Property is also destroyed in its entirety or in part due to an event for which the landlord is not responsible, then Clauses 14.11 to 14.12 apply with the proviso that instead of restoring the Lease Object, the Landlord is also entitled to decide on a different development, provided that the Tenant is provided with a rental area that is equivalent to the Lease Object (in particular with regard to Total Rental Space, purpose of lease, quality, furnishings, etc.). The Landlord will take the Tenant's ideas and suggestions into account to an appropriate extent as part of the planning.

## 15. INSURANCES

15.1 The Tenant shall take out a sufficient level of liability insurance as well as glass breakage and inventory insurance no later than one (1)

Inventarversicherung in ausreichender Höhe abzuschließen und dem Vermieter auf Verlangen nachzuweisen. Für die von ihm eingebrachten Einrichtungen und sonstigen Gegenstände ist der Mieter verpflichtet, diese gegen Beschädigungen durch Feuer, Leitungswasser und Abwässer und bestimmungswidrigen Sprinkleraustritt zu versichern. Er hat diese Versicherungen in branchenüblicher Höhe für die Dauer des Mietverhältnisses aufrechtzuerhalten.

- 15.2 Weist der Mieter das Bestehen einer solchen Versicherung trotz Nachfristsetzung nicht nach, so ist der Vermieter berechtigt, auf Kosten und im Namen des Mieters solche Versicherungen abzuschließen.
- 15.3 Der Mieter ist verpflichtet, dem Vermieter werterhöhende Einbauten und Veränderungen im oder am Gebäude, insbesondere wenn diese eine Änderung der Gefahreinschätzung im Sinne der Feuer- und Haftpflichtversicherungsbedingungen bewirken, unverzüglich schriftlich anzuzeigen. Soweit der Gebäudeversicherer aufgrund derartiger Umstände Zuschläge zur Prämie verlangt, sind diese Zuschläge vom Mieter gesondert zu vergüten. Unterlässt der Mieter die erforderliche Mitteilung, ist er dem Vermieter zum Ersatz der Schäden verpflichtet, die dem Vermieter durch eine eventuelle Unterversicherung des Gebäudes entstehen.
- 15.4 Falls der Mieter auf der Liegenschaft gewässerschädliche Stoffe lagert bzw. im Rahmen seiner gewerblichen Tätigkeit verwendet, hat er, unabhängig von einer bestehenden Betriebshaftpflichtversicherung, eine spezielle Haftpflichtversicherung im Hinblick auf die Lagerung und Verwendung gewässerschädlicher Stoffe abzuschließen und dem Vermieter auf Verlangen nachzuweisen. Das gleiche gilt sinngemäß auch für andere Immissionen. Ersatzansprüche wegen vom

week before the Handover Day and provide evidence thereof to Landlord upon request. The Tenant shall be obliged to take out insurance for the fixtures and fittings and other objects they installed against damage by fire, tap water sewage and sprinkler water leaks. He must maintain these insurance policies at the level customary in the industry for the duration of the tenancy.

- 15.2 If the Tenant fails to provide evidence of the existence of such insurance despite a grace period being set, Landlord shall be entitled to conclude such insurance contracts at Tenant's expense and in Tenant's name.
- 15.3 The Tenant is obligated to notify Landlord without delay and in writing of any value-increasing built-ins and modifications in or to the building, in particular if such measures create a change of the risk assessment as defined in the fire and liability insurance conditions. If the building insurer requests surcharges on the premium because of these kinds of circumstances, such surcharges are to be separately remunerated by the Tenant. If the Tenant fails to effect such notification, they shall be obligated to pay compensation to Landlord for losses accruing to Landlord as a result of possible underinsurance of the building.
- 15.4 If the Tenant stores water-polluting substances on the Property or uses them as part of his commercial activity, he must take out special liability insurance with regard to the storage and use of water-polluting substances, regardless of any existing business liability insurance, and provide evidence to the Landlord upon request. The same applies analogously to other immissions. Compensation claims due to soil contamination for which the Tenant is responsible



Mieter zu vertretender Bodenverunreinigungen werden fällig, sobald diese durch eine Bodenuntersuchung festgestellt sind. Dem Mieter ist Gelegenheit zu geben, bei der Bodenuntersuchung zugegen zu sein.

become due as soon as this has been determined by a soil analysis. The Tenant is to be given the opportunity to be present at the soil analysis.

15.5 Der Vermieter ist verpflichtet, eine Gebäudeversicherung, Gebäudehaftpflichtversicherung sowie eine Feuerversicherung in ausreichender Höhe abzuschließen und den Mietgegenstand gegen Sturm, Hagel, Terror und Leitungswasserschäden zu versichern und für die Dauer des Mietverhältnisses aufrecht zu erhalten. Die Kosten für diese Versicherungen sind im Rahmen der Nebenkostenabrechnung (anteilig) vom Mieter zu tragen. Der Vermieter kann anstelle von Einzelversicherungen ebenfalls zu Lasten der Nebenkosten gemäß Ziffer 6 auch eine Allgefahren-Versicherung abschließen, die auch eine Mietverlust- sowie eine Terrorversicherung beinhaltet.

15.5 The Landlord is obligated to take out building insurance, building liability insurance and fire insurance for a sufficient amount and to insure the Lease Object against storm, hail, terror and pipe water damage and to maintain this for the duration of the tenancy. The costs for this insurance are to be borne (pro rata) by the Tenant as part of the ancillary cost settlement. Instead of individual insurance, Landlord can also take out all-risks insurance, which also includes loss of rent and terror insurance, at the expense of the ancillary costs in accordance with Clause 6.

15.6 Weist der Vermieter das Bestehen einer solchen Versicherung trotz Nachfristsetzung nicht nach, so ist der Mieter berechtigt, auf Kosten und im Namen des Vermieters solche Versicherungen abzuschließen.

15.6 If the Landlord fails to provide evidence of the existence of such insurance despite a grace period being set, Tenant shall be entitled to conclude such insurance contracts at Landlord's expense and in Landlord's name.

## 16. UNTERVERMIETUNG

## 16. SUBLETTING

16.1 Die Untervermietung oder sonstige Überlassung des Mietgegenstands – ganz oder teilweise – ist nur nach vorheriger Zustimmung des Vermieters zulässig, die dieser nur aus wichtigem Grund verzögern oder verweigern darf. Eine Untervermietung an mit dem Mieter verbundene Unternehmen im Sinne der §§ 15 ff. AktG ist hiermit bereits gestattet; die Ziffer 16.2 findet insoweit keine Anwendung.

16.1 Subletting or other transfer of the Lease Object – in whole or in part – shall only be permissible subsequent to prior approval by Landlord, such approval may only be delayed or withheld for good cause (*wichtigem Grund*). Subletting to affiliated companies in the meaning of Sections 15 et. seq. of the German Stock Corporation Act is hereby approved; Clause 16.2 does not apply in this respect.

16.2 Der Mieter tritt für den Fall der Untervermietung oder sonstigen – ganz oder teilweisen – Überlassung des Mietgegenstands an Dritte bereits jetzt alle Ansprüche gegen den

16.2 In the case of subletting or other transfer – in whole or in part – of the Lease Object to third parties, the Tenant shall hereby assign to Landlord all claims against the sublessee or other

Untermieter oder sonstige Dritte nebst Pfandrecht an den Vermieter sicherungshalber ab. Der Vermieter nimmt diese Abtretung an. Der Mieter ist dafür verantwortlich, dass der Untermieter sämtliche Bestimmungen dieses Vertrages einhält. Übersteigt die Miete, die der Mieter auf Grund der Untervermietung gegen den Untermieter beanspruchen kann (im Folgenden: „Untermiete“), diejenige Miete, die der Mieter dem Vermieter nach Ziffer 5 dieses Vertrags schuldet, ist der Mieter verpflichtet, 50 % des die Miete übersteigenden Teils der Untermiete (im Folgenden: „Untermietzuschlag“) an den Vermieter zu zahlen. Ziffer 9 findet mit der Maßgabe entsprechende Anwendung, dass der Untermietzuschlag vierzehn (14) Werktage nach dem Tag zur Zahlung fällig ist, an dem der Mieter die Untermiete beanspruchen kann. Sofern bei Unterzeichnung des Untermietvertrages mit Dritten Leerstand im Gebäude besteht, den der Untermieter alternativ vom Vermieter hätte anmieten können, beträgt der Untermietzuschlag 100% des die Miete übersteigenden Teils der Untermiete.

- 16.3 Eine eventuelle Untervermietung berührt die Pflichten des Mieters gegenüber dem Vermieter nicht.
- 16.4 Bei unberechtigter Untervermietung und/oder Nutzungsüberlassung oder bei schuldhafter vertragswidriger Nutzung des Mietgegenstands durch den Untermieter kann der Vermieter verlangen, dass der Mieter unverzüglich das Untermietverhältnis kündigt.
- 16.5 Der Mieter wird dem Vermieter unaufgefordert und unverzüglich jede Untervermietung und/oder Nutzungsüberlassung anzeigen und eine vollständige Kopie des entsprechenden Vertrags vorlegen.

third parties together with the right of lien to the lessor as security. Landlord accepts such assignment. The Tenant shall be responsible for the sublessee's compliance with all and any provisions of this Rental Contract. If the rent that the Tenant can claim on the basis of such subletting (hereinafter: "Rent for Subletting") exceeds the rent that the Tenant owes Landlord under Clause 5 of this Rental Contract, the Tenant shall be obligated to pay Landlord fifty (50) per cent of the excess part of the rent for subletting (hereinafter: "Subletting Surcharge"). Clause 9 shall be applicable subject to the proviso that the Subletting Surcharge is due fourteen (14) working days after the day on which the Tenant can claim Rent for Subletting. If, when the sublease agreement is signed with a third party, there is a vacancy in the building that the subtenant could have alternatively rented from the Landlord, the Subletting Surcharge is 100% of the excess part of the rent for subletting.

- 16.3 Any possible subletting shall not affect Tenant's duties towards Landlord.
- 16.4 In the event of unauthorised subletting and/or surrender of use or culpable use by the sublessee of the Lease Object in breach of this Rental Contract, Landlord can request the Tenant to immediately terminate the subletting relationship.
- 16.5 Without being requested to do so and without delay, the Tenant will notify Landlord of any subletting and/or surrender of use and will submit a complete copy of the relevant agreement.

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| <p><b>17. KONKURRENZSCHUTZ</b></p> <p>Konkurrenzschutz wird vom Vermieter nicht gewährt.</p>  | <p><b>17. COMPETITION PROTECTION</b></p> <p>Competition protection is not granted by Landlord.</p>  |
| <p><b>18. HAFTUNG DES MIETERS, VERKEHRSSICHERUNGSPFLICHT DES MIETERS</b></p>  | <p><b>18. TENANT'S LIABILITY, TENANT'S LEGAL DUTY TO MAINTAIN SAFETY</b></p>  |
| <p>18.1 Der Mieter hat Vorsatz und Fahrlässigkeit zu vertreten.</p>   | <p>18.1 The Tenant is responsible for intent and negligence.</p>  |
| <p>18.2 Der Mieter haftet dem Vermieter für alle Schäden, die durch die Verletzung der dem Mieter obliegenden Sorgfaltspflichten schuldhaft verursacht werden. Dies gilt nicht für die Abnutzung des Mietgegenstands, die der Mieter durch einen vertragsgemäßen Gebrauch des Mietgegenstands herbeiführt (§ 538 BGB).</p>  | <p>18.2 Tenant shall be liable for all losses culpably caused by breach of the duty of care incumbent upon Tenant. This shall not apply to wear and tear of the Lease Object, which Tenant causes through a contractually allowed use of the Lease Object (§ 538 BGB).</p>  |
| <p>18.3 Der Mieter haftet auch für Schäden, die durch seine Bevollmächtigten, Betriebsangehörigen oder Untermieter schuldhaft verursacht werden. Ferner haftet er für Schäden, die durch Besucher, Lieferanten, Handwerker oder sonstige Personen schuldhaft verursacht werden, soweit diese auf Veranlassung des Mieters zum Gebäude in Beziehung treten.</p>  | <p>18.3 Tenant shall also be liable for damage culpably caused by their authorised representatives, staff members or sublessees. In addition, he shall be liable for losses culpably caused by visitors. Suppliers, workmen or other individuals to the extent that their activity in the building relates to the Tenant.</p>   |
| <p>18.4 Dem Mieter obliegt die Verkehrssicherungspflicht für die ausschließlich dem Mieter zugänglichen Flächen des Mietgegenstandes. Außerdem verpflichtet sich der Mieter, den Vermieter von jeglichen Ansprüchen privater Dritter oder Behörden freizustellen, die diesen aufgrund der Verletzung der vom Mieter übernommenen Verkehrssicherungspflicht zustehen, soweit er diese Verletzung zu vertreten hat.</p> | <p>18.4 The Tenant shall be responsible for ensuring the duty of safety of the areas of the Lease Object that are exclusively accessible to the Tenant. In addition, the Tenant undertakes to indemnify the Landlord against any claims by private third parties or authorities based on a breach of the legal duties to maintain safety assumed by the Tenant, insofar as the Tenant is responsible for this breach.</p> |
| <p>18.5 Der Mieter ist verpflichtet, dem Vermieter Schäden am Mietgegenstand nach Kenntniserlangung unverzüglich zu melden. Für einen Schaden, der durch verspätete</p>   | <p>18.5 The Tenant is obligated to notify Landlord after obtaining knowledge without delay of any damage to the Lease Object. With regard to</p>  |

Anzeige nach Kenntniserlangung verursacht oder vertieft wird, oder der dadurch gegenüber einem Auftragnehmer des Vermieters nicht mehr geltend gemacht werden kann, ist der Mieter ersatzpflichtig, wenn er die verspätete Anzeige vorsätzlich oder grob fahrlässig zu vertreten hat.

18.6 Beim Aufstellen von Maschinen, schweren Apparaturen, Geldschränken u.ä. im Mietgegenstand darf der Mieter die zulässigen Belastungsgrenzen der Stockwerksdecken nicht überschreiten. Das Aufstellen ist in jedem Fall dem Vermieter vierzehn (14) Tage vorher schriftlich anzuzeigen und dessen Zustimmung einzuholen. Der Vermieter verpflichtet sich, den Mieter über die zulässigen Belastungsgrenzen auf Verlangen zu informieren. Für Schäden, die durch Nichtbeachtung dieser Bestimmungen eintreten, haftet der Mieter. Ergeben sich durch die Maschinen nachteilige Auswirkungen für das Gebäude, Erschütterungen, Risse usw., kann der Vermieter die erteilte Erlaubnis widerrufen.

18.7 Der Mieter haftet dem Vermieter für jeglichen Schaden am Gebäude und Mietgrundstück, der durch seine Fahrzeuge oder durch die bei ihm auf seine Veranlassung hin verkehrenden Fahrzeuge verursacht wird, soweit er diese zu vertreten hat.

**19. GEWÄHRLEISTUNG UND HAFTUNG  
DES VERMIETERS,  
VERKEHRSSICHERUNGSPFLICHT  
DES VERMIETERS**

19.1 Die verschuldensunabhängige Garantichaftung des Vermieters wegen anfänglicher Sachmängel des Mietgegenstandes ist ausgeschlossen; der Herstellungsanspruch des Mieters gegenüber dem Vermieter bleibt hiervon jedoch unberührt.

losses caused or aggravated by a delayed notification after obtaining knowledge or, that as a result, can no longer be asserted against one of Landlord's contractors, the Tenant shall be liable for compensation if he is responsible for such delayed notification intentionally or through gross negligence.

18.6 When positioning machines, heavy apparatus, safes etc. in the Lease Object, Tenant may not exceed the admissible load restrictions of the storey floors. Such positioning must at all events be notified to Landlord fourteen (14) days in advance and the latter's consent must be obtained. The Landlord undertakes to inform the Tenant of all admissible load restrictions upon request. The Tenant shall be liable for any damage caused by disregarding these provisions. Should detrimental impacts on the building result from such machines, vibrations, fissures, etc., Landlord may revoke the consent granted.

18.7 The Tenant shall be liable to Landlord for all damage to the building and Lease Property caused by its vehicles or the vehicles using Landlord's premises in order to access Tenant's operations upon Tenant's initiation, insofar as he is responsible for this.

**19. LANDLORD'S WARRANTY AND LIABILITY,  
LANDLORD'S LEGAL DUTY  
TO MAINTAIN SAFETY**

19.1 The Landlord's warranty liability regardless of fault due to initial material defects of the Lease Object is excluded; the right of the Tenant to claim repair of the Lease Object remains unaffected.

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| 19.2 Der Vermieter hat Vorsatz und Fahrlässigkeit zu vertreten.  | 19.2 The Landlord is responsible for intent and negligence.   |
| 19.3 Der Vermieter haftet dem Mieter für alle Schäden, die durch die Verletzung der dem Vermieter obliegenden Sorgfaltspflichten schuldhaft verursacht werden.   | 19.3 Landlord shall be liable for all losses culpably caused by breach of the duty of care incumbent upon Landlord.   |
| 19.4 Der Vermieter haftet auch für Schäden, die durch seine Bevollmächtigten oder Betriebsangehörigen schuldhaft verursacht werden. Ferner haftet er für Schäden, die durch Besucher, Lieferanten, Handwerker oder sonstige Personen schuldhaft verursacht werden, soweit diese auf Veranlassung des Vermieters zum Gebäude in Beziehung treten.   | 19.4 Landlord shall also be liable for damage culpably caused by its authorised representatives or staff members. In addition, he shall be liable for losses culpably caused by visitors. Suppliers, workmen or other individuals to the extent that their activity in the building relates to the Landlord.  |
| 19.5 Der Vermieter und seine Erfüllungsgehilfen (einschließlich Bevollmächtigte oder Betriebsangehörige) haften nicht  | 19.5 Landlord and his vicarious agents (including authorised representatives or staff members) shall not be liable  |
| 19.5.1 für die Eignung des Mietgegenstands zu dem vom Mieter beabsichtigten wirtschaftlichen Zweck;  | 19.5.1 for the suitability of the Lease Object for the economic purpose intended by the Tenant;   |
| 19.5.2 für die Erteilung oder Aufrechterhaltung der für die Gewerbeausübung des Mieters notwendigen Konzessionen, Genehmigungen oder Erlaubnisse, die an die Person des Mieters anknüpfen;   | 19.5.2 for the granting or maintenance of the licences, approvals or permits required for Tenant's pursuit of its trade, which are linked to the person of the Tenant;  |
| 19.5.3 für die Lieferung von Energie, wie Heizung, Strom und Wasser, durch die entsprechenden Versorgungsträger, es sei denn, dass er den Ausfall der vorgenannten Lieferung zu vertreten hat; auf Verlangen des Mieters wird der Vermieter dem Mieter seine Ansprüche gegen die Versorgungsträger aus bereits abgeschlossenen oder noch abzuschließenden Versorgungsverträgen abtreten; | 19.5.3 for the supply of energy, like heating, electricity and water by the relevant utility providers, unless they are responsible for the failure of the aforementioned supply; upon Tenant's request to do so, the Landlord will assign its claims against the utility provider under supply contracts already concluded or still to be concluded; |
| 19.5.4 für vorübergehende, vom Vermieter nicht zu vertretenden, Einschränkungen der Zufahrt, der Andienung und der sonstigen Verkehrswege zum Gebäude, soweit ein  | 19.5.4 for temporary restrictions of the access road, delivery and other traffic routes to the building for which the Landlord is not re-   |

Zugang oder eine Zufahrt zum Gebäude (einschließlich des Mietgegenstands) gewährleistet bleibt;

- 19.5.5 für die Beeinträchtigung der Gebrauchstauglichkeit des Mietgegenstands durch Maßnahmen auf den Nachbargrundstücken und dem Straßenland, wie etwa Baumaßnahmen, die vom Vermieter nicht zu vertreten sind und nicht auf dessen Veranlassung hin vorgenommen werden;

Soweit durch diese Ziffer 19.5 Schadensersatzansprüche ausgeschlossen werden, gilt der Ausschluss nicht für Verletzungen von Körper, Leben und Gesundheit des Mieters oder für Fälle des vorsätzlichen oder fahrlässigen Verhaltens des Vermieters. Minderungsrechte des Mieters bleiben ebenfalls unberührt.

- 19.6 Dem Vermieter obliegt die Verkehrssicherungspflicht für die nicht ausschließlich dem Mieter zugänglichen Flächen der Liegenschaft. Außerdem verpflichtet sich der Vermieter, den Mieter von jeglichen Ansprüchen privater Dritter oder Behörden freizustellen, die diesen aufgrund der Verletzung der vom Vermieter übernommenen Verkehrssicherungspflicht zustehen, soweit er diese Verletzung zu vertreten hat.

## 20. BETRETEN DES MIETGEGENSTANDS

- 20.1 Dem Vermieter oder einem von ihm beauftragten Dritten ist das Betreten des Mietgegenstands, insbesondere zur Prüfung des baulichen Zustandes sowie der Funktionsfähigkeit und Sicherheit von technischen Anlagen im Gebäude, zur Weitervermietung oder Veräußerung des Mietgegenstands sowie in anderen ähnlichen Fällen zusammen mit Beteiligten, Sachverständigen oder Zeugen und in

sponsible – to the extent an access or an access road to the building (including the Lease Object still exist;

- 19.5.5 for the impairment of the Lease Object's fitness for purpose through measures on the neighbouring real properties and the thoroughfare, like for example construction measures, for which the Landlord is not responsible, and which are not undertaken at the Landlord's instigation;

To the extent compensation claims are ruled out by this Clause 19.5, such exclusion shall not apply to injury to life, limb or health of the Tenant or to cases of deliberate or negligent conduct on the part of Landlord. Tenant's right to abate the rent shall remain unaffected.

- 19.6 The Landlord shall be responsible for ensuring the duty of safety of the areas of the Lease Object that are not exclusively accessible to the Tenant. In addition, the Landlord undertakes to indemnify the Tenant against any claims by private third parties or authorities based on a breach of the legal duties to maintain safety assumed by the Landlord, insofar as he is responsible for this infringement.

## 20. ENTER THE LEASE OBJECT

- 20.1 The Landlord or a third party commissioned by it shall be permitted to enter the Lease Object, in particular for the purpose of inspecting the structural condition and the functionality and safety of technical installations in the building, for the purpose of subletting or selling the Lease Object and in other similar cases together with parties involved, experts or witnesses and in presence of the Tenant during

Begleitung des Mieters während der üblichen Geschäftszeiten und nach angemessener Vorankündigung gestattet.

normal business hours and after prior reasonable notice.

20.2 In Fällen dringender Gefahr kann der Vermieter den Mietgegenstand jederzeit, auch ohne Vorankündigung, sowie bei Abwesenheit des Mieters betreten. Er hat den Mieter jedoch unverzüglich hierüber zu informieren.

20.2 In cases of urgent danger, Landlord may also set foot on the Lease Object without prior announcement as well as in the absence of the Tenant, but the Landlord has to immediately inform the Tenant about it.

20.3 Der Mieter erhält für den Mietgegenstand die im Übergabeprotokoll aufgelisteten Schlüssel und/oder Codekarten. Dem Mieter ist es nicht gestattet, Türen oder Fenster mit zusätzlichen Schlössern oder Riegeln, gleich welcher Art, zu versehen, ebenso wenig darf er vorhandene Schlösser oder deren Funktionsweise verändern, sofern nicht der Vermieter vorher schriftlich zustimmt.

20.3 The Tenant shall receive the keys and/or code cards for the Lease Object listed in the Handover Protocol. The Tenant shall not be permitted to affix any additional locks or locking bolts of any kind to doors or windows, or to change existing locks or the way they work unless Landlord has consented to this in advance.

## 21. KÜNDIGUNG

## 21. TERMINATION

21.1 Das Recht zur ordentlichen Kündigung ist während der – ggf. gemäß Ziffer 4.2 verlängerten – Festlaufzeit (Ziffer 4.1) ausgeschlossen. Beiden Parteien steht das Recht zur fristlosen Kündigung nur aus wichtigem Grund zu. Ein wichtiger Grund liegt insbesondere vor, wenn der Mieter:

21.1 The right to ordinary termination with prior notice during the – if applicable, extended in accordance to Clause 4.2 – Fixed Term (Clause 4.1) shall be excluded. Both Parties shall have the right to terminate this Rental Contract without notice only for cause. Cause shall be on hand in particular if the Tenant:

21.1.1 für zwei (2) aufeinanderfolgende Termine trotz Abmahnung durch den Vermieter mit der Entrichtung des Mietzinses in Verzug ist, oder in einem Zeitraum, der sich über mehr als zwei (2) Termine erstreckt, mit der Entrichtung der Miete in Höhe eines Betrages, der die Miete für zwei (2) Monate erreicht, in Verzug ist;

21.1.1 is after receipt of a warning notice by Landlord in arrears with payment of the rent for two (2) consecutive payment dates, or in a period covering over more than two (2) payment dates, in an amount which reaches the rent for two (2) months;

21.1.2 den Mietgegenstand trotz Abmahnung durch den Vermieter unberechtigt untervermietet oder Dritten überlässt;

21.1.2 sublets or surrenders use of the Lease Object without authorisation to third parties even after receipt of a warning notice by Landlord;

21.1.3 den Mietgegenstand nicht dem Mietzweck entsprechend nutzt und den

21.1.3 fails to use the Lease Object in accordance with the purpose of lease and continues

	vertragswidrigen Gebrauch auch nach Abmahnung und angemessener Fristsetzung durch den Vermieter fortsetzt;		such use in breach of the contract even after receipt of a warning notice and a reasonable grace period by Landlord;
21.1.4	die geschuldete Mietsicherheit (Ziffer 10) trotz Abmahnung und angemessener Nachfristsetzung nicht leistet;	21.1.4	fails to render the owed Rent Security Deposit (Clause 10) despite receipt of a warning notice and a reasonable grace period;
21.1.5	trotz Abmahnung und angemessener Fristsetzung durch den Vermieter gegen die Umsatzsteuerregelung gemäß Ziffer 8 dieses Vertrags verstößt;	21.1.5	breaches the VAT rule pursuant to Clause 8 even after receipt of a warning notice and a reasonable grace period by Landlord;
21.2	Die laufenden Betriebs- und Nebenkosten sind Teil der Miete im vorstehenden Sinne.	21.2	The current operating and ancillary costs are part of the rent in the aforesaid sense.
21.3	Die Kündigung bedarf der Schriftform. Für die Rechtzeitigkeit kommt es nicht auf die Absendung, sondern auf den Zugang des Kündigungsschreibens an.	21.3	Termination must be in writing (on paper and signed). Whether notice of termination has been given in due time shall not depend on the date on which such notice of termination was sent, but the date on which it is received.
<b>22.</b>	<b>ENDE DES MIETVERHÄLTNISSSES</b>	<b>22.</b>	<b>END OF TENANCY</b>
22.1	Unabhängig vom Zeitpunkt der Beendigung des Mietverhältnisses hat der Mieter bis zur Herausgabe des Mietgegenstands an den Vermieter eine Nutzungsentschädigung mindestens in Höhe der zuletzt vereinbarten Miete zu zahlen. Weitergehende Schadensersatzansprüche bleiben unberührt. Etwaige Zahlungen des Mieters nach Kündigung oder Beendigung des Mietverhältnisses aus sonstigen Gründen werden als Nutzungsentschädigung angenommen, auch wenn sie im Überweisungsauftrag oder in Korrespondenz als Mietzahlung bezeichnet sind.	22.1	Irrespective of the date of time at which the tenancy ends, the Tenant must pay the Landlord compensation for use at least in the amount of the last agreed rent until the Lease Object is handed over to the Landlord. Further claims for damages remain unaffected. Any payments made by the Tenant after termination or termination of the tenancy for other reasons will be accepted as compensation for use, even if they are referred to as rent payments in the transfer order or in correspondence.
22.2	Bei Beendigung des Mietverhältnisses ist der Mietgegenstand in vertragsgerechtem Zustand unter Berücksichtigung der vertragsgemäßen Abnutzung an den Vermieter zurückzugeben. Vertragsgemäß ist der Zustand dann, wenn:	22.2	When the tenancy ends, the Lease Object must be surrendered to Landlord in a condition as provided for in this Rental Contract, taking into account contractual wear and tear. The condition shall be deemed in line with the contract if:



22.2.1	sämtliche Räume gereinigt und geräumt sind;	22.2.1	all rooms have been cleaned and vacated;
22.2.2	alle Schönheitsreparaturen (Ziffer 14.5) durchgeführt sind;	22.2.2	all Cosmetic Repairs (Clause 14.5) have been carried out;
22.2.3	Schäden am Mietgegenstand, die über die Abnutzung durch gewöhnlichen Gebrauch hinausgehen, beseitigt sind;	22.2.3	damage to the Lease Object that goes beyond wear and tear as a result of customary use has been eliminated;
22.2.4	sämtliche Schlüssel und/oder Codekarten (auch selbst beschaffte) an den Vermieter zurückgegeben worden sind;	22.2.4	all keys and/or code cards (also self-returned) have been returned to Landlord;
22.2.5	der Mieter seine Wartungspflicht (Ziffer 14.4) erfüllt hat; und	22.2.5	Tenant has fulfilled his contractual obligation to maintenance (Clause 14.4); and
22.2.6	der Mieter seine Rückbaupflicht gem. Ziffer 22.7 erfüllt hat.	22.2.6	Tenant has fulfilled its duty to restore the Lease Object to its original state pursuant to Clause 22.7.
22.3	Bei Auszug des Mieters ist ein gemeinsames Rückgabeprotokoll zu fertigen, in welchem etwa vorhandene oder nicht beseitigte Mängel, Schönheitsreparaturen etc. aufgeführt werden. Der Mieter wird bei der Erstellung des Protokolls persönlich mitwirken oder sich durch einen schriftlich bevollmächtigten Dritten vertreten lassen. Ohne eine solche Mitwirkung des Mieters ist der Vermieter zur Rücknahme des Mietgegenstands nicht verpflichtet.	22.3	When Tenant vacates the premises, a joint record of return shall be drawn up listing, for example, existing or not remedied defects, Cosmetic Repairs, etc. The Tenant shall personally assist in preparing the record or be represented by an attorney-in-fact with written authorisation. Landlord shall not be under any obligation to take back the Lease Object if Tenant has not cooperated in this way.
22.4	Kommt der Mieter seinen Verpflichtungen gemäß vorstehenden Ziffern 22.2.1 bis 22.2.6 trotz angemessener Nachfristsetzung durch den Vermieter nicht nach, so kann der Vermieter die entsprechenden Maßnahmen auf Kosten des Mieters durchführen lassen.	22.4	If the Tenant fails to comply with its obligations pursuant to the aforementioned Clauses 22.2.1 to 22.2.6 despite Landlord's setting of a reasonable grace period, Landlord may have the relevant work carried out at Tenant's costs.
22.5	Werden vom Mieter nach Beendigung des Mietverhältnisses im Mietgegenstand Gegenstände zurückgelassen, ist der Vermieter berechtigt, diese nach Mahnung mit Fristsetzung auf Kosten des Mieters aus dem Mietgegenstand zu entfernen. Eine Aufbewahrungspflicht des Vermieters besteht	22.5	If, after termination of the tenancy, the Tenant has left objects behind in the Lease Object, Landlord shall be authorised to remove such objects at Tenant's costs after issuing a warning and setting a deadline. No duty for Landlord to store exists. Any claims of Landlord's

- nicht. Etwaige Ansprüche des Vermieters aus der verspäteten Rückgabe der Mietsache bleiben unberührt.
- 22.6 Der mieterseitige Ausbau und alle später vom Mieter durchgeführten baulichen Veränderungen, Einbauten, Einrichtungen und Installationen sind bei Beendigung des Mietverhältnisses vom Mieter zu beseitigen und der ursprüngliche Zustand wiederherzustellen. Kommt der Mieter dieser Verpflichtung nicht vor Beendigung des Mietverhältnisses nach, so kann der Vermieter die Beseitigung auf Kosten des Mieters selbst vornehmen.
- 22.6 Enlargement/interior finishing work by the Tenant and all structural changes, built-ins, fixtures and installations subsequently carried out by the Tenant must be removed by the Tenant at the end of the tenancy, and the original state restored. If the Tenant fails to comply with this obligation or fails to comply with this obligation prior to the end of the tenancy, Landlord may carry out such removal itself at Tenant's costs.
- 23. PERSONENMEHRHEIT, GESELLSCHAFTSRECHTLICHE ÄNDERUNGEN IN DER PERSON DES MIETERS**
- 23. PERSONAL MAJORITY, CORPORATE CHANGES IN THE PERSON OF THE TENANT**
- 23.1 Mehrere Personen als Vermieter/Mieter haften für die Verpflichtungen aus dem Mietvertrag als Gesamtschuldner.
- 23.1 Several persons as Landlords / Tenants are jointly and severally liable for the obligations arising from the Rental Contract.
- 23.2 Mehrere Personen als Vermieter/ Mieter bevollmächtigen sich gegenseitig zur Abgabe und zum Empfang von Erklärungen, soweit sie das Mietverhältnis betreffen, bei Kündigung und Erklärungen über die Änderung von Hauptleistungspflichten jedoch nur zu deren Entgegennahme. Diese Vollmacht gilt nicht für den Abschluss von Mietaufhebungsverträgen.
- 23.2 Several persons acting as Landlords / Tenants authorize each other to issue and receive declarations insofar as they affect the tenancy, but only to accept notice of termination and declarations about the change in main performance obligations. This power of attorney does not apply to the conclusion of rental termination agreements.
- 23.3 Wenn es sich bei dem Mieter um eine Personengesellschaft handelt, ist dem Vermieter unverzüglich schriftlich anzuzeigen, sofern sich die Gesellschafter ändern (Eintritt / Ausscheiden von Gesellschaftern sowie Übertragung einer Gesellschafterstellung). Dem Vermieter sind Änderungsvorgänge im Sinne des Umwandlungsgesetzes nach der Eintragung der Umwandlung oder Verschmelzung in das Handelsregister
- 23.3 If the Tenant is a partnership, the Landlord must be informed immediately in writing if the partners change (joining / leaving partners and transfer of a position as a partner). Changes within the meaning of the Transformation Act (*Umwandlungsgesetz – UmwG*) are to be reported to the Landlord after the conversion or merger has been entered in the commercial register, and this must be accompanied by submission of the relevant excerpts from the commercial register.

anzuzeigen, und zwar unter Vorlage der entsprechenden Handelsregisterauszüge.

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| <p><b>24. VERMIETERPFANDRECHT</b></p> <p>24.1 Die Ausübung des Vermieterpfandrechts richtet sich nach den gesetzlichen Regelungen.</p> <p><b>25. VERÄUSSERUNG DER LIEGENSCHAFT / DES MIETGEGENSTANDS</b></p> <p>25.1 Im Falle einer Veräußerung der Liegenschaft / des Mietgegenstands geht dieser Vertrag gemäß §§ 566 Abs. 1, 578 BGB auf den neuen Eigentümer über. In diesem Fall ist eine Haftung des Vermieters als Bürge gegenüber dem Mieter (§§ 566 Abs. 2, 578 BGB) ausgeschlossen. Darüber hinaus ist der Vermieter berechtigt, diesen Vertrag mit allen Rechten und Pflichten mit befreiender Wirkung im Wege der Vertragsübernahme auf einen Dritten, der Grundstück, Erbbaurecht oder Gebäudeeigentum zukünftig erwirbt, mit Wirkung zum wirtschaftlichen Übergangsstichtag nach dem Erwerbsvertrag zu übertragen. Der Mieter stimmt der entsprechenden Vertragsübernahme bereits jetzt unwiderruflich zu. Die Parteien verpflichten sich, auf Verlangen einer Partei einen solchen Wechsel des Vermieters durch einen formgerechten Nachtrag (§§ 550, 578, 126 BGB) zu dokumentieren.</p> <p>25.2 Hat der Mieter dem Vermieter für die Erfüllung seiner Pflichten eine Sicherheit geleistet, so tritt der Erwerber in die dadurch begründeten Rechte und Pflichten ein.</p> <p>25.3 Im Falle einer Veräußerung der Liegenschaft / des Mietgegenstands ist der Vermieter berechtigt, den Mieter unter Beifügung einer Aufstellung der Mietvertragsunterlagen um eine Vollständigkeitserklärung zu ersuchen. Der Mieter ist verpflichtet, innerhalb von</p> | <p><b>24. LANDLORD'S LIEN</b></p> <p>24.1 The Landlord's lien is exercised according to the statutory provisions.</p> <p><b>25. SALE OF THE PROPERTY / LEASE OBJECT</b></p> <p>25.1 In the event of a sale of the Property / Lease Object, this Contract is transferred to the new owner in accordance with §§ 566 (1), 578 BGB. In this case, liability of the Landlord as guarantor towards the Tenant (§§ 566 (2), 578 BGB) is excluded. In addition, the Landlord is entitled to transfer this Rental Contract with all rights and obligations with discharging effect by way of contract transfer with effect as of the economic transfer date according to the transfer agreement to a third party who will acquire land, building leases or Property in the future. The Tenant already irrevocably agrees to the corresponding transfer of contract. The Parties undertake to document such a change of landlord by means of a formal addendum (§§ 550, 578, 126 BGB) at the request of a Party.</p> <p>25.2 If the Tenant has provided the Landlord with security for fulfilment of his obligations, the acquirer shall assume the rights and obligations arising from this.</p> <p>25.3 In the event of a sale of the Property / Lease Object, the Landlord is entitled to request a declaration of completeness from the Tenant, enclosing a list of the Rental Contract docu-</p> |
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vierzehn (14) Tagen schriftlich mitzuteilen, ob die Aufstellung des Vermieters vollständig ist.

ments. The Tenant is obliged to report in writing within fourteen (14) days whether the list provided by the Landlord is complete.

**26. AUFRECHNUNG, ZURÜCKBEHALTUNGSRECHT, MINDERUNG, EINREDE DES NICHTERFÜLLTEN VERTRAGS**

**26. SET-OFF, RIGHT OF RETENTION, REDUCTION, RESERVATION OF THE RIGHT TO PLEAD LACK OF PERFORMANCE OF CONTRACT**

26.1 Leistungsverweigerungs- und Zurückbehaltungsrechte des Mieters sowie die Aufrechnung des Mieters mit einer Gegenforderung gegenüber Mietzins- und Nebenkostenforderungen sind ausgeschlossen, es sei denn, die Gegenforderung des Mieters ist unbestritten oder rechtskräftig festgestellt.

26.1 Rights of the Tenant to refuse performance and rights of retention as well as the offsetting of the Tenant with a counterclaim against claims for rent and ancillary costs are excluded unless the Tenant's counterclaim is undisputed or has been legally established.

26.2 Der Mieter kann die Miete nur unmittelbar mindern, d.h. die Mietzahlungen unmittelbar kürzen, wenn:

26.2 The Tenant can only directly abate the rent, i.e. directly reduce the rent payments, if:

26.2.1 er den Vermieter über diese Absicht mindestens einen (1) Monat vor Fälligkeit der Miete schriftlich benachrichtigt hat; oder

26.2.1 he has informed the Landlord of this intention in writing at least one (1) month before the rent is due; or

26.2.2 der zugrundeliegende Mangel entweder rechtskräftig festgestellt, entscheidungsreif oder vom Vermieter unbestritten oder anerkannt sind.

26.2.2 the underlying defect has either been legally established, is ready for decision or is undisputed or acknowledged by the Landlord.

Es wird klargestellt, dass durch die vorstehende Regelung das Recht des Mieters, Rückforderungsansprüche wegen Minderung geltend zu machen, weder ausgeschlossen noch beschränkt wird.

It is made clear that the above provision neither excludes nor restricts the Tenant's right to assert claims for repayment because of abatement of rent.

**27. DATENSCHUTZ**

**27. DATA PRIVACY PROTECTION**

Der Mieter willigt ein, dass der Vermieter und/oder dessen Verwalter allgemeine Vertrags-, Abrechnungs- und Leistungsdaten in gemeinsamen Datensammlungen führt und an Versicherungen und/oder Behörden und/oder weitere zur Unternehmensgruppe der Verwaltungsgesellschaft gehörende

The Tenant agrees that the Landlord and/or its property / asset manager may keep general contractual, accounting and payment data in joint data pools and pass them on to insurance companies and/or authorities and/or other companies belonging to the management company's group, provided that this is necessary

Gesellschaften weitergeben darf, sofern dies zur ordnungsgemäßen Durchführung von Mietvertragsangelegenheiten erforderlich ist und unter Beachtung der anwendbaren Datenschutzbestimmungen erfolgt. Der Vermieter verpflichtet sich, die anwendbaren Datenschutzbestimmungen einzuhalten.

for the proper execution of lease agreement matters and in compliance with the applicable regulations on data protection. The Landlord undertakes to comply with the applicable data protection regulations.

## 28. VERTRAULICHKEIT

- 28.1 Jede Partei ist verpflichtet, die in diesem Vertrag getroffenen Vereinbarungen vertraulich zu behandeln und geheim zu halten und weder ganz noch teilweise Dritten zur Verfügung zu stellen oder zugänglich zu machen.
- 28.2 Die Verpflichtung gemäß Ziffer 28.1 gilt nicht, wenn und soweit eine gesetzliche oder behördliche Offenlegungsverpflichtung besteht, solche Informationen öffentlich bekannt oder der Öffentlichkeit verfügbar sind, ohne dass dies auf einer Verletzung dieser Vertraulichkeitsregelung beruht, oder die andere Partei der Offenlegung zugestimmt hat oder die Offenlegung zur Durchführung dieses Mietvertrags und Erfüllung der Pflichten daraus erforderlich ist.
- 28.3 Als Dritte im Sinne von Ziffer 28.1 gelten nicht (a) die jeweiligen Steuer- und Rechtsberater sowie Wirtschaftsprüfer der Parteien, die einer beruflichen Vertraulichkeitsverpflichtung unterliegen, (b) verbundene Unternehmen (im Sinne der §§ 15 ff. AktG) sowie Investoren einer Partei (vorausgesetzt, die offenlegende Partei hat die genannten Personen ihrerseits zur Einhaltung dieser Vertraulichkeitsverpflichtung verpflichtet), (c) Personen, die die Liegenschaft oder Teile hiervon oder ein dingliches Recht daran oder (unmittelbar oder mittelbar) Geschäftsanteile an einer Partei erwerben wollen (vorausgesetzt, die offenlegende Partei hat die genannten Personen ihrerseits zur Einhaltung dieser

## 28. CONFIDENTIALITY

- 28.1 Each Party is obliged to treat the agreements made in this Rental Contract confidentially and to keep them secret and not to make them available or accessible to third parties in whole or in part.
- 28.2 The obligation pursuant to Clause 28.1 does not apply if and to the extent that there is a legal or official disclosure obligation, such information is publicly known or available to the public without this being based on a violation of this confidentiality regulation, or the other Party has consented to the disclosure, or the disclosure for the purpose of execution of this Rental Contract and fulfillment of the obligations arising from it.
- 28.3 Third parties within the meaning of Clause 28.1 do not include (a) the respective tax and legal advisors and auditors of the Parties who are subject to a professional obligation of confidentiality, (b) affiliated companies (within the meaning of Sections 15 ff. AktG) and investors of a Party (provided that the disclosing Party has in turn obliged the named persons to comply with this confidentiality obligation), (c) persons who wish to acquire the Property or parts thereof or a real right thereto or (directly or indirectly) shares in a Party (provided that the disclosing Party has in turn obliged the named persons to comply with this confidentiality obligation), as well as (d) the Parties' respective financing banks.

Vertraulichkeitsverpflichtung verpflichtet), sowie (d) den jeweiligen finanzierenden Banken der Parteien.

**29. WEITERE VEREINBARUNGEN ZUR UMSETZUNG DER NACHHALTIGKEITZIELE**

29.1 Die Parteien werden sich bemühen, in wechselseitigen Einvernehmen folgende Maßnahmen zu einer an einer Nachhaltigen Nutzung und Bewirtschaftung orientierten infrastrukturellen Einbindung des Mietgegenstandes und Gebäudekomplexes zu ergreifen:

- Schaffung von Anreizen zur Fahrradnutzung (z. B. durch Einrichtung von Umkleiden, Duschen, kostenlosen überdachten und diebstahlsicheren Stellplätzen)
- Schaffung von Anreizen zur Nutzung von öffentlichen Verkehrsmitteln (beispielsweise Zurverfügungstellung von „Jobtickets“, Bereitstellung von aktuellen ÖPNV-/SPNV-Plänen)

Der Mieter wird insbesondere prüfen, ob es für ihn wirtschaftlich darstellbar ist, jedem Mitarbeiter, dessen Mittelpunkt betrieblicher Betätigung für den Mieter im Mietgegenstand liegt, für die Dauer seiner Betriebszugehörigkeit – gegen einen angemessenen Kostenbeitrag – Monats- oder Jahreskarten für die Benutzung öffentlicher Verkehrsmittel zur Verfügung zu stellen.

29.2 Zur Förderung einer Nachhaltigen Nutzung und Bewirtschaftung kann der Vermieter Empfehlungen für die Liegenschaft (einschließlich Gebäudekomplex und Mietgegenstand) erstellen („Nachhaltigkeitshandbuch“).

**29. FURTHER AGREEMENTS ON THE IMPLEMENTATION OF THE SUSTAINABILITY GOALS**

29.1 The Parties will endeavor to take the following measures in mutual agreement to integrate the Lease Object and building complex into the infrastructure based on Sustainable Use and Management:

- Creation of incentives for bicycle use (e.g. by setting up changing rooms, showers, free covered and theft-proof parking spaces)
- Creation of incentives to use public transport (e.g. provision of “job tickets”, provision of current public transport/local rail transport plans)

In particular, the Tenant will check whether it is economically viable for him to provide every employee whose focus of business activity for the Tenant is on the Lease Object for the duration of his employment with monthly or annual tickets for the use of public transport - for a reasonable fee.

29.2 In order to promote Sustainable Use and Management, the Landlord can create recommendations for the Property (including building complex and Lease Object) (“Sustainability Manual”).

Der Vermieter kann ein erstelltes Nachhaltigkeitshandbuch in regelmäßigen Abständen überprüfen und bei Bedarf nach billigem Ermessen (§ 315 BGB) überarbeiten. Über die Erstellung wird der Vermieter den Mieter unverzüglich informieren, dieses in geeigneter Form zur Verfügung stellen und Vorschläge des Mieters zu Art, Inhalt und Umfang der Erstellung des Nachhaltigkeitshandbuchs entgegennehmen.

Die im Nachhaltigkeitshandbuch enthaltenen Regelungen sind, soweit sie sich an Nutzer des Gebäudekomplexes richten, nicht Bestandteil dieses Mietvertrages. Der Mieter wird sich jedoch bemühen, zur praktischen Umsetzung der Nachhaltigkeitsziele die im Nachhaltigkeitshandbuch enthaltenen Regelungen im Rahmen seiner vertragsgemäßen Nutzung des Mietgegenstandes zu berücksichtigen. Der Mieter wird seine Mitarbeiter mit dem Inhalt des Nachhaltigkeitshandbuchs und etwaigen Änderungen vertraut machen und zur Berücksichtigung der darin enthaltenen Vorgaben anhalten.

Soweit ein Nachhaltigkeitshandbuch erstellt wurde und mit den Regelungen dieses Mietvertrags im Widerspruch steht, gehen die Regelungen des Mietvertrags – vorbehaltlich einer anderweitigen ausdrücklichen Regelung der Parteien – vor. Es wird insofern klargestellt, dass der Inhalt eines etwa erstellten Nachhaltigkeitshandbuchs keine Erweiterung der Rechte und Pflichten der Parteien aus diesem Mietvertrag darstellt; vielmehr soll das Nachhaltigkeitshandbuch den Parteien als rein unverbindliche Empfehlung die Wahrnehmung ihrer mietvertraglichen Rechte und Pflichten mit Blick auf die Nachhaltige Nutzung und Bewirtschaftung erleichtern.

The Landlord can check a Sustainability Manual that has been created at regular intervals and, if necessary, revise it at reasonable discretion (§ 315 BGB). Landlord will inform the Tenant immediately about the creation, make this available in a suitable form and accept suggestions from the Tenant regarding the type, content and scope of the creation of the Sustainability Manual.

The regulations contained in the Sustainability Manual, insofar as they are aimed at users of the building complex, are not part of this Rental Contract. However, the Tenant will endeavor to take into account these regulations contained in the Sustainability Manual within the scope of his contractual use of the Lease Object. The Tenant will familiarize his employees with the content of the Sustainability Manual and any changes and, if possible, encourage them to take into account the specifications contained therein.

Insofar as a Sustainability Manual has been drawn up and conflicts with the provisions of this Rental Contract, the provisions of the Rental Contract take precedence – unless the Parties explicitly agree otherwise. In this respect, it is made clear that the content of any Sustainability Manual that may be created shall not represent an extension of the rights and obligations of the Parties under this Rental Contract; rather, the Sustainability Manual is intended to make it easier for the Parties to exercise their rights and obligations under the lease with regard to Sustainable Use and Management as a purely legally non-binding recommendation.

29.3 Es ist der Wunsch der Parteien, sich regelmäßig über die Nachhaltige Nutzung und Bewirtschaftung des Gebäudekomplexes einschließlich des Mietgegenstandes und deren Förderung im Rahmen dieses Mietverhältnisses auszutauschen („Nachhaltigkeitsdialog“). Zum Zwecke des Nachhaltigkeitsdialogs werden die Parteien einander Ansprechpartner benennen und – soweit möglich – auch das Property / Facility Management in den Nachhaltigkeitsdialog einbeziehen:

- Ansprechpartner des Vermieters:

Herr Lukas Wilanowski  
Head of Commercial Asset Management  
lwilanowski@araxproperties.com

- Ansprechpartner des Mieters:

Herr Tim Luigs  
Head of Finance  
tim.luigs@microvision.eu

(Der Ansprechpartner des Vermieters und der Ansprechpartner des Mieters werden nachfolgend einzeln oder gemeinsam „Nachhaltigkeitsansprechpartner“ genannt.) Beide Nachhaltigkeitsansprechpartner sind zuständig bei Fragen der Nachhaltigen Nutzung und Bewirtschaftung. Darüber hinaus werden die Parteien die Nachhaltigkeitsansprechpartner veranlassen, sich um eine möglichst Nachhaltige Nutzung und Bewirtschaftung zu bemühen und die Erreichung der in der Präambel genannten Ziele zu fördern. So lange gewährleistet ist, dass stets ein Nachhaltigkeitsansprechpartner zur Verfügung steht, sind beide Parteien berechtigt, die jeweiligen Nachhaltigkeitsansprechpartner durch andere Nachhaltigkeitsansprechpartner zu ersetzen. Hierüber werden sie einander unverzüglich unter Nennung des Namens, der Funktion und

29.3 It is the wish of the Parties to regularly exchange information about the Sustainable Use and Management of the building complex including the Lease Object and its promotion within the framework of this lease ("Sustainability Dialogue"). For the purpose of the Sustainability Dialogue, the Parties will name each other's contact persons and – as far as possible – also include property / facility management in the sustainability dialogue:

- Contact person of Landlord:

Mr. Lukas Wilanowski  
Head of Commercial Asset Management  
lwilanowski@araxproperties.com

- Contact person of Tenant:

Herr Tim Luigs  
Head of Finance  
tim.luigs@microvision.eu

(The contact person of Landlord and the contact person of Tenant are hereinafter referred to individually or jointly as "Sustainability Contacts".) Both Sustainability Contacts are responsible for questions of Sustainable Use and Management. In addition, the Parties will induce the Sustainability Contacts to endeavor to use and manage it as sustainably as possible and to promote the achievement of the goals stated in the preamble. As long as it is guaranteed that a Sustainability Contact is always available, both Parties are entitled to replace the respective Sustainability Contact with another Sustainability Contact. They will inform each other about this immediately, stating the name, position and contact details of the new Sustainability Contact.



der Kontaktdaten des neuen Nachhaltigkeitsansprechpartners informieren.

- 29.4 Soweit der Mieter nach diesem Mietvertrag berechtigt oder verpflichtet ist, bauliche Veränderungen des Mietgegenstandes vorzunehmen und/oder den Mietgegenstand mit Einbauten und/oder fest installierten Einrichtungen und Anlagen zu versehen (nachfolgend **zusammengefasst „Mieterausstattung“**), gilt unbeschadet weiterer in diesem Vertrag für Mieterausstattung enthaltenen Regelungen zur Förderung der Nachhaltigen Nutzung und Bewirtschaftung Folgendes:
- 29.4.1 Der Mieter wird den Vermieter im Vorhinein über die Mieterausstattung informieren und insbesondere mitteilen, inwiefern die Mieterausstattung eine Nachhaltige Nutzung und Bewirtschaftung fördert sowie zur Erreichung der in der Präambel genannten Ziele beiträgt.
- 29.4.2 Auf Wunsch des Vermieters wird der Mieter die Mieterausstattung einschließlich der Art und Weise ihrer Durchführung mit dem Vermieter besprechen und dessen Vorstellungen zur Förderung einer Nachhaltigen Nutzung und Bewirtschaftung nach billigem Ermessen (§ 315 BGB) – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – berücksichtigen. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen.
- 29.4.3 Der Mieter hat sich darum zu bemühen, die Mieterausstattung umwelt- und ressourcenschonend durchzuführen und dabei möglichst emissionsfrei (soweit
- 29.4 Insofar as the Tenant is entitled or obliged under this Rental Contract to make structural changes to the Lease Object and/or to provide the Lease Object with fixtures and/or permanently installed facilities and systems (hereinafter referred to as "Tenant's Equipment"), the following applies without prejudice to other provisions contained in this Contract for Tenant's Equipment to promote Sustainable Use and Management:
- 29.4.1 The Tenant shall inform the Landlord in advance about the Tenant's Equipment and in particular to what extent the Tenant's Equipment promotes Sustainable Use and Management and contributes to the achievement of the goals stated in the preamble.
- 29.4.2 At the request of the Landlord, the Tenant will discuss the Tenant's Equipment with the Landlord, including the manner in which it is implemented, and – unless technically impossible (§ 275 (1) BGB analogously) or economically unreasonable (§ 275 (2) Sentence 1 BGB analogously) – take into account his ideas for promoting Sustainable Use and Management at his reasonable discretion (§ 315 BGB). The Parties agree that measures are "economically unreasonable" if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer.
- 29.4.3 The Tenant must make effort to implement the Tenant's Equipment in an environmentally friendly and resource-saving manner and to use if possible emission-free (if not

nicht möglich: emissionsarme), auf Grundlage einer Lebenszyklusbetrachtung als umwelt- und ressourcenschonend anzusehende Materialien einzusetzen und durch die Mietersausstattung verursachte, negative Auswirkungen auf den Energieverbrauch und die Klimatisierung des Gebäudekomplexes und/oder des Mietgegenstandes – soweit nicht technisch unmöglich (§ 275 Abs. 1 BGB analog) oder wirtschaftlich unvernünftig – zu vermeiden. Als zulässige Materialien gelten insbesondere solche Materialien, die mit einem der Zertifikate „Blauer Engel“, dem europäischen Umweltzeichen, dem „FSC“ oder „PEFC“ Siegel oder sonstigen Umweltsiegeln des Typs I im Sinne der ISO 14024 ausgezeichnet sind. Die Parteien sind sich einig, dass Maßnahmen "wirtschaftlich unvernünftig" sind, wenn die Kosten für die jeweilige ökologischere Ausführungsart mehr als **fünf (5) Prozent** über dem günstigsten nicht-ökologischen Angebot liegen.

29.4.4 Der Mieter wird dem Vermieter auf Anforderung Unterlagen über die Einhaltung der Regelungen in Ziffer 29.4.3 übermitteln.

29.4.5 Der Vermieter erteilt bereits jetzt seine Zustimmung zum Einbau einer solchen Mietersausstattung, die der Einsparung von End- oder Primärenergie oder Wasser und/oder der effizienteren Nutzung von Energie und/oder der nachhaltigen Produktion der verwendeten Energie zu dienen bestimmt oder sonst geeignet ist, die Nachhaltige Nutzung und Bewirtschaftung des Mietgegenstandes zu fördern, soweit ihm der Mieter geeignete Nachweise übermittelt hat, dass die Vorgaben in Ziffer 29.4.3 eingehalten werden.

possible: low-emission) materials that are to be regarded as environmentally friendly and resource-friendly on the basis of a life cycle analysis and caused by the Tenant's Equipment, and to avoid negative effects on the energy consumption and the air conditioning of the building complex and/or the Lease Object – unless technically impossible (§ 275 (1) BGB analogously) or economically unreasonable (§ 275 (2) Sentence 1 BGB analogously). Permitted materials are in particular those materials that have been awarded one of the certificates "Blue Angel (*Blauer Engel*)", the European eco-label, the "FSC" or "PEFC" seal or other type I environmental seals within the meaning of ISO 14024. The Parties agree that measures are "economically unreasonable" if the costs for the respective more ecological type of execution are more than **five (5) percent** above the cheapest non-ecological offer.

29.4.4 Tenant will provide Landlord with documents of compliance with the provisions of Clause 29.4.3 upon request.

29.4.5 The Landlord already gives its consent to the installation of such Tenant's Equipment that is intended or otherwise suitable for saving final or primary energy or water and/or the more efficient use of energy and/or the sustainable production of the energy used, to promote the Sustainable Use and Management of the Lease Object, insofar as the Tenant has sent him suitable evidence that the specifications in Clause 29.4.3 are being complied with.

**30. NACHTRÄGLICHE  
ÄNDERUNGSWÜNSCHE DES MIETERS  
ZUM MIETERAUSBAU**

- 30.1 Wenn der Mieter nach Abschluss dieses Vertrags Änderungen, Modifikationen oder Erweiterungen der als Anlage 1.7a beigefügten Baubeschreibung und der als Anlage 1.7b beigefügten Bauplänen und des jeweils dort festgelegten Leistungsumfangs wünscht („Änderungswunsch“), hat er dies dem Vermieter schriftlich mitzuteilen.
- 30.2 Der Vermieter wird dem Mieter innerhalb von zwei (2) Wochen schriftlich mitteilen, welche zeitlichen und finanziellen Auswirkungen mit dem Änderungswunsch nach vernünftiger Einschätzung des Vermieters verbunden sind. Der Vermieter wird den Mieter auf der Basis einer Kostenschätzung auch auf Minderkosten hinweisen. Der Vermieter wird seine Einschätzung auf der Grundlage seiner Erfahrung unter Beachtung des Gebots der Wirtschaftlichkeit und in Rücksprache mit dem Ausbaunternehmen treffen. Es werden weder eine Ausschreibung gemacht noch konkrete Angebote eingeholt. Vielmehr genügt die Vorlage einer Kostenschätzung durch den Vermieter. Der Mieter hat dem Vermieter in jedem Fall, d.h. unabhängig von einer späteren Durchführung des Änderungswunsches, die Kosten der vom Vermieter vorgelegten Kostenschätzung unverzüglich zu erstatten.
- 30.3 Der Änderungswunsch wird für den Vermieter nur verbindlich, wenn der Mieter dem Vermieter innerhalb einer (1) Woche nach Eingang der Mitteilung des Vermieters schriftlich erklärt, dass er den Änderungswunsch aufrechterhält. Er ist verpflichtet, die mit der geänderten Ausführung verbundenen Mehrkosten (ggf. einschließlich Planungs- und Projektmanagementkosten) auf Nachweis zu

**30. SUBSEQUENT CHANGE REQUESTS BY  
THE TENANT TO THE TENANT FIT-  
OUT**

- 30.1 If, after the conclusion of this Contract, Tenant wishes to make changes, modifications or extensions to the construction description attached as Annex 1.7a and the construction plans attached as Annex 1.7b and the scope of services specified there ("Change Request"), he must notify the Landlord of this in writing.
- 30.2 The Landlord will inform the Tenant in writing within two (2) weeks of the temporal and financial consequences associated with the Change Request based on the Landlord's reasonable assessment. The Landlord will also inform the Tenant of reduced costs on the basis of a cost estimate. Landlord will make his assessment based on his experience, taking into account the principle of economic efficiency and in consultation with the fit-out company. There will be no call for tenders and no specific offers will be obtained. Rather, the submission of a cost estimate by the Landlord is sufficient. In any case, the Tenant must immediately reimburse the Landlord for the costs of the cost estimate submitted by the Landlord, i.e. regardless of whether the Change Request is carried out later.
- 30.3 The Change Request will only become binding on Landlord if Tenant notifies the Landlord in writing within one (1) week of receipt of Landlord's notification that Tenant will uphold the Change Request. He is obliged to reimburse the additional costs associated with the changed design (if necessary including planning and project management costs) and can assert any rights against the Landlord due to

- erstatten, und kann wegen zeitlicher Verzögerungen, die durch den Änderungswunsch verursacht werden, Rechte gegen den Vermieter nur in dem Umfang geltend machen, wie der Vermieter die Verzögerung zu vertreten hat. Der Vermieter hat die mit der geänderten Ausführung verbundenen Minderkosten dem Mieter zu erstatten.
- 30.4 Ohne die schriftliche Bestätigung des Änderungswunsches ist der Vermieter nicht verpflichtet, noch berechtigt, den Änderungswunsch auszuführen.
- 30.5 Später als acht (8) Wochen vor dem Übergabetag beim Vermieter eingehende Änderungswünsche wird der Vermieter lediglich nach seinem billigen Ermessen, insbesondere in Abhängigkeit von dem Bauablauf, berücksichtigen. Eine diesbezügliche Verpflichtung des Vermieters besteht nicht; aus der Nichtberücksichtigung der Änderungswünsche kann der Mieter gegen den Vermieter keinerlei Rechte herleiten.
- 30.6 Sofern der Vermieter den Änderungswunsch umzusetzen bereit ist, wird er dies dem Mieter mitteilen; die vorgenannten Regelungen finden entsprechende Anwendung.
- 30.7 Innerhalb von drei (3) Monaten nach vollständiger Übergabe des Mietgegenstands, jedoch nicht vor der vollständigen Abrechnung durch die mit der Erbringung von Ausbauleistungen beauftragten Unternehmen, wird der Vermieter dem Mieter eine Rechnung über die durch die Änderungswünsche verursachten Mehr- und Minderkosten übergeben. Der Mieter ist verpflichtet, die Rechnung innerhalb von dreißig (30) Tagen nach Erhalt der Rechnung auszugleichen.
- 30.8 Der Vermieter ist berechtigt, sowohl vor dem Beginn der Umsetzung eines Änderungswunsches als auch während der
- time delays that are caused by the Change Request, only to the extent that the Landlord is responsible for the delay. Landlord is obliged to reimburse the cost savings associated with the changed design to the Tenant.
- 30.4 Without written confirmation of the Change Request, Landlord is not obliged, nor entitled to carry out the Change Request.
- 30.5 Change Requests received by the Landlord later than eight (8) weeks before the Handover Date will only be considered by the Landlord at his reasonable discretion, in particular depending on the construction process. There is no obligation on the part of the Landlord in this regard; the Tenant cannot derive any rights against the Landlord if the Change Requests are not taken into account.
- 30.6 If the Landlord is willing to implement the Change Request, he will inform the Tenant of this; the aforementioned regulations apply accordingly.
- 30.7 Within three (3) months after the Lease Object has been handed over in full, but not before the complete settlement by the companies commissioned with the provision of extension services, Landlord will issue Tenant with an invoice for the additional costs and savings caused by the Change Requests. Tenant is obliged to settle the invoice within thirty (30) days after receipt of the invoice.
- 30.8 The Landlord is entitled to demand advance payments of a reasonable amount both before the implementation of a Change Request and during the

Bauzeit, Vorauszahlungen in angemessener Höhe zu fordern. § 632a BGB gilt entsprechend.

construction period. § 632a BGB applies accordingly.

### 31. SCHLUSSBESTIMMUNGEN

- 31.1 Alle Zahlungsverpflichtungen in diesem Vertrag verstehen sich zuzüglich Umsatzsteuer in der jeweiligen gesetzlichen Höhe.
- 31.2 Mündliche Nebenabsprachen sind nicht getroffen. Sämtliche Nebenabreden bedürfen der Schriftform. Dies gilt auch für die Änderung dieser Ziffer 31.2.
- 31.3 Den Parteien sind die besonderen gesetzlichen Schriftformerfordernisse der §§ 550, 578, 126 BGB bekannt. Sofern und soweit dieser Mietvertrag bzw. etwaige Nachtrags-, Änderungs- und/oder Ergänzungsvereinbarungen diesem Schriftformerfordernis nicht genügen sollten, verpflichten sich die Parteien bereits jetzt diesen Mangel durch den Abschluss einer Nachtragsvereinbarung zu beheben. Der Abschluss dieses Nachtrages darf dabei jedoch an keine Bedingung geknüpft werden. Den Parteien bleibt es ferner unbenommen, den Mietvertrag aufgrund der Nichteinhaltung der Schriftform gemäß §§ 578, 550, 126 BGB gegenüber der jeweils anderen Partei zu kündigen.

Eine auf die Verletzung des Schriftformerfordernisses gestützte Kündigung hat unverzüglich zu erfolgen, nachdem die kündigende Partei von der Nichteinhaltung der schriftlichen Form Kenntnis erlangt hat. Die Kündigung ist ausgeschlossen, wenn seit dem Umstand, der die Nichteinhaltung der schriftlichen Form begründet, ein Jahr verstrichen ist. Im Falle des § 566 Abs. 1 BGB beginnt diese Jahresfrist jedoch nicht vor Übergang des Eigentums auf einen Erwerber.

### 31. FINAL PROVISIONS

- 31.1 All payment obligations in this Contract are exclusive of sales tax at the applicable statutory rate.
- 31.2 Verbal side agreements have not been made. All ancillary agreements must be in writing. This also applies to the amendment of this Clause 31.2.
- 31.3 The Parties are aware of the special legal written form requirements of §§ 550, 578, 126 BGB. If and to the extent that this Rental Contract or any addendum, amendment and/or supplementary agreements do not meet this written form requirement, the Parties hereby justify the correction of this deficiency by concluding an addendum agreement. However, the conclusion of this addendum may not be subject to any conditions. Furthermore, the Parties are free to terminate the Rental Contract due to non-compliance with the written form according to §§ 578, 550, 126 BGB towards the respective other Party.

A termination based on a breach of the written form requirement must be made immediately after the terminating Party has become aware of the non-compliance with the written form. Termination is excluded if one year has elapsed since the circumstance that justifies the non-compliance with the written form. In the case of § 566 (1) BGB, however, this one-year period does not begin before the transfer of ownership to an acquirer.

31.4 Sollten einzelne Bestimmungen dieses Vertrags ganz oder teilweise nichtig sein, wird dadurch die Wirksamkeit der übrigen Bestimmungen nicht berührt. An die Stelle von nicht einbezogenen oder unwirksamen Allgemeinen Geschäftsbedingungen tritt das Gesetzesrecht (vgl. § 306 Abs. 2 BGB). Die unwirksame oder nicht durchführbare Bestimmung ist von den Parteien im Vereinbarungswege durch eine rechtsgültige und durchführbare Bestimmung zu ersetzen, die dem wirtschaftlichen Sinn und Zweck der zu ersetzenden Bestimmung am nächsten kommt. Entsprechendes gilt, falls sich eine ergänzungsbedürftige Regelungslücke in diesem Vertrag ergeben sollte, die nach dem erkennbaren Willen der Parteien geregelt werden sollte.

Die Parteien stellen klar, dass es sich bei den Regelungen in Zusammenhang mit der Nachhaltige Nutzung und Bewirtschaftung (vgl. Präambel), welche lediglich ein Bemühen der Parteien vorsehen, um keine bindenden Vertragspflichten handeln; vielmehr ist es das Bestreben der Parteien, entsprechende Regelungen im Sinne der in der Präambel dargelegten Grundzüge während der Laufzeit des Mietverhältnisses als wechselseitige Gefälligkeiten umzusetzen. Einigkeit herrscht insofern zwischen den Parteien, dass diese Regelungen – sei es in ihrer jetzigen Form und/oder geänderter Form – allein durch Abschluss eines schriftformkonformen Nachtrags zu diesem Mietvertrag (§§ 550, 578 Abs. 1, 126 BGB) in den Rang einer bindenden Vertragspflicht gehoben werden können.

31.5 Die als Anlage 31.5 beigefügte Hausordnung ist wesentlicher Bestandteil dieses Mietvertrags. Der Vermieter ist berechtigt, den Inhalt der Hausordnung nach billigem Ermessen zu verändern, soweit hierdurch keine weitergehenden Pflichten des Mieters

31.4 Should individual provisions of this Contract be wholly or partially void, this shall not affect the validity of the remaining provisions. Statutory law (cf. § 306 (2) BGB) takes the place of general terms and conditions that are not included or are ineffective. The invalid or unenforceable provision is to be replaced by the Parties by mutual agreement with a legally valid and enforceable provision that comes as close as possible to the economic meaning and purpose of the provision to be replaced. The same applies if there is a loophole in this Contract that needs to be supplemented, which should be regulated according to the recognizable intention of the Parties.

The Parties make it clear that the regulations in connection with the Sustainable Use and Management (see preamble), which only provide for an effort by the Parties, are not binding contractual obligations; rather, it is the endeavor of the Parties to implement corresponding regulations in the sense of the basic principles set out in the preamble during the term of the tenancy as mutual favours. There is agreement between the Parties that these regulations – be it in their current form and/or in a modified form – can be raised to the rank of a binding contractual obligation simply by concluding an addendum to this Rental Contract that conforms to the written form (§§ 550, 578, 126 BGB).

31.5 The internal house rules attached as Annex 31.5 are an integral component of this Rental Contract. The Landlord is entitled to change the content of the house rules at his reasonable discretion, provided this does not result in any further obligations on the part of the Tenant. In

entstehen. Der Vermieter ist insbesondere berechtigt, das Rauchen in den allgemein zugänglichen Bereichen des Gebäudekomplexes bzw. der Liegenschaft im Rahmen der Hausordnung zu untersagen bzw. auf konkrete Raucherbereiche zu beschränken.

particular, the Landlord is entitled to prohibit smoking in the generally accessible areas of the building complex or the Property within the framework of the house rules or to restrict it to specific smoking areas.

31.6 Auf diesen Mietvertrag findet deutsches Recht Anwendung. Gerichtsstand ist Hamburg.

31.6 German law shall apply to this Rental Contract. Place of jurisdiction is Hamburg.

31.7 Die deutsche Fassung dieses Mietvertrags ist das allein maßgebliche Dokument. Die englische Übersetzung dient nur zu Informationszwecken und ist nicht verbindlich.

31.7 The German version of this Rental Contract shall be the sole authoritative document. The English translation is solely for the purpose of information and is not binding.

31.8 Dieser Vertrag hat folgende Anlagen:

31.8 This Rental Contract has the following annexes:

Anlage P.1: Lageplan

Annex P.1: Site plan

Anlage 1.1.1: Grundriss Erdgeschoss

Annex 1.1.1: Floor plan ground floor

Anlage 1.1.2: Grundriss 5. Obergeschoss

Annex 1.1.2: Floor plan 5th floor

Anlage 1.1.3: Grundriss 6. Obergeschoss

Annex 1.1.3: Floor plan 6h floor

Anlage 1.1.5: Grundriss 2. Untergeschoss

Annex 1.1.5: Floor plan 2nd basement

Anlage 1.1.8: Lageplan (Außenstellplätze)

Annex 1.1.8: Site plan (outside parking spaces)

Anlage 1.4: MFG (Kurzübersicht)

Annex 1.4: MFG (short overview)

Anlage 1.5: Nutzungsordnung Stellplätze

Annex 1.5: Terms of use of parking spaces

Anlage 1.7a: Baubeschreibung (Um- und Ausbaumaßnahmen)

Annex 1.7a: Construction description (conversion and extension measures)

Anlage 1.7b: Baupläne (Um- und Ausbaumaßnahmen)

Annex 1.7b: Construction plans (conversion and extension measures)

Anlage 6.1: Betriebskostenverordnung

Annex 6.1: Operating Costs Ordinance

Anlage 11.7: Maßnahmen zur Einsparung von Energie/Wasser bzw. Reduzierung von Abfällen

Annex 11.7: Measures to save energy/water and reduce waste

Anlage 31.5: Hausordnung

Annex 31.5: House Rules

Die vorbenannten Anlagen sind Bestandteil dieses Mietvertrages. Im Fall des Vorliegens von Widersprüchen gehen die Regelungen dieses Mietvertrages dem Inhalt der Anlagen vor.

The aforementioned annexes are part of this rental agreement. In the event of contradictions, the provisions of this rental agreement take precedence over the content of the appendices.

Luxembourg, den/the 13.12.2023

**Victoria Immo Properties I S.à r.l.**

**Victoria Immo Properties I S.à r.l.**

vertreten durch / represented by:

vertreten durch / represented by:

/s/ Marc Shipmann

Name: Marc Shipmann  
Manager A

/s/ Joachim Kuske

Name: Joachim Kuske  
Manager B

Hamburg, den/the 15.12.2023

**MicroVision GmbH**

**MicroVision GmbH**

vertreten durch / represented by:

vertreten durch / represented by:

/s/ Tim Luigs

Name: Tim Luigs

/s/ Tim Luigs

Name: Tim Luigs



LIST OF SUBSIDIARIES

Subsidiaries of the Registrant as of December 31, 2023

Jurisdiction of Organization

MicroVision GmbH

Germany

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**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-265489, No. 333-184701, No. 333-173114, No. 333-163929, No. 333-19011, No. 333-71373, No. 333-42276, No. 333-45534, No. 333-73652, No. 333-89176, No. 333-141458 and No. 333-249418) and on Form S-3 (No. 333-184703, No. 333-184702, No. 333-182462, No. 333-175419, No. 333 160577, No. 333-228113, No. 333-253145, No. 333-272616) of MicroVision, Inc. of our reports dated February 29, 2024, relating to the consolidated financial statements of MicroVision, Inc. and the effectiveness of internal control over financial reporting of MicroVision, Inc. appearing in this Annual Report (Form 10-K) for the year ended December 31, 2023.

/s/ Moss Adams LLP

Seattle, Washington  
February 29, 2024

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**CERTIFICATION PURSUANT TO  
RULE 13a-14(a) and 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Sumit Sharma, certify that:

1. I have reviewed this annual report on Form 10-K for the period ended December 31, 2023 of MicroVision, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with 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 and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2024

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*/s/ Sumit Sharma*  
Sumit Sharma  
Chief Executive Officer

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**CERTIFICATION PURSUANT TO  
RULE 13a-14(a) and 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Anubhav Verma, certify that:

1. I have reviewed this annual report on Form 10-K for the period ended December 31, 2023 of MicroVision, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with 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 and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2024

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*/s/ Anubhav Verma*  
Anubhav Verma  
Chief Financial Officer

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

In connection with the Annual Report of MicroVision, Inc. (the "Company") on Form 10-K for the year ended December 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Sumit Sharma, Chief Executive Officer of the Company, 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 (15 U.S.C. 78m or 78o(d)); and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 29, 2024

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*/s/ Sumit Sharma*  
Sumit Sharma  
*Chief Executive Officer*

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

In connection with the Annual Report of MicroVision, Inc. (the "Company") on Form 10-K for the year ended December 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Anubhav Verma, Chief Financial Officer of the Company, 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 (15 U.S.C. 78m or 78o(d)); and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 29, 2024

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*/s/ Anubhav Verma*  
Anubhav Verma  
Chief Financial Officer

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**MICROVISION, INC.**  
Policy on Recoupment of Incentive Compensation  
**Amended and Restated: November 6, 2023**

The Board of Directors (the “**Board**”) of MicroVision, Inc. (the “**Company**”) has adopted this Policy on Recoupment of Incentive Compensation (this “**Policy**”), which provides for the recovery of certain executive compensation in the event of an Accounting Restatement (as defined below). This Policy is designed to comply with, and will be interpreted to be consistent with, Section 10D of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), Rule 10D-1 promulgated under the Exchange Act (“**Rule 10D-1**”) and Nasdaq Listing Rule 5608 (the “**Listing Standards**”).

**1. Definitions.**

The following capitalized terms will have the meanings set forth below.

- a. “**Accounting Restatement**” means an accounting restatement of the Company’s financial statements due to the Company’s material noncompliance with any financial reporting requirement under U.S. securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period. For the avoidance of doubt, recovery of any Erroneously Awarded Compensation under this Policy is not dependent on fault, fraud, or misconduct by any person in connection with the Accounting Restatement.
- b. “**Administrator**” means the Compensation Committee, if composed entirely of independent directors, or in the absence of such a committee, a majority of independent directors serving on the Board.
- c. “**Applicable Period**” means the three completed fiscal years of the Company immediately preceding the Restatement Date, and if the Company changes its fiscal year, any transition period within or immediately following those three completed fiscal years (except that a transition period that comprises a period of at least nine months will count as a completed fiscal year).
- d. “**Covered Executives**” means the Company’s current and former executive officers, as determined by the Administrator in accordance with the definition of executive officer set forth in Rule 10D-1 and the Listing Standards. For the avoidance of doubt, the identification of an executive officer for purposes of this Policy will include at least each executive officer who is or was identified pursuant to Item 401(b) of Regulation S-K as well as the principal financial officer and principal accounting officer (or, if there is no principal accounting officer, the controller).
- e. “**Erroneously Awarded Compensation**” means, in connection with an Accounting Restatement, the amount of Incentive-Based Compensation Received by a Covered Executive that exceeds the amount of Incentive-Based Compensation that would have been Received by the Covered Executive had it been determined based on the restated amounts, computed without regard to any taxes paid. For Incentive-Based Compensation based on stock price or total shareholder return (“**TSR**”), where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in the Accounting Restatement, the Administrator will determine the amount of Erroneously Awarded Compensation based on a reasonable estimate of the effect of the Accounting Restatement on the stock price or TSR upon which the Incentive-Based Compensation was Received and the Company will maintain documentation of such determination and provide such documentation to The Nasdaq Stock Market (“**Nasdaq**”).

- f. **“Financial Reporting Measure”** means any measure that is determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measure that is derived wholly or in part from any such measure. Stock price and TSR and any measure that are derived wholly or in part from stock price or TSR are considered Financial Reporting Measures. For the avoidance of doubt, a Financial Reporting Measure need not be presented in the Company’s financial statements or included in a filing with the Securities and Exchange Commission (the “SEC”).
- g. **“Incentive-Based Compensation”** means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure. Incentive-Based Compensation is deemed **“Received”** for purposes of this Policy, as of the date during an applicable fiscal period of the Company in which the Financial Reporting Measure specified in the Incentive-Based Compensation award is attained, even if the payment, grant, or issuance of the Incentive-Based Compensation occurs after the end of such fiscal period.
- h. **“Restatement Date”** means the earlier to occur of (i) the date the Board, a committee of the Board, or the officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement, or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare an Accounting Restatement, in each case irrespective as to when or if the restated financial statements are filed.

**2. Covered Executives; Incentive-Based Compensation.**

This Policy applies to Incentive-Based Compensation Received by a Covered Executive, (a) after beginning services as a Covered Executive, (b) if that person served as a Covered Executive at any time during the performance period for such Incentive-Based Compensation (whether or not such Covered Executive is serving at the time the Erroneously Awarded Compensation is required to be repaid to the Company), and (c) while the Company had a listed class of securities on a national securities exchange.

**3. Required Recoupment of Erroneously Awarded Compensation in the Event of an Accounting Restatement and Disclosure.**

In the event of an Accounting Restatement, the Company is authorized and obligated pursuant to this Policy to:

- a. Recover reasonably promptly the amount of any Erroneously Awarded Compensation unless the Administrator has determined that recovery would be impracticable in accordance *solely* with the following limited reasons, and subject to the following procedural and disclosure requirements.
  - i. That the direct expenses paid to a third party to assist in enforcing this Policy would exceed the Erroneously Awarded Compensation to be recovered, however, before concluding it would be impracticable to recover any amount of Erroneously Awarded Compensation based on such expense of enforcement, the Company must make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt(s) and provide such documentation to Nasdaq; or



- ii. That recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to the Company's employees, to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.
- b. file all disclosures with respect to this Policy as required by the Listing Standards and applicable U.S. securities laws, including the disclosure required by applicable SEC filings.

#### **4. Erroneously Awarded Compensation: Recovery Amount and Method**

The Administrator will determine the amount of Erroneously Awarded Compensation Received by each Covered Executive.

Upon determining the amount of Erroneously Awarded Compensation, the Administrator will promptly notify each Covered Executive with a written notice containing the amount of any Erroneously Awarded Compensation and the manner and terms of the repayment or forfeiture, as applicable, to recoup the Erroneously Awarded Compensation.

The Administrator will (a) determine, in its sole discretion, the appropriate means of recovering Erroneously Awarded Compensation based on the particular facts and circumstances and (b) direct the Company to pursue any method permitted by applicable law or contract, *provided*, however that unless the Administrator has determined that recovery would be impracticable pursuant to the limitations described above in Section 3.a, in no event may the Company accept an amount that is less than the total amount of Erroneously Awarded Compensation in satisfaction of a Covered Executive's obligations under this Policy.

To the extent that a Covered Executive fails to repay all Erroneously Awarded Compensation to the Company when due, the Company is authorized to take all actions reasonable and appropriate to recover such Erroneously Awarded Compensation from the applicable Covered Executive. The applicable Covered Executive will be required to reimburse the Company for any and all expenses reasonably incurred (including legal fees) by the Company in recovering such Erroneously Awarded Compensation in accordance with the immediately preceding sentence.

#### **5. No Indemnification**

The Company is not permitted to insure or indemnify any Covered Executive against (a) the loss of any Erroneously Awarded Compensation that is repaid, returned, or recovered pursuant to the terms of this Policy, or (b) any claims relating to the Company's enforcement of its rights under this Policy. Further, the Company will not enter into any agreement that exempts any Incentive-based Compensation that is granted, paid, or awarded to a Covered Executive from the application of this Policy or that waives the Company's right to recovery of any Erroneously Awarded Compensation, and this Policy will supersede any such agreement (whether entered into before, on or after the effective date of this Policy).

#### **6. Effective Date and Retroactive Application**

This Policy will be effective as of December 1, 2023, and supersedes the Company's Executive Compensation Recoupment Policy, effective March 9, 2020. The terms of this Policy will apply to any Incentive-Based Compensation that is Received by Covered Executives on or after October 2, 2023, even if such Incentive-Based Compensation was approved, awarded, granted, or paid to Covered Executives prior to such date.

#### **7. Policy Administration, Amendment and Termination**

This Policy will be administered by the Administrator. The Administrator is authorized to interpret and construe this Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Policy. Any determinations made by the Administrator will be final and binding on all affected individuals and need not be uniform with respect to each individual covered by this Policy.

Subject to any limitation under applicable law, the Administrator may authorize and empower any officer or employee of the Company to take any and all actions necessary or appropriate to carry out the purpose and intent of this Policy (other than with respect to any recovery under this Policy involving such officer or employee).

The Administrator may amend, modify, suspend, or terminate all or any portion of this Policy at any time and from time to time in its sole discretion. Notwithstanding anything in this Section 7 to the contrary, no amendment or termination of this Policy will be effective if such amendment or termination would (after taking into account any actions taken by the Company contemporaneously with such amendment or termination) cause the Company to violate any federal securities laws, SEC rule or Nasdaq rule.

#### **8. Not Exclusive; Other Rights**

Any right of recoupment, forfeiture or cancellation under this Policy is in addition to, and not in lieu of, any other remedies or rights that may be available to the Company (a) under applicable law, (b) pursuant to the terms of any similar policy in any employment agreement, incentive or equity compensation plan or award agreement, or any other similar agreement, or (c) any other legal rights or remedies available to the Company (“**Additional Company Rights**”).

Nothing contained in this Policy, will be deemed to limit the Company’s right to terminate employment of any Covered Executive or limit any claims, damages, or other legal remedies the Company or any of its affiliates may have against a Covered Executive arising out of or resulting from any actions or omissions by the Covered Executive.

Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with a Covered Executive is and will be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Covered Executive to abide by the terms of this Policy.

To the extent a Covered Executive has already returned or reimbursed the Company for any Erroneously Awarded Compensation under any Additional Company Rights, it will be appropriate for the Administrator to credit such amount to the amount of such Covered Executive’s Erroneously Awarded Compensation that is subject to recovery under this Policy and vice versa.

#### **9. Successors**

This Policy will be binding and enforceable against all Covered Executives and their beneficiaries, heirs, executors, administrators, or other legal representatives.

#### **10. Severability**

The Board intends that this Policy apply to the fullest extent permitted by law. To the extent that any provision of this Policy is found to be unenforceable or invalid under any applicable law, such provision will be applied to the maximum extent permitted and will automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to applicable law. The invalidity or unenforceability of any provision of this Policy will not affect the validity or enforceability of any other provision of this Policy.

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**Acknowledgment  
Of  
Policy on Recoupment of Incentive Compensation**

I, the undersigned, agree and acknowledge that:

- I am fully bound by, and subject to, all of the terms and conditions of MicroVision, Inc.'s Policy on Recoupment of Incentive Compensation (as may be amended, restated, supplemented, or otherwise modified from time to time, the "Policy");
- in the event of any inconsistency between the Policy and the terms of any employment agreement to which I am a party, or the terms of any compensation plan, program, or agreement under which any compensation has been granted, awarded, earned, or paid, the terms of the Policy shall govern; and
- in the event it is determined by the Administrator that any amounts granted, awarded, earned, or paid to me must be forfeited or reimbursed to the Company, I will promptly take any action necessary to effectuate such forfeiture or reimbursement. Any capitalized terms used in this Acknowledgment without definition shall have the meaning set forth in the Policy.

By: \_\_\_\_\_  
[Name] \_\_\_\_\_  
[Title] \_\_\_\_\_

\_\_\_\_\_ Date