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

Form 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2021

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: 000-50744

NUVASIVE, INC.
(Exact name of registrant as specified in its charter)

Delaware	**33-0768598**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

7475 Lusk Boulevard
San Diego, CA 92121
(Address of principal executive offices)

(858) 909-1800
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.001 per share	NUVA	The NASDAQ Stock Market LLC (NASDAQ Global Select Market)

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 than 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, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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

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

As of November 5, 2021, there were 51,736,141 shares of the registrant’s common stock (par value $0.001 per share) outstanding.

NuVasive, Inc.

Quarterly Report on Form 10-Q

September 30, 2021

PART I. FINANCIAL INFORMATION

Item 1. *Financial Statements*

NUVASIVE, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except par value data)

	September 30, 2021 (Unaudited)	December 31, 2020
ASSETS		
Current assets:		
Cash and cash equivalents	$ 234,578	$ 856,869
Short-term marketable securities	—	173,145
Accounts receivable, net of allowances of $21,756 and $20,631, respectively	199,366	207,071
Inventory, net	311,414	300,623
Prepaid income taxes	5,623	4,727
Prepaid expenses and other current assets	19,380	19,749
Total current assets	770,361	1,562,184
Property and equipment, net	302,195	286,369
Intangible assets, net	256,416	152,264
Goodwill	633,121	559,553
Operating lease right-of-use assets	104,590	102,270
Deferred tax assets	48,851	15,755
Restricted cash and investments	1,494	1,494
Other assets	17,005	13,193
Total assets	$ 2,134,033	$ 2,693,082
LIABILITIES AND EQUITY		
Current liabilities:		
Accounts payable and accrued liabilities	$ 110,796	$ 110,401
Contingent consideration liabilities	7,468	7,289
Accrued payroll and related expenses	65,741	63,421
Operating lease liabilities	9,627	7,875
Income tax liabilities	1,730	2,073
Senior convertible notes	—	645,303
Total current liabilities	195,362	836,362
Long-term senior convertible notes	883,180	766,226
Deferred tax liabilities	2,683	2,807
Operating lease liabilities	113,128	111,634
Contingent consideration liabilities	93,584	29,752
Other long-term liabilities	21,900	22,686
Commitments and contingencies		
Redeemable equity component of senior convertible notes	—	4,697
Stockholders' equity:		
Preferred stock, $0.001 par value; 5,000 shares authorized, none outstanding	—	—
Common stock, $0.001 par value; 150,000 shares authorized at September 30, 2021 and December 31, 2020; 58,349 shares issued and 51,677 outstanding at September 30, 2021; 57,945 shares issued and 51,376 outstanding at December 31, 2020	63	62
Additional paid-in capital	1,425,242	1,550,001
Accumulated other comprehensive loss	(7,309)	(7,585)
Retained earnings	82,444	45,322
Treasury stock at cost; 6,672 shares and 6,569 shares at September 30, 2021 and December 31, 2020, respectively	(676,244)	(668,882)
Total equity	824,196	918,918
Total liabilities and equity	$ 2,134,033	$ 2,693,082

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
(unaudited)	2021	2020	2021	2020
Net sales:				
Products	$ 247,061	$ 267,571	$ 759,275	$ 685,922
Services	23,775	27,711	77,638	72,853
Total net sales	270,836	295,282	836,913	758,775
Cost of sales (excluding below amortization of intangible assets):				
Products	69,609	66,049	181,495	182,067
Services	19,043	18,584	57,248	54,936
Total cost of sales	88,652	84,633	238,743	237,003
Gross profit	182,184	210,649	598,170	521,772
Operating expenses:				
Selling, general and administrative	146,056	146,260	449,407	402,935
Research and development	23,405	20,404	67,393	58,067
Amortization of intangible assets	14,805	13,826	43,230	39,150
Purchase of in-process research and development	—	—	—	1,011
Business transition costs	4,551	3,107	21,688	2,541
Total operating expenses	188,817	183,597	581,718	503,704
Interest and other expense, net:				
Interest income	23	271	119	1,306
Interest expense	(4,320)	(21,123)	(16,738)	(49,164)
Other (expense) income, net	(13,082)	251	(24,339)	(18,819)
Total interest and other expense, net	(17,379)	(20,601)	(40,958)	(66,677)
(Loss) income before income taxes	(24,012)	6,451	(24,506)	(48,609)
Income tax benefit (expense)	2,373	(579)	(2,844)	9,764
Consolidated net (loss) income	$ (21,639)	$ 5,872	$ (27,350)	$ (38,845)
Net (loss) income per share:				
Basic	$ (0.42)	$ 0.11	$ (0.53)	$ (0.76)
Diluted	$ (0.42)	$ 0.11	$ (0.53)	$ (0.76)
Weighted average shares outstanding:				
Basic	51,669	51,261	51,539	51,440
Diluted	51,669	51,805	51,539	51,440

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE (LOSS) INCOME
(in thousands)

(unaudited)	Three Months Ended September 30, 2021	Three Months Ended September 30, 2020	Nine Months Ended September 30, 2021	Nine Months Ended September 30, 2020
Consolidated net (loss) income	$ (21,639)	$ 5,872	$ (27,350)	$ (38,845)
Other comprehensive income (loss):				
Unrealized gain (loss) on marketable securities, net of tax	—	101	(13)	53
Translation adjustments, net of tax	313	1,922	289	(787)
Other comprehensive income (loss)	313	2,023	276	(734)
Total consolidated comprehensive (loss) income	$ (21,326)	$ 7,895	$ (27,074)	$ (39,579)

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
CONSOLIDATED STATEMENTS OF EQUITY
(in thousands)

(unaudited)	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Treasury Stock Shares	Treasury Stock Amount	Total Stockholders' Equity
Balance at December 31, 2020	57,945	$ 62	$ 1,550,001	$ (7,585)	$ 45,322	(6,569)	$ (668,882)	$ 918,918
Adjustment for modified retrospective adoption of accounting standard	—	—	(147,161)	—	64,472	—	—	(82,689)
Issuance of common stock under employee and director equity option and purchase plans	4	—	(6)	—	—	(1)	(55)	(61)
Stock-based compensation expense	—	—	7,709	—	—	—	—	7,709
Settlement of convertible note hedge	(1)	—	53	—	—	—	(53)	—
Equity component of convertible note settlement	1	—	574	—	—	—	—	574
Consolidated net loss	—	—	—	—	(7,510)	—	—	(7,510)
Other comprehensive loss	—	—	—	(1,554)	—	—	—	(1,554)
Balance at March 31, 2021	57,949	$ 62	$ 1,411,170	$ (9,139)	$ 102,284	(6,570)	$ (668,990)	$ 835,387
Issuance of common stock under employee and director equity option and purchase plans	383	—	3,809	—	—	(97)	(6,909)	(3,100)
Stock-based compensation expense	—	—	5,298	—	—	—	—	5,298
Consolidated net income	—	—	—	—	1,799	—	—	1,799
Other comprehensive income	—	—	—	1,517	—	—	—	1,517
Balance at June 30, 2021	58,332	$ 62	$ 1,420,277	$ (7,622)	$ 104,083	(6,667)	$ (675,899)	$ 840,901
Issuance of common stock under employee and director equity option and purchase plans	17	1	—	—	—	(5)	(345)	(344)
Stock-based compensation expense	—	—	4,965	—	—	—	—	4,965
Consolidated net loss	—	—	—	—	(21,639)	—	—	(21,639)
Other comprehensive income	—	—	—	313	—	—	—	313
Balance at September 30, 2021	58,349	$ 63	$ 1,425,242	$ (7,309)	$ 82,444	(6,672)	$ (676,244)	$ 824,196

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
CONSOLIDATED STATEMENTS OF EQUITY – (Continued)
(in thousands)

(unaudited)	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Treasury Stock Shares	Treasury Stock Amount	Total Stockholders' Equity
Balance at December 31, 2019	57,525	$ 62	$ 1,429,854	$ (9,418)	$ 82,475	(5,380)	$ (587,766)	$ 915,207
Issuance of common stock under employee and director equity option and purchase plans	167	—	119	—	—	(59)	(3,937)	(3,818)
Stock-based compensation expense	—	—	2,786	—	—	—	—	2,786
Tax benefits related to convertible note issuance	—	—	484	—	—	—	—	484
Shares repurchased	—	—	—	—	—	(1,085)	(75,000)	(75,000)
Sale of warrants	—	—	47,070	—	—	—	—	47,070
Convertible note hedge	—	—	(78,300)	—	—	—	—	(78,300)
Equity component of convertible note issuance	—	—	78,268	—	—	—	—	78,268
Debt issuance costs attributable to convertible feature	—	—	(1,987)	—	—	—	—	(1,987)
Consolidated net income	—	—	—	—	5,298	—	—	5,298
Other comprehensive loss	—	—	—	(3,809)	—	—	—	(3,809)
Balance at March 31, 2020	57,692	$ 62	$ 1,478,294	$ (13,227)	$ 87,773	(6,524)	$ (666,703)	$ 886,199
Issuance of common stock under employee and director equity option and purchase plans	87	—	3,871	—	—	(4)	(208)	3,663
Stock-based compensation expense	—	—	7,081	—	—	—	—	7,081
Sale of warrants	—	—	46,845	—	—	—	—	46,845
Debt issuance costs attributable to convertible feature	—	—	65	—	—	—	—	65
Consolidated net loss	—	—	—	—	(50,015)	—	—	(50,015)
Other comprehensive income	—	—	—	1,052	—	—	—	1,052
Balance at June 30, 2020	57,779	$ 62	$ 1,536,156	$ (12,175)	$ 37,758	(6,528)	$ (666,911)	$ 894,890
Issuance of common stock under employee and director equity option and purchase plans	34	—	—	—	—	(13)	(654)	(654)
Stock-based compensation expense	—	—	7,571	—	—	—	—	7,571
Convertible note hedge	—	—	(37,292)	—	—	—	—	(37,292)
Equity component of convertible note issuance	—	—	37,292	—	—	—	—	37,292
Reclassification of redeemable equity component of senior convertible notes	—	—	(10,318)	—	—	—	—	(10,318)
Consolidated net income	—	—	—	—	5,872	—	—	5,872
Other comprehensive income	—	—	—	2,023	—	—	—	2,023
Balance at September 30, 2020	57,813	$ 62	$ 1,533,409	$ (10,152)	$ 43,630	(6,541)	$ (667,565)	$ 899,384

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

(unaudited)	Nine Months Ended September 30, 2021	2020
Operating activities:		
Consolidated net loss	$ (27,350)	$ (38,845)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	111,818	106,097
Amortization of non-cash interest	6,672	33,714
Stock-based compensation	17,972	9,806
Reserves on current assets	25,418	44,927
Purchase of in-process research and development	—	1,011
Net (gain) loss on strategic investments	(2,101)	278
Net loss on change in fair value of derivatives	—	12,301
Net loss from foreign currency adjustments	26,572	6,207
Other non-cash adjustments	15,396	7,692
Deferred income taxes	(5,211)	(6,257)
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	4,142	2,388
Inventory	(29,266)	(37,523)
Prepaid expenses and other current assets	(367)	(1,620)
Accounts payable and accrued liabilities	(779)	10,176
Accrued payroll and related expenses	3,021	(33,529)
Income taxes	(1,167)	(3,625)
Net cash provided by operating activities	144,770	113,198
Investing activities:		
Acquisition of Simplify Medical, net of cash acquired	(149,463)	—
Payment of contingent consideration for Simplify Medical	(45,850)	—
Acquisitions and investments	(500)	1,132
Purchases of intangible assets	(1,200)	(3,810)
Purchases of property and equipment	(85,630)	(77,857)
Purchases of marketable securities	—	(207,695)
Proceeds from sales of marketable securities	127,023	—
Proceeds from maturities of marketable securities	46,000	—
Other investing activities	(819)	—
Net cash used in investing activities	(110,439)	(288,230)
Financing activities:		
Proceeds from the issuance of common stock	3,803	3,871
Purchases of treasury stock	(7,309)	(79,680)
Payment of contingent consideration	(3)	(7,053)
Proceeds from issuance of convertible debt, net of issuance costs	—	873,890
Proceeds from sale of warrants	—	93,915
Purchases of convertible note hedges	—	(147,825)
Payments upon settlement of senior convertible notes	(649,426)	—
Other financing activities	(1,038)	(1,405)
Net cash (used in) provided by financing activities	(653,973)	735,713
Effect of exchange rate changes on cash	(2,649)	829
(Decrease) increase in cash, cash equivalents and restricted cash	(622,291)	561,510
Cash, cash equivalents and restricted cash at beginning of period	858,363	214,528
Cash, cash equivalents and restricted cash at end of period	$ 236,072	$ 776,038

See accompanying Notes to Unaudited Consolidated Financial Statements.

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported on our Unaudited Consolidated Statements of Cash Flows for the periods presented:

	Nine Months Ended September 30,	
	2021	2020
Cash and cash equivalents	$ 234,578	$ 774,544
Restricted cash	1,494	1,494
Total cash, cash equivalents and restricted cash shown in the Unaudited Consolidated Statements of Cash Flows	$ 236,072	$ 776,038

See accompanying Notes to Unaudited Consolidated Financial Statements.

NUVASIVE, INC.
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS

1. Description of Business and Basis of Presentation

Description of Business

NuVasive, Inc. (the "Company" or "NuVasive") was incorporated in Delaware on July 21, 1997, and began commercializing its products in 2001. Since its incorporation in 1997, the Company has grown from a small developer of specialty spinal implants into a global medical technology company delivering procedurally integrated solutions for spine surgery. Underlying the Company's procedurally integrated solutions for spine surgery are technologies designed to enable better clinical, financial, and operational outcomes, including:

- its surgical access instruments, including its Maxcess integrated split-blade retractor system, designed to enable less invasive surgical techniques by minimizing soft tissue disruption during spine surgery;
- its neuromonitoring systems, which use proprietary software-driven nerve detection and avoidance technology, and its intraoperative neuromonitoring ("IONM") services and support;
- its Advanced Materials Science portfolio of specialized spinal implants, designed to advance spinal fusion by enhancing the osseointegration and biomechanical properties of implant materials, including porous titanium and porous polyetheretherketone;
- its Reline fixation system, designed to facilitate the preservation and restoration of patient alignment, while addressing a vast array of spinal pathologies from an open or less-invasive approach across all spinal procedures; and
- its Integrated Global Alignment platform, which is comprised of procedurally based technologies that help increase the predictability of achieving global alignment in spinal procedures, including its Bendini spinal rod bending system that assist with manual rod manipulation for spinal fixation.

The Company has also invested in enabling technologies, including the development of capital equipment designed to further improve clinical, financial, and operational outcomes of spine surgery. The Company's capital equipment portfolio currently consists of Lessray and the Pulse platform. Lessray is an image enhancement platform designed to reduce radiation exposure in the operating room by allowing surgeons to take low-quality, low-dose images and improve them to look like conventional full-dose images. Pulse, which has received CE certification in Europe and regulatory clearance in the U.S., integrates multiple enabling technologies within a single, expandable platform and is engineered to improve workflow, reduce variability, and increase the reproducibility of surgical outcomes. The Pulse platform's modular architecture is designed to incorporate applications for neuromonitoring, surgical planning, patient-specific rod bending, smart imaging, navigation, and integration with robotics and other smart tools in the future. Selling and leasing of capital equipment do not make up a material portion of the Company's total net sales.

In addition to the Company's procedurally integrated solutions for spine surgery, it also designs and sells expandable growing rod implant systems that can be non-invasively lengthened following implantation with precise, incremental adjustments via an external remote controller using magnetic technology called MAGnetic External Control ("MAGEC"), which allows for the minimally invasive treatment of early-onset and adolescent scoliosis. This technology is also the basis for the Company's Precice limb lengthening system, which allows for the correction of long bone limb length discrepancy, as well as other products for treating specialized orthopedic procedures.

In December 2019, a novel strain of coronavirus which causes COVID-19 was identified. Due to the rapid and global spread of the virus, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. To slow the proliferation of COVID-19, governments have implemented extraordinary measures, which include the mandatory closure of businesses, restrictions on travel and gatherings, and quarantine and physical distancing requirements. In addition, many government agencies in conjunction with hospitals and healthcare systems have, to varying degrees, deferred or suspended elective surgical procedures. While certain spine surgeries are deemed essential and certain surgeries, like in cases of trauma, cannot be delayed, the Company has seen and may continue to see a significant reduction in procedural volumes as hospital systems and/or patients elect to defer spine surgery procedures. The cumulative effect of these disruptions had a significant impact on the Company's business during the year ended December 31, 2020 and the nine months ended September 30, 2021, and it is not possible to accurately predict the length or severity of the COVID-19 pandemic or the timing for a broad and sustained resumption of elective surgical procedures. During the three months ended September 30, 2021, procedural volumes for elective surgeries were negatively affected in the U.S. and certain international regions primarily due to the impact of the COVID-19 Delta variant as well as U.S. healthcare worker shortages. The COVID-19 pandemic continues to evolve and its impact on the Company's business will depend on several factors that are highly uncertain and unpredictable, including, the efficacy and adoption of vaccines, future resurgences of the virus and its variants, the speed at which government restrictions are lifted, patient capacity at hospitals and healthcare systems, the duration and severity of U.S. healthcare worker shortages, and the willingness and ability of patients to seek care and treatment due to safety concerns or financial hardship.

Basis of Presentation and Principles of Consolidation

The accompanying Unaudited Consolidated Financial Statements include the accounts of the Company and its majority-owned or controlled subsidiaries, collectively referred to as either NuVasive or the Company. The Company translates the financial statements of its foreign subsidiaries using end-of-period exchange rates for assets and liabilities and average exchange rates during each reporting period for results of operations. When there is a portion of equity in an acquired subsidiary not attributable, directly or indirectly, to the respective parent entity, the Company records the fair value of the non-controlling interest at the acquisition date and classifies the amounts attributable to non-controlling interest separately in equity in the Company's Consolidated Financial Statements. Any subsequent changes in a parent's ownership interest while the parent retains its controlling financial interest in its subsidiary are accounted for as equity transactions. All intercompany balances and transactions have been eliminated in consolidation.

The accompanying Unaudited Consolidated Financial Statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC"). Pursuant to these rules and regulations, the Company has condensed or omitted certain information and footnote disclosures it normally includes in its annual Consolidated Financial Statements prepared in accordance with generally accepted accounting principles in the United States ("GAAP"). Operating results for the three and nine months ended September 30, 2021 are not necessarily indicative of the results that may be expected for any other interim period or for the full year. These Unaudited Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements and notes thereto for the year ended December 31, 2020 included in the Company's Annual Report on Form 10-K filed with the SEC. In the opinion of management, the Unaudited Consolidated Financial Statements and notes thereto include all adjustments that are of a normal and recurring nature that are necessary for the fair presentation of the Company's financial position and of the results of operations and cash flows for the periods presented.

Use of Estimates

To prepare financial statements in conformity with GAAP, management must make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Recently Adopted Accounting Standards

In January 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update No. 2020-01, *Investments—Equity Securities (Topic 321), Investments—Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815)—Clarifying the Interactions between Topic 321, Topic 323, and Topic 815 (a consensus of the Emerging Issues Task Force)* ("ASU 2020-01"), which clarifies the interaction of the accounting for equity securities, investments accounted for under the equity method, and certain forward contracts and purchased options. The Company adopted ASU 2020-01 as of January 1, 2021. The adoption did not have any material impact on the Company's Consolidated Financial Statements.

In August 2020, the FASB issued ASU No. 2020-06, *Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging-Contracts in Entity's Own Equity (Subtopic 815-40)* ("ASU 2020-06"), which simplifies the accounting for convertible instruments. The guidance removes certain accounting models that separate the embedded conversion features from the host contract for convertible instruments. The guidance also modifies how certain convertible instruments, that may be settled in cash or shares, impact the calculation of diluted earnings per share. ASU 2020-06 allows for a modified or full retrospective method of transition. This update is effective for fiscal years beginning after December 15, 2021, and interim periods within those fiscal years, and early adoption is permitted. The Company early adopted ASU 2020-06 on January 1, 2021, electing the modified transition method that allows for a cumulative-effect adjustment in the period of adoption, and did not restate prior periods. As a result of the adoption, the Company increased its senior convertible debt liabilities and retained earnings on January 1, 2021 by $115.4 million and $64.5 million, respectively, and decreased its deferred tax liabilities and additional paid-in capital by $28.0 million and $147.2 million, respectively. In addition, as a result of the adoption, the diluted loss per share decreased by $1.00 and $1.32 for the three and nine months ended September 30, 2021, respectively. See Note 7 to the Unaudited Consolidated Financial Statements for further discussion on the adoption of ASU 2020-06.

Revenue Recognition

In accordance with Accounting Standards Codification 606 *Revenue from Contracts with Customers* ("ASC 606"), the Company recognizes revenue upon the transfer of goods or services to a customer at an amount that reflects the expected consideration to be received in exchange for those goods or services. The principles in ASC 606 are applied using the following five steps: (i) identify the contract with a customer; (ii) identify the performance obligation(s) in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligation(s) in the contract; and (v) recognize revenue when (or as) the Company satisfies its performance obligation(s). Specifically, revenue from the sale of implants, fixation products and disposables is generally recognized at an amount that reflects the expected consideration upon notice that the Company's products have been used in a surgical procedure or upon shipment to a third-party customer assuming control of the products. Revenue from IONM services is recognized in the period the service is performed for the amount of consideration expected to be received. Revenue from the sale of surgical instrument sets is generally recognized upon receipt of a purchase order and the subsequent shipment to a customer who assumes control. Revenue from the sale of capital equipment is recognized when the Company transfers control of the capital equipment to the customer, which is generally at the point when acceptance occurs that indicates customer acknowledgment of delivery or installation, depending on the terms of the arrangement. In certain cases, the Company does offer the ability for customers to lease surgical instrumentation and capital equipment, primarily on a non-sales type basis. Revenue associated with products holding rights of return or trade-in are recognized when the Company concludes there is not a risk of significant revenue reversal in future periods for the expected consideration in the transaction. Costs incurred by the Company associated with sales contracts with customers are deferred over the performance obligation period and recognized in the same period as the related revenue, with the exception of contracts that complete within one year or less, in which case the associated costs are expensed as incurred.

Allowance for Credit Losses

The Company maintains an allowance for credit losses resulting from the inability of its customers, including hospitals, ambulatory surgery centers, and distributors, to make required payments. The allowance for credit losses is calculated quarterly, and is estimated on a region-by-region basis considering a number of factors including age of account balances, collection history, historical account write-offs, third party credit reports, identified trends, current economic conditions, and supportable forecasted economic expectations. The allowance is adjusted on a specific identification basis for certain accounts as well as pooling of accounts with similar characteristics. An increase in the provision for credit losses may be required when the financial condition of the Company's customers or its collection experience deteriorates. An increase to the allowance for credit losses results in a corresponding charge to selling, general and administrative expenses. The Company has a diverse customer base and no single customer represented greater than ten percent of net sales or accounts receivable. Historically, the Company's reserves have been adequate to cover credit losses.

The Company's exposure to credit losses may increase if its customers are adversely affected by changes in healthcare laws, coverage and reimbursement, economic pressures or uncertainty associated with local or global economic recessions, disruption associated with the current COVID-19 pandemic, or other customer-specific factors. It is possible that there could be a material adverse impact from potential adjustments of the carrying amount of trade receivables as customers' cash flows are impacted by their response to the COVID-19 pandemic and the deferral of elective surgical procedures.

The following table summarizes the changes in the allowance for credit losses:

(in thousands)	September 30, 2021	September 30, 2020
Allowance for credit losses at January 1	$ 9,646	$ 9,423
Current-period provision for expected losses	2,366	1,471
Write-offs charged against the allowance	(742)	(637)
Recoveries of amounts previously written off	31	145
Changes resulting from foreign currency fluctuations	(40)	134
Allowance for credit losses at end of period	$ 11,261	$ 10,536

Inventory, Net

Net inventory as of September 30, 2021 consisted of $295.6 million of finished goods, $8.8 million of work in progress and $7.0 million of raw materials. Net inventory as of December 31, 2020 consisted of $285.4 million of finished goods, $7.3 million of work in progress and $7.9 million of raw materials.

Finished goods primarily consists of specialized implants, fixation products and disposables and are stated at the lower of cost or net realizable value determined by utilizing a standard cost method, which includes capitalized variances, which approximates the weighted average cost. Work in progress and raw materials represent the underlying material, and labor for work in progress, that ultimately yield finished goods upon completion and are subject to the lower of cost or net realizable value. The Company reviews the components of its inventory on a periodic basis for excess and obsolescence and adjusts inventory to its net realizable value as necessary.

The Company records an inventory reserve for estimated excess and obsolete inventory based upon historical turnover and assumptions about future demand for its products and market conditions, such as product life cycles and timing of the introduction and development of new or enhanced products. The Company's allograft products have shelf lives ranging from two to five years and are subject to demand fluctuations based on the availability and demand for alternative products. The Company's inventory, which consists primarily of disposables, specialized implants and fixation products, is at risk of obsolescence following the introduction and development of new or enhanced products. One of the Company's strategic objectives is to continue to rapidly develop and commercialize new products and product enhancements which increases the risk that products will become obsolete prior to the end of their anticipated useful life. The Company's estimates and assumptions for excess and obsolete inventory are reviewed and updated on a quarterly basis. The estimates the Company uses for demand are also used for near-term capacity planning and inventory purchasing and are consistent with its net sales forecasts. Increases in the reserve for excess and obsolete inventory result in a corresponding charge to cost of sales.

For the three and nine months ended September 30, 2021, the Company recorded a reserve for excess and obsolete inventory of $15.3 million and $23.3 million, respectively, and $10.6 million and $41.1 million, for the three and nine months ended September 30, 2020, respectively. For the nine months ended September 30, 2021, the decrease is primarily attributable to updates to the Company's estimates and assumptions about future product demand and product life cycles which have been affected by multiple factors, including the COVID-19 pandemic and general market conditions. During the three months ended September 30, 2021, the Company made a determination to withdraw certain products manufactured by its NuVasive Specialized Orthopedics (NSO) subsidiary from the market and discontinue sales of the products. As a result, for the three and nine months ended September 30, 2021, the Company recorded a charge of $14.2 million.

Derivative Financial Instruments

The Company recognizes all derivative instruments as assets or liabilities in its Unaudited Consolidated Balance Sheets and measures these instruments at fair value by revaluing these assets and liabilities at the end of each reporting period. Gains and losses are recorded as a component of other (expense) income, net in the Unaudited Consolidated Statements of Operations.

Comprehensive (Loss) Income

Comprehensive (loss) income is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. Comprehensive (loss) income includes net of tax, unrealized gains or losses on the Company's marketable securities and foreign currency translation adjustments. The cumulative translation adjustments included in accumulated other comprehensive loss were $7.3 million and $7.6 million for September 30, 2021 and December 31, 2020, respectively.

Product Shipment Costs

Product shipment costs, included in selling, general and administrative expense in the accompanying Unaudited Consolidated Statements of Operations, were $7.1 million and $22.1 million for the three and nine months ended September 30, 2021, respectively, and $7.9 million and $19.9 million for the three and nine months ended September 30, 2020, respectively. The majority of the Company's shipping costs are associated with providing instrument sets to hospitals for use in individual surgical procedures. Amounts billed to customers for shipping and handling of products are reflected in net sales and are not material for any period presented.

Business Transition Costs

The Company incurs certain costs related to acquisition, integration and business transition activities, which include severance, relocation, consulting, leasehold exit costs, third-party merger and acquisition costs, contingent consideration fair value adjustments and other costs directly associated with such activities. Contingent consideration is accrued based on the fair value of the expected payment, and such accruals are subject to increase or decrease based on the assessment of the likelihood that the contingent milestones will be achieved resulting in payment. If an accrual for contingent consideration decreases during a particular period, it results in a reduction of costs during such period.

During the three months ended September 30, 2021, the Company recorded $4.6 million of costs related to acquisition, integration and business transition activities, which included $0.7 million of fair value adjustments on contingent consideration liabilities associated with the Company's 2021, 2017 and 2016 acquisitions.

During the nine months ended September 30, 2021, the Company recorded $21.7 million of costs related to acquisition, integration and business transition activities, which included $6.6 million of fair value adjustments on contingent consideration liabilities associated with the Company's 2021, 2017 and 2016 acquisitions as well as $4.0 million of costs associated with the 2021 acquisition of Simplify Medical.

During the three months ended September 30, 2020, the Company recorded $3.1 million of costs related to acquisition, integration and business transition activities, which included $1.2 million of fair value adjustments on contingent consideration liabilities associated with the Company's 2017 and 2016 acquisitions.

During the nine months ended September 30, 2020, the Company recorded a reduction of costs of $2.5 million related to acquisition, integration and business transition activities, which included $(0.4) million of fair value adjustments on contingent consideration liabilities associated with the Company's 2017 and 2016 acquisitions.

2. Net (Loss) Income Per Share

The following table sets forth the computation of basic and diluted consolidated net (loss) income per share:

(*in thousands, except per share data*)	Three Months Ended September 30, 2021	Three Months Ended September 30, 2020	Nine Months Ended September 30, 2021	Nine Months Ended September 30, 2020
Numerator:				
Net (loss) income	$ (21,639)	$ 5,872	$ (27,350)	$ (38,845)
Denominator for basic and diluted net (loss) income per share:				
Weighted average common shares outstanding for basic	51,669	51,261	51,539	51,440
Dilutive potential common stock outstanding:				
Stock options and employee stock purchase plan	—	14	—	—
Restricted stock units	—	530	—	—
Weighted average common shares outstanding for diluted	51,669	51,805	51,539	51,440
Basic net (loss) income per share	$ (0.42)	$ 0.11	$ (0.53)	$ (0.76)
Diluted net (loss) income per share	$ (0.42)	$ 0.11	$ (0.53)	$ (0.76)

The following weighted average outstanding common stock equivalents were not included in the calculation of net (loss) income per diluted share because their effects were anti-dilutive:

(*in thousands*)	Three Months Ended September 30, 2021	Three Months Ended September 30, 2020	Nine Months Ended September 30, 2021	Nine Months Ended September 30, 2020
Stock options, employee stock purchase plan, and restricted stock units	1,336	382	1,367	1,089
Warrants	17,127	21,034	19,716	21,034
Senior convertible notes	10,169	21,034	10,169	21,034
Total	28,632	42,450	31,252	43,157

3. Marketable Securities

Short-Term Marketable Securities

The Company invests in available-for-sale marketable debt securities consisting of corporate notes and commercial paper. The Company has the ability, if necessary, to liquidate without penalty any of its marketable debt securities to meet its liquidity needs in the next 12 months. As such, those investments with contractual maturities greater than one year from the date of purchase are classified as short-term on the accompanying Unaudited Consolidated Balance Sheets.

The Company did not hold any investments in marketable debt securities as of September 30, 2021. The Company's marketable debt securities as of December 31, 2020 all had contractual maturities due within one year. The carrying value and amortized cost of the Company's marketable debt securities, summarized by major security type, consisted of the following:

(*in thousands*)	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
December 31, 2020:				
Debt securities, available for sale:				
Corporate notes	$ 54,197	$ 6	$ (15)	$ 54,188
Commercial paper	118,932	25	—	118,957
Total debt securities, available for sale	$ 173,129	$ 31	$ (15)	$ 173,145

At each reporting date, the Company performs an evaluation of impairment to determine if any unrealized losses are the result of credit losses. Impairment is assessed at the individual security level. Factors considered in determining whether a loss resulted from a credit loss or other factors include the Company's intent and ability to hold the investment until the recovery of its amortized cost basis, the extent to which the fair value is less than the amortized cost basis, the length of time and extent to which fair value has been less than the cost basis, the financial condition of the issuer, any historical failure of the issuer to make scheduled interest or principal payments, any changes to the rating of the security by a rating agency, any adverse legal or regulatory events affecting the issuer or issuer's industry, and any significant deterioration in economic conditions.

The credit-related portion of unrealized losses, and any subsequent improvements, are recorded in interest income in the Unaudited Consolidated Statement of Operations through an allowance for credit losses. Unrealized gains and losses that are not credit-related are included in accumulated other comprehensive loss. Unrealized losses on available-for-sale debt securities as of December 31, 2020 were not significant and were primarily due to changes in interest rates, including market credit spreads, and not due to increased credit risks associated with specific securities. Accordingly, the Company did not record an allowance for credit losses with these investments as of December 31, 2020.

4. Business Combinations

The Company recognizes the assets acquired, liabilities assumed, and any non-controlling interest at fair value at the date of acquisition. Certain acquisitions contain contingent consideration arrangements that require the Company to assess the acquisition date fair value of the contingent consideration liabilities. Such liabilities are recorded as part of the purchase price allocation of the acquisition, with subsequent fair value adjustments to the contingent consideration recorded in the Unaudited Consolidated Statements of Operations. See Note 5 to the Unaudited Consolidated Financial Statements for further discussion on contingent consideration liabilities.

Acquisition of Simplify Medical Pty Limited

On February 24, 2021, the Company, through its indirect wholly-owned subsidiary, NuVasive (AUST/NZ) Pty Limited, acquired all of the stock interest in Simplify Medical Pty Limited ("Simplify Medical"), a developer of cervical artificial disc technology for cervical total disc replacement procedures. Simplify Medical now operates as a wholly-owned subsidiary of the Company. The Company agreed to make an upfront payment of $150.0 million, subject to customary purchase price adjustments, plus additional future payments contingent upon milestones related to regulatory approval and net sales from products incorporating the Simplify Medical cervical artificial disc technology. In April 2021, the Simplify Cervical Artificial Disc received approval from the U.S. Food and Drug Administration for two-level cervical total disc replacement, resulting in the Company's payment of $45.8 million for the achievement of the regulatory milestone. Additional milestone payments, which are uncapped and contingent upon net sales from products incorporating the Simplify Medical cervical artificial disc technology, will become payable in calendar years 2023, 2024 and 2025. In connection with the closing, the Company paid $151.0 million, which included additional amounts for customary purchase price adjustments, using available cash on hand.

The allocation of the purchase price to the assets acquired and liabilities assumed based on their fair values is as follows:

(*in thousands*)		
Cash paid for purchase	$	151,026
Cash		1,563
Accounts receivable		203
Inventory		6,710
Other current assets		568
Property, plant and equipment, net		381
Definite-lived intangible assets:		
Developed technology		141,700
Patents		19,000
Trade names		3,500
Goodwill		81,125
Other assets		7
Contingent consideration liabilities		(103,400)
Accounts payable, accrued expenses and other		(331)
	$	151,026

Goodwill recognized in this transaction is not deductible for tax purposes. Goodwill largely consists of expected net sales synergies resulting from the combination of product portfolios, use of the Company's existing commercial infrastructure to expand sales of Simplify Medical's products, and the assembled workforce. The intangible assets acquired are being amortized on a straight-line basis over useful lives of seventeen years, ten years, and fifteen years for developed technology-based intangible assets, patent-related intangible assets, and trade name related intangible assets, respectively. The estimated fair values of the intangible assets acquired were primarily determined using the income approach based on significant inputs that were not observable.

In connection with the acquisition, contingent consideration liabilities of $103.4 million were recorded, as of March 31, 2021, for the potential regulatory and net sales-based milestone payments. The fair value of the contingent liability related to the regulatory milestone payment was determined using the probability approach based on the probability of the approval being achieved as of various periods. The fair value of the contingent liability relating to the net sales-based milestone payments was determined using the Monte Carlo simulation based on specific net sales achievement scenarios and discount factors. Changes in fair value of the contingent liabilities over the measurement period will be recorded in operating expenses in the Consolidated Statements of Operations. See Note 5 to the Unaudited Consolidated Financial Statements for further discussion on contingent consideration liabilities.

Acquisition costs of $4.0 million were included in the Unaudited Consolidated Statement of Operations as business transition costs. The Company's results of operations for the three and nine months ended September 30, 2021 include the operating results of Simplify Medical since the date of acquisition, within the Unaudited Consolidated Statement of Operations. Net sales of acquired products represent an immaterial amount of the Company's total net sales for the three and nine months ended September 30, 2021.

The following table presents the unaudited pro forma results for the three and nine months ended September 30, 2021 and September 30, 2020. The unaudited pro forma financial information combines the results of operations of the Company and Simplify Medical as though the companies had been combined as of January 1, 2020. The unaudited pro forma information is presented for informational purposes only and is not indicative of the results of operations that would have been achieved if the acquisition had taken place at such time. The unaudited pro forma results presented include non-recurring adjustments directly attributable to the business combination. The adjustments relating to amortization charges for acquired intangible assets were zero and $1.7 million for the three and nine months ended September 30, 2021, respectively, and $2.4 million and $6.8 million for the three and nine months ended September 30, 2020, respectively. Adjustments for increased fair value of acquired inventory were zero and $0.4 million for the three and nine months ended September 30, 2021, respectively. The nine months ended September 30, 2020 also includes an adjustment of $17.5 million for acquisition related expenses. All periods presented include related tax effects to pre-tax income. Simplify Medical's net sales represent an immaterial amount of the combined net sales for the three and nine months ended September 30, 2021 and 2020. The pre-acquisition accounting policies of Simplify Medical were materially similar to the Company.

(unaudited)	Three Months Ended September 30,		Nine Months Ended September 30,	
(in thousands, except per share amounts)	2021	2020	2021	2020
Net (loss) income	$ (21,638)	$ 473	$ (30,894)	$ (68,646)
Net (loss) income per share:				
Basic	$ (0.42)	$ 0.01	$ (0.60)	$ (1.33)
Diluted	$ (0.42)	$ 0.01	$ (0.60)	$ (1.33)

Variable Interest Entities

The Company provides IONM services through various subsidiaries, which conduct business as NuVasive Clinical Services. In providing IONM services to surgeons and healthcare facilities across the United States, the Company maintains contractual relationships with several physician practices ("PCs"). In accordance with authoritative guidance, the Company has determined that the PCs are variable interest entities and therefore, the accompanying Unaudited Consolidated Financial Statements include the accounts of the PCs from the date of acquisition. During the periods presented, the results of the PCs were immaterial to the Company's financial statements. The creditors of the PCs have claims only to the assets of the PCs, which are not material, and the assets of the PCs are not available to the Company.

5. Financial Instruments and Fair Value Measurements

Foreign Currency and Derivative Financial Instruments

The Company translates the financial statements of its foreign subsidiaries using end-of-period exchange rates for assets and liabilities, and average exchange rates during each reporting period for results of operations.

Some of the Company's reporting entities conduct a portion of their business in currencies other than the entity's functional currency. These transactions give rise to receivables and payables that are denominated in currencies other than the entity's functional currency. The value of these receivables and payables is subject to changes in currency exchange rates from the point at which the transactions are originated until the settlement in cash. Both realized and unrealized gains and losses in the value of these receivables and payables are included in the determination of net income or loss. Net currency exchange gains (losses), which include gains and losses from derivative instruments, were $(13.2) million and $(26.6) million for the three and nine months ended September 30, 2021, respectively, and $(1.0) million and $(6.2) million for the three and nine months ended September 30, 2020, respectively, and are included in other (expense) income, net in the Unaudited Consolidated Statements of Operations.

To manage foreign currency exposure risks, the Company uses derivatives for activities in entities that have short-term intercompany receivables and payables denominated in a currency other than the entity's functional currency. The fair value is based on a quoted market price (Level 1). As of September 30, 2021 and December 31, 2020, a notional principal amount of $20.2 million and $14.0 million, respectively, was outstanding to hedge currency risk relative to the Company's foreign currency-denominated receivables and payables. Derivative instrument net gains (losses) on the Company's forward exchange contracts were $0.1 million and $1.5 million for the three and nine months ended September 30, 2021, respectively, and $(0.5) million for both the three and nine months ended September 30, 2020, and are included in other (expense) income, net in the Unaudited Consolidated Statements of Operations. The fair value of the forward contract exchange derivative instrument asset (liability) was $(0.1) million and de minimis as of September 30, 2021 and December 31, 2020, respectively. The derivative instruments are recorded in other current assets or other current liabilities in the Unaudited Consolidated Balance Sheets commensurate with the nature of the instrument at period end.

Fair Value Measurements

The Company measures certain assets and liabilities in accordance with authoritative guidance, which requires fair value measurements be classified and disclosed in one of the following three categories:

Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities.

Level 2: Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.

Level 3: Unobservable inputs are used when little or no market data is available.

Assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurements. The Company reviews the fair value hierarchy classification on a quarterly basis. Changes in the ability to observe valuation inputs may result in a reclassification of levels for certain assets or liabilities within the fair value hierarchy. The Company did not have any transfers of assets and liabilities between the levels of the fair value measurement hierarchy during the periods presented.

The fair values of the Company's assets and liabilities, including cash equivalents, marketable debt securities, restricted investments, derivatives, and contingent consideration are measured at fair value on a recurring basis. As of September 30, 2021 and December 31, 2020, the Company held investments in securities classified as cash equivalents. During the periods presented, the Company did not hold any such investments that were in a significant unrealized loss position and no impairment charges were recorded on such investments. Realized gains and losses and interest income related to marketable securities were immaterial during all periods presented. The Company's assets that are measured at fair value were based on the following fair value categories:

(*in thousands*)	Total	Quoted Price in Active Market (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
September 30, 2021:				
Cash equivalents:				
Money market funds	$ 158,051	$ 158,051	$ —	$ —
Total cash equivalents	$ 158,051	$ 158,051	$ —	$ —
December 31, 2020:				
Cash equivalents:				
Money market funds	$ 725,108	$ 725,108	$ —	$ —
Commercial paper	35,996	—	35,996	—
Total cash equivalents	761,104	725,108	35,996	—
Debt securities, available for sale:				
Corporate notes	54,188	—	54,188	—
Commercial paper	118,957	—	118,957	—
Total debt securities, available for sale	173,145	—	173,145	—
Total assets measured at fair value	$ 934,249	$ 725,108	$ 209,141	$ —

The carrying amounts of certain financial instruments such as cash and cash equivalents, accounts receivable, prepaid expenses, other current assets, accounts payable, accrued expenses, and other current liabilities as of September 30, 2021 and December 31, 2020 approximate their related fair values due to the short-term maturities of these instruments.

The fair value of certain financial instruments was measured and classified within Level 1 of the fair value hierarchy based on quoted prices. Certain financial instruments classified within Level 2 of the fair value hierarchy include the types of instruments that trade in markets that are not considered to be active, but are valued based on quoted market prices, broker or dealer quotations, or alternative pricing sources with reasonable levels of price transparency.

Fair Value of Senior Convertible Notes

On March 15, 2021, the Company's Senior Convertible Notes due 2021 were settled upon maturity. The fair value, based on a quoted market price (Level 1), of the Company's outstanding $650.0 million principal amount of Senior Convertible Notes due 2021 at December 31, 2020 was approximately $651.6 million. The fair value, based on a quoted market price (Level 1), of the Company's outstanding $450.0 million principal amount of Senior Convertible Notes due 2023 at September 30, 2021 and December 31, 2020 was approximately $461.9 million for both periods. The fair value, based on a quoted market price (Level 1), of the Company's outstanding $450.0 million principal amount of Senior Convertible Notes due 2025 at September 30, 2021 and December 31, 2020 was approximately $458.1 million and $436.7 million, respectively. See Note 7 to the Unaudited Consolidated Financial Statements for further discussion on the carrying value of the Company's outstanding Senior Convertible Notes.

Fair Value of Convertible Note Hedge and Embedded Conversion Derivatives

On June 1, 2020, the Company issued $450.0 million principal amount of 1.00% Senior Convertible Notes due 2023 (the “2023 Notes”). The 2023 Notes were initially required to be settled in cash as the Company did not have enough available shares and was unable to reserve the maximum number of shares issuable under the 2023 Notes (“sufficient reserved shares”). On September 10, 2020, the Company held a Special Meeting of Stockholders and received stockholder approval to amend the Company’s Restated Certificate of Incorporation to increase the number of shares of its common stock authorized for issuance from 120,000,000 shares to 150,000,000 shares. As a result of the increase in the number of shares of the Company’s common stock authorized for issuance the Company has sufficient reserved shares and therefore may settle conversions of the 2023 Notes in cash, stock, or a combination thereof, solely at the Company’s discretion. At the time of issuance of the 2023 Notes and in accordance with authoritative guidance, the cash conversion feature of the 2023 Notes required bifurcation from the 2023 Notes and was initially accounted for as a derivative liability (“Embedded Conversion Derivative”), which was included in long-term liabilities in the Company’s Unaudited Consolidated Balance Sheet. On September 10, 2020, as a result of the increase in the number of shares of the Company’s common stock authorized for issuance, the Company had sufficient reserved shares to settle conversions of the 2023 Notes in cash, stock, or a combination thereof, and in accordance with authoritative literature, the Embedded Conversion Derivative was marked to fair value and reclassified to stockholders’ equity.

In connection with the issuance of the 2023 Notes, the Company entered into convertible note hedge transactions (the “2023 Hedge”) entitling the Company to purchase up to 5,345,010 shares of the Company’s common stock at an initial stock price of $84.19 per share, each of which is subject to adjustment. The 2023 Hedge was initially required to be settled in cash as the Company did not have sufficient reserved shares with respect to the 2023 Notes. As a result, the 2023 Hedge was accounted for as a derivative asset (“Convertible Note Hedge Derivative”), which was included in long-term assets in the Company’s Unaudited Consolidated Balance Sheet. On September 10, 2020, as a result of the increase in the number of shares of the Company’s common stock authorized for issuance, the Company had sufficient reserved shares to settle the 2023 Notes, which therefore allows for the 2023 Hedge to be settled in cash, stock, or a combination thereof. In accordance with authoritative literature, the Convertible Note Hedge Derivative was marked to a fair value of $37.3 million, and reclassified to stockholders’ equity on September 10, 2020.

Prior to their reclassification to stockholders’ equity on September 10, 2020, the Embedded Conversion Derivative and Convertible Note Hedge Derivative were classified as Level 3 of the fair value hierarchy as these derivative instruments were not actively traded and were valued using significant unobservable inputs.

For the nine months ended September 30, 2020, the following tables set forth the changes in the estimated fair value for the Company’s derivative assets and liabilities measured using significant unobservable inputs (Level 3):

(*in thousands*)	Three Months Ended September 30, 2020	Nine Months Ended September 30, 2020
Assets:		
Fair value measurement at beginning of period	$ 44,936	$ —
Derivative assets recorded in connection with the 2023 Hedge	—	69,525
Change in fair value measurement	(7,644)	(32,233)
Derivative asset reclassified to stockholders’ equity	(37,292)	(37,292)
Fair value measurement at end of period	$ —	$ —

(*in thousands*)	Three Months Ended September 30, 2020	Nine Months Ended September 30, 2020
Liabilities:		
Fair value measurement at beginning of period	$ 44,936	$ —
Derivative liability recorded in connection with the 2023 Notes	—	57,224
Change in fair value measurement	(7,644)	(19,932)
Derivative liability reclassified to stockholders’ equity	(37,292)	(37,292)
Fair value measurement at end of period	$ —	$ —

Contingent Consideration Liabilities

The fair value of contingent consideration liabilities assumed in business combinations is recorded as part of the purchase price consideration of the acquisition, and is determined using a discounted cash flow model or probability simulation model. The significant inputs of such models are not observable in the market, such as certain financial metric growth rates, volatility rates, projections associated with the applicable milestone, the interest rate, and the related probabilities and payment structure in the contingent consideration arrangement. Fair value adjustments to contingent consideration liabilities are recorded through operating expenses in the Unaudited Consolidated Statement of Operations. Contingent consideration arrangements assumed by an asset purchase will be measured and accrued when such contingency is resolved.

The recurring Level 3 fair value measurements of contingent consideration liabilities associated with commercial sales milestones include the following significant unobservable inputs as of September 30, 2021:

	2021
Valuation Technique	Discounted cash flow, Monte Carlo
Discount Rate Range	1.7% - 4.2%
Weighted Average Discount Rate	3.2%
Expected Years	2021 - 2025

Contingent consideration liabilities at September 30, 2021 and December 31, 2020 were $101.1 million and $37.0 million, respectively, and were recorded in the Unaudited Consolidated Balance Sheet commensurate with the respective payment terms. The following table sets forth the changes in the estimated fair value of the Company's liabilities measured on a recurring basis using significant unobservable inputs (Level 3):

	Nine Months Ended September 30,	
(*in thousands*)	2021	2020
Fair value measurement at beginning of period	$ 37,041	$ 42,559
Contingent consideration liability recorded upon acquisition	103,400	—
Change in fair value measurement	6,646	(293)
Contingent consideration paid or settled	(46,006)	(7,938)
Changes resulting from foreign currency fluctuations	(29)	—
Fair value measurement at end of period	$ 101,052	$ 34,328

During the three months ended March 31, 2021, the Company recorded $103.4 million in contingent consideration liabilities as part of the Simplify Medical acquisition, of which $42.8 million and $60.6 million relate to the regulatory approval and net sales milestones, respectively. In April 2021, the Simplify Cervical Artificial Disc received approval from the U.S. Food and Drug Administration for two-level cervical total disc replacement which resulted in the achievement of the regulatory milestone. As a result of the milestone achievement, the Company recorded a $3.0 million increase in the fair value of the contingent consideration liability, which has been recorded within Business Transition Costs in the Company's Unaudited Consolidated Statements of Operations in the nine months ended September 30, 2021. In the second quarter of 2021, the Company made a payment of $45.8 million for the regulatory milestone. The contingent consideration liabilities are recorded in the Unaudited Consolidated Balance Sheet, commensurate with the respective payable terms. See Note 4 to the Unaudited Consolidated Financial Statements for further discussion regarding the contingent consideration liabilities incurred in connection with the acquisition of Simplify Medical.

Non-financial assets and liabilities measured on a nonrecurring basis

Certain non-financial assets and liabilities are measured at fair value, usually with Level 3 inputs including the discounted cash flow method or cost method, on a nonrecurring basis in accordance with authoritative guidance. These include items such as non-financial assets and liabilities initially measured at fair value in a business combination and non-financial long-lived assets measured at fair value for an impairment assessment. In general, non-financial assets, including goodwill, right-of-use assets, intangible assets and property and equipment, are measured at fair value when there is an indication of impairment and are recorded at fair value only when any impairment is recognized. The carrying values of the Company's financing lease obligations approximated their estimated fair value as of September 30, 2021 and December 31, 2020.

6. Goodwill and Intangible Assets

Goodwill and intangible assets consisted of the following:

(*in thousands, except years*) **September 30, 2021:**	**Weighted-Average Amortization Period (in years)**	**Gross Amount**	**Accumulated Amortization**	**Intangible Assets, net**
Intangible assets subject to amortization:				
Developed technology	11	$ 373,543	$ (200,172)	$ 173,371
Patents	10	57,660	(30,426)	27,234
Manufacturing know-how and trade secrets	12	21,428	(21,378)	50
Trade name and trademarks	9	25,141	(18,988)	6,153
Customer relationships	9	156,113	(106,505)	49,608
Total intangible assets subject to amortization	10	$ 633,885	$ (377,469)	$ 256,416
Intangible assets not subject to amortization:				
Goodwill				$ 633,121
Total goodwill and intangible assets, net				$ 889,537

December 31, 2020:	**Weighted-Average Amortization Period (in years)**	**Gross Amount**	**Accumulated Amortization**	**Intangible Assets, net**
Intangible assets subject to amortization:				
Developed technology	8	$ 244,360	$ (174,257)	$ 70,103
Patents	9	40,338	(26,299)	14,039
Manufacturing know-how and trade secrets	12	21,482	(20,481)	1,001
Trade name and trademarks	8	21,950	(16,911)	5,039
Customer relationships	9	156,436	(94,354)	62,082
Total intangible assets subject to amortization	8	$ 484,566	$ (332,302)	$ 152,264
Intangible assets not subject to amortization:				
Goodwill				$ 559,553
Total goodwill and intangible assets, net				$ 711,817

During the nine months ended September 30, 2021, in connection with acquisition of Simplify Medical, the Company recorded additional amounts to definite-lived intangible assets and goodwill of $164.2 million and $81.1 million, respectively.

The following table summarizes the changes in the carrying value of the Company’s goodwill:

(*in thousands*)		
December 31, 2020		
Gross goodwill	$	567,853
Accumulated impairment loss		(8,300)
		559,553
Changes to gross goodwill		
Increases recorded in business combinations		81,125
Changes resulting from foreign currency fluctuations		(7,557)
		73,568
September 30, 2021		
Gross goodwill		641,421
Accumulated impairment loss		(8,300)
	$	633,121

Total expense related to the amortization of intangible assets, which is recorded in both cost of sales and operating expenses in the Unaudited Consolidated Statements of Operations depending on the functional nature of the intangible asset, was $15.6 million and $45.7 million for the three and nine months ended September 30, 2021, respectively, and $14.6 million and $41.6 million for the three and nine months ended September 30, 2020, respectively.

Total future amortization expense related to intangible assets subject to amortization at September 30, 2021 is set forth in the table below:

(*in thousands*)		
Remaining 2021	$	14,868
2022		53,287
2023		27,797
2024		22,028
2025		21,234
Thereafter through 2038		117,202
Total future amortization expense	$	256,416

7. Indebtedness

The carrying values of the Company’s Senior Convertible Notes are as follows:

(in thousands)	September 30, 2021	December 31, 2020
2.25% Senior Convertible Notes due 2021:		
Principal amount	$ —	$ 650,000
Unamortized debt discount	—	(3,945)
Unamortized debt issuance costs	—	(752)
	—	645,303
1.00% Senior Convertible Notes due 2023:		
Principal amount	450,000	450,000
Unamortized debt discount	—	(46,837)
Unamortized debt issuance costs	(7,677)	(11,049)
	442,323	392,114
0.375% Senior Convertible Notes due 2025:		
Principal amount	450,000	450,000
Unamortized debt discount	—	(66,346)
Unamortized debt issuance costs	(9,143)	(9,542)
	440,857	374,112
Total Senior Convertible Notes	$ 883,180	$ 1,411,529
Less: Current portion	—	(645,303)
Long-term Senior Convertible Notes	$ 883,180	$ 766,226

2.25% Senior Convertible Notes due 2021

In March 2016, the Company issued $650.0 million principal amount of unsecured Senior Convertible Notes with a stated interest rate of 2.25% and a maturity date of March 15, 2021 (the “2021 Notes”). Interest on the 2021 Notes began accruing upon issuance and was payable semi-annually. On March 15, 2021 the Company settled in full the 2021 Notes at their scheduled maturity as further discussed below.

The net proceeds from the offering of the 2021 Notes, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $634.1 million. Prior to September 14, 2020, the 2021 Notes provided for settlement in cash, stock, or a combination thereof, solely at the Company’s discretion. As of September 14, 2020, combination settlement was deemed to have been elected by the Company. The initial conversion rate of the 2021 Notes was 16.7158 shares per $1,000 principal amount, which was equivalent to a conversion price of approximately $59.82 per share, subject to adjustments. For the year ended December 31, 2020, the Company used the treasury share method for assumed conversion of the 2021 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share. The Company also entered into transactions for a convertible notes hedge (the “2021 Hedge”) and warrants (the “2021 Warrants”) concurrently with the issuance of the 2021 Notes.

At the time of issuance and in accordance with Accounting Standards Codification Topic 470, the embedded conversion feature of the 2021 Notes required bifurcation from the notes and was accounted for as an equity instrument classified to stockholders’ equity, which resulted in recognizing $84.8 million in additional paid-in-capital during 2016. As of January 1, 2021, the Company early adopted ASU 2020-06, which removed the requirement of separating the embedded conversion feature classified within stockholders’ equity from the 2021 Notes. The standard also required the Company to use the if-converted method in the calculation of diluted earnings per share. Accordingly, the Company reclassified the unamortized debt discount and corresponding debt issuance costs from its additional paid-in capital to its senior convertible notes within current liabilities in the Unaudited Consolidated Balance Sheet. The impact of the adoption of ASU 2020-06 as of January 1, 2021, resulted in an increase in senior convertible notes and retained earnings of $3.9 million and $47.8 million, respectively, and a decrease in deferred tax liabilities and additional paid-in capital by $0.9 million and $46.1 million, respectively.

The interest expense recognized on the 2021 Notes during the nine months ended September 30, 2021 includes $3.0 million and $0.8 million for the contractual coupon interest and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2021 Notes during the three months ended September 30, 2020 includes $3.7 million, $4.7 million and $0.9 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2021 Notes during the nine months ended September 30, 2020 includes $11.0 million, $13.8 million and $2.6 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. Prior to the adoption of ASU 2020-06, the effective interest rate on the 2021 Notes was 5.8%, which included the interest on the notes, amortization of the debt discount and debt issuance costs. Subsequent to the adoption of ASU 2020-06, the effective interest rate on the 2021 Notes was 2.9%, which included the interest on the notes and debt issuance costs.

Prior to September 15, 2020, holders could have converted their 2021 Notes only under the following conditions: (a) during any calendar quarter beginning June 30, 2016, if the reported sale price of the Company's common stock for at least 20 days out of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter was greater than 130% of the conversion price on each applicable trading day; (b) during the five business day period in which the trading price of the 2021 Notes fell below 98% of the product of (i) the last reported sale price of the Company's common stock and (ii) the conversion rate on that date; and (c) upon the occurrence of specified corporate events, as defined in the 2021 Notes. From September 15, 2020 and until the close of business on the second scheduled trading day immediately preceding March 15, 2021, holders could have converted their 2021 Notes at any time (regardless of the foregoing circumstances). The Company had the ability to redeem the 2021 Notes, at its option, in whole or in part beginning on March 20, 2019 until the close of business on the business day immediately preceding September 15, 2020 if the last reported sale price of the Company’s common stock had been at least 130% of the conversion price then in effect for at least 20 trading days during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company delivers written notice of a redemption. No principal payments were due on the 2021 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2021 Notes did not contain any financial covenants and did not restrict the Company from paying dividends or issuing or repurchasing any of its other securities.

As of September 15, 2020, holders could have converted their 2021 Notes at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date. As a result, the 2021 Notes were considered redeemable as of December 31, 2020. A portion of the equity component that was recorded upon the issuance of the 2021 Notes was reclassified to temporary equity in the Consolidated Balance Sheet. Such amount was determined based on the cash considerations to be paid upon conversion and the carrying amount of the debt. The reclassification into temporary equity as of December 31, 2020 was $4.7 million based on the 2021 Notes principal of $650.0 million and the carrying value of $645.3 million.

2021 Hedge

In connection with the offering of the 2021 Notes, the Company entered into the hedge transaction with the initial purchasers of the 2021 Notes and/or their affiliates (the “2021 Counterparties”) entitling the Company to purchase up to 10,865,270 shares of the Company's common stock at an initial stock price of $59.82 per share, each of which was subject to adjustment. The cost of the 2021 Hedge was $111.2 million and accounted for as an equity instrument by recognizing $111.2 million in additional paid-in-capital during 2016. The 2021 Hedge expired on March 15, 2021 and was put in place to reduce the potential equity dilution upon conversion of the 2021 Notes if the daily volume-weighted average price per share of the Company's common stock exceeded the strike price of the 2021 Hedge. Prior to its expiration, an assumed exercise of the 2021 Hedge by the Company was considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

2021 Warrants

The Company sold warrants to the 2021 Counterparties to acquire up to 10,865,270 shares of the Company’s common stock. The 2021 Warrants will expire on various dates from June 2021 through December 2021 and may be settled in cash or net shares. As of September 30, 2021, 6,881,290 warrants expired unexercised. It is the Company's current intent and policy to settle all conversions in shares of the Company’s common stock. The Company received $44.9 million in cash proceeds from the sale of the 2021 Warrants, which was recorded in additional paid-in-capital. The 2021 Warrants could have a dilutive effect on the Company's earnings per share to the extent that the price of the Company's common stock during a given measurement period exceeds the strike price of the 2021 Warrants, which is $80.00 per share. The Company uses the treasury share method for assumed conversion of its 2021 Warrants to compute the weighted average common shares outstanding for diluted earnings per share.

Settlement of the 2021 Notes and 2021 Hedge

On March 15, 2021, the 2021 Notes reached maturity and the Company settled in full the 2021 Notes. The Company received conversion notices from the holders of 1.4% of the 2021 Notes, representing $9.1 million outstanding principal amount thereof (the “Conversions”). The Company paid an aggregate of $649.4 million in cash for the settlement of the 2021 Notes, which included $640.9 million in satisfaction of the outstanding principal of the 2021 Notes and $8.5 million in cash in connection with the settlement of the Conversions. Additionally, in satisfaction of the Conversions, and pursuant to combination settlement, the Company issued 837 shares of common stock in the aggregate to the holders who elected to convert their outstanding notes. The Company funded the repayment of the outstanding principal amount of the 2021 Notes, accrued interest thereon, and the cash component of the Conversions using available cash on hand.

In connection with the settlement of the 2021 Notes, the Company exercised its rights under the convertible note hedge transactions with the 2021 Counterparties on March 15, 2021 and received 842 shares of its own common stock.

1.00% Senior Convertible Notes due 2023

In June 2020, the Company issued $450.0 million principal amount of unsecured Senior Convertible Notes with a stated interest rate of 1.00% and a maturity date of June 1, 2023 (the “2023 Notes”). The net proceeds from the offering of the 2023 Notes, after deducting initial purchasers’ discounts and costs directly related to the offering, were approximately $436.7 million. The 2023 Notes were initially required to be settled in cash as the Company did not have sufficient reserved shares. On September 10, 2020, the Company held a Special Meeting of Stockholders and received stockholder approval to amend the Company’s Restated Certificate of Incorporation to increase the number of shares of its common stock authorized for issuance from 120,000,000 shares to 150,000,000 shares. As a result of the increase in the number of shares of the Company’s common stock authorized for issuance, as of September 10, 2020, the Company had sufficient reserved shares and therefore may settle conversions of the 2023 Notes in cash, stock, or a combination thereof, solely at the Company’s discretion. It is the Company’s current intent and policy to settle all conversions through combination settlement, which involves satisfying the principal amount outstanding with cash and any note conversion value over the principal amount in shares of the Company’s common stock. The initial conversion rate of the 2023 Notes is 11.8778 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $84.19 per share, subject to adjustments. In addition, following certain corporate events that occur prior to the maturity date, the Company will increase the conversion rate for a holder who elects to convert its 2023 Notes in connection with such a corporate event in certain circumstances. As of September 10, 2020, the Company used the treasury share method for assumed conversion of the 2023 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share. The Company also entered into transactions for a convertible notes hedge and warrants concurrently with the issuance of the 2023 Notes.

As discussed in Note 5 to the Unaudited Consolidated Financial Statements, at the time of issuance the Embedded Conversion Derivative required bifurcation from the 2023 Notes and was initially accounted for as a liability, which was included in long-term liabilities in the Company’s Unaudited Consolidated Balance Sheet. The fair value of the 2023 Notes Embedded Conversion Derivative was $57.2 million, and was recorded as the original debt discount for purposes of accounting for the debt component of the 2023 Notes. On September 10, 2020, as a result of the increase in the number of shares of the Company’s common stock authorized for issuance, the Company had sufficient reserved shares to settle conversions of the 2023 Notes in cash, stock, or a combination thereof, and in accordance with authoritative literature, the Embedded Conversion Derivative was marked to fair value and reclassified to stockholders’ equity, which resulted in recognizing $37.3 million in additional paid-in-capital during 2020. The original issue discount is recognized as interest expense using the effective interest method.

As of January 1, 2021, the Company early adopted ASU 2020-06, which removed the requirement of separating the embedded conversion feature classified within stockholders’ equity from the 2023 Notes. The standard also required the Company to use the if-converted method in the calculation of diluted earnings per share. Accordingly, the Company reclassified the unamortized debt discount from its additional paid-in capital to its senior convertible notes within long-term liabilities in the Unaudited Consolidated Balance Sheet. The impact of the adoption of ASU 2020-06 as of January 1, 2021 resulted in an increase in senior convertible notes and retained earnings of $46.8 million and $7.9 million, respectively, and a decrease in deferred tax liabilities and additional paid-in capital by $11.2 million and $43.5 million, respectively.

The interest expense recognized on the 2023 Notes during the three months ended September 30, 2021 includes $1.1 million for both the contractual coupon interest and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2023 Notes during the nine months ended September 30, 2021 includes $3.4 million for both the contractual coupon interest and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2023 Notes during the three months ended September 30, 2020 includes $1.1 million, $4.4 million and $1.0 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2023 Notes during the nine months ended September 30, 2020 includes $1.5 million, $5.9 million and $1.3 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. Prior to the adoption of ASU 2020-06, the effective interest rate on the 2023 Notes was 6.8%, which included the interest on the notes, amortization of the debt discount and debt issuance costs. Subsequent to the adoption of ASU 2020-06, the effective interest rate on the 2023 Notes is 2.0%, which includes the interest on the notes and debt issuance costs. Interest on the 2023 Notes began accruing upon issuance and is payable semi-annually.

Prior to February 1, 2023, holders may convert their 2023 Notes only under the following conditions: (a) during any calendar quarter commencing after the calendar quarter ending on September 30, 2020 (and only during such calendar quarter), if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (b) during the five business day period after any five consecutive trading day period (the "measurement period") in which the trading price of the 2023 Notes per $1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on such trading day; (c) if we call any or all of the 2023 Notes for redemption, at any time prior to the close of business on the second scheduled trading day preceding the redemption date; or (d) upon the occurrence of specified corporate events, as defined in the 2023 Notes. On or after February 1, 2023, until the close of business on the second scheduled trading day immediately preceding June 1, 2023, holders may convert their 2023 Notes at any time, regardless of the foregoing conditions.

The Company may not redeem the 2023 Notes prior to the maturity date and no principal payments are due on the 2023 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2023 Notes do not contain any financial covenants and do not restrict the Company from conducting significant restructurings, paying dividends or issuing or repurchasing any of its other securities. As of September 30, 2021, the Company is unaware of any current events or market conditions that would allow holders to convert the 2023 Notes.

2023 Hedge

In connection with the sale of the 2023 Notes, the Company entered into privately negotiated call option transactions with certain dealers, which included affiliates of certain of the initial purchasers of the 2023 Notes and other financial institutions (the "2023 Counterparties"), entitling the Company to purchase up to 5,345,010 shares of the Company's common stock at an initial stock price of $84.19 per share, each of which is subject to adjustment. The 2023 Hedge was initially required to be settled in cash as the Company did not have sufficient reserved shares with respect to the 2023 Notes. As a result, the 2023 Hedge was accounted for as a derivative asset, which was included in long-term assets in the Company's Unaudited Consolidated Balance Sheet. The cost of the 2023 Hedge was $69.5 million. On September 10, 2020, as a result of the increase in the number of shares of the Company's common stock authorized for issuance, the Company had sufficient reserved shares to settle the 2023 Notes, which therefore allows for the 2023 Hedge to be settled in cash, stock, or a combination thereof. In accordance with authoritative literature, the Convertible Note Hedge Derivative was marked to fair value and reclassified to stockholders' equity, which resulted in recognizing a reduction of $37.3 million in additional paid-in-capital during 2020. The 2023 Hedge will expire on the second scheduled trading day immediately preceding June 1, 2023. The 2023 Hedge is expected to reduce the potential equity dilution upon conversion of the 2023 Notes if the daily volume-weighted average price per share of the Company's common stock exceeds the strike price of the 2023 Hedge. An assumed exercise of the 2023 Hedge by the Company is considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

2023 Warrants

In connection with the sale of the 2023 Notes, the Company sold warrants to the 2023 Counterparties (the “2023 Warrants”) to acquire up to 5,345,010 shares of the Company’s common stock. The 2023 Warrants initially limited the amount of shares the Company was required to reserve for issuance under the 2023 Warrants to an aggregate of 3,093,500 shares of the Company’s common stock, subject to adjustment upon the Company having a sufficient amount of authorized and unissued shares which are not reserved for other transactions. As a result of the Company receiving stockholder approval to increase the number of shares of the Company’s common stock authorized for issuance on September 10, 2020, the Company subsequently entered into amendment agreements with each of the 2023 Counterparties to increase the number of authorized shares of the Company’s common stock required to be reserved under the 2023 Warrants to the aggregate amount of 6,948,512 shares. The 2023 Warrants will expire on various dates from September 2023 through November 2023 and may be settled in net shares or cash, subject to certain conditions. It is the Company’s current intent and policy to settle all conversions in shares of the Company’s common stock. The Company received $46.8 million in cash proceeds from the sale of the 2023 Warrants, which was recorded in additional paid-in-capital. The 2023 Warrants could have a dilutive effect on the Company’s earnings per share to the extent that the price of the Company's common stock during a given measurement period exceeds the strike price of the 2023 Warrants, which is $104.84 per share. The Company uses the treasury share method for assumed conversion of its 2023 Warrants to compute the weighted average common shares outstanding for diluted earnings per share.

0.375% Senior Convertible Notes due 2025

In March 2020, the Company issued $450.0 million principal amount of unsecured Senior Convertible Notes with a stated interest rate of 0.375% and a maturity date of March 15, 2025 (the “2025 Notes”). The net proceeds from the offering of the 2025 Notes, after deducting initial purchasers’ discounts and costs directly related to the offering, were approximately $437.0 million. The 2025 Notes may be settled in cash, stock, or a combination thereof, solely at the Company’s discretion. It is the Company's current intent and policy to settle all conversions through combination settlement, which involves satisfying the principal amount outstanding with cash and any note conversion value over the principal amount in shares of the Company’s common stock. The initial conversion rate of the 2025 Notes is 10.7198 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $93.29 per share, subject to adjustments. In addition, following certain corporate events that occur prior to the maturity date or if the Company issues a notice of redemption, the Company will increase the conversion rate for a holder who elects to convert its 2025 Notes in connection with such a corporate event or in connection with such redemption in certain circumstances. For the year ended December 31, 2020, the Company used the treasury share method for assumed conversion of the 2025 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share. The Company also entered into transactions for a convertible notes hedge (the “2025 Hedge”) and warrants (the “2025 Warrants”) concurrently with the issuance of the 2025 Notes.

At the time of issuance and in accordance with Accounting Standards Codification Topic 470, the embedded conversion feature of the 2025 Notes required bifurcation from the notes and was initially accounted for as an equity instrument classified to stockholders’ equity, which resulted in recognizing $78.3 million in additional paid-in-capital during 2020. As of January 1, 2021, the Company early adopted ASU 2020-06, which removed the requirement of separating the embedded conversion feature classified within stockholders’ equity from the 2025 Notes. The standard also required the Company to use the if-converted method in the calculation of diluted earnings per share. Accordingly, the Company reclassified the unamortized debt discount and corresponding debt issuance costs from its additional paid-in capital to its senior convertible notes within long-term liabilities in the Unaudited Consolidated Balance Sheet. The impact of the adoption of ASU 2020-06 as of January 1, 2021 resulted in an increase in senior convertible notes and retained earnings of $64.7 million and $8.8 million, respectively, and a decrease in deferred tax liabilities and additional paid-in capital by $15.9 million and $57.6 million, respectively.

The interest expense recognized on the 2025 Notes during the three months ended September 30, 2021 includes $0.4 million and $0.7 million for the contractual coupon interest and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2025 Notes during the nine months ended September 30, 2021 includes $1.3 million and $2.0 million for the contractual coupon interest and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2025 Notes during the three months ended September 30, 2020 includes $0.4 million, $3.6 million and $0.5 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The interest expense recognized on the 2025 Notes during the nine months ended September 30, 2020 includes $1.0 million, $8.3 million and $1.0 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. Prior to the adoption of ASU 2020-06, the effective interest rate on the 2025 Notes was 4.9%, which included the interest on the notes, amortization of the debt discount and debt issuance costs. Subsequent to the adoption of ASU 2020-06, the effective interest rate on the 2025 Notes is 1.0%, which includes the interest on the notes and debt issuance costs. Interest on the 2025 Notes began accruing upon issuance and is payable semi-annually.

Prior to September 15, 2024, holders may convert their 2025 Notes only under the following conditions: (a) during any calendar quarter commencing after the calendar quarter ending on June 30, 2020 (and only during such calendar quarter), if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (b) during the five business day period after any five consecutive trading day period (the "measurement period") in which the trading price of the 2025 Notes per $1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on such trading day; (c) if the Company calls any or all of the 2025 Notes for redemption, at any time prior to the close of business on the second scheduled trading day preceding the redemption date; or (d) upon the occurrence of specified corporate events, as defined in the 2025 Notes. On or after September 15, 2024, until the close of business on the second scheduled trading day immediately preceding March 15, 2025, holders may convert their 2025 Notes at any time, regardless of the foregoing conditions.

The Company may not redeem the 2025 Notes prior to March 20, 2023. The Company may redeem the 2025 Notes, at its option, in whole or in part, on or after March 20, 2023 until the close of business on the business day immediately preceding September 15, 2024, if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company delivers written notice of a redemption. The redemption price will be equal to 100% of the principal amount of such 2025 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date. No principal payments are due on the 2025 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2025 Notes do not contain any financial covenants and do not restrict the Company from conducting significant restructurings, paying dividends or issuing or repurchasing any of its other securities. As of September 30, 2021, the Company is unaware of any current events or market conditions that would allow holders to convert the 2025 Notes.

2025 Hedge

In connection with the sale of the 2025 Notes, the Company entered into privately negotiated call option transactions with certain dealers, which included affiliates of certain of the initial purchasers of the 2025 Notes and other financial institutions (the "2025 Counterparties"), entitling the Company to purchase up to 4,823,910 shares of the Company's common stock at an initial stock price of $93.29 per share, each of which is subject to adjustment. The cost of the 2025 Hedge was $78.3 million and accounted for as an equity instrument by recognizing $78.3 million in additional paid-in-capital during 2020. The 2025 Hedge will expire on the second scheduled trading day immediately preceding March 15, 2025. The 2025 Hedge is expected to reduce the potential equity dilution upon conversion of the 2025 Notes if the daily volume-weighted average price per share of the Company's common stock exceeds the strike price of the 2025 Hedge. An assumed exercise of the 2025 Hedge by the Company is considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

2025 Warrants

The Company sold warrants to the 2025 Counterparties to acquire up to 4,823,910 shares of the Company's common stock. The 2025 Warrants will expire on various dates from June 2025 through October 2025 and may be settled in net shares or cash, subject to certain conditions. It is the Company's current intent and policy to settle all conversions in shares of the Company's common stock. The Company received $47.1 million in cash proceeds from the sale of the 2025 Warrants, which was recorded in additional paid-in-capital. The 2025 Warrants could have a dilutive effect on the Company's earnings per share to the extent that the price of the Company's common stock during a given measurement period exceeds the strike price of the 2025 Warrants, which is $127.84 per share. The Company uses the treasury share method for assumed conversion of its 2025 Warrants to compute the weighted average common shares outstanding for diluted earnings per share.

Revolving Senior Credit Facility

In February 2020, the Company entered into a Second Amended and Restated Credit Agreement (the "2020 Credit Agreement") for a revolving senior credit facility (the "2020 Facility"), which replaced the previous Amended and Restated Credit Agreement the Company had entered into in April 2017. The 2020 Credit Agreement was further amended in May 2020 to, among other things, provide additional flexibility in determining the financial covenant leverage ratios for the second and third fiscal quarters of 2020 and to adjust certain margin and benchmark rates used to determine interest under the 2020 Facility. The 2020 Credit Agreement provides for secured revolving loans, multicurrency loan options and letters of credit in an aggregate amount of up to $550.0 million. The 2020 Credit Agreement also contains an expansion feature, which allows the Company to increase the aggregate principal amount of the 2020 Facility provided the Company remains in compliance with the underlying financial covenants on a pro forma basis, including but not limited to, compliance with the consolidated interest coverage ratio and certain consolidated leverage ratios.

The 2020 Facility matures in February 2025 (subject to an earlier springing maturity date), and includes a sublimit of $50.0 million for standby letters of credit, a sublimit of $250.0 million for multicurrency borrowings, and a sublimit of $5.0 million for swingline loans. All assets of the Company and its material domestic subsidiaries continue to be pledged as collateral under the 2020 Facility (subject to customary exceptions) pursuant to the terms set forth in the Second Amended and Restated Security and Pledge Agreement executed in favor of the administrative agent by the Company. Each of the Company's material domestic subsidiaries guarantee the 2020 Facility. In connection with the 2020 Facility, the Company incurred issuance costs which will be amortized over the term of the 2020 Facility. The Company did not carry any outstanding revolving loans under the 2020 Facility as of September 30, 2021 and December 31, 2020.

Any borrowings under the 2020 Facility are intended to be used by the Company to provide financing for working capital and other general corporate purposes, including potential mergers and acquisitions and to refinance indebtedness. Borrowings under the 2020 Facility bear interest, at the Company's option, at a rate equal to an applicable margin plus: (a) the applicable Eurocurrency Rate (as defined in the 2020 Credit Agreement), or (b) a base rate determined by reference to the highest of (1) the federal funds effective rate plus 0.50%, (2) the Bank of America prime rate, and (3) the Eurocurrency Rate for an interest period of one month plus 1.00%. The margin for the 2020 Facility ranges, based on the Company's consolidated total net leverage ratio, from 0.50% to 1.25% in the case of base rate loans and from 1.50% to 2.25% in the case of Eurocurrency Rate loans. The 2020 Facility includes an unused line fee ranging, based on the Company's consolidated total net leverage ratio, from 0.35% to 0.50% per annum on the revolving commitment.

The 2020 Credit Agreement contains affirmative, negative, permitted acquisition and financial covenants, and events of default customary for financings of this type. The financial covenants require the Company to maintain a consolidated interest coverage ratio and certain consolidated leverage ratios, which are measured on a quarterly basis. The 2020 Facility grants the lenders preferred first priority liens and security interests in capital stock, intercompany debt and all of the present and future property and assets of the Company and each guarantor. The Company is currently in compliance with the 2020 Credit Agreement covenants.

8. Shareholders' Equity

In October 2017, the Company announced that the Board of Directors approved a share repurchase program authorizing the repurchase of up to $100 million of the Company's common stock over a three-year period. Under this program, the Company is authorized to repurchase common stock in open market purchases, privately negotiated purchases or other transactions through October 2020. In February 2020, the Company announced that the Board of Directors increased the share repurchase authorization from $100 million to $150 million of the Company's common stock through December 31, 2021. In March 2020, in connection with the issuance of the 2025 Notes, the Company repurchased approximately 1,085,000 shares of its common stock for $75.0 million. As of September 30, 2021, $75.0 million remained authorized under the share repurchase program.

On September 10, 2020, upon obtaining stockholder approval, the Company filed a Certificate of Amendment to its Restated Certificate of Incorporation with the Secretary of State of the State of Delaware to increase the number of authorized shares of the Company's common stock from 120,000,000 shares to 150,000,000 shares.

On November 3, 2021, the Board of Directors approved an a one-year extension of the Company's share repurchase program and increased the share repurchase authorization by $25.0 million. Accordingly, as of November 9, 2021, the Company is authorized to repurchase up to $100.0 million of its common stock through December 31, 2022.

9. Stock-Based Compensation

The compensation cost that has been included in the Unaudited Consolidated Statements of Operations for the Company's stock-based compensation plans was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(in thousands)	2021	2020	2021	2020
Selling, general and administrative expense	$ 3,245	$ 6,033	$ 13,438	$ 5,418
Research and development expense	1,656	1,439	4,323	4,194
Cost of sales	64	99	211	194
Stock-based compensation expense before taxes	4,965	7,571	17,972	9,806
Related income tax benefit	(759)	(886)	(2,746)	(1,147)
Stock-based compensation expense, net of taxes	$ 4,206	$ 6,685	$ 15,226	$ 8,659

At September 30, 2021, there was $47.1 million of unamortized compensation expense for restricted stock units ("RSUs") and performance-based restricted stock units ("PRSUs") to be recognized over a weighted average period of 2.3 years.

Restricted Stock Units and Performance-Based Restricted Stock Units

The Company issued approximately 17,000 and 304,000 shares of common stock, before net share settlement, upon vesting of RSUs and PRSUs during the three and nine months ended September 30, 2021, respectively, and issued approximately 270,000 shares of common stock, before net share settlement, upon vesting of RSUs and PRSUs during the year ended December 31, 2020.

Stock Options and Employee Stock Purchase Plan

The weighted average assumptions used to estimate the fair value of stock purchase rights under the employee stock purchase plan ("ESPP") are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
ESPP				
Volatility	35%	75%	42%	57%
Expected term (years)	0.5	0.5	0.5	0.5
Risk free interest rate	0.1%	0.1%	0.1%	0.7%
Expected dividend yield	—%	—%	—%	—%

Under the terms of the ESPP, the Company's employees can elect to have up to 15% of their annual compensation, up to a maximum of $21,250 per year, withheld to purchase shares of the Company's common stock for a purchase price equal to 85% of the lower of the fair market value per share (at closing) of the Company's common stock on (i) the commencement date of the six-month offering period, or (ii) the respective purchase date.

The Company has not granted any options since 2011. As of December 31, 2020, the Company did not have any outstanding stock options. The Company issued approximately 16,000 shares of common stock, before net share settlement, upon the exercise of outstanding stock options during the year ended December 31, 2020.

10. Income Taxes

Income taxes are determined using an estimated annual effective tax rate applied against income, and then adjusted for the tax impacts of certain significant and discrete items. For the nine months ended September 30, 2021, the Company treated the tax impact of the following as discrete events for which the tax effect was recognized separately from the application of the annual effective tax rate: tax expense from return to provision adjustments, tax benefits related to share-based windfall deductions and disqualifying disposition deductions, valuation allowance adjustments, uncertain tax reserves, miscellaneous tax payments, net of refunds and changes in tax rates. The Company's effective tax rate recorded for the nine months ended September 30, 2021 was (12%), which represents tax expense on a year-to-date book loss before taxes.

In accordance with the disclosure requirements as described in ASC 740, the Company has classified unrecognized tax benefits as non-current income tax liabilities, or a reduction in deferred tax assets, unless expected to be paid within one year. The Company's continuing practice is to recognize interest and/or penalties related to income tax matters in income tax expense. The Company had an increase in gross unrecognized tax benefits of approximately $2.2 million during the nine months ended September 30, 2021, primarily related to research and development credits. The Company believes it is reasonably possible that approximately $0.7 million of its remaining unrecognized tax positions may be recognized within the next twelve months as certain statute of limitations expire, the amount of which is primarily attributable to tax positions involving the valuation of intercompany transactions.

The Company is subject to routine compliance reviews on various tax matters around the world in the ordinary course of business. Currently, the only active audits are with the U.S. Internal Revenue Service for the 2014 – 2016 tax years, Florida for the 2016 – 2018 tax years, and New York State for the 2018 – 2019 tax years. California income tax returns are subject to examination in all years due to prior year net operating losses and research and development credits. Income tax returns of other major state and foreign jurisdictions remain subject to examination from 2016 and 2013 forward, respectively.

11. Business Segment, Product and Geographic Information

The Company operates in one segment based upon the Company's organizational structure, the way in which the operations and investments are managed and evaluated by the chief operating decision maker ("CODM") as well as the lack of availability of discrete financial information at a lower level. The Company's CODM reviews net sales at the product line offering level, and manufacturing, operating income and expenses, and net income at the Company wide level to allocate resources and assess the Company's overall performance. The Company shares common, centralized support functions, including finance, human resources, legal, information technology, and corporate marketing, all of which report directly to the CODM. Accordingly, decision-making regarding the Company's overall operating performance and allocation of Company resources is assessed on a consolidated basis. The Company has disclosed the net sales for each of its product line offerings to provide the reader of the financial statements transparency into the operations of the Company.

The Company reports under two distinct product lines; spinal hardware and surgical support. The Company's spinal hardware product line offerings include implants and fixation products. The Company's surgical support product offerings include IONM services, disposables and biologics, and our capital equipment, all of which are used to aid spinal surgery.

Net sales by product line was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(in thousands)	2021	2020	2021	2020
Spinal hardware	$ 204,250	$ 220,933	$ 630,052	$ 564,620
Surgical support	66,586	74,349	206,861	194,155
Total net sales	$ 270,836	$ 295,282	$ 836,913	$ 758,775

Net sales and property and equipment, net, by geographic area were as follows:

	Net Sales				Property and Equipment, Net	
	Three Months Ended September 30,		Nine Months Ended September 30,		September 30,	December 31,
(in thousands)	2021	2020	2021	2020	2021	2020
United States	$ 207,228	$ 232,112	$ 644,848	$ 597,601	$ 253,615	$ 239,802
International (excludes Puerto Rico)	63,608	63,170	192,065	161,174	48,580	46,567
Total	$ 270,836	$ 295,282	$ 836,913	$ 758,775	$ 302,195	$ 286,369

12. Commitments

Leases

At the inception of a contractual arrangement, the Company determines whether the contract contains a lease by assessing whether there is an identified asset and whether the contract conveys the right to control the use of the identified asset in exchange for consideration over a period of time. If both criteria are met, the Company records the associated lease liability and corresponding right-of-use asset upon commencement of the lease using a discount rate based on a credit-adjusted secured borrowing rate commensurate with the term of the lease.

The Company records lease liabilities within current liabilities or long-term liabilities based upon the length of time associated with the lease payments. The Company records its operating lease right-of-use assets as long-term assets. Right-of-use assets for financing leases are recorded within property and equipment, net in the Unaudited Consolidated Balance Sheet. Leases with an initial term of 12 months or less are not recorded in the Unaudited Consolidated Balance Sheet. The Company recognizes lease expense on a straight-line basis over the lease term. In connection with certain operating leases, the Company has security deposits recorded and maintained as restricted cash totaling $1.5 million as of September 30, 2021 and December 31, 2020.

The Company leases office and storage facilities and equipment under various operating and financing lease agreements. The initial terms of these leases range from 1 to 17 years and generally provide for periodic rent increases, and renewal and termination options. The Company's lease agreements do not contain any material variable lease payments, residual value guarantees or material restrictive covenants.

Certain leases require the Company to pay taxes, insurance, and maintenance. Payments for the transfer of goods or services such as common area maintenance and utilities represent non-lease components. The Company elected the package of practical expedients and therefore does not separate non-lease components from lease components.

The table below summarizes the Company's right-of-use assets and lease liabilities as of September 30, 2021 and December 31, 2020:

(in thousands, except years and rates)	September 30, 2021	December 31, 2020
Assets		
Operating	$ 104,590	$ 102,270
Financing	2,322	2,956
Total leased assets	$ 106,912	$ 105,226
Liabilities		
Current:		
Operating	$ 9,627	$ 7,875
Financing	1,500	1,355
Long-term:		
Operating	113,128	111,634
Financing	987	1,812
Total lease liabilities	$ 125,242	$ 122,676
Supplemental non-cash information:		
Weighted-average remaining lease term (years) - operating leases	11.7	12.8
Weighted-average remaining lease term (years) - finance leases	2.2	2.2
Weighted-average discount rate - operating leases	5.3%	5.4%
Weighted-average discount rate - finance leases	4.9%	4.9%

The table below summarizes the Company's lease costs, cash payments, and operating lease liabilities arising from obtaining right-of-use assets under its operating and financing lease obligations:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(in thousands)	2021	2020	2021	2020
Lease expense:				
Operating lease expense	$ 4,068	$ 3,888	$ 12,004	$ 11,348
Finance lease expense:				
Depreciation of right-of-use assets	352	313	1,006	876
Interest expense on lease liabilities	27	30	88	89
Total lease expense	$ 4,447	$ 4,231	$ 13,098	$ 12,313
Consolidated Statements of Cash Flows information:				
Operating cash flows used for operating leases	$ 3,914	$ 3,724	$ 11,403	$ 10,720
Operating cash flows used for financing leases	27	30	88	89
Financing cash flows used for financing leases	367	242	1,038	784
Total cash paid for amounts included in the measurement of lease liabilities	$ 4,308	$ 3,996	$ 12,529	$ 11,593
Supplemental non-cash information:				
Operating lease liabilities arising from obtaining right-of-use assets	$ 1,375	$ 953	$ 10,534	$ 40,758

The Company's future minimum annual lease payments under operating and financing leases at September 30, 2021 are as follows:

(in thousands)	Financing Leases	Operating Leases
Remaining 2021	$ 396	$ 3,998
2022	1,517	15,791
2023	587	14,865
2024	63	13,642
2025	11	12,310
Thereafter	7	108,721
Total minimum lease payments	$ 2,581	$ 169,327
Less: amount representing interest	(94)	(46,572)
Present value of obligations under leases	2,487	122,755
Less: current portion	(1,500)	(9,627)
Long-term lease obligations	$ 987	$ 113,128

Executive Severance Plans

The Company has employment contracts with key executives and maintains severance plans that provide for the payment of severance and other benefits if such executives are terminated for reasons other than cause, as defined in those agreements and plans. Certain agreements call for payments that are based on historical compensation, and accordingly, the amount of the contractual commitment will change over time commensurate with the executive's applicable earnings. At September 30, 2021, future commitments for such key executives were approximately $16.6 million. In certain circumstances, the agreements call for the acceleration of equity vesting. Those figures are not reflected in the above information.

13. Contingencies

The Company is subject to potential liabilities under government regulations and various claims and legal actions that are pending or may be asserted from time-to-time. These matters arise in the ordinary course and conduct of the Company's business and include, for example, commercial, intellectual property, environmental, securities and employment matters. The Company intends to continue to defend itself vigorously in such matters and when warranted, take legal action against others. Furthermore, the Company regularly assesses contingencies to determine the degree of probability and range of possible loss for potential accrual in its financial statements.

An estimated loss contingency is accrued in the Company's financial statements if it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Based on the Company's assessment, it has adequately accrued an amount for contingent liabilities currently in existence. The Company does not accrue amounts for liabilities that it does not believe are probable. Litigation is inherently unpredictable, and unfavorable resolutions could occur. As a result, assessing contingencies is highly subjective and requires judgment about future events. The amount of ultimate loss may exceed the Company's current accruals, and it is possible that its cash flows or results of operations could be materially affected in any particular period by the unfavorable resolution of one or more of these contingencies.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

Forward-Looking Statements May Prove Inaccurate

This quarterly report on Form 10-Q ("Quarterly Report"), including the following discussion and analysis, may contain forward-looking statements that involve risks, uncertainties, assumptions and other factors which, if they do not materialize or prove correct, could cause our results to differ from historical results or those expressed or implied by such forward-looking statements. In some cases, you can identify these forward-looking statements by words like "may", "will", "should", "could", "expect", "plan", "anticipate", "believes", "estimates", "predicts", "potential", "intends", or "continues" (or the negative of those words and other comparable words). Forward-looking statements include, but are not limited to, statements about:

- the value proposition of our products and procedural solutions;
- our intentions, beliefs and expectations regarding our expenses, sales, operations and future financial performance;
- our operating results;
- our plans for future product developments and enhancements of existing products;
- anticipated growth and trends in our business;
- third party reimbursement policies and practices;
- the timing of and our ability to maintain and obtain regulatory clearances or approvals;
- our belief that our cash and cash equivalents and investments will be sufficient to satisfy our anticipated cash requirements;
- the impact of global economic conditions and public health crises and epidemics, such as the COVID-19 pandemic, on our business and industry;
- our expectations regarding our customers and the adoption of our products and procedures;
- our beliefs and expectations regarding our market penetration and expansion efforts;
- our expectations regarding the benefits and integration of recently-acquired businesses and our ability to make future acquisitions and successfully integrate any such future-acquired businesses;
- our anticipated trends, product pricing pressure, competitive tactics and other challenges in the markets in which we operate; and
- our expectations and beliefs regarding and the impact of policy changes, investigations, claims and litigation.

These statements are not guarantees of future performance or events. Our actual results may differ materially from those discussed here. The potential risks and uncertainties that could cause actual results to differ materially include, but are not limited to those set forth under the heading "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2020, and this Quarterly Report on Form 10-Q, and similar discussions in our other Securities and Exchange Commission (the "SEC") filings. We assume no obligation to update any forward looking statements to reflect new information, future events or circumstances or otherwise.

This information should be read in conjunction with the Unaudited Consolidated Financial Statements and the notes thereto included in Part I, Item 1 of this Quarterly Report and with Management's Discussion and Analysis of Financial Condition and Results of Operations for the year ended December 31, 2020 contained in our 2020 Annual Report on Form 10-K.

Overview

We are a global medical technology company focused on developing, manufacturing, selling and providing procedural solutions for spine surgery, with a guiding purpose to transform surgery, advance care and change lives. We offer a comprehensive portfolio of procedurally integrated spine surgery solutions, including surgical access instruments, spinal implants, fixation systems, biologics, and enabling technologies, as well as systems and services for intraoperative neuromonitoring. In addition, we develop and sell magnetically adjustable implant systems for spine and specialized orthopedic procedures.

Since our incorporation in 1997, we have grown from a small developer of specialty spinal implants into a leading medical technology company delivering procedurally integrated solutions for spine surgery. A key driver of our growth has been our focus on innovative products and technologies that drive reproducible outcomes for patients, surgeons and providers. In 2003, we introduced the eXtreme Lateral Interbody Fusion procedure, or XLIF, a lateral access spine surgery technique that is less-invasive than traditional, open surgical procedures and clinically proven to enable better patient outcomes. Building off the success of XLIF, we have continued to develop innovative less-invasive techniques and technologies for spine surgery, and we have broadened our portfolio of solutions for traditional, open surgical procedures. Our comprehensive portfolio of solutions can be utilized in procedures for the cervical, thoracic and lumbar spine, supporting surgical approaches from the anterior, including lateral, and posterior. Our solutions are used to treat degenerative conditions and for complex spinal surgery, including adult and pediatric deformities, as well as trauma and tumors.

Underlying our procedurally integrated solutions for spine surgery are innovative technologies designed to enable better clinical, financial, and operational outcomes, including:

- our differentiated surgical access instruments, including our Maxcess integrated split-blade retractor system, designed to enable less-invasive surgical techniques by minimizing soft tissue disruption during spine surgery;
- our neuromonitoring systems, which use proprietary software-driven nerve detection and avoidance technology, and our intraoperative neuromonitoring, or IONM, services and support;
- our Advanced Materials Science portfolio of specialized spinal implants, designed to advance spinal fusion by enhancing the osseointegration and biomechanical properties of implant materials, including porous titanium and porous polyetheretherketone, or PEEK;
- our comprehensive Reline fixation system, designed to facilitate the preservation and restoration of patient alignment, while addressing a vast array of spinal pathologies from an open or less-invasive approach across all spinal procedures; and
- our Integrated Global Alignment platform, or iGA, which is comprised of procedurally-based technologies that help increase the predictability of achieving global alignment in spinal procedures, including our Bendini spinal rod bending system that expedites manual rod manipulation for spinal fixation.

We have also invested in enabling technologies, including the development of capital equipment designed to further improve clinical, financial, and operational outcomes of spine surgery. Our capital equipment portfolio currently consists of Lessray and the Pulse platform. Lessray is an image enhancement platform designed to reduce radiation exposure in the operating room by allowing surgeons to take low-quality, low-dose images and improve them to look like conventional full-dose images. Pulse, which has received CE certification in Europe and regulatory clearance in the U.S., integrates multiple enabling technologies within a single, expandable platform and is engineered to improve workflow, reduce variability, and increase the reproducibility of surgical outcomes. The Pulse platform's modular architecture is designed to incorporate applications for neuromonitoring, surgical planning, patient-specific rod bending, smart imaging, navigation, and integration with robotics and other smart tools in the future.

In addition to our procedurally integrated solutions for spine surgery, we also design and sell expandable growing rod implant systems that can be non-invasively lengthened following implantation with precise, incremental adjustments via an external remote controller using magnetic technology called MAGnetic External Control, or MAGEC, which allows for the minimally invasive treatment of early-onset and adolescent scoliosis. This technology is also the basis for our Precice limb lengthening system, which allows for the correction of long bone limb length discrepancy, as well as other products for treating specialized orthopedic procedures.

We intend to continue development on a wide variety of innovation projects to advance our leadership position in less-invasive spine surgery, increase our product offerings and solutions for traditional spine surgery procedures, and further our enabling technologies portfolio. We expect to continue to invest in the Pulse platform to support a full global launch of the technology and to develop and expand its application offerings, including investments related to surgical automation and robotics. In addition, we expect to continue to pursue business and technology acquisition targets and strategic relationships to identify opportunities to broaden participation along the spine care continuum. Top priorities include opportunities that complement our technology leadership position in spine, targeted geographic expansion, technology that makes procedures even safer, as well as opportunities for surgical automation.

In December 2019, a novel strain of coronavirus which causes COVID-19, was identified. Due to the rapid and global spread of the virus, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. To slow the proliferation of COVID-19, governments have implemented extraordinary measures, which include the mandatory closure of businesses, restrictions on travel and gatherings, and quarantine and physical distancing requirements. In addition, many government agencies in conjunction with hospitals and healthcare systems have, to varying degrees, deferred or suspended elective surgical procedures. While certain spine surgeries are deemed essential and certain surgeries, like in cases of trauma, cannot be delayed, we have seen and may continue to see a significant reduction in procedural volumes as hospital systems and/or patients elect to defer spine surgery procedures. The cumulative effect of these disruptions had a significant impact on our business during the year ended December 31, 2020 and the nine months ended September 30, 2021, and it is not possible for us to accurately predict the length or severity of the COVID-19 pandemic or the timing for a broad and sustained resumption of elective surgical procedures. During the three months ended September 30, 2021, procedural volumes for elective surgeries were negatively affected in the U.S. and certain international regions primarily due to the impact of the COVID-19 Delta variant as well as U.S. healthcare worker shortages. The COVID-19 pandemic continues to evolve and its impact on our business will depend on several factors that are highly uncertain and unpredictable, including, the efficacy and adoption of vaccines, future resurgences of the virus and its variants, the speed at which government restrictions are lifted, patient capacity at hospitals and healthcare systems, the duration and severity of U.S. healthcare worker shortages, and the willingness and ability of patients to seek care and treatment due to safety concerns or financial hardship. Further discussion of the potential impacts on our business from the COVID-19 pandemic is provided under Item 1A of Part I of our Annual Report on Form 10-K for the year ended December 31, 2020.

Net Sales and Operations

The majority of our net sales are derived from the sale of implants and fixation products, biologics, disposables and IONM services and we expect this trend to continue for the foreseeable future. Our implants and fixation products, biologics, and disposables are currently sold and shipped from our distribution and warehousing operations. We generally recognize net sales from implants and fixation products, biologics and disposables upon notice that our products have been used in a surgical procedure or upon shipment to a third-party customer who has assumed control of the products. Net sales from IONM services are recognized in the period the service is performed for the amount of payment we expect to receive. We make available surgical instrument sets and neuromonitoring systems to hospitals to facilitate surgeon access to the spine to perform restorative and fusion procedures using our implants and fixation products. We sell surgical instrument sets and our proprietary software-driven neuromonitoring systems, however this does not make up a material part of our business. While selling or leasing of capital equipment has not historically made up a material portion of our total net sales, capital equipment selling and leasing activity will likely increase over time as a result of our commercialization of the Pulse platform.

A substantial portion of our operations are located in the United States, and the majority of our net sales and cash generation have been made in the United States. We sell our products in the United States through a sales force comprised primarily of directly-employed and independent sales representatives. Our sales force provides a delivery and consultative service to surgeon and hospital customers and is compensated based on sales and product placements in their territories. Sales force commissions are reflected in the selling, general and administrative operating expense line item within our Consolidated Statements of Operations. We continue to invest in international expansion with a focus on European, Asia-Pacific and Latin American markets. Our international sales force is comprised of directly-employed sales personnel, independent sales representatives, as well as exclusive and non-exclusive independent third-party distributors.

During the three months ended September 30, 2021, we made a determination to withdraw certain Precice biodur products manufactured by our NuVasive Specialized Orthopedics (NSO) subsidiary from the market and discontinue sales of the products. As a result, we recorded a charge of $14.2 million in the quarter for an increase to our inventory reserves and related liabilities. The withdrawn products did not include the Precice titanium device system or MAGEC system, and did not make up a material portion of our net sales.

Results of Operations

Net Sales

(in thousands, except %)	September 30, 2021	September 30, 2020	$ Change	% Change
Three Months Ended				
Net sales				
Spinal hardware	$ 204,250	$ 220,933	$ (16,683)	(8)%
Surgical support	66,586	74,349	(7,763)	(10)%
Total net sales	$ 270,836	$ 295,282	$ (24,446)	(8)%
Nine Months Ended				
Net sales				
Spinal hardware	$ 630,052	$ 564,620	$ 65,432	12%
Surgical support	206,861	194,155	12,706	7%
Total net sales	$ 836,913	$ 758,775	$ 78,138	10%

Our spinal hardware product line offerings include our implants and fixation products. Our surgical support product line offerings include IONM services, disposables and biologics, and our capital equipment, all of which are used to aid spine surgery.

We expect continued adoption of our innovative minimally invasive procedures and deeper penetration into existing accounts and international markets as our sales force executes on our strategy of selling the full mix of our products and services. However, the continued consolidation and increased purchasing power of our hospital customers and group purchasing organizations, continued changes in the public and private insurance markets regarding reimbursement, and ongoing policy and legislative changes in the United States have created less predictability. Although the market for procedurally-integrated spine surgery solutions is expected to continue to grow over the long term, economic, political and regulatory influences are subjecting our industry to significant changes that may slow the growth rate of the spine surgery market. Additionally, the COVID-19 pandemic has had, and may continue to have, an adverse effect on our business. While procedural volume rates for elective surgeries did recover during the second quarter of 2021, they declined in the U.S. and certain international regions during the three months ended September 30, 2021 primarily due to the impact of the COVID-19 Delta variant along with shortages in U.S. healthcare workers. The COVID-19 pandemic continues to evolve and it is not possible to accurately predict the length or severity of the COVID-19 pandemic or the timing for a broad and sustained resumption of elective surgical procedures.

Net sales from our spinal hardware product line offerings decreased $16.7 million, or 8%, during the three months ended September 30, 2021, compared to the same period in 2020. Product volume within spinal hardware decreased our net sales by approximately 7% during the three months ended September 30, 2021, compared to the same period in 2020, primarily due to COVID-19 pandemic impacts and NSO product availability. There were unfavorable pricing changes of approximately 1% during the three months ended September 30, 2021, compared to the same period in 2020. Foreign currency fluctuation had an insignificant impact on net sales from spinal hardware for the three months ended September 30, 2021, compared to the same period in 2020.

Net sales from our spinal hardware product line offerings increased $65.4 million, or 12%, during the nine months ended September 30, 2021, compared to the same period in 2020. Product volume within spinal hardware increased our net sales by approximately 12% during the nine months ended September 30, 2021, compared to the same period in 2020, primarily due to improved recovery rates of certain elective surgeries as a result of COVID-19 pandemic impacts. There were unfavorable pricing changes of approximately 1% during the nine months ended September 30, 2021, compared to the same period in 2020. Foreign currency fluctuation increased our spinal hardware net sales by approximately 1% during the nine months ended September 30, 2021, compared to the same period in 2020.

Net sales from our surgical support product line offerings decreased $7.8 million, or 10%, during the three months ended September 30, 2021, compared to the same period in 2020. Product and service volume within surgical support decreased our net sales by approximately 9% during the three months ended September 30, 2021, compared to the same period in 2020, primarily due to a reduction in elective surgeries as a result of COVID-19 pandemic impacts. There were unfavorable pricing changes of approximately 1% during the three months ended September 30, 2021, compared to the same period in 2020. Foreign currency fluctuation had an insignificant impact on net sales from surgical support for the three months ended September 30, 2021, compared to the same period in 2020.

Net sales from our surgical support product line offerings increased $12.7 million, or 7%, during the nine months ended September 30, 2021, compared to the same period in 2020. Product and service volume within surgical support increased our net sales by approximately 8% during the nine months ended September 30, 2021, compared to the same period in 2020, primarily due to improved recovery rates of certain elective surgeries as a result of COVID-19 pandemic. There were unfavorable pricing changes of approximately 1% during nine months ended September 30, 2021, compared to the same period in 2020. Foreign currency fluctuation had an insignificant impact on net sales from surgical support for the nine months ended September 30, 2021, compared to the same period in 2020.

Cost of Sales, Excluding Below Amortization of Intangible Assets

(*in thousands, except %*)	September 30, 2021	September 30, 2020	$ Change	% Change
Three Months Ended				
Cost of sales	$ 88,652	$ 84,633	$ 4,019	5%
% of total net sales	33%	29%		4%
Nine Months Ended				
Cost of sales	$ 238,743	$ 237,003	$ 1,740	1%
% of total net sales	29%	31%		(2)%

Cost of sales consists primarily of purchased goods, raw materials, labor and overhead associated with product manufacturing, inventory-related costs and royalty expenses, as well as the cost of providing IONM services, which includes personnel and physician oversight costs. We primarily procure and manufacture our goods in the United States, and accordingly, foreign currency fluctuations have not materially impacted our cost of sales.

Cost of sales increased $4.0 million, or 5%, during the three months ended September 30, 2021, compared to the same period in 2020. Cost of sales as a percentage of net sales for the three months ended September 30, 2021 increased by 4%, compared to the same period in 2020. The increase in cost of sales for the three months ended September 30, 2021 is primarily attributable to an increase in our inventory reserves of $4.7 million. During the three months ended September 30, 2021, we recorded a $14.2 million inventory reserve associated with a withdrawal of certain products from the market. Separately, offsetting this increase is a reduction in the change in the amount of our reserve for excess and obsolete inventory of $9.5 million during the three months ended September 30, 2021 as compared to the three months ended September 30, 2020. This reduction is primarily attributable to updates to our estimates and assumptions about future demand for certain spinal hardware products associated with market conditions affected by the COVID-19 pandemic. Additionally, we observed a proportional reduction in cost of sales associated with lower net sales due to a reduction in elective surgeries from pandemic impacts in the three months ended September 30, 2021 when compared to the same period in 2020.

Cost of sales increased $1.7 million, or 1%, during the nine months ended September 30, 2021, compared to the same period in 2020. Cost of sales as a percentage of net sales for the nine months ended September 30, 2021 decreased by 2%, compared to the same period in 2020. The increase in cost of sales for the nine months ended September 30, 2021 is primarily associated with proportional higher net sales, compared to the same period in 2020. Offsetting this increase is a decrease in the change in the amount of our excess and obsolete inventory reserves of $17.8 million as compared to the nine months ended September 30, 2020. This reduction in our excess and obsolete inventory reserves is primarily attributable to the $14.2 million inventory reserve recorded in the third quarter of 2021 associated with the withdrawal of certain products from the market. Separately, offsetting this increase is a reduction in the change in the amount of our reserve for excess and obsolete inventory of $32.0 million during the nine months ended September 30, 2021 as compared to the nine months ended September 30, 2020. This reduction is primarily attributable to updates to our estimates and assumptions about future demand for certain spinal hardware products associated with market conditions affected by the COVID-19 pandemic.

Operating Expenses

(*in thousands, except %*)	Three Months Ended September 30, 2021	2020	$ Change	% Change
Selling, general and administrative	$ 146,056	$ 146,260	$ (204)	(0)%
% of total net sales	54%	50%		
Research and development	23,405	20,404	3,001	15%
% of total net sales	9%	7%		
Amortization of intangible assets	14,805	13,826	979	7%
Business transition costs	4,551	3,107	1,444	46%

(*in thousands, except %*)	Nine Months Ended September 30, 2021	2020	$ Change	% Change
Selling, general and administrative	$ 449,407	$ 402,935	$ 46,472	12%
% of total net sales	54%	53%		
Research and development	67,393	58,067	9,326	16%
% of total net sales	8%	8%		
Amortization of intangible assets	43,230	39,150	4,080	10%
Purchase of in-process research and development	—	1,011	(1,011)	*
Business transition costs	21,688	2,541	19,147	(754)%

Selling, General and Administrative

Selling, general and administrative expenses consist primarily of compensation costs, commissions and training costs for our employees engaged in sales, marketing and customer support functions. The expense also includes commissions to sales representatives, freight expenses, surgeon training costs, depreciation expense for property and equipment such as surgical instrument sets, and administrative expenses for both employees and third-party service providers.

Selling, general and administrative expenses decreased by $0.2 million during the three months ended September 30, 2021, compared to the same period in 2020. The decrease during the three months ended September 30, 2021 is primarily due to reduction in compensation costs, including stock-based compensation, commissions, legal expenses associated with certain ongoing litigation matters, and partially offset by an increase in travel expenses, compared to the same period in 2020.

Selling, general and administrative expenses increased by $46.5 million, or 12%, during the nine months ended September 30, 2021, compared to the same period in 2020. The increase during the nine months ended September 30, 2021 is primarily due to increased compensation costs, including stock-based compensation, commissions and freight expenses, compared to the same period in 2020. During the nine months ended September 30, 2020, we implemented temporary actions to reduce expenses, including compensation reductions for our Board of Directors and executive officers and reducing discretionary spend across the organization, due to the impacts from the COVID-19 pandemic. These increases were partially offset by reduced legal expenses during the nine months ended September 30, 2021, associated with certain ongoing litigation matters.

Research and Development

Research and development expense consists primarily of product research and development, clinical trial and study costs, regulatory and clinical functions, and compensation and other employee related expenses. In the last several years, we have introduced numerous new products and product enhancements that have significantly expanded our technology platforms and our comprehensive product portfolio. We have also acquired complementary and strategic assets and technology, particularly in the area of spinal hardware products. We continue to invest in research and development programs related to our core product portfolio, as well as in our capital equipment.

Research and development expense increased by $3.0 million and $9.3 million, or 15% and 16%, during the three and nine months ended September 30, 2021, respectively, compared to the same periods in 2020. The increase in spending is primarily due to higher headcount and headcount-related costs and further development, enhancement and functionality of our current and future product offerings, including capital equipment and the Simplify Cervical Artificial Disc acquired during the first quarter of 2021. Over the course of the COVID-19 pandemic, we have stayed committed to our investment in research and development in order to further advance our leadership position in spine surgery and our enabling technologies portfolio.

Business Transition Costs

We incur certain costs related to acquisition, integration and business transition activities, which include severance, relocation, consulting, leasehold exit costs, third-party merger and acquisition costs, contingent consideration fair value adjustments and other costs directly associated with such activities. Contingent consideration is accrued based on the fair value of the expected payment, and such accruals are subject to increase or decrease based on assessment of the likelihood and amount of contingent milestone achievement, resulting in payment. If an accrual for contingent consideration decreases during a particular period, it results in a reduction of costs during such period.

During the three months ended September 30, 2021, we recorded $4.6 million of costs related to acquisition, integration and business transition activities, which included $0.7 million of fair value adjustments on contingent consideration liabilities associated with our 2021, 2017 and 2016 acquisitions. During the nine months ended September 30, 2021, we recorded $21.7 million of costs related to acquisition, integration and business transition activities, which included $6.6 million of fair value adjustments on contingent consideration liabilities associated with our 2021, 2017 and 2016 acquisitions. We incurred $4.0 million of costs associated with the acquisition of Simplify Medical during the nine months ended September 30, 2021.

During the three months ended September 30, 2020, we recorded $3.1 million of costs related to acquisition, integration and business transition activities, which included $1.2 million of fair value adjustments on contingent consideration liabilities associated with our 2017 and 2016 acquisitions. During the nine months ended September 30, 2020, we recorded $2.5 million of costs related to acquisition, integration and business transition activities, which included $(0.4) million of fair value adjustments on contingent consideration liabilities associated with our 2017 and 2016 acquisitions.

Interest and Other Expense, Net

	September 30,			
(*in thousands, except %*)	2021	2020	$ Change	% Change
Three Months Ended				
Interest income	$ 23	$ 271	$ (248)	(92)%
Interest expense	(4,320)	(21,123)	16,803	(80)%
Other (expense) income, net	(13,082)	251	(13,333)	(5,312)%
Total interest and other expense, net	$ (17,379)	$ (20,601)	$ 3,222	(16)%
Nine Months Ended				
Interest income	$ 119	$ 1,306	$ (1,187)	(91)%
Interest expense	(16,738)	(49,164)	32,426	(66)%
Other expense, net	(24,339)	(18,819)	(5,520)	29%
Total interest and other expense, net	$ (40,958)	$ (66,677)	$ 25,719	(39)%

Total interest and other expense, net for the periods presented included gains and losses from strategic investments and net foreign currency exchange gains and losses. Total interest and other expense, net decreased by $3.2 million during the three months ended September 30, 2021 as compared to the same period in 2020. Interest expense decreased by $16.8 million primarily due to the discontinuation of accretion of the debt discount for our Senior Convertible Notes due 2023 and 2025 resulting from our adoption of ASU 2020-06 on January 1, 2021, as well as a reduction in interest expense relating to the 2021 Senior Convertible Notes which were settled in March 2021. Other (expense) income, net increased by ($13.3) million during the three months ended September 30, 2021 due to an increase in net foreign currency exchange losses of $12.2 million. We established intercompany receivables and payables and contingent consideration liabilities in connection with the acquisition of Simplify Medical which are subject to foreign currency remeasurement. See Note 1 to the Unaudited Consolidated Financial Statements for further discussion on the adoption of ASU 2020-06.

Total interest and other expense, net decreased by $25.7 million during the nine months ended September 30, 2021 as compared to the same period in 2020. Interest expense decreased by $32.4 million primarily due to the discontinuation of accretion of the debt discount for our Senior Convertible Notes due 2021, 2023 and 2025 resulting from our adoption of ASU 2020-06 on January 1, 2021, as well as a reduction in interest expense relating to the 2021 Senior Convertible Notes which were settled in March 2021. Other expense, net increased by $5.5 million primarily due to an increase in net foreign currency exchange losses of $20.4 million during the nine months ended September 30, 2021, compared to the same period in 2020. Offsetting this increase, is a net loss of $12.3 million recognized during the nine months ended September 30, 2020 for the change in fair value of derivative assets and liabilities corresponding to the Senior Convertible Notes due 2023, and an increase in the net gain from strategic investments of $2.4 million recorded during the nine months ended September 30, 2021.

Income Tax (Benefit) Expense

(*in thousands, except %*)	September 30, 2021	September 30, 2020
Three Months Ended		
Income tax (benefit) expense	$ (2,373)	$ 579
Effective income tax rate	10%	9%
Nine Months Ended		
Income tax expense (benefit)	$ 2,844	$ (9,764)
Effective income tax rate	(12)%	20%

The provision for income tax expense as a percentage of pre-tax loss was a benefit of 10% for the three months ended September 30, 2021, compared with an expense of 9% on pre-tax income for the three months ended September 30, 2020. The increased rate during the three months ended September 30, 2021 was primarily due to increased valuation allowances and a decrease in uncertain tax position releases, offset by a reduced foreign income inclusion and a reduced limitation on officer's compensation deductions.

The provision for income tax expense as a percentage of pre-tax loss was (12%) for the nine months ended September 30, 2021, compared with a benefit of 20% on pre-tax losses for the nine months ended September 30, 2020. The increased expense during the nine months ended September 30, 2021 was primarily due to increased valuation allowances and a decrease in uncertain tax position releases, offset by a reduced foreign income inclusion and an increase in windfall tax benefits on share-based payments.

Liquidity, Cash Flows and Capital Resources

Liquidity and Capital Resources

Our principal sources of liquidity are our existing cash, cash equivalents and marketable securities, cash generated from operations, proceeds from our convertible notes issuances, and access to our revolving line of credit. We expect that cash provided by operating activities may fluctuate in future periods as a result of a number of factors, including fluctuations in our operating results, which include impacts from the COVID-19 pandemic, working capital requirements and capital deployment decisions. We have historically invested our cash primarily in U.S. treasuries and government agencies, corporate debt, and money market funds. Certain of these investments are subject to general credit, liquidity and other market risks. The general condition of the financial markets and the economy may increase those risks and may affect the value and liquidity of investments and restrict our ability to access the capital markets.

Our future capital requirements will depend on many factors including our growth rate in net sales, the timing and extent of spending to support development efforts, the expansion of selling, general and administrative activities, the timing of introductions of new products and enhancements to existing products, successful insourcing of our manufacturing process, the continuing market acceptance of our products, the expenditures associated with possible future acquisitions or other business combination transactions, the outcome of current and future litigation, international expansions of our business, and impacts from the COVID-19 pandemic. We expect our cash flows from operations to continue to fund the ongoing core business. As borrowings become due, we may be required to access the capital markets or draw upon our line of credit for additional funding. As we assess inorganic growth strategies, we may need to supplement our internally generated cash flow with outside sources. As part of our liquidity strategy, we will continue to monitor our current level of earnings and cash flow generation as well as our ability to secure additional credit facilities, term loans, or other similar arrangements and access the capital markets in light of those earning levels and general financial market conditions.

A substantial portion of our operations are located in the United States, and the majority of our net sales and cash generation have been made in the United States. Accordingly, we do not have material net cash flow exposures to foreign currency rate fluctuations from operations. However, as our business in markets outside of the United States continues to increase, we will be exposed to foreign currency exchange risk related to our foreign operations. Fluctuations in the rate of exchange between the United States dollar and foreign currencies, primarily in the pound sterling, the euro, the Australian dollar, the Brazilian real, the Singapore dollar, and the yen, could adversely affect our financial results, including our net sales, growth rates in net sales, gross margins, gains and losses as well as assets and liabilities. In particular, as a result of our acquisition of Simplify Medical, we have additional exposure to fluctuations in the Australian dollar. We established intercompany receivables and payables in Australian dollars in connection with the acquisition of Simplify Medical, a proprietary limited company registered in Australia. Additionally, we have future contingent consideration liabilities denominated in United States dollars, in connection with the acquisition of Simplify Medical, which are the financial obligation of NuVasive (AUST/NZ) Pty Limited, an Australian dollar denominated company. Both the intercompany receivables and payables and contingent consideration liabilities are subject to foreign currency remeasurement. While we enter into forward currency contracts for certain currencies to partially offset the impact from fluctuations of the foreign currency rates on our third-party and short-term intercompany receivables and payables between our domestic and international operations, we have not entered into hedges with respect to the Australian dollar. In addition, we currently do not hedge future forecasted transactions but will continue to assess whether that strategy is appropriate. As of September 30, 2021, the cash balance held by our foreign subsidiaries with currencies other than the United States dollar was approximately $51.3 million and it is our intention to indefinitely reinvest all of our current foreign earnings to increase working capital within our international business and to expand our existing operations outside the United States. As of September 30, 2021, our account receivable balance held by our foreign subsidiaries with currencies other than the United States dollar was approximately $52.8 million. We have operations in markets in which there is governmental financial instability which could impact funds that flow into the medical reimbursement system. In addition, loss of financial stability within these markets could lead to delays in reimbursement or inability to remit payment due to currency controls. Specifically, we have operations and/or sales in Puerto Rico, Brazil and Argentina. We do not have any material financial exposure to one customer or one country that would significantly hinder our liquidity.

We are currently, and in the future could be, involved in legal actions and investigations arising out of the normal course of our business. Due to the inherent uncertainties associated with pending legal actions and investigations, we cannot predict the outcome, and, with respect to certain pending litigation or claims where no liability has been accrued, to make a meaningful estimate of the reasonably possible loss or range of loss that could result from an unfavorable outcome, other than those matters disclosed in this Quarterly Report. We have no material accruals for pending litigation or claims that are not disclosed in our Unaudited Consolidated Financial Statements. It is reasonably possible, however, that an unfavorable outcome that exceeds our accrual estimate for a particular legal proceeding or investigation could have a material adverse effect on our liquidity and access to capital resources. Additionally, it is possible that in connection with a legal proceeding or investigation we are required to pay fees and expenses of the other party or set aside funds in an escrow or purchase a performance bond, regardless of our assessment of the probability of a loss. These requirements to pay fees and expenses or escrow funding in connection with a legal proceeding or investigation could have an adverse impact on our liquidity or affect our access to additional capital resources.

On September 12, 2016, we completed an acquisition of an imaging software and technology platform known as Lessray. In connection with the acquisition, we recorded a purchase accounting fair value estimate of $34.1 million for contingent consideration liabilities related to the achievement of certain regulatory and commercial milestones. In January 2018, we paid $9.0 million of the outstanding contingent consideration liabilities for the achievement of a commercial milestone. In July 2018, we paid $10.0 million of the outstanding contingent consideration liabilities for the achievement of a regulatory approval milestone. We anticipate the remaining sales-based milestones will become payable at varying times by 2024.

On September 7, 2017, we completed an acquisition of a medical device company that developed interbody implants for spinal fusion using patented porous PEEK technology. In connection with the acquisition, we recorded a purchase accounting fair value estimate of $31.4 million for contingent consideration liabilities related to the achievement of certain manufacturing and commercial milestones. In May 2020, we paid $7.5 million toward the successful achievement of a milestone. We anticipate the remaining milestones will become payable at varying times between 2022 and 2024, but are subject to change based on the achievement of those manufacturing and commercial milestones.

On February 24, 2021, we completed the acquisition of Simplify Medical, a developer of cervical artificial disc technology for cervical total disc replacement procedures. In connection with the acquisition, we recorded a purchase accounting fair value estimate of $103.4 million for contingent consideration liabilities related to the achievement of milestones related to regulatory approval and net sales from products incorporating the Simplify Medical cervical artificial disc technology. On April 1, 2021, the Simplify Cervical Artificial Disc received approval from the U.S. Food and Drug Administration for two-level cervical total disc replacement, resulting in the achievement of the regulatory milestone. We made a payment of $45.8 million on April 20, 2021 for the regulatory milestone using available cash. Additional milestone payments, which are contingent upon net sales from products incorporating the Simplify Medical cervical artificial disc technology, will become payable in calendar years 2023, 2024 and 2025.

Cash, cash equivalents and short-term investments were $234.6 million and $1.03 billion at September 30, 2021 and December 31, 2020, respectively. While the unprecedented public health and governmental efforts to contain the spread of COVID-19 have created significant disruptions to the healthcare system and the global economy, as of the filing date of this report, we believe our existing cash, cash equivalents, short-term investments, projected future cash flows from operations and access to external financing sources are sufficient to satisfy our current and reasonably anticipated requirements for funds to conduct our operations in the ordinary course of our business and pay our obligation as they become due for the next twelve months. Given the impact the COVID-19 pandemic has had on demand for elective surgical procedures, we took temporary actions during 2020 to reduce operating expenses and preserve liquidity, such as reducing compensation for our directors and executive officers, limiting discretionary spend, and adjusting manufacturing capacity based upon demand. Additionally, we have varying needs for cash in connection with our Senior Convertible Notes, and also as a result of certain acquisition-related obligations and milestone achievements. Future litigation or requirements to escrow funds could also materially impact our liquidity and our ability to invest in and operate our business on an ongoing basis. Although we have no cash borrowings under our existing revolving senior credit facility as of the date of this report, we expect to use our cash resources or cash borrowings under our senior credit facility to support our business within the context of prevailing market and economic conditions, which, given the continued unpredictability of the COVID-19 pandemic, could rapidly and materially deteriorate or otherwise change. During this time, we may seek other sources of liquidity through capital market or bank loan transactions to support our business needs. In addition, we may seek to further adjust or amend the terms of and/or expand the capacity of our existing senior credit facility, or enter into additional credit facilities, term loans, or other similar arrangements. However, with the uncertainty surrounding the COVID-19 pandemic, our ability to engage in such transactions may be constrained by volatile financial market conditions, reduced investor and/or lender interest or capacity, as well as our liquidity, leverage, and general creditworthiness and we can provide no assurance as to successfully completing such transactions. Furthermore, our ability to borrow under our existing revolving senior credit facility is subject to remaining in compliance with underlying financial covenants which may be difficult to satisfy if our business experiences additional disruptions as a result of the COVID-19 pandemic. Further discussion of the potential impacts on our business from the COVID-19 pandemic is provided under Item 1A of Part I of our Annual Report on Form 10-K for the year ended December 31, 2020.

The decrease in liquidity during the nine months ended September 30, 2021 of $795.4 million was primarily a result of cash outflows of $649.4 million related to the settlement of our Senior Convertible Notes due 2021, the acquisition of Simplify Medical for $149.5 million (net of cash acquired) and the payment of $45.8 million for the achievement of the Simplify Medical regulatory milestone. At September 30, 2021, we had cash totaling $1.5 million in restricted accounts which is not available to us to meet any ongoing capital requirements if and when needed.

Cash Flows from Operating Activities

Cash provided by operating activities was $144.8 million for the nine months ended September 30, 2021, compared to $113.2 million for the same period in 2020. The $31.6 million increase in cash provided by operating activities was primarily due to a reduction in payments for compensation related accruals and inventory partially offset by timing of payments for accounts payable during the nine months ended September 30, 2021, compared to the same period in 2020.

Cash Flows from Investing Activities

Cash used in investing activities was $110.4 million for the nine months ended September 30, 2021, compared to $288.2 million used for the same period in 2020. The $177.8 million decrease in cash used in investing activities was primarily due to a net increase of $380.7 million relating to purchase, sale and maturity activity from our marketable security portfolio during the first nine months of 2021 and 2020. This was partially offset by payments of $195.3 million associated with the acquisition of Simplify Medical and the associated regulatory milestone being met during the nine months ended September 30, 2021.

Cash Flows from Financing Activities

Cash used in financing activities was $654.0 million for the nine months ended September 30, 2021, compared to $735.7 million provided from financing activities for the same period in 2020. The $1.4 billion increase in cash used in financing activities was due to the $649.4 million payment to settle our Senior Convertible Notes due 2021 during the nine months ended September 30, 2021. Additionally, in the nine months ended September 30, 2020, we issued $450.0 million of Senior Convertible Notes due 2025, and $450.0 million of Senior Convertible Notes due 2023, receiving proceeds of $437.0 million and $436.9 million, respectively. These proceeds were offset by $53.9 million of net cash used for the call spreads on the sales and purchases of our warrants and bond hedges issued in connection with these Senior Convertible Notes. Treasury stock purchases decreased by $72.4 million during the nine months ended September 30, 2021, compared to the same period in 2020.

Treasury stock purchases related to equity award vesting totaled $7.3 million during the nine months ended September 30, 2021. We use net share settlement on stock issuances, which results in cash tax payments. Net share settlement is generally used in lieu of cash payments by employees for minimum tax withholding for equity awards. The net share settlement is accounted for as a treasury share repurchase transaction, with the cost of any deemed repurchased shares included in treasury stock and reported as a reduction in total equity at the time of settlement. Additionally, net share settlement for tax withholding requires us to fund a significant amount of cash for certain tax payment obligations from time-to-time with respect to the employee tax obligations for vested equity awards. We anticipate using cash generated from operating activities to fund such payments.

Senior Convertible Notes

2.25% Senior Convertible Notes due 2021

In March 2016, we issued $650.0 million principal amount of unsecured senior convertible notes with a stated interest rate of 2.25% and a maturity date of March 15, 2021, which we refer to as the 2021 Notes. The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $634.1 million. Interest on the 2021 Notes began accruing upon issuance and was payable semi-annually. Prior to September 14, 2020, the 2021 Notes provided for settlement in cash, stock, or a combination thereof, solely at our discretion. As of September 14, 2020, combination settlement was deemed to have been elected by us and the 2021 Notes will be settled by satisfying the principal amount outstanding with cash and any note conversion value over the principal amount in shares of our common stock. The initial conversion rate of the 2021 Notes was 16.7158 shares per $1,000 principal amount, which was equivalent to a conversion price of approximately $59.82 per share, subject to adjustments. Prior to September 15, 2020, holders could have converted their 2021 Notes only under the following conditions: (a) during any calendar quarter beginning June 30, 2016, if the reported sale price of our common stock for at least 20 days out of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter was greater than 130% of the conversion price on each applicable trading day; (b) during the five business day period in which the trading price of the 2021 Notes fell below 98% of the product of (i) the last reported sale price of our common stock and (ii) the conversion rate on that date; and (c) upon the occurrence of specified corporate events, as defined in the 2021 Notes. From September 15, 2020 and until the close of business on the second scheduled trading day immediately preceding March 15, 2021, holders could have converted their 2021 Notes at any time (regardless of the foregoing circumstances). The 2021 Notes can no longer be redeemed by us. We previously had the ability to redeem the 2021 Notes, at our option, in whole or in part beginning on March 20, 2019 until the close of business on the business day immediately preceding September 15, 2020 if the last reported sale price of our common stock had been at least 130% of the conversion price then in effect for at least 20 trading days during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which we deliver written notice of a redemption. No principal payments were due on the 2021 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2021 Notes did not contain any financial covenants and did not restrict us from paying dividends or issuing or repurchasing any of our other securities. As of September 15, 2020, holders could have converted their 2021 Notes at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date.

In connection with the offering of the 2021 Notes, we entered into transactions for convertible notes hedge, which we refer to as the 2021 Hedge, and warrants, which we refer to as the 2021 Warrants. The 2021 Hedge was entered into with the initial purchasers of the 2021 Notes and/or their affiliates, which we refer to as the 2021 Counterparties, entitling us to purchase up to 10,865,270 shares of our own common stock at an initial stock price of $59.82 per share, each of which was subject to adjustment. The cost of the 2021 Hedge was $111.2 million. The 2021 Hedge expired on March 15, 2021 and was put in place to reduce the potential equity dilution upon conversion of the 2021 Notes when the daily volume-weighted average price per share of our common stock exceeded the strike price of the 2021 Hedge. Prior to its expiration, an assumed exercise of the 2021 Hedge was considered anti-dilutive since the effect of the inclusion is always anti-dilutive with respect to the calculation of diluted earnings per share. On March 15, 2021, we exercised our rights under certain convertible note hedge transactions and received 842 shares of our common stock.

In addition, we sold the 2021 Warrants to the 2021 Counterparties to acquire up to 10,865,270 common shares of our stock. The 2021 Warrants will expire on various dates from June 2021 through December 2021 and may be settled in cash or net shares. As of September 30, 2021, 6,881,290 warrants expired unexercised. It is our current intent and policy to settle all conversions in shares of our common stock. We received $44.9 million in cash proceeds from the sale of the 2021 Warrants. The 2021 Warrants could have a dilutive effect on our earnings per share to the extent that the price of our common stock during a given measurement period exceeds the strike price of the 2021 Warrants, which is $80.00 per share.

On March 15, 2021, the 2021 Notes reached maturity and we settled in full the 2021 Notes. We received conversion notices from the holders of 1.4% of the 2021 Notes, representing $9.1 million outstanding principal amount thereof, which we refer to as the Conversions. We paid an aggregate of $649.4 million in cash for the settlement of the 2021 Notes, which included $640.9 million in satisfaction of the outstanding principal of the 2021 Notes and $8.5 million in cash in connection with the settlement of the Conversions. Additionally, in satisfaction of the Conversions, and pursuant to combination settlement, we issued 837 shares of common stock in the aggregate to the holders who elected to convert their outstanding notes. We funded the repayment of the outstanding principal amount of the 2021 Notes, accrued interest thereon, and the cash component of the Conversions using available cash on hand.

1.00% Senior Convertible Notes due 2023

In June 2020, we issued $450.0 million principal amount of unsecured Senior Convertible Notes with a stated interest rate of 1.00% and a maturity date of June 1, 2023, which we refer to as the 2023 Notes. The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $436.7 million. The 2023 Notes were initially required to be settled in cash as we did not have enough available shares and were unable to reserve the maximum number of shares issuable under the 2023 Notes ("sufficient reserved shares"). On September 10, 2020, we held a Special Meeting of Stockholders and received stockholder approval to amend our Restated Certificate of Incorporation to increase the number of shares of our common stock authorized for issuance from 120,000,000 shares to 150,000,000 shares. As a result of the increase in the number of shares of our common stock authorized for issuance, we currently have sufficient reserved shares and therefore may settle conversions of the 2023 Notes in cash, stock, or a combination thereof, solely at our discretion. It is our current intent and policy to settle all conversions through combination settlement, which involves satisfying the principal amount outstanding with cash and any note conversion value over the principal amount in shares of our common stock. The initial conversion rate of the 2023 Notes is 11.8778 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $84.19 per share, subject to adjustments. In addition, following certain corporate events that occur prior to the maturity date or if we issue a notice of redemption, we will increase the conversion rate for a holder who elects to convert its 2023 Notes in connection with such a corporate event or in connection with such redemption in certain circumstances. Prior to February 1, 2023, holders may convert their 2023 Notes only under the following conditions: (a) during any calendar quarter commencing after the calendar quarter ending on September 30, 2020 (and only during such calendar quarter), if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (b) during the five business day period after any five consecutive trading day period, referred to as the measurement period, in which the trading price of the 2023 Notes per $1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on such trading day; (c) if we call any or all of the 2023 Notes for redemption, at any time prior to the close of business on the second scheduled trading day preceding the redemption date; or (d) upon the occurrence of specified corporate events, as defined in the 2023 Notes. On or after February 1, 2023, until the close of business on the second scheduled trading day immediately preceding June 1, 2023, holders may convert their 2023 Notes at any time, regardless of the foregoing conditions. We may not redeem the 2023 Notes prior to the maturity date. No principal payments are due on the 2023 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2023 Notes do not contain any financial covenants and do not restrict us from conducting significant restructurings, paying dividends or issuing or repurchasing any of our other securities. As of September 30, 2021, we are unaware of any current events or market conditions that would allow holders to convert the 2023 Notes.

In connection with the sale of the 2023 Notes, we entered into transactions for convertible notes hedge, which we refer to as the 2023 Hedge, and warrants, which we refer to as the 2023 Warrants. The 2023 Hedge was entered into with certain dealers, which included affiliates of certain of the initial purchasers of the 2023 Notes and other financial institutions, which we refer to as the 2023 Counterparties, entitling us to purchase up to 5,345,010 shares of our own common stock at an initial stock price of $84.19 per share, each of which is subject to adjustment. The cost of the 2023 Hedge was $69.5 million. The 2023 Hedge will expire on the second scheduled trading day immediately preceding June 1, 2023. The 2023 Hedge is expected to reduce the potential equity dilution upon conversion of the 2023 Notes if the daily volume-weighted average price per share of our common stock exceeds the strike price of the 2023 Hedge. Our assumed exercise of the 2023 Hedge is considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

In addition, we sold the 2023 Warrants to the 2023 Counterparties to acquire up to 5,345,010 common shares of our stock. The 2023 Warrants initially limited the amount of shares we were required to reserve for issuance under the 2023 Warrants to an aggregate of 3,093,500 shares of our common stock, subject to adjustment upon having a sufficient amount of authorized and unissued shares which are not reserved for other transactions. As a result of receiving stockholder approval to increase the number of shares of our common stock authorized for issuance on September 10, 2020, we subsequently entered into amendment agreements with each of the 2023 Counterparties to increase the number of authorized shares of our common stock required to be reserved under the 2023 Warrants to the aggregate amount of 6,948,512 shares. The 2023 Warrants will expire on various dates from September 2023 through November 2023 and may be settled in net shares or cash, subject to certain conditions. It is our current intent and policy to settle all conversions in shares of our common stock. We received $46.8 million in cash proceeds from the sale of the 2023 Warrants. The 2023 Warrants could have a dilutive effect on our earnings per share to the extent that the price of our common stock during a given measurement period exceeds the strike price of the 2023 Warrants, which is $104.84 per share.

0.375% Senior Convertible Notes due 2025

In March 2020, we issued $450.0 million principal amount of unsecured senior convertible notes with a stated interest rate of 0.375% and a maturity date of March 15, 2025, which we refer to as the 2025 Notes. The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $437.0 million. Interest on the 2025 Notes began accruing upon issuance and is payable semi-annually. The 2025 Notes may be settled in cash, stock, or a combination thereof, solely at our discretion. It is our current intent and policy to settle all conversions through combination settlement, which involves satisfying the principal amount outstanding with cash and any note conversion value over the principal amount in shares of our common stock. The initial conversion rate of the 2025 Notes is 10.7198 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $93.29 per share, subject to adjustments. In addition, following certain corporate events that occur prior to the maturity date or if we issue a notice of redemption, we will increase the conversion rate for a holder who elects to convert its 2025 Notes in connection with such a corporate event or in connection with such redemption in certain circumstances. Prior to September 15, 2024, holders may convert their 2025 Notes only under the following conditions: (a) during any calendar quarter commencing after the calendar quarter ending on June 30, 2020 (and only during such calendar quarter), if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day; (b) during the five business day period after any five consecutive trading day period, referred to as the measurement period, in which the trading price of the 2025 Notes per $1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on such trading day; (c) if we call any or all of the 2025 Notes for redemption, at any time prior to the close of business on the second scheduled trading day preceding the redemption date; or (d) upon the occurrence of specified corporate events, as defined in the 2025 Notes. On or after September 15, 2024, until the close of business on the second scheduled trading day immediately preceding March 15, 2025, holders may convert their 2025 Notes at any time, regardless of the foregoing conditions. We may not redeem the 2025 Notes prior to March 20, 2023. We may redeem the 2025 Notes, at our option, in whole or in part, on or after March 20, 2023 until the close of business on the business day immediately preceding September 15, 2024, if the last reported sale price of our common stock has been at least 130% of the conversion price then in effect for at least 20 trading days during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which we deliver written notice of a redemption. The redemption price will be equal to 100% of the principal amount of such 2025 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date. No principal payments are due on the 2025 Notes prior to maturity. Other than restrictions relating to certain fundamental changes and consolidations, mergers or asset sales and customary anti-dilution adjustments, the 2025 Notes do not contain any financial covenants and do not restrict us from conducting significant restructurings, paying dividends or issuing or repurchasing any of our other securities. As of September 30, 2021, we are unaware of any current events or market conditions that would allow holders to convert the 2025 Notes.

In connection with the sale of the 2025 Notes, we entered into transactions for convertible notes hedge, which we refer to as the 2025 Hedge, and warrants, which we refer to as the 2025 Warrants. The 2025 Hedge was entered into with certain dealers, which included affiliates of certain of the initial purchasers of the 2025 Notes and other financial institutions, which we refer to as the 2025 Counterparties, entitling us to purchase up to 4,823,910 shares of our own common stock at an initial stock price of $93.29 per share, each of which is subject to adjustment. The cost of the 2025 Hedge was $78.3 million. The 2025 Hedge will expire on the second scheduled trading day immediately preceding March 15, 2025. The 2025 Hedge is expected to reduce the potential equity dilution upon conversion of the 2025 Notes if the daily volume-weighted average price per share of our common stock exceeds the strike price of the 2025 Hedge. Our assumed exercise of the 2025 Hedge is considered anti-dilutive since the effect of the inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share.

In addition, we sold the 2025 Warrants to the 2025 Counterparties to acquire up to 4,823,910 common shares of our stock. The 2025 Warrants will expire on various dates from June 2025 through October 2025 and may be settled in net shares or cash, subject to certain conditions. It is our current intent and policy to settle all conversions in shares of our common stock. We received $47.1 million in cash proceeds from the sale of the 2025 Warrants. The 2025 Warrants could have a dilutive effect on our earnings per share to the extent that the price of our common stock during a given measurement period exceeds the strike price of the 2025 Warrants, which is $127.84 per share.

Revolving Senior Credit Facility

In February 2020, we entered into a Second Amended and Restated Credit Agreement, or the 2020 Credit Agreement, for a revolving senior credit facility, referred to as the 2020 Facility, which replaced the previous Amended and Restated Credit Agreement we had entered into in April 2017. The 2020 Credit Agreement was further amended in May 2020 to, among other things, provide additional flexibility in determining the financial covenant leverage ratios for the second and third fiscal quarters of 2020 and to adjust certain margin and benchmark rates used to determine interest under the 2020 Facility. The 2020 Credit Agreement provides for secured revolving loans, multicurrency loan options and letters of credit in an aggregate amount of up to $550.0 million. The 2020 Credit Agreement also contains an expansion feature, which allows us to increase the aggregate principal amount of the 2020 Facility provided we remain in compliance with the underlying financial covenants on a pro forma basis, including but not limited to, compliance with the consolidated interest coverage ratio and certain consolidated leverage ratios. The 2020 Facility matures in February 2025 (subject to an earlier springing maturity date), and includes a sublimit of $50.0 million for standby letters of credit, a sublimit of $250.0 million for multicurrency borrowings, and a sublimit of $5.0 million for swingline loans. All of our assets including the assets of our material domestic subsidiaries continue to be pledged as collateral under the 2020 Facility (subject to customary exceptions) pursuant to the terms set forth in the Second Amended and Restated Security and Pledge Agreement executed in favor of the administrative agent. Each of our material domestic subsidiaries guarantee the 2020 Facility. In connection with the 2020 Facility, we incurred issuance costs which will be amortized over the term of the 2020 Facility. We did not carry any outstanding revolving loans under the 2020 Facility as of September 30, 2021 and December 31, 2020.

Any borrowings under the 2020 Facility are intended to be used to provide financing for working capital and other general corporate purposes, including potential mergers and acquisitions and to refinance indebtedness. Borrowings under the 2020 Facility bear interest, at our option, at a rate equal to an applicable margin plus: (a) the applicable Eurocurrency Rate (as defined in the 2020 Credit Agreement), or (b) a base rate determined by reference to the highest of (1) the federal funds effective rate plus 0.50%, (2) the Bank of America prime rate, and (3) the Eurocurrency Rate for an interest period of one month plus 1.00%. The margin for the 2020 Facility ranges, based on our consolidated total net leverage ratio, from 0.50% to 1.25% in the case of base rate loans and from 1.50% to 2.25% in the case of Eurocurrency Rate loans. The 2020 Facility includes an unused line fee ranging, based on our consolidated total net leverage ratio, from 0.35% to 0.50% per annum on the revolving commitment.

The 2020 Credit Agreement contains affirmative, negative, permitted acquisition and financial covenants, and events of default customary for financings of this type. The financial covenants require us to maintain a consolidated interest coverage ratio and certain consolidated leverage ratios, which are measured on a quarterly basis. The 2020 Facility grants the lenders preferred first priority liens and security interests in capital stock, intercompany debt and all of our present and future property and assets including each guarantor. As of September 30, 2021, we are in compliance with the 2020 Credit Agreement covenants.

Critical Accounting Policies

Our discussion and analysis of our financial condition and results of operations is based upon our Unaudited Consolidated Financial Statements, which have been prepared in accordance with generally accepted accounting principles in the United States, or GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. On an ongoing basis, we evaluate our estimates including those related to credit losses, inventories, valuation of goodwill, intangibles, other long-term assets, stock-based compensation, income taxes, and legal proceedings. We base our estimates on historical experience and on various other assumptions we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities not readily apparent from other sources. Actual results may differ from these estimates. Our critical accounting policies and estimates are discussed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2020 and there have been no material changes during the nine months ended September 30, 2021.

Off-Balance Sheet Arrangements

As of September 30, 2021, we did not have any off-balance sheet arrangements.

Contractual Obligations and Commitments

As of September 30, 2021, other than the aforementioned settlement of the 2021 Notes, there were no material changes outside of the ordinary course of business, in our outstanding contractual obligations from those disclosed within “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2020.

Item 3. *Quantitative and Qualitative Disclosures About Market Risk*

As of September 30, 2021, other than the aforementioned additional exposure to fluctuations to the Australian dollar as a result of our acquisition of Simplify Medical, there has been no material change in our assessment of our sensitivity to market risk since our presentation set forth in Item 7A, “Quantitative and Qualitative Disclosures About Market Risk”, in our Annual Report on Form 10-K for the fiscal year ended December 31, 2020.

Item 4. *Controls and Procedures*

Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports under the Securities Exchange Act of 1934, as amended, or the Exchange Act, is recorded, processed, summarized and reported within the time lines specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, we carried out an evaluation of the effectiveness of the Company’s disclosure controls and procedures (as defined in SEC Rules 13a - 15(e) and 15d - 15(e)) as of September 30, 2021. Based on such evaluation, our management has concluded that as of September 30, 2021, the Company’s disclosure controls and procedures are effective.

Changes in Internal Control Over Financial Reporting

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, we carried out an evaluation of any potential changes in our internal control over financial reporting during the fiscal quarter covered by this Quarterly Report.

There has been no change to our internal control over financial reporting during our most recent fiscal quarter that our certifying officers concluded materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

As a result of the COVID-19 pandemic, certain employees began working remotely and we expect our employees may continue to work remotely or in a hybrid work structure for the foreseeable future. We have not identified any material changes in our internal control over financial reporting as a result of these changes to the working environment. We are continually monitoring and assessing the COVID-19 situation to determine any potential impacts on the design and operating effectiveness of our internal controls over financial reporting.

PART II. OTHER INFORMATION

Item 1. *Legal Proceedings*

For a description of our material pending legal proceedings, refer to Note 13 “Contingencies” of the Notes to Unaudited Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report, which is incorporated herein by reference.

Item 1A. *Risk Factors*

There were no material changes to the risk factors previously disclosed and included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2020. An investment in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described under Item 1A of Part I of our Annual Report on Form 10-K, together with all other information contained or incorporated by reference in this report before you decide to invest in our common stock. If any of the Risk Factors were to actually occur, our business, financial condition, results of operations and our future growth prospects could be materially and adversely affected. Under the circumstances, the trading price of our common stock could decline, and you may lose all or part of your investment.

Item 2. ***Unregistered Sales of Equity Securities and Use of Proceeds***

None.

Item 3. ***Defaults Upon Senior Securities***

None.

Item 4. ***Mine Safety Disclosures***

None.

Item 5. ***Other Information***

None.

Item 6. ***Exhibits***

Exhibit Number	Description
3.1	Restated Certificate of Incorporation (incorporated by reference to our Quarterly Report on Form 10-Q filed with the SEC on August 13, 2004)
3.2	Certificate of Amendment to the Restated Certificate of Incorporation (incorporated by reference to our Current Report on Form 8-K filed with the SEC on September 28, 2011)
3.3	Certificate of Amendment to the Restated Certificate of Incorporation (incorporated by reference to our Current Report on Form 8-K filed with the SEC on September 10, 2020)
3.4	Restated Bylaws (incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 6, 2012)
3.5	Amendment No. 1 to the Restated Bylaws (incorporated by reference to our Current Report on Form 8-K filed with the SEC on May 19, 2014)
3.6	Amendment No. 2 to the Restated Bylaws (incorporated by reference to our Current Report on Form 8-K filed with the SEC on August 1, 2016)
31.1*	Certification of the Chief Executive Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. section 1350
31.2*	Certification of the Chief Financial Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. section 1350
32.1*	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
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
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase
104	Cover Page Interactive Data File (formatted as Inline XBRL with applicable taxonomy extension information contained in Exhibit 101.INS)

* These certifications are being furnished solely to accompany this annual report pursuant to 18 U.S.C. Section 1350, and are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934 and are not to be incorporated by reference into any filing of NuVasive, Inc., whether made before or after the date hereof, regardless of any general incorporation language in such filing.

SIGNATURES

Pursuant to the requirements 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.

NUVASIVE, INC.

Date: November 9, 2021	By:	/s/ J. Christopher Barry
		J. Christopher Barry Chief Executive Officer
Date: November 9, 2021	By:	/s/ Matthew K. Harbaugh
		Matthew K. Harbaugh Executive Vice President and Chief Financial Officer

Exhibit 31.1

CERTIFICATION

I, J. Christopher Barry, certify that:

1. I have reviewed this Form 10-Q of NuVasive, 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: November 9, 2021

By: /s/ J. Christopher Barry

J. Christopher Barry

Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, Matthew K. Harbaugh, certify that:

1. I have reviewed this 10-Q of NuVasive, 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: November 9, 2021

By: /s/ Matthew K. Harbaugh
Matthew K. Harbaugh
Executive Vice President and Chief Financial Officer

Exhibit 32.1

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND 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 Quarterly Report of NuVasive, Inc. (the "Company") on Form 10-Q for the three months ended September 30, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Quarterly Report"), I, J. Christopher Barry, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. The Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2021

By: /s/ J. Christopher Barry
J. Christopher Barry
Chief Executive Officer

In connection with the Quarterly Report, I, Matthew K. Harbaugh, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. The Quarterly Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2021

By: /s/ Matthew K. Harbaugh
Matthew K. Harbaugh
Executive Vice President and Chief Financial Officer