CRYOLIFE INC
Form S-3
March 09, 2016

As filed with the Securities and Exchange Commission on March 9, 2016

Registration No. 333-
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S 3
REGISTRATION STATEMENT
Under

The Securities Act of 1933

CRYOLIFE, INC.
(Exact name of Registrant as specified in its charter)

Florida	59-2417093
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

1655 Roberts Boulevard, NW
Kennesaw, Georgia
30144

(770) 419-3355
(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

J. Patrick Mackin,

Chairman,
President and

Chief Executive Officer

CryoLife, Inc.

1655 Roberts Boulevard, NW

Kennesaw, Georgia 30144

(770) 419-3355

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act

registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	Accelerated filer
Non-accelerated filer	Smaller reporting company

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common Stock	3,703,699	$11.14	$41,259,206.86	$4,154.81

(1)Pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), the shares of common stock registered hereunder include such indeterminate number of shares of common stock as may be issuable with respect to the shares being registered hereunder as a result of stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) under the Securities Act, based upon the average of the high and low sales prices of the registrant's

common stock on March 7, 2016, as reported on the New York Stock Exchange.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, Dated March 9, 2016

PROSPECTUS

CryoLife, Inc.

3,703,699 Shares

Common Stock

This prospectus relates to the resale of up to 3,703,699 shares of common stock of CryoLife, Inc. ("CryoLife," "we," "us" or the "Company") by the selling shareholders identified in this prospectus. The selling shareholders acquired these shares from us pursuant to an Agreement and Plan of Merger dated December 22, 2015. The selling shareholders may sell these shares through public or private transactions at market prices prevailing at the time of sale or at negotiated prices. The selling shareholders will receive all net proceeds from the sale of shares of our common stock in this offering.

We may also authorize one or more free writing prospectuses or prospectus supplements to be provided to you in connection with these offerings. Any related free writing prospectus or prospectus supplement may also add, update or change information contained in this prospectus. We urge you to carefully read this prospectus, any accompanying prospectus supplement, any related free writing prospectus and any documents we incorporate by reference before you make your investment decision.

Our common stock is listed on the New York Stock Exchange under the symbol "CRY." On March 4, 2016, the last reported sale price for our common stock on the New York Stock Exchange was $10.83 per share.

Investing in our common stock involves risks. See "Risk Factors" beginning on page 5 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2016

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No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this prospectus. You must not rely on any unauthorized information or representations. This prospectus and any accompanying supplement to this prospectus do not constitute an offer to sell, or a solicitation of an offer to purchase, any securities other than the registered securities to which they relate, nor do prospectus and any accompanying supplement to this prospectus constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this prospectus in any jurisdiction to or from any person whom or from whom it is unlawful to make such offer or solicitation of an offer in such jurisdiction. The information contained in this prospectus is current only as of its date.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, using a “shelf” registration process. Under this shelf process, the selling shareholders identified in this prospectus may offer or sell shares of our common stock, as described in this prospectus, in one or more offerings from time to time.

We may also authorize one or more free writing prospectuses or prospectus supplements to be provided to you in connection with these offerings. Any related free writing prospectus or prospectus supplement may also add, update or change information contained in this prospectus or in any documents that we have incorporated by reference into this prospectus and, accordingly, to the extent inconsistent, information in this prospectus is superseded by the information in any accompanying prospectus supplement or any related free writing prospectus and any documents.

You should only rely on the information contained or incorporated by reference in this prospectus and any applicable prospectus supplement or any related free writing prospectus that we may authorize to be provided to you. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. You should not assume that the information in this prospectus or any applicable prospectus supplement or any related free writing prospectus is accurate as of any date other than the date on the cover of the applicable document. Our business, financial condition, results of operations and prospects may have changed since that date.

We urge you to read carefully this prospectus (as supplemented and amended) before deciding whether to purchase any of the shares of our common stock being offered.

FORWARD-LOOKING STATEMENTS

This prospectus, any prospectus supplement and the information incorporated by reference, including the sections entitled “Prospectus Summary” and “Risk Factors,” contain “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). These forward-looking statements reflect the views of our management regarding current expectations and projections about future events and are based on currently available information. Actual results could differ materially from those contained in these forward-looking statements for a variety of reasons, including, but not limited to, those discussed in our Annual Report on Form 10-K for the year ended December 31, 2015, Part I, Item 1A, “Risk Factors,” as well as those discussed elsewhere in this prospectus. Other unknown or unpredictable factors also could have a material adverse effect on our business, financial condition and results of operations. Accordingly, readers should not place undue reliance on these forward-looking statements. The use of words such as “anticipates,” “estimates,” “expects,” “intends,” “plans” and “believes,” among others, generally identify forward-looking statements; however, these words are not the exclusive means of identifying such statements. In addition, any statements that refer to expectations, projections or other characterizations of future events or circumstances are forward-looking statements. These forward-looking statements are inherently subject to uncertainties, risks and changes in circumstances that are difficult to predict. We are not under any obligation and do not intend to publicly update or review any of these forward-looking statements, whether as a result of new information, future events or otherwise, even if experience or future events make it clear that any expected results expressed or implied by those forward-looking statements will not be realized. Please carefully review and consider the various disclosures made in this report and in our other reports filed with the SEC that attempt to advise interested parties of the risks and factors that may affect our business, prospects and results of operations.

PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this prospectus. This summary does not contain all the information that you should consider before investing in our common stock. You should read the following summary together with the more detailed information regarding our company, the common stock being registered hereby, and our financial statements and notes thereto incorporated by reference in this prospectus.

Our Company

Overview

CryoLife, Inc. is a leader in medical device manufacturing and distribution and in the processing and distribution of implantable human tissue for use in cardiac and vascular surgeries. The Company operates throughout the United States and internationally. CryoLife's surgical sealants and hemostats include BioGlue® Surgical Adhesive ("BioGlue"), BioFoam® Surgical Matrix ("BioFoam"), and PerClot®, an absorbable powdered hemostat, which the Company distributes internationally BioGlue is FDA-approved as an adjunct to sutures and staples for use in adult patients in open surgical repair of large vessels. BioGlue is also CE marked in Europe for use in soft tissue repair and has received additional marketing approvals for specified applications in several other countries throughout the world. BioFoam is CE marked in Europe for use as an adjunct to hemostasis in cardiovascular surgery when cessation of bleeding by ligature or conventional methods is ineffective or impractical.

CryoLife also specializes in the treatment of severe angina that is not responsive to conventional therapy with its laser console system and single-use, fiber-optic handpieces, used to perform a surgical procedure known as Transmyocardial Revascularization. CryoLife exclusively distributes ProCol® Vascular Bioprosthesis for Hancock Jaffe Laboratories, Inc. and PhotoFix TM for Genesee biomedical, Inc. ProCol is a natural biological graft derived from a bovine mesenteric vein that provides vascular access for end-stage renal disease hemodialysis patients, which is FDA approved for sale in the U.S. PhotoFix is a bovine pericardial patch stabilized using a dye-mediated photo-fixation process that requires no glutaraldehyde . PhotoFix has received 510(K) clearance and is indicated for use in intracardiac repair, including ventricular repair and atrial repair, great vessel repair and suture line buttressing, and pericardial closure.

The cardiac human tissues distributed by CryoLife include the CryoValve® SG pulmonary heart valve or CryoValve SGPV, and the CryoPatch® SG pulmonary cardiac patch tissue, or CryoPatch SG, both of which are processed using CryoLife's proprietary SynerGraft® technology. CryoValve SGPV has FDA 510(k) clearance for the replacement of diseased, damaged, malformed, or malfunctioning native or prosthetic pulmonary valves. CryoLife's CryoPatch has FDA 510(k) clearance for the repair or reconstruction of the right ventricular outflow tract, which is a surgery commonly performed in children with congenital heart defects. CryoLife's vascular human tissues include its CryoVein® and CryoArtery® tissues, which are used in vascular reconstruction surgeries.

On February 3, 2016, CryoLife sold its the Hemodialysis Reliable Outflow Graft (HeRO Graft) product line, which is a solution for end-stage renal disease in certain hemodialysis patients, to Merit Medical Systems, Inc. ("Merit") for $18.5 million in cash. Under the terms of the agreement, Merit acquired the HeRO Graft product line, including worldwide marketing rights, customer relationships, intellectual property, inventory and certain property and equipment. CryoLife will continue to manufacture the HeRO Graft product

line for up to six months under a transition supply agreement, after which Merit will be responsible for manufacturing. The disposal of HeRO Graft is part of a strategic shift of the Company to focus on cardiac surgery products, including the On-X heart valve.

Acquisition of On-X Life Technologies

On December 22, 2015, CryoLife entered into an Agreement and Plan of Merger (the "Merger Agreement") to acquire On-X Life Technologies Holdings, Inc. ("On-X"), a Delaware corporation for approximately $130.0 million, subject to certain adjustments for On-X's cash on hand, net working capital, and unpaid transaction expenses, consisting of approximately $91.0 million in cash and $39.0 million, or 3,703,699 shares, of CryoLife's common stock (the "Acquisition Shares"). Pursuant to the Merger Agreement and following the closing of the merger which occurred on January 20, 2016, On-X has become the wholly-owned subsidiary of CryoLife.

Per the Company's preliminary analysis, the purchase price of the transaction totaled approximately $128.1 million, consisting of cash of $93.5 million and 3,703,699 shares of CryoLife's common stock, with a value of $34.6 million as determined on the date of closing. This purchase price is subject to several potential adjustments, including a working capital adjustment, which has not yet been finalized. Upon the closing of the merger, CryoLife entered into a Registration Rights Agreement with the selling shareholders on January 20, 2016 (the "Registration Rights Agreement"), pursuant to which CryoLife is required to file a Registration Statement on Form S-3 to register all of the Acquisition Shares for resale. This prospectus is part of such a registration statement filed on Form S-3 pursuant to the Registration Rights Agreement.

The On-X catalogue of products includes the On-X prosthetic aortic and mitral heart valve and the On-X ascending aortic prosthesis. On-X also distributes CarbonAid CO_2 diffusion catheters, manufactures Chord-X ePTFE sutures for mitral chordal replacement, and offers pyrolytic carbon coating services to other medical device manufacturers.

The On-X heart valve is a bileaflet mechanical valve composed of a graphite substrate coated with On-X's pyrolytic carbon coating. The On-X heart valve is available for both aortic and mitral indications and with a variety of sewing ring options to suit physician's preferences. The On-X AAP is an On-X aortic valve combined with a Vascutek Gelweave ValsavaTM Graft to allow physicians to more conveniently treat patients requiring both an aortic valve replacement and an aortic graft.

The On-X heart valve is FDA approved for the replacement of diseased, damaged, or malfunctioning native or prosthetic heart valves in the aortic and mitral positions, and is classified as a Class III medical device. On-X distributes the On-X heart valve under Conformité Européene Mark product certification ("CE Mark") in the EEA. Additional marketing approvals have been granted in several other countries throughout the world.

CryoLife, Inc. was incorporated January 19, 1984 in Florida. All references to "CryoLife," the "Company," "we," "us" or "our" in this prospectus mean CryoLife, Inc., a Florida corporation, and all entities owned or controlled by CryoLife, Inc., except where it is made clear that the term means only the parent company.

Our principal executive offices are located at 1655 Roberts Boulevard, NW, Kennesaw, Georgia 30144. Our telephone number is (770) 419-3355 and our website is located at www.cryolife.com. Information contained on our website is not part of this prospectus.

RISK FACTORS

Investing in our common stock involves risks. You should carefully consider the risks described under "Risk Factors" beginning on page 20 of our annual report on Form 10-K for the period ended December 31, 2015, which are incorporated by reference herein and which may be updated, supplemented or superseded by the risks and uncertainties described in the reports we subsequently file with the SEC, as well as the other information contained or incorporated by reference in this prospectus or any prospectus supplement hereto before making a decision to invest in our securities.

USE OF PROCEEDS

The proceeds from the sale of the common stock offered pursuant to this prospectus are solely for the account of the selling shareholders. Accordingly, we will not receive any proceeds from the sale of the common stock offered hereby.

DESCRIPTION OF THE SECURITIES

Description of Capital Stock

The Company is authorized to issue up to 75,000,000 shares of common stock and 5,000,000 shares of preferred stock.

The following summary is qualified in its entirety by reference to the Company's Amended and Restated Articles of Incorporation (the "Articles of Incorporation"), the Company's Amended and Restated Bylaws (the "Bylaws") and the Florida Business Corporation Act (the "FBCA").

Common Stock

Holders of common stock are entitled to one vote per share of common stock held of record on all matters to be voted upon by the Company's shareholders generally. Holders of common stock are not entitled to cumulative voting rights. As a result, the holders of a majority of the shares of common stock voting for the election of directors may elect all of the Company's directors if they choose to do so, and, in such event, the holders of the remaining shares of common stock will not be able to elect any person or persons to the Board of Directors.

Holders of common stock are entitled to receive, on a pro rata basis, such dividends and distributions, if any, as may be declared from time to time by the Board of Directors out of funds legally available therefor, subject to any preferential dividend right of any issued and outstanding shares of preferred stock. In the event of liquidation, dissolution or winding up of the Company, after payment of creditors, holders of common stock are entitled to share ratably in all assets of the Company, subject to the payment of any liquidation preference of any issued and outstanding shares of preferred stock. Furthermore, holders of common stock have no conversion, sinking fund or redemption rights, or preemptive rights to subscribe for any of the Company's securities. The shares of common stock currently outstanding are validly issued, fully paid and non-assessable.

Preferred Stock

The Board of Directors of the Company is empowered, without approval of the Company's shareholders, to cause shares of preferred stock to be issued in one or more series and to fix and determine the relative rights and preferences of the shares of any such series, subject to the limitations of the FBCA. Because the Board of Directors has the power to establish the preferences and rights of each series, it may afford the holders of any series of preferred stock rights and preferences, voting or otherwise, senior to the rights of holders of common stock.

While providing desirable flexibility for possible acquisitions and other corporate purposes, and eliminating delays associated with a shareholder vote on specific issuances, the issuance of preferred stock could adversely affect the voting, dividend and liquidation rights of holders of common stock.

Articles of Incorporation and Bylaws

Certain provisions of the Articles of Incorporation and Bylaws of the Company and of Florida law, which are summarized below, could have the effect of making it more difficult to change the composition of the Company's Board of Directors or for any person or entity to acquire control of the Company.

Special Meetings

Pursuant to Florida law, the Company's Articles of Incorporation and Bylaws, special meetings of the shareholders may be called only by the Board of Directors, the President or Secretary at the request in writing of a majority of the Board of Directors then in office or at the request in writing of shareholders owning not less than 50% of all votes entitled to be cast at the special meeting. Only business within the purpose or purposes described in the special meeting notice may be conducted at the special meeting.

Prohibition of Shareholder Action Without Meeting

Under the Company's Articles of Incorporation, the shareholders may not take action by written consent. Any and all action by the shareholders is required to be taken at the annual shareholders' meeting or at a special shareholders' meeting.

Effect of Florida Affiliated Transactions and Anti-Takeover Statutes

The Company is subject to FBCA Section 607.0901, which provides that, subject to certain exceptions, an "affiliated transaction" must be approved by the holders of two-thirds of the voting shares other than those beneficially owned by an "interested shareholder." The Company is also subject to FBCA Section 607.0902, which requires that any person that engages in a "control-share acquisition" must obtain approval by a majority of the outstanding shares of each class or series entitled to vote, voting together as a single class, as well as, in some circumstances, a majority of the outstanding shares of any series or class voting as a separate class, before the acquiring person obtains voting rights for the acquired shares. Although Florida law permits a corporation to opt out of these requirements, the Company has not elected to opt out, which may have the effect of making it more difficult for any person or group to acquire the Company or substantial amounts of the Company's common stock, or engage in any "affiliated transaction," including the acquisition of a substantial amount of the Company's assets.

Ability to Consider Other Constituencies

The directors of the Company are subject to the "general standards for directors" provisions set forth in Section 607.0830 of the FBCA. These provisions provide that, among other things, in discharging his or her duties and determining what is in the best interests of the Company, a director may consider such factors as the director deems relevant, including the long-term prospects and interests of the Company and its shareholders, and the social, economic, legal or other effects of any proposed action on the employees, suppliers or customers of the Company or its subsidiaries, the communities and society in which the Company or its subsidiaries operate, and the economy of the state and the nation. Consequently, in connection with any proposed corporate action, the Board of Directors is empowered to consider interests of other constituencies in addition to the interests of the Company's shareholders. Shareholders should be aware that directors who take into account these other factors may make decisions which are less beneficial to the shareholders than if the law did not permit consideration of such other factors.

Shareholder Action

Except as otherwise provided by law or in our Articles of Incorporation or Bylaws, the approval by holders of a majority of the shares of common stock present in person or represented by proxy at a meeting and entitled to vote is sufficient to authorize, affirm, ratify or consent to a matter voted on by shareholders. The FBCA requires the approval of the holders of a majority of the outstanding stock entitled to vote for certain extraordinary corporate transactions, such as a merger, share exchange, conversion, sale of substantially all assets, dissolution or amendment of the articles of incorporation.

Transfer Agent and Registrar

The Transfer Agent and Registrar for the common stock is American Stock Transfer & Trust Company, LLC. It is located at 6201 15th Avenue, Brooklyn, NY 11219, and its telephone number is (718) 921-8124.

Listing

Our common stock is listed on the New York Stock Exchange under the symbol "CRY."

SELLING SHAREHOLDERS

The following table, which was prepared based on information supplied to us by the selling shareholders, sets forth the name of each of the selling shareholders, the number of shares of common stock beneficially owned by each of the selling shareholders and the number of shares to be offered by each of the selling shareholders pursuant to this prospectus. The table also provides information regarding the beneficial ownership of our common stock by each of the selling shareholders as adjusted to reflect the assumed sale of all of the shares of common stock offered under this prospectus. The ownership percentage indicated in the following table is based on 33,871,367 total outstanding shares of our common stock and as of March 4, 2016. We have no preferred stock outstanding.

We have determined beneficial ownership in accordance with the rules of the SEC. Except as indicated by the footnotes below, we believe, based on the information furnished to us, that the persons

named in the table below have sole voting and investment power with respect to all shares of common stock that they beneficially own, subject to applicable community property laws.

In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we included outstanding shares of common stock subject to options, restricted stock or warrants held by that person that are currently exercisable or exercisable within 60 days of March 4, 2016. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person.

	Shares Beneficially Owned Prior to the Offering		Number of Shares Being Registered for Resale	Shares Beneficially Owned After the Offering	
Name of Selling Shareholder	Shares	Percentage		Shares(4)	Percentage
Paul Royalty Fund, L.P.(1)**	2,648,184	7.9%	2,648,184	2,648,184	7.8%
PTV Sciences II, L.P.(2)	872,810	2.6%	872,810	872,810	2.6%
Alpha Medical, Inc.(3)	151,287	*	151,287	151,287	*
Nancy S. Lewis	14,546	*	14,546	14,546	*
Richard Lynn Alexander	11,637	*	11,637	11,637	*
Kevin G. McMahon	2,909	*	2,909	2,909	*
H.A. Lawhon	1,745	*	1,745	1,745	*
Thomas J. Madsen	581	*	581	581	*

*Represents less than 1% of the total aggregate amount of shares of our common stock

**See the Schedule 13G filed with the Securities and Exchange Commission on January 28, 2016 by Paul Royalty Fund, L.P., Paul Capital Management LLC and Paul Capital Advisors, L.L.C

(1)All shares are held of record by Paul Royalty Fund, L.P. Paul Capital Advisors, L.L.C. is the manager of Paul Capital Management LLC, the general partner of Paul Royalty Fund, L.P. Paul Capital Advisors, L.L.C. and Paul Capital Management LLC share voting and dispositive power over the shares held by Paul Royalty Fund, L.P.

(2) All shares are held of record by PTV Sciences II, L.P. Pinto TV GP Company LLC is the general partner of Pinto Technology Ventures GP II, L.P., the general partner of PTV Sciences II, L.P. Matthew S. Crawford and Rick D. Anderson are managers of Pinto TV GP Company LLC and are deemed to share voting and dispositive power over the shares held by PTV Sciences II, L.P.

(3)All shares are held of record by Alpha Medical, Inc. Rudiger Dahle founded Alpha Medical, Inc. in 1993 and is the sole shareholder. Mr. Dahle has sole voting power over all of the shares of Alpha Medical, Inc. Mr. Dahle is the President and Secretary of Alpha Medical, Inc.

(4)Assumes the sale of all shares being offered pursuant to this prospectus.

PLAN OF DISTRIBUTION

We are registering pursuant to this prospectus a total of 3,703,699 shares of common stock on behalf of the selling shareholders. The selling shareholders, which as used herein includes donees, pledgees, transferees or other successors-in-interest selling shares of common stock or interests in shares of common stock received after the date of this prospectus from a selling shareholder as a gift, pledge, partnership distribution or other transfer, may, from time to time, sell, transfer or otherwise dispose of any or all of their shares of common stock or interests in shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These dispositions may be at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market price, at varying prices determined at the time of sale, or at negotiated prices.

The selling shareholders may use any one or more of the following methods when disposing of shares or interests therein:

- sales on the NYSE or any national securities exchange or quotation service on which our common stock may be listed or quoted at the time of sale;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent, but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
    - an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- broker-dealers may agree with the selling shareholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted by applicable law.

A selling shareholder that is an entity may elect to make a pro rata in-kind distribution of the shares of common stock to its members, partners or shareholders pursuant to the registration statement of which this prospectus is a part by delivering a prospectus. To the extent that such members, partners or shareholders are not affiliates of ours, such members, partners or shareholders would thereby receive freely tradable shares of common stock pursuant to the distribution through a registration statement.

The selling shareholders may, from time to time, pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock, from time to time, under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act, amending the list of selling shareholders to include the pledgee, transferee or other successors in interest as selling shareholders under this prospectus. The selling shareholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

In connection with the sale of our common stock or interests therein, the selling shareholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the common stock in the course of hedging the positions they assume. The selling shareholders may also sell shares of our common stock short and deliver these securities to close out their short positions, or loan or pledge the common stock to broker-dealers that in turn may sell these securities. The selling shareholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-

dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The aggregate proceeds to the selling shareholders from the sale of the common stock offered by them will be the purchase price of the common stock less discounts or commissions, if any. Each of the selling shareholders reserves the right to accept and, together with their agents from time to time, to reject, in whole or in part, any proposed purchase of common stock to be made directly or through agents. We will not receive any of the proceeds from this offering.

The selling shareholders also may resell all or a portion of the shares in open market transactions in reliance upon Rule 144 under the Securities Act, provided that they meet the criteria and conform to the requirements of that rule.

The selling shareholders and any underwriters, broker-dealers or agents that participate in the sale of the common stock or interests therein may be "underwriters" within the meaning of Section 2(11) of the Securities Act. Any discounts, commissions, concessions or profit they earn on any resale of the shares may be underwriting discounts and commissions under the Securities Act. Selling shareholders who are "underwriters" within the meaning of Section 2(11) of the Securities Act will be subject to the prospectus delivery requirements of the Securities Act.

To the extent required, the shares of our common stock to be sold, the names of the selling shareholders, the respective purchase prices and public offering prices, the names of any agents, dealers or underwriters and any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement that includes this prospectus.

In order to comply with the securities laws of some states, if applicable, the common stock may be sold in these jurisdictions only through registered or licensed brokers or dealers.

We have advised the selling shareholders that the anti-manipulation rules of Regulation M under the Exchange Act, as amended, may apply to sales of shares in the market and to the activities of the selling shareholders and their affiliates. In addition, to the extent applicable we will make copies of this prospectus (as it may be supplemented or amended from time to time) available to the selling shareholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling shareholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

Pursuant to, and in accordance with the terms of, the Registration Rights Agreement (i) we have agreed to indemnify the selling shareholders (and their respective officers, directors, agents, partners, members, managers and employees, and each other person, if any, who controls such selling shareholders (within the meaning of the Securities Act)), against certain liabilities, including liabilities under the Securities Act, relating to the registration of the shares offered by this prospectus, or the selling shareholders may be entitled to contribution if indemnification is prohibited by law, and (ii) the selling shareholders have agreed to indemnify us (including our directors, officers, employees, shareholders and each person who controls the Company (within the meaning of the Securities Act)) against certain liabilities, including liabilities under the Securities Act that may arise from any written information furnished to us by the selling

shareholders for use in this prospectus or the registration statement that includes this prospectus, or we may be entitled to contribution if indemnification is prohibited by law.

Pursuant to the Registration Rights Agreement, we have agreed with the selling shareholders to keep the registration statement of which this prospectus constitutes a part effective until the earlier of (i) October 16, 2016, and (ii) such time as the Registrable Securities covered by this Registration Statement have been sold pursuant to (x) this Registration Statement or (y) Rule 144 under the Securities Act or otherwise.

Broker-dealers and agents, and their respective affiliates, may be engaged in transactions with, or perform commercial or investment banking or other services for, us or our subsidiaries or affiliates, in the ordinary course of business.

The selling shareholders and any permitted transferee(s) selling shares under this prospectus will act independently of us in making decisions with respect to the timing, manner, and size of each resale. There can be no assurance that the selling shareholders and any permitted transferee(s) will sell any or all of the shares under this prospectus. Further, we cannot assure you that the selling shareholders and any permitted transferee(s) will not transfer, distribute, devise or gift the shares by other means not described in this prospectus, including through dividends or other distributions made by the selling shareholders or permitted transferees on a private placement basis to their respective partners, members or shareholders. In addition, any shares covered by this prospectus that qualify for sale under Rule 144 of the Securities Act may be sold under Rule 144 rather than under this prospectus.

Pursuant to the Merger Agreement and a Lockup Agreement delivered by PTV Sciences II, L.P. and Paul Royalty Fund, L.P. to us upon the closing of the merger, PTV Sciences II, L.P. and Paul Royalty Fund, L.P. and certain of their permitted transferees are subject to a lock-up for a period of 90 days following January 20, 2016 and ending on April 19, 2016. During this period, subject to certain exceptions, they may not, directly or indirectly, without our prior written consent, offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock acquired in the merger or any securities convertible into or exercisable or exchangeable for shares of our common stock, enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the shares, whether any such transaction described above is to be settled by delivery of shares of our common stock, in cash or otherwise, or publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge or other arrangement relating to any shares of our common stock acquired in the merger. The lock-up provisions permit transferring the shares in connection with:

- a sale of CryoLife approved by its board of directors or a tender offer or exchange offer for all of the outstanding shares of CryoLife's common stock;
- transfers as a bona fide gift, by will or intestacy or to a family member or trust for the benefit of certain family members;
- transfers to a charity or educational institution;
- if the Investor is a corporation, partnership, limited liability company or other business entity, any transfers to any shareholder, partner or member of, or owner of similar equity interests in, the Investor, subject to certain limitations; or

· transfers between other former holders of On-X Life Technologies, Inc. capital stock that have also executed a substantially similar lock-up agreement.

LEGAL MATTERS

The validity of the shares of common stock offered by this prospectus has been passed upon for CryoLife by Shutts & Bowen LLP.

EXPERTS

The consolidated financial statements of CryoLife, Inc. appearing in CryoLife, Inc.'s Annual Report (Form 10-K) for the year ended December 31, 2015, and the effectiveness of CryoLife, Inc.'s internal control over financial reporting as of December 31, 2015 have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

The consolidated financial statements of On-X Life Technologies Holdings, Inc. included in Exhibit 99.1 of CryoLife's Current Report on Form 8-K/A filed with the SEC on March 9, 2016 have been incorporated by reference in this prospectus in reliance on the report of KPMG LLP, an independent registered public accounting firm, and the report of Padgett Stratemann & Co., LLP an independent registered public accounting firm, and upon the authority of said firms as experts in accounting and auditing.

INFORMATION INCORPORATED BY REFERENCE

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC will automatically update and supersede information included or previously incorporated by reference in this prospectus from the date we file the document containing such information. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. Except to the extent furnished and not filed with the SEC pursuant to Item 2.02 or Item 7.01 of Form 8-K or as otherwise permitted by the SEC rules, we incorporate by reference the documents listed below and any future filings we may file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the completion of the offering in the relevant prospectus supplement to which this prospectus relates or the termination of the offering, including all such documents we may file with the SEC after the date of the initial registration statement and prior to the effectiveness of the registration statement, but excluding any information deemed furnished and not filed with the SEC. Any statements contained in a previously filed document incorporated by reference into this prospectus is deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus, or in a subsequently filed document also incorporated by reference herein, modifies or supersedes that statement.

The documents we incorporate by reference into this prospectus are:

1. Our Annual Report on Form 10-K for the year ended December 31, 2015, filed with the SEC on February 16, 2016;

2. Our Current Reports on Form 8-K, but only to the extent that the information set forth therein is “filed” rather than “furnished” under the SEC rules, filed with the SEC on January 25, 2016 , February 8, 2016, March 1, 2016 and March 9, 2016; and

3. The description of our common stock contained in our registration statement on Form 8-A, filed on July 2, 1997, and any amendment or report filed for the purpose of updating such description, including without limitation, our Amendment No. 1 to Form 8-A/A filed on November 3, 2005.

This prospectus is part of a registration statement on Form S-3 filed with the SEC under the Securities Act. This prospectus does not contain all of the information set forth in the registration statement. You should read the registration statement for further information about CryoLife and our common stock.

Documents incorporated by reference are available from us, without charge, excluding all exhibits unless specifically incorporated by reference in the documents. You may obtain documents incorporated by reference in this prospectus by writing to us at the following address or by calling us at the telephone number listed below:

CryoLife, Inc.

Attn: Secretary

1655 Roberts Boulevard, NW

Kennesaw, Georgia 30144

(770) 419-3355

You should rely only on the information incorporated by reference or provided in this prospectus or any prospectus supplement. We have not authorized anyone else to provide you with different information. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front page of those documents.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC’s Public Reference Room located at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. Our SEC filings are also available to the public over the internet from the SEC’s website at www.sec.gov, or our website at www.cryolife.com. The contents of our website are not incorporated by reference in or otherwise a part of this prospectus.

CRYOLIFE, INC.

Common Stock

PROSPECTUS

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following table sets forth the estimated costs and expenses payable by the registrant in connection with the registration and distribution of the securities being registered. The selling shareholders are responsible for any expenses incurred by them for brokerage, tax or other legal services incurred by the selling shareholders in disposing of securities held by them, as well as any underwriting discount or commissions. All of the amounts shown are estimates except the SEC registration fee.

	Amount to be Paid
SEC registration fee	$ 4,154.81
Printing fees	$ 0.00
Legal fees and expenses	$ 33,800.00
Accounting fees and expenses	$ 21,000.00
Total	$ 58,954.81

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The registrant is a Florida corporation. Under Section 607.0850(1) of the Florida Business Corporation Act (the "FBCA"), a corporation may indemnify any of its directors and officers against judgments, penalties, fines, amounts paid in settlement, and expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with such action, suit or proceeding (including any appeal thereof) (i) if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, and (ii) with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. In actions brought by or in the right of the corporation, however, Section 607.0850(2) provides that no indemnification shall be made in respect of any claim, issue or matter as to which the director or officer shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Article VII of the registrant's Amended and Restated Articles of Incorporation requires that, if in the judgment of the majority of the Board of Directors (excluding from such majority any director under consideration for indemnification), the criteria set forth under Sections 607.0850(1) and (2) have been met, then the registrant shall indemnify its directors and officers in the manner and to the extent contemplated by Sections 607.0850(1) and (2) of

the FBCA. The registrant's Amended and Restated Bylaws also state that the rights to indemnification are binding contract rights which are binding on the registrant with respect to any conduct that takes place while the provision remains in place, even if the provision is later amended, and that the rights continue as to a person who has ceased to be an officer or director. Expenses, including reasonable attorneys' fees, paralegals' fees and court costs, incurred by a director or officer in defending a proceeding for

which indemnification is provided will be paid by the registrant in advance of the final disposition of such proceeding provided that the director or officer represents that he or she has met the applicable standard of conduct in relation to the proceeding and will repay such amount if he or she is ultimately found not to be entitled to indemnification.

The registrant has purchased insurance to insure (i) the registrant's directors and officers against damages from actions and claims incurred in the course of their duties, and (ii) the registrant against expenses incurred in defending lawsuits arising from certain alleged acts of its directors and officers.

The registrant has also entered into indemnification agreements with each of its directors and its Executive Vice President, Chief Operating Officer, Chief Financial Officer and Treasurer ("Indemnitees"). Pursuant to such agreements, the registrant shall indemnify the Indemnitees to the fully extent permitted by the FBCA. The agreements further provide that unless a determination has been made that an Indemnitee is not entitled to indemnification pursuant to such Indemnitee's agreement, all reasonable expenses incurred by or on behalf of such Indemnitee will be advanced from time to time by the Company to the Indemnitee within twenty (20) days after the Company's receipt of a written request for an advance of expenses by such Indemnitee, whether prior to or after final disposition of a proceeding. The Indemnitee must agree, at the time of such advance, to repay the amounts advanced if it is ultimately determined that such Indemnitee is not entitled to be indemnified under the terms of the agreement. Any advances made will be unsecured, and no interest will be charged on such advances.

ITEM 16. EXHIBITS.

The following exhibits are included herein or incorporated herein by reference:

		Incorporated by reference herein		
Exhibit Number	Description	Form	Date	Exhibit Number
2.1*	Agreement and Plan of Merger, dated May 14, 2012, by and among CryoLife, Inc., CL Crown, Inc., Hemosphere, Inc. and a Stockholder Representative.	10-Q	7/31/12	2.1
2.2*	Agreement and Plan of Merger, dated as of December 22, 2015, by and among CryoLife, Inc., On-X Life Technologies Holdings, Inc., Cast Acquisition Corporation, Fortis Advisors LLC and each of the security holders who becomes a party thereto. Certain schedules and exhibits referenced in the Agreement and Plan of Merger have been omitted in accordance with Item 601(b)(2) of Regulation S–K. A copy of any omitted schedule or exhibit will	8-K	1/25/16	2.1

	be furnished supplementally to the Securities and Exchange Commission upon request.			
4.1*	Form of Certificate for Common Stock of CryoLife, Inc.	10-K	2/19/98	4.2
4.2*	Registration Rights Agreement, dated as of January 20, 2016, by and between CryoLife, Inc. and the investors parties thereto.	8-K	1/25/16	4.1
4.3*	Form of Indenture for Senior Debt Securities	S-3	8/5/15	4.7
4.4*	Form of Subordinated Indenture for Subordinated Debt Securities	S-3	8/5/15	4.9
5.1**	Opinion of Shutts and Bowen LLP			
23.1**	Consent of Shutts and Bowen LLP (included in Exhibit 5.1 to this Registration Statement)			
23.2**	Consent of Ernst & Young LLP			
23.3**	Consent of KPMG LLP			
23.4**	Consent of Padgett Stratemann & Co., LLP			
24.1**	Power of Attorney (contained in the signature page to this Registration Statement)			

	(9,799)	
Other (expense) income, net	(9,703)	258
Total interest and other expense, net	(19,036)	(9,404)
(Loss) income before income taxes	(37,258)	13,268
Income tax benefit (expense)	10,126	(1,285)
Consolidated net (loss) income	$(27,132)	$11,983
Add back net loss attributable to non-controlling interest	$—	$(443)
Net (loss) income attributable to NuVasive, Inc.	$(27,132)	$12,426
Net (loss) income per share attributable to NuVasive, Inc.:		
Basic	$(0.53)	$0.25
Diluted	$(0.53)	$0.22
Weighted average shares outstanding:		
Basic	51,226	50,566
Diluted	51,226	57,786

See accompanying Notes to Unaudited Consolidated Financial Statements.

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NUVASIVE, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE (LOSS) INCOME

(in thousands)

(unaudited)	Three Months Ended March 31, 2018	2017
Consolidated net (loss) income	$(27,132)	$11,983
Other comprehensive income:		
Unrealized loss on marketable securities, net of tax	—	(2)
Translation adjustments, net of tax	2,579	1,859
Other comprehensive income	2,579	1,857
Total consolidated comprehensive (loss) income	(24,553)	13,840
Net loss attributable to non-controlling interest	—	(443)
Comprehensive (loss) income attributable to NuVasive, Inc.	$(24,553)	$14,283

See accompanying Notes to Unaudited Consolidated Financial Statements.

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NUVASIVE, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

(unaudited)	Three Months Ended March 31, 2018	2017
Operating activities:		
Consolidated net (loss) income	$(27,132)	$11,983
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Depreciation and amortization	32,090	29,510
Impairment of strategic investment	9,003	—
Amortization of non-cash interest	4,925	5,369
Stock-based compensation	4,134	7,017
Reserves on current assets	4,080	(1,998)
Other non-cash adjustments	4,456	3,013
Deferred income taxes	(12,671)	1,440
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	16,933	1,719
Inventory	(12,126)	(13,800)
Prepaid expenses and other current assets	(1,737)	(2,614)
Accounts payable and accrued liabilities	1,579	550
Accrued payroll and related expenses	(18,493)	(12,721)
Litigation liability	30,040	—
Income taxes	1,294	(1,298)
Net cash provided by operating activities	36,375	28,170
Investing activities:		
Acquisitions and investments	(51,794)	(2,500)
Purchases of intangible assets	(2,657)	(1,249)
Purchases of property and equipment	(29,109)	(34,545)
Net cash used in investing activities	(83,560)	(38,294)
Financing activities:		
Proceeds from the issuance of common stock	336	410
Purchase of treasury stock	(2,155)	(10,356)
Payment of contingent consideration	(8,900)	—
Proceeds from revolving line of credit	65,000	—
Repayments on revolving line of credit	(10,000)	—
Other financing activities	(141)	(181)
Net cash provided by (used in) financing activities	44,140	(10,127)
Effect of exchange rate changes on cash	982	758
Decrease in cash, cash equivalents and restricted cash	(2,063)	(19,493)
Cash, cash equivalents and restricted cash at beginning of period	78,198	161,048
Cash, cash equivalents and restricted cash at end of period	$76,135	$141,555

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:

	Three Months Ended March 31,	
	2018	2017
Cash and cash equivalents	$73,741	$134,008
Restricted cash and investments	2,394	7,547
Total cash, cash equivalents and restricted cash shown in the Unaudited Consolidated Statement of Cash Flows	$76,135	$141,555

See accompanying Notes to Unaudited Consolidated Financial Statements.

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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. The Company’s principal product offering includes a minimally-disruptive surgical platform called Maximum Access Surgery, or MAS. The MAS platform combines three categories of solutions that collectively minimize soft tissue disruption during spine fusion surgery, provide maximum visualization and are designed to enable safe and reproducible outcomes for the surgeon and the patient. The platform includes the Company’s proprietary software-driven nerve detection and avoidance systems and Intraoperative Monitoring (“IOM”) services and support; MaXcess, an integrated split-blade retractor system; and a wide variety of specialized implants and biologics. To assist with surgical procedures the Company offers a technology platform called Integrated Global Alignment (“iGA”); in which products and computer assisted technology under the MAS platform help achieve more precise spinal alignment. The individual components of the MAS platform, and many of the Company’s products, can also be used in open or traditional spine surgery. The Company continues to focus research and development efforts to expand its MAS product platform and advance the applications of its unique technology into procedurally-integrated surgical solutions. The Company dedicates significant resources toward training spine surgeons on its unique technology and products.

The Company’s primary business model is to loan its MAS systems to surgeons and hospitals that purchase implants, biologics and disposables for use in individual procedures. In addition, for larger customers, the Company’s proprietary nerve monitoring systems, MaXcess and surgical instrument sets are placed with hospitals for an extended period at no up-front cost to them. The Company also offers a range of bone allograft in patented saline packaging, disposables and spine implants, which include its branded CoRoent products and fixation devices such as rods, plates and screws. The Company sells MAS instrument sets, MaXcess and nerve monitoring systems to hospitals, however, such sales are immaterial to the Company’s results of operations.

The Company 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, or 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 enhanced bone healing in patients that have experienced traumatic injury.

The Company intends to continue development on a wide variety of projects intended to broaden surgical applications for greater procedural integration of its MAS techniques and additional applications of the MAGEC technology. Such applications include tumor, trauma, and deformity, as well as increased fixation options, sagittal alignment products, imaging and navigation. The Company also expects to continue expanding its other product and services offerings as it executes on its strategy to offer customers an end-to-end, integrated procedural solution for spine surgery. The Company intends to continue to pursue business and technology acquisition targets and strategic partnerships.

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 significant 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 months ended March 31, 2018 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, 2017 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.

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The Company has reclassified historically presented revenue and cost of revenue to conform to the current year presentation, which now reflects revenue and costs allocated to the Company's product and service offerings. These reclassifications had no impact on previously reported results of operations. Additionally, as required by Accounting Standards Update 2014-09 Revenue from Contracts with Customers ("ASU 2014-09"), on January 1, 2018 the Company adopted Accounting Standards Codification 606 Revenue from Contracts with Customers ("ASC 606"), electing full retrospective method of adoption.

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.

Recent Accounting Pronouncements Not Yet Adopted

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update No. 2016-02, Leases, which outlines a comprehensive lease accounting model and supersedes the current lease guidance. The new accounting standard requires lessees to recognize lease liabilities and corresponding right-of-use assets for all leases with lease terms of greater than twelve months. It also changes the definition of a lease and expands the disclosure requirements of lease arrangements. The new accounting standard must be adopted using the modified retrospective approach and will be effective for the Company starting in the first quarter of fiscal 2019. Early adoption is permitted. The Company believes the adoption will modify its analyses and disclosures of lease agreements considering operating leases are a significant portion of the Company's total lease commitments. The Company is in the process of determining the impact the adoption will have on its Consolidated Financial Statements.

In June 2016, the FASB issued Accounting Standards Update No. 2016-13, Financial Instruments – Credit Losses, which changes the accounting for recognizing impairments of financial assets. Under the new guidance, credit losses for certain types of financial instruments will be estimated based on expected losses. The new guidance also modifies the impairment models for available-for-sale debt securities and for purchased financial assets with credit deterioration since their origination. The new guidance will be effective for the Company starting in the first quarter of fiscal 2021. Early adoption is permitted starting in the first quarter of fiscal 2020. The Company believes the adoption will modify the way the Company analyzes financial instruments, but it does not anticipate a material impact on results of operations. The Company is in the process of determining the effects the adoption will have on its Consolidated Financial Statements as well as whether to early adopt the new guidance.

In January 2017, the FASB issued Accounting Standards Update No. 2017-04, Intangibles – Goodwill and Other, which eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. Instead, entities will record an impairment charge based on the excess of a reporting unit's carrying amount over its fair value. The standard has tiered effective dates, starting in 2020 for calendar-year public business entities that meet the definition of an SEC filer. Early adoption is permitted for annual and interim goodwill impairment testing dates after January 1, 2017. The Company is in the process of determining the effects the adoption will have on its Consolidated Financial Statements as well as whether to early adopt the new guidance.

In July 2017, the FASB issued Accounting Standards Update No. 2017-11, Earnings Per Share, Distinguishing Liabilities from Equity, Derivatives and Hedging, which changes the accounting treatment and the earnings per share

calculation for certain instruments with down round features. The amendments in this update should be applied using a cumulative-effect adjustment as of the beginning of the fiscal year of adoption or retrospective adjustment to each period presented. This update is effective for annual periods beginning after December 15, 2018, and interim periods within those periods and early adoption is permitted. The Company is in the process of determining the impact the adoption will have on its Consolidated Financial Statements as well as whether to early adopt the new guidance.

In August 2017, the FASB issued Accounting Standards Update No. 2017-12, Derivatives and Hedging, which is intended to more closely align hedge accounting with companies' risk management strategies, simplify the application of hedge accounting and increase transparency as to the scope and results of hedging programs. The amendments in this update will be applied using a cumulative-effect adjustment as of the beginning of the fiscal year of adoption. This update is effective for annual periods beginning after December 15, 2018, and interim periods within those periods and early adoption is permitted. The Company is in the process of determining the impact the adoption will have on its Consolidated Financial Statements as well as whether to early adopt the new guidance.

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Recently Adopted Accounting Standards

In May 2014, the FASB issued Accounting Standard Update No. 2014-09 Revenue from Contracts with Customers ("ASU 2014-09"), an updated standard on revenue recognition. The standard effectively replaces Accounting Standards Codification 605 Revenue Recognition ("ASC 605") with Accounting Standards Codification 606 Revenue from Contracts with Customers ("ASC 606"). In summary, the changes to the guidance in revenue recognition under ASC 606 focuses on the existence of a contract with the customer (whether written, oral, or implied by an entity's customary business practices), the concept that the performance obligation is fulfilled when the customer obtains control of the asset/service, versus the transfer of risk and reward, and the requirement that variable consideration (including rebates, discounts, etc.) and incremental costs must be estimated and recognized in the amount that is expected or most likely to be realized over the term of the contract fulfillment.

Prior to the adoption of ASC 606, the Company recognized revenue in accordance with ASC 605 when all four of the following criteria were met: (i) persuasive evidence that an arrangement exists; (ii) delivery of the products and/or services has occurred; (iii) the selling price is fixed or determinable; and (iv) collectability is reasonably assured. Specifically, revenue from the sale of implants, biologics and disposables was generally recognized upon a purchase order from the hospital or acknowledgment from the hospital indicating product use or implantation or upon shipment to third-party customers who immediately accepted title. Revenue from the sale of instrument sets was recognized upon receipt of a purchase order and the subsequent shipment to customers who immediately accepted title. Revenue from neuromonitoring services was recognized in the period the service was performed for the amount of payment expected to be received.

The Company adopted ASC 606 as of January 1, 2018, electing full retrospective method of adoption, which resulted in a change in its accounting policy for revenue recognition and related adjustments to the Consolidated Financial Statements for all periods presented. The Company applied the practical expedients permitted under ASC 606 for which (i) contracts with customers originating prior to January 1, 2016 do not require disclosure for the amount of consideration allocated to remaining performance obligations or an explanation of when the Company expects to recognize that amount as revenue; (ii) contracts beginning and completing in the same annual reporting period need not be restated; and (iii) hindsight for estimating variable consideration for completed contracts is permitted.

The Company recognizes revenue from spinal surgery hardware and ancillary products at a point in time in two types of transactions: (i) procedural based transactions with products used during surgery defined as "charge sheet orders", and (ii) shipping transactions which represent the stocking of product or the purchase of instrumentation to support future surgeries defined as "stocking and capital orders". The Company also recognizes revenue at a point in time associated with surgical-related servicing procedures, including neuromonitoring services which are defined as "surgical-related services". Other sources of revenue, such as leasing revenue and royalties, are immaterial to the Consolidated Financial Statements.

For charge sheet orders, the sale occurs when the surgery is performed and a charge sheet is submitted to the Company by its sales representative identifying the products consumed during the surgery. The Company obtains an authorization or acknowledgment from the hospital to complete the invoicing process. Under ASC 605, persuasive evidence of an arrangement and delivery of product was deemed to have occurred once the charge sheet was processed, and an associated authorization or acknowledgement from the customer was received. Under ASC 606, the Company's charge sheet orders are considered to be a contract with a customer when the Company agrees to attend a scheduled surgery with its products as requested by the hospital or surgeon. The performance obligation is considered

to be complete once the hospital takes control of the product, it is implanted into a patient and there is sufficient evidence regarding the specific usage and pricing of the product used. The scheduling of the surgery and the usage of Company products is determined to be a contract, and recognition of revenue under ASC 606 occurs upon the completion of the surgical event and consumption of product. In the event that information related to the surgical event and consumption of product is not readily available the Company recognizes revenue upon a purchase order from the hospital or acknowledgment from the hospital indicating product use.

For stocking and capital orders, under ASC 605, delivery was deemed to have occurred when the title, including all risks and rewards of ownership of the products specified in the sales agreement had passed to the buyer. Accordingly, title, including all risks and rewards of ownership, passed based on the shipping terms. Under ASC 606, the Company’s stocking and capital order performance obligation is considered to be satisfied when the hospital assumes control of the asset, either upon shipment or delivery depending on the terms, and ability to direct the use of the asset as appropriate without the Company’s consent.

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Under ASC 605, revenue from surgical-related services, such as neuromonitoring services, was recognized in the period the service was performed based on the delivery of a services report to the customer. The Company recognized revenue for the amount of payment expected to be received. In accordance with ASC 606, the Company enters into a contract with a customer when the hospital or surgeon requests the Company to attend a scheduled surgery with its products and services. The Company recognizes revenue at the time of the surgical procedure (when service and control is transferred to the customer), and bills either hospitals or insurance companies for different aspects of the service, as applicable. Revenue from insurance companies is recognized using the expected value method, as the Company bills at a gross rate which is generally not the rate ultimately collected. A contract is deemed to be in place for the expected amount of consideration to be received for the services with respect to hospitals and insurance companies, each of which are deemed to have the ability to pay for the services rendered.

Under ASC 605, the Company has historically estimated the amounts of returns, trade-ins, discounts, rebates, credits or incentives as offsets to the total transaction price or revenue associated with the sale. In limited situations, when historical information was not available or reliable, the Company would defer revenue recognition until completion of all performance obligations. Under ASC 606, the Company analyzes sales that could include variable consideration, and estimates the expected or most likely amount of revenue after returns, trade-ins, discounts, rebates, credits, and incentives. In making these estimates, the Company considers whether the amount of variable consideration is constrained and is included in revenue only to the extent that it is probable that a significant reversal of the revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved.

The Company earns sales-based royalty revenue over time from sales of products using existing biologics intellectual property (“IP”) that is out-licensed to certain companies. Under ASC 605, royalty revenue was recognized as earned and when collection was reasonably assured and was generally estimated and recorded in the same period as the sales that generated the royalty obligation. ASC 606 provides an exception for sales or usage-based royalties from the guidance for accounting for variable consideration, allowing the royalty revenue from the license of IP to be recognized when the performance obligation has been satisfied and the subsequent sale has occurred. Therefore, the Company estimates monthly royalty revenue as its performance obligation is satisfied. The Company does not expect a significant impact to royalty revenue under the adoption of ASC 606 as it has historically estimated and accrued royalty revenue in the period earned.

The Company historically expensed incremental costs, such as commissions associated with sales contracts, as incurred. Under ASU 2014-09, ASC 340-40 Other Assets and Deferred Costs was added along with ASC 606 to codify accounting guidance for the incremental costs to obtain or fulfill a contract with a customer. Under the guidance, the incremental costs must be deferred and recorded over the period in which the contract revenue is recognized. The Company typically does not associate quarterly or annual sales bonuses directly with a sale or master contract; however, commissions are directly associated with individual sales and expensed in the same period as the related contract revenue. The associated commissionable sales would not typically have a future benefit unless the revenue is recognized over time. The Company does not typically have situations where revenue is deferred in excess of one year. Given the practical expedient for contracts completing within one year, the Company does not expect these capitalized costs to be material in a given period.

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The cumulative effect of the change on retained earnings for the full retrospective method of adoption of ASC 606 was $0.3 million as of December 31, 2017. The following tables summarize in a condensed presentation the impact of the adoption of ASC 606 on the Company's previously reported Consolidated Balance Sheet as of December 31, 2017 and the Unaudited Consolidated Statement of Operations and Comprehensive Income and the Unaudited Consolidated Statement of Cash Flows for the three months ended March 31, 2017.

NUVASIVE, INC.
CONSOLIDATED BALANCE SHEET
(in thousands)

As of December 31, 2017	As reported	(Unaudited) Adjustments		(Unaudited) As Adjusted
Accounts receivable, gross	$212,709	$ 537	[a]	$213,246
Allowances on accounts receivable	(13,669)	643	[b]	(13,026)
Inventory, net	247,245	(107)	[c]	247,138
Other current assets	112,705	—		112,705
Total current assets	558,990	1,073		560,063
Remaining other assets	1,080,077	—		1,080,077
Total assets	$1,639,067	$ 1,073		$1,640,140
Accounts payable and accrued liabilities	75,076	691	[d]	75,767
Accrued payroll and related expenses	55,582	36	[e]	55,618
Other current liabilities	30,010	—		30,010
Total current liabilities	160,668	727		161,395
Deferred and income tax liabilities, non-current	18,786	84	[f]	18,870
Other long-term liabilities	660,459	—		660,459
Total NuVasive, Inc. stockholders' equity	795,309	262	[g]	795,571
Non-controlling interests	3,845	—		3,845
Total equity	799,154	262		799,416
Total liabilities and equity	$1,639,067	$ 1,073		$1,640,140

[a] Represents cumulative impact from January 1, 2016 to the period presented on accounts receivable for the full retrospective method of adoption of ASC 606.
[b] Represents cumulative impact from January 1, 2016 to the period presented on allowances on accounts receivable for the full retrospective method of adoption of ASC 606.
[c] Represents cumulative impact from January 1, 2016 to the period presented on inventory for the full retrospective method of adoption of ASC 606.
[d] Represents cumulative impact from January 1, 2016 to the period presented on commissions payable and accrued returns for the full retrospective method of adoption of ASC 606.
[e] Represents cumulative impact from January 1, 2016 to the period presented on commissions payable for the full retrospective method of adoption of ASC 606.
[f] Represents cumulative impact from January 1, 2016 to the period presented on deferred tax liabilities for the full retrospective method of adoption of ASC 606.

[g] Represents cumulative impact from January 1, 2016 to the period presented on retained earnings for the full retrospective method of adoption of ASC 606.

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NUVASIVE, INC.
CONSOLIDATED STATEMENT OF OPERATIONS AND COMPREHENSIVE INCOME
(in thousands, except per share amounts)

(Unaudited)	As reported	Adjustments		As adjusted
Three months ended March 31, 2017				
Revenue				
Product revenue	$225,806	$ (851)	[a]	$224,955
Service revenue	24,058	—		24,058
Total revenue	249,864	(851)		249,013
Cost of revenue (excluding amortization of intangible assets)				
Cost of products sold	46,071	(170)	[b]	45,901
Cost of services	15,542	—		15,542
Total cost of revenue	61,613	(170)		61,443
Gross profit	188,251	(681)		187,570
Operating expenses:				
Sales, marketing and administrative	140,502	(134)	[c]	140,368
Other operating expenses	24,530	—		24,530
Total operating expenses	165,032	(134)		164,898
Total interest and other expense, net	(9,404)	—		(9,404)
Income tax (expense) benefit	(1,490)	205	[d]	(1,285)
Consolidated net income	$12,325	$ (342)	[e]	$11,983
Add back net loss attributable to non-controlling interests	$(443)	$ —		$(443)
Net income attributable to NuVasive, Inc.	$12,768	$ (342)	[e]	$12,426
Net income per share attributable to NuVasive, Inc.:				
Basic	$0.25	$ 0.00	[f]	$0.25
Diluted	$0.22	$ 0.00	[f]	$0.22
Comprehensive income attributable to NuVasive, Inc.	$14,625	$ (342)	[e]	$14,283

[a] Represents net change in sales revenue for charge sheet orders recognized under ASC 606.
[b] Represents net change in cost of products sold for charge sheet orders recognized under ASC 606.
[c] Represents net change in accrued sales commissions for charge sheet orders recognized under ASC 606.
[d] Represents deferred income tax liability on net change associated with charge sheet orders recognized under ASC 606.
[e] Represents net income and comprehensive income resulting from net change in charge sheet orders recognized under ASC 606.
[f] Represents earnings per share impact resulting from net change in charge sheet orders recognized under ASC 606.

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

Three months ended March 31, 2017	As reported	Adjustments		As adjusted
Consolidated net income	$12,325	$ (342)	[a]	$11,983
Adjustments to reconcile net income to net cash provided by operating activities:				
Reserves on current assets	(2,153)	155	[b]	(1,998)
Deferred income tax expense (benefit)	1,645	(205)	[c]	1,440
Other adjustments to reconcile net income	44,909	—		44,909
Changes in operating assets and liabilities, net of effects from acquisitions:				
Accounts receivable	924	795	[d]	1,719
Inventory	(13,630)	(170)	[e]	(13,800)
Prepaid expenses and other current assets	(2,614)	—		(2,614)
Accounts payable and accrued liabilities	593	(43)	[f]	550
Accrued payroll and related expenses	(12,531)	(190)	[f]	(12,721)
Income taxes	(1,298)	—		(1,298)
Net cash provided by operating activities	28,170	—		28,170
Net cash used in investing activities	(38,294)	—		(38,294)
Net cash used in financing activities	(10,127)	—		(10,127)
Effect of exchange rate changes on cash	758	—		758
Decrease in cash, cash equivalents and restricted cash	$(19,493)	$ —		$(19,493)

[a] Represents net income resulting from charge sheet orders recognized under ASC 606.
[b] Represents net change in allowances on accounts receivable for charge sheet orders recognized under ASC 606.
[c] Represents deferred income tax liability on net change associated with charge sheet orders recognized under ASC 606.
[d] Represents net change in accounts receivable for charge sheet orders recognized under ASC 606.
[e] Represents net change in inventory for charge sheet orders recognized under ASC 606.
[f] Represents net change in accrued sales commissions for charge sheet orders recognized under ASC 606.
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In January 2016, the FASB issued Accounting Standards Update No. 2016-01, Financial Instruments-Overall: Recognition and Measurement of Financial Assets and Financial Liabilities ("ASU 2016-01"), which requires that (i) all equity investments, other than equity-method investments, in unconsolidated entities generally be measured at fair value through earnings and (ii) when the fair value option has been elected for financial liabilities, changes in fair value due to instrument-specific credit risk will be recognized separately in other comprehensive income. Additionally, ASU 2016-01 changes the disclosure requirements for financial instruments. ASU 2016-01 provides a practicability exception for investments that do not have readily determinable fair values, which allows investments to be measured at cost, less any impairment, plus or minus changes resulting from observable price changes in orderly transactions for an identical or similar investment of the same issuer. The Company adopted ASU 2016-01 as of January 1, 2018 and elected to apply the practicability exception for measuring equity investments that do not have readily determinable fair market. The adoption did not have any impact on its Consolidated Financial Statements.

In August 2016, the FASB issued Accounting Standards Update No. 2016-15, Classification of Certain Cash Receipts and Cash Payments ("ASU 2016-15"), which eliminates the diversity in practice related to the classification of certain cash receipts and payments for debt prepayment or extinguishment costs, the maturing of a zero coupon bond, the settlement of contingent liabilities arising from a business combination, proceeds from insurance settlements, distributions from certain equity method investees and beneficial interests obtained in a financial asset securitization. ASU 2016-15 designates the appropriate cash flow classification, including requirements to allocate certain components of these cash receipts and payments among operating, investing and financing activities. The retrospective transition method, requiring adjustment to all comparative periods presented, is required unless it is impracticable for some of the amendments, in which case those amendments would be made prospectively as of the earliest date practicable. The Company adopted ASU 2016-15 as of January 1, 2018. The adoption did not have any significant impact on its Consolidated Financial Statements.

In November 2016, the FASB issued Accounting Standards Update No. 2016-18, Restricted Cash ("ASU 2016-18"), which requires entities to show the changes in the total of cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. As a result, entities will no longer present transfers between cash and cash equivalents and restricted cash and restricted cash equivalents in the statement of cash flows. The amendments in this update will be applied using a retrospective transition method to each period presented. The Company adopted ASU 2016-18 as of January 1, 2018 and adjusted the presentation of its Statement of Cash Flows for the periods presented. The adoption did not have any significant impact on its Consolidated Financial Statements.

In January 2017, the FASB issued Accounting Standards Update No. 2017-01, Clarifying the Definition of a Business ("ASU 2017-01"), which clarifies and provides a more robust framework to use in determining when a set of assets and activities is a business. The amendments in this update should be applied prospectively on or after the effective date. The Company adopted ASU 2017-01 as of January 1, 2018.

In February 2017, the FASB issued Accounting Standards Update No. 2017-05, Other Income – Gains and Losses from the Derecognition of Nonfinancial Assets ("ASU 2017-05"), which clarifies the scope of asset derecognition and adds guidance for partial sales and nonfinancial assets. An entity is required to apply the amendments in this update at the same time that it applies the amendments in ASU 2014-09. The Company adopted ASU 2017-05 as of January 1, 2018. The adoption did not have any significant impact on its Consolidated Financial Statements.

In May 2017, the FASB issued Accounting Standards Update No. 2017-09, Compensation – Stock Compensation ("ASU 2017-09"), which clarifies when changes to the terms or conditions of a share-based payment award must be

accounted for as a modification. Entities will apply the modification accounting guidance if the value, vesting conditions, or classification of the award changes. The Company adopted ASU 2017-09 as of January 1, 2018. The adoption did not have any significant impact on its Consolidated Financial Statements.

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Revenue Recognition

In accordance with ASC 606 guidance, 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 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 neuromonitoring services is recognized in the period the service is performed for the amount of consideration expected to be received. Revenue from the sale of instrument sets is generally recognized upon receipt of a purchase order and the subsequent shipment to a customer who assumes control. In certain cases, the Company does offer the ability for customers to lease instrumentation primarily on a non-sales type basis. Instrument sales and leasing revenue represent an immaterial amount of the Company's total revenue in all periods presented. 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.

Inventory

Net inventory primarily consisted of $245.1 million of finished goods, $8.0 million of work in progress and $4.9 million of raw materials as of March 31, 2018. Net inventory as of December 31, 2017 consisted of $232.4 million of finished goods, $9.8 million of work in progress and $5.0 million of raw materials. Finished goods include specialized implants and disposables and are stated at the lower of cost or market determined by utilizing a standard cost method, which includes assessment of 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 lower of cost or market. 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.

Comprehensive Income

Comprehensive income is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. Comprehensive 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 $4.4 million and $6.9 million at March 31, 2018 and December 31, 2017, respectively.

Product Shipment Costs

Product shipment costs, included in sales, marketing and administrative expense in the accompanying Consolidated Statements of Operations, were $5.9 million for both the three months ended March 31, 2018 and March 31, 2017.

The majority of the Company’s shipping costs are related to the loaning of instrument sets, which are not typically sold as part of the Company’s core sales offering. Amounts billed to customers for shipping and handling of products are reflected in revenues 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.

During the three months ended March 31, 2018, the Company incurred $2.3 million of such costs, which consisted primarily of acquisition, integration and business transition activities, and $0.1 million of fair value adjustments on contingent consideration liabilities associated with the Company’s 2017 and 2016 acquisitions. During the three months ended March 31, 2017, the business transition costs were immaterial to the results of operations.

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2. Net (Loss) Income Per Share

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

(in thousands, except per share data)	Three Months Ended March 31, 2018	2017
Numerator:		
Net (loss) income attributable to NuVasive, Inc.	$(27,132)	$12,426
Denominator for basic and diluted net (loss) income per share:		
Weighted average common shares outstanding for basic	51,226	50,566
Dilutive potential common stock outstanding:		
Stock options and employee stock purchase plan	—	221
Restricted stock units	—	1,416
Warrants	—	3,046
Senior Convertible Notes	—	2,537
Weighted average common shares outstanding for diluted	51,226	57,786
Basic net (loss) income per share attributable to NuVasive, Inc.	$(0.53)	$0.25
Diluted net (loss) income per share attributable to NuVasive, Inc.	$(0.53)	$0.22

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 March 31, 2018	2017
Stock options, employee stock purchase plan, and restricted stock units	1,056	102
Warrants	10,865	10,865
Senior Convertible Notes	10,865	—
Total	22,786	10,967

3. 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. Net currency exchange (losses) gains, which include gains and losses from derivative instruments, were $(0.3) million and $0.2 million for the three months ended March 31, 2018 and March 31, 2017, respectively, and are included in other (expense) income, net in the 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 March 31, 2018 and December 31, 2017 a notional principal amount of $11.7 million and $14.3 million, respectively, was outstanding to hedge currency risk relative to the Company's foreign receivables and payables. Derivative instrument net losses on the Company's forward exchange contracts were $0.4 million for both the three months ended March 31, 2018 and March 31, 2017 and are included in other (expense) income, net in the Consolidated Statements of Operations. The fair value of the forward contract exchange derivative instrument liability was de minimis as of March 31, 2018 and $(0.1) million as of December 31, 2017. The derivative instruments are recorded in other current assets or other current liabilities in the Consolidated Balance Sheets commensurate with the nature of the instrument at period end.

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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 three months ended March 31, 2018.

The fair values of the Company's assets and liabilities, including cash equivalents, marketable securities, restricted investments, derivatives, and contingent obligations are measured at fair value on a recurring basis. As of March 31, 2018 and December 31, 2017, the Company held investments in securities classified as cash equivalents. During the periods presented, the Company did not hold any investments that were in a significant unrealized loss position and no impairment charges were recorded. Realized gains and losses and interest income related to marketable securities were immaterial during all periods presented. Cash equivalents are determined under the fair value categories as follows:

(in thousands)	Total	Quoted Price in Active Market (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
March 31, 2018:				
Cash equivalents:				
Money market funds	$22,000	$ 22,000	$ —	$ —
Total cash equivalents	$22,000	$ 22,000	$ —	$ —
December 31, 2017:				
Cash equivalents:				
Money market funds	$27,000	$ 27,000	$ —	$ —
Total cash equivalents	$27,000	$ 27,000	$ —	$ —

The carrying amounts of certain financial instruments such as cash equivalents, accounts receivable, prepaid expenses, other current assets, accounts payable, accrued expenses, and other current liabilities as of March 31, 2018 and December 31, 2017 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

The fair value, based on a quoted market price (Level 1), of the Company's outstanding Senior Convertible Notes due 2021 at March 31, 2018 and December 31, 2017, was $716.3 million and $779.5 million, respectively. See Note 6 to the Unaudited Consolidated Financial Statements for further discussion on the carrying value of the notes.

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 Consolidated Statement of Operations. Contingent consideration arrangements assumed by an asset purchase will be measured and accrued when such contingency is resolved.

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Contingent consideration liabilities were $65.8 million and $67.9 million as of March 31, 2018 and December 31, 2017, respectively, and were recorded in the 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):

	Three Months Ended March 31,	
(in thousands)	2018	2017
Fair value measurement at beginning of period	$67,941	$67,501
Contingent consideration liability recorded upon acquisition	6,663	—
Change in fair value measurement	149	(1,352)
Changes resulting from foreign currency fluctuations	72	12
Contingent consideration paid or settled	(9,000)	—
Fair value measurement at end of period	$65,825	$66,161

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, 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 capital lease obligations approximated their estimated fair value as of March 31, 2018 and December 31, 2017.

During the three months ended March 31, 2018, the Company recorded an impairment charge of $9.0 million on a strategic investment. The impairment was recorded in other (expense) income, net in the Unaudited Consolidated Statement of Operations.

4. Goodwill and Intangible Assets

Goodwill and intangible assets consisted of the following:

(in thousands, except years)	Weighted-Average Amortization Period	Gross	Accumulated	Intangible Assets,
March 31, 2018:	(in years)	Amount	Amortization	net
Intangible assets subject to amortization:				
Developed technology	8	$271,748	$ (107,068)	$164,680

Manufacturing know-how and trade secrets	13	30,881	(16,168)	14,713
Trade name and trademarks	9	25,500	(11,376)	14,124
Customer relationships	9	141,928	(47,845)	94,083
Total intangible assets subject to amortization	9	$470,057	$ (182,457)	$287,600
Intangible assets not subject to amortization:				
Goodwill				$563,046
Total goodwill and intangible assets, net				$850,646

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December 31, 2017:	Weighted-Average Amortization Period (in years)	Gross Amount	Accumulated Amortization	Intangible Assets, net
Intangible assets subject to amortization:				
Developed technology	8	$271,748	$ (98,693)	$173,055
Manufacturing know-how and trade secrets	13	30,653	(15,542)	15,111
Trade name and trademarks	9	25,200	(10,559)	14,641
Customer relationships	9	122,249	(44,282)	77,967
Total intangible assets subject to amortization	9	$449,850	$ (169,076)	$280,774
Intangible assets not subject to amortization:				
Goodwill				$536,926
Total goodwill and intangible assets, net				$817,700

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

(in thousands)	
December 31, 2017	
Gross goodwill	$545,226
Accumulated impairment loss	(8,300)
	536,926
Changes to gross goodwill	
Increases recorded in business combinations	25,956
Changes in purchase price allocation	75
Changes resulting from foreign currency fluctuations	89
	26,120
March 31, 2018	
Gross goodwill	571,346
Accumulated impairment loss	(8,300)
	$563,046

Total expense related to the amortization of intangible assets, which is recorded in both cost of revenue and operating expenses in the Consolidated Statements of Operations depending on the functional nature of the intangible asset, was $13.3 million and $13.0 million for the three months ended March 31, 2018 and March 31, 2017, respectively.

Total future amortization expense related to intangible assets subject to amortization at March 31, 2018 is set forth in the table below:

(in thousands)	
Remaining 2018	$39,561

2019	51,263
2020	50,640
2021	48,580
2022	41,169
Thereafter through 2031	56,387
Total future amortization expense	$287,600

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5. 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 contained contingent consideration arrangements that required the Company to assess the acquisition date fair value of the contingent consideration liabilities, which was recorded as part of the purchase price allocation of the acquisition, with subsequent fair value adjustments to the contingent consideration recorded in the Consolidated Statements of Operations. See Note 3 to the Unaudited Consolidated Financial Statements for further discussion on contingent consideration liabilities.

Acquisitions

In January 2018, the Company acquired SafePassage, a privately-held provider of IOM services, which now operates as a wholly-owned subsidiary of the Company. The acquisition was not considered material to the overall Unaudited Consolidated Financial Statements. The Company's NuVasive Clinical Services division (including SafePassage) represents the reported service revenue on the Unaudited Consolidated Statement of Operations.

The Company has completed other acquisitions that were not considered material to the overall Unaudited Consolidated Financial Statements during the periods presented. These acquisitions have been included in the Unaudited Consolidated Financial Statements from the respective dates of acquisition. The Company does not believe that collectively the acquisitions made during the periods presented are material to the overall financial statements.

For certain acquisitions completed during the periods presented, the Company is still in the process of finalizing the purchase price allocation given the timing of the acquisitions and the size and scope of the assets and liabilities subject to valuation. While the Company does not expect material changes in the valuation outcome, certain assumptions and findings that were in place at the date of acquisition could result in changes in the purchase price allocation.

Variable Interest Entities

Progentix Orthobiology B.V.

In 2009, the Company purchased forty percent (40%) of the capital stock of Progentix Orthobiology B.V. ("Progentix"), a company organized under the laws of the Netherlands, from existing shareholders pursuant to a Preferred Stock Purchase Agreement for $10.0 million in cash (the "Initial Investment"). The Company also loaned Progentix cumulatively a total of $5.3 million at an interest rate of 6% per year (the "Loan"). Concurrently, with the Initial Investment, the Company and Progentix entered into a Distribution Agreement (as amended, the "Distribution Agreement") for a term of ten years, whereby Progentix appointed the Company as its exclusive distributor for certain Progentix products.

Following the Initial Investment, in accordance with authoritative guidance, the Company determined that Progentix was a variable interest entity ("VIE"), as it did not have the ability to finance its activities without additional subordinated financial support and its equity investors would not absorb their proportionate share of expected losses and would be limited in the receipt of the potential residual returns of Progentix.

In January 2018, the Company completed the acquisition of the remaining 60% of the capital stock of Progentix (the "Non-Controlling Interest Acquisition"). Subsequent to the Non-Controlling Interest Acquisition, the Company owns

100% of the capital stock of Progentix, which now operates as its wholly-owned subsidiary and is no longer accounted for as a VIE or a separate reporting unit as of the date of the Non-Controlling Interest Acquisition. In accordance with authoritative guidance, the non-controlling interest associated with Progentix was reclassified to additional paid-in capital, including the difference between the non-controlling interest and consideration paid. The Loan plus accrued interest and the related receivable between the Company and Progentix is still outstanding as of March 31, 2018.

The following is a reconciliation of equity (net assets) attributable to the non-controlling interest:

	Three Months Ended March 31,	
(in thousands)	2018	2017
Non-controlling interest at beginning of period	$3,845	$5,588
Acquired non-controlling interest reclassified to additional paid-in capital	(3,845)	—
Less: Net loss attributable to the non-controlling interest	—	(443)
Non-controlling interest at end of period	$—	$5,145

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Total assets and liabilities of Progentix as a VIE included in the accompanying Consolidated Balance Sheets are as follows:

(in thousands)	March 31, 2018	December 31, 2017
Total current assets	$ —	$ 670
Identifiable intangible assets, net	—	8,752
Goodwill	—	12,654
Accounts payable and accrued expenses	—	562
Deferred tax liabilities, net	—	331
Non-controlling interest	—	3,845

NuVasive Clinical Services and Physician Practices

The Company’s NuVasive Clinical Services division (including SafePassage), which provides IOM services to surgeons and healthcare facilities across the U.S., maintain contractual relationships with several physician practices (“PCs”). In accordance with authoritative guidance, the Company has determined that the PCs are VIEs 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 financials. The creditors of the PCs have claims only on the assets of the PCs, which are not material, and the assets of the PCs are not available to the Company.

6. Indebtedness

The carrying values of the Company’s Senior Convertible Notes due 2021 are as follows:

(in thousands)	March 31, 2018	December 31, 2017
2.25% Senior Convertible Notes due 2021:		
Principal amount	650,000	650,000
Unamortized debt discount	(52,740)	(56,839)
Unamortized debt issuance costs	(9,544)	(10,241)
Total Senior Convertible Notes	$587,716	$582,920

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"). The net proceeds from the offering, after deducting initial purchasers' discounts and costs directly related to the offering, were approximately $634.1 million. The 2021 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 2021 Notes is 16.7158 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $59.82 per

share, subject to adjustments. The Company uses 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 note hedge (the "2021 Hedge") and warrants (the "2021 Warrants") concurrently with the issuance of the 2021 Notes.

The cash conversion feature of the 2021 Notes required bifurcation from the notes and was initially accounted for as an equity instrument classified to stockholders' equity, which resulted in recognizing $84.8 million in additional paid-in-capital during 2016.

The interest expense recognized on the 2021 Notes during the three months ended March 31, 2018 includes $3.7 million, $4.1 million and $0.7 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 three months ended March 31, 2017 includes $3.7 million, $3.9 million and $0.6 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The effective interest rate on the 2021 Notes is 5.8%, which includes the interest on the notes, amortization of the debt discount and debt issuance costs. Interest on the 2021 Notes began accruing upon issuance and is payable semi-annually.

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Prior to September 15, 2020, holders may convert 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 is 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 falls 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 may convert their 2021 Notes at any time (regardless of the foregoing circumstances). The Company may not redeem the 2021 Notes prior to March 20, 2019. The Company may redeem the 2021 Notes, at its option, in whole or in part on or after 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 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 2021 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date. No principal payments are 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 do not contain any financial covenants and do not restrict the Company from paying dividends or issuing or repurchasing any of its other securities. The Company is unaware of any current events or market conditions that would allow holders to convert the 2021 Notes.

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 is 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 will expire on March 15, 2021. The 2021 Hedge is expected 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 exceeds the strike price of the 2021 Hedge. An assumed exercise of the 2021 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.

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. 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.

2.75% Senior Convertible Notes due 2017

In June 2011, the Company issued $402.5 million principal amount of the unsecured Senior Convertible Notes with a stated interest rate of 2.75% and a maturity date of July 1, 2017 (the “2017 Notes”). The 2017 Notes provided for settlement in cash, stock, or a combination thereof, solely at the Company’s discretion. The initial conversion rate of the 2017 Notes was 23.7344 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $42.13 per share, subject to adjustments. The Company used the treasury share method for assumed conversion of the 2017 Notes to compute the weighted average shares of common stock outstanding for diluted earnings per share.

During 2016, the Company repurchased a majority of the 2017 Notes, which resulted in a cumulative loss of approximately $19.1 million recorded in other expense on the accompanying Consolidated Statements of Operations for the year ended December 31, 2016. In July 2017, the Company settled the remaining 2017 Notes upon maturity via combination settlement, which involved 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 interest expense recognized on the 2017 Notes during the three months ended March 31, 2017 includes $0.4 million, $0.7 million and $0.1 million for the contractual coupon interest, the accretion of the debt discount and the amortization of the debt issuance costs, respectively. The effective interest rate on the 2017 Notes was 8.0%, which includes the interest on the notes, amortization of the debt discount and debt issuance costs. Interest on the 2017 Notes began accruing upon issuance and was payable semi-annually.

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Concurrently, with the offering of the 2017 Notes the Company also entered into transactions for a convertible note hedge (the "2017 Hedge") and warrants (the "2017 Warrants"). The 2017 Hedge entitled the Company to purchase up to 9,553,096 shares of the Company's common stock at an initial price of $42.13 per share. Prior to its maturity, an assumed exercise of the 2017 Hedge by the Company was considered anti-dilutive since the effect of inclusion would always be anti-dilutive with respect to the calculation of diluted earnings per share. The 2017 Warrants entitled its holders to acquire up to 477,654 shares of the Company's Series A Participating Preferred Stock at an initial strike price of $988.51 per share. Each share of Series A Participating Preferred Stock was convertible into 20 shares of the Company's common stock, or up to 9,553,080 common shares in total. The 2017 Warrants were scheduled to expire on various dates from September 2017 through January 2018 with settlement in cash or net shares. The Company used the treasury share method for assumed conversion of its 2017 Warrants to compute the weighted average common shares outstanding for diluted earnings per share. In 2017, the Company exercised the 2017 Hedge and also entered into warrant termination agreements which settled the 2017 Warrants on a net share basis.

Revolving Senior Credit Facility

In April 2017, the Company entered into an Amended and Restated Credit Agreement (the "2017 Credit Agreement") for a revolving senior credit facility (the "2017 Facility"), which replaced the previous Credit Agreement the Company had entered into in February 2016. The 2017 Credit Agreement provides for secured revolving loans, multicurrency loan options and letters of credit in an aggregate amount of up to $500.0 million. The 2017 Credit Agreement also contains an expansion feature, which allows the Company to increase the aggregate principal amount of the 2017 Facility provided the Company remains in compliance with the underlying financial covenants, including but not limited to, compliance with the consolidated interest coverage ratio and certain consolidated leverage ratios. The 2017 Facility matures in April 2022 (subject to an earlier springing maturity date), and includes a sublimit of $100.0 million for multicurrency borrowings, a sublimit of $50.0 million for the issuance of standby letters of credit, and a sublimit of $5.0 million for swingline loans. All assets of the Company and its material domestic subsidiaries are pledged as collateral under the 2017 Facility (subject to customary exceptions) pursuant to the term set forth in the Amended and Restated Security and Pledge Agreement (the "2017 Security Agreement") executed in favor of the administrative agent by the Company. Each of the Company's material domestic subsidiaries guarantees the 2017 Facility. In connection with the 2017 Facility, the Company incurred issuance costs which will be amortized over the term of the 2017 Facility. As of March 31, 2018, the Company had $55.0 million outstanding under the 2017 Facility, at an interest rate of 3.44% (one month LIBOR plus 1.75%).

Borrowings under the 2017 Facility are used by the Company to provide financing for working capital and other general corporate purposes, including potential mergers and acquisitions. Borrowings under the 2017 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 2017 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) LIBOR for an interest period of one month plus 1.00%. The margin for the 2017 Facility ranges, based on the Company's consolidated leverage ratio, from 0.00% to 1.00% in the case of base rate loans and from 1.00% to 2.00% in the case of Eurocurrency Rate loans. The 2017 Facility includes an unused line fee ranging, based on the Company's consolidated leverage ratio, from 0.20% to 0.35% per annum on the revolving commitment.

The 2017 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 ratios of consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) in relation to consolidated

interest expense and consolidated debt, respectively, as defined in the 2017 Credit Agreement. The 2017 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 2017 Credit Agreement covenants.

7. Stock-Based Compensation

The compensation cost that has been included in the Consolidated Statements of Operations for all stock-based compensation arrangements was as follows:

	Three Months Ended March 31,	
(in thousands)	2018	2017
Sales, marketing and administrative expense	$3,515	$6,795
Research and development expense	500	139
Cost of revenue	119	83
Stock-based compensation expense before taxes	4,134	7,017
Related income tax benefits	(1,034)	(2,666)
Stock-based compensation expense, net of taxes	$3,100	$4,351

At March 31, 2018, there was $39.6 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 2.1 years.

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Restricted Stock Units

The Company issued approximately 112,000 shares of common stock, before net share settlement, upon vesting of RSUs (including PRSUs) during the three months ended March 31, 2018 and issued approximately 359,000 shares of common stock in settlement of RSUs (including PRSUs) upon their vesting during the year ended December 31, 2017.

Stock Options and Purchase Rights

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 March 31,	
	2018	2017
ESPP		
Volatility	36 %	25 %
Expected term (years)	0.5	0.5
Risk free interest rate	1.2%	0.5 %
Expected dividend yield	— %	— %

Under the terms of the ESPP, the Company's employees (referred to as "shareowners") 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. The Company issued approximately 59,000 shares of common stock, before net share settlement, upon the exercise of outstanding stock options during the three months ended March 31, 2018 and issued approximately 232,000 shares of common stock, before net share settlement, upon the exercise of outstanding stock options during the year ended December 31, 2017.

8. 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 three months ended March 31, 2018, 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 related to shortfalls on share-based payments, return to provision adjustments, and limitations on certain officer's compensation. The Company's effective tax rate recorded for the three months ended March 31, 2018 was 27%.

On December 22, 2017, President Trump signed U.S. tax reform legislation, commonly referred to as the Tax Cuts and Jobs Act (the "Act"), which became effective January 1, 2018. Due to insufficient guidance on certain aspects of the

Act, such as officer's compensation, as well as uncertainty around the GAAP treatment associated with many other parts of the Act, such as the implementation of certain international provisions, the Company recorded certain provisional amounts related to the revaluation and realization of its deferred taxes in its December 31, 2017 tax provision. In the first quarter of 2018, the Company further analyzed the impact of the Act on certain executive compensation related deferred taxes and determined that a write-down of approximately $0.2 million was required, which would have increased the full year effective tax rate by 0.3% and the fourth quarter effective tax rate by 1.1%. This Company is continuing to analyze the impact of the Act during which adjustments to the 2017 year-end provisional calculation will be subject to change during the Staff Accounting Bulletin No. 118 measurement period. As the Company finalizes its analysis and adjusts its tax balances accordingly, it will describe the issue and impact on previously recorded provisional amounts. At March 31, 2018, the Company has not completed its accounting for the tax effects of the global intangible low-taxed income ("GILTI"), foreign derived intangible income ("FDII"), and base erosion and anti-abuse tax ("BEAT") provisions of the Act on current year tax expense; however, the Company has made a reasonable estimate and determined that these provisions will have no impact on its 2018 results. Because the Company continues to evaluate the impact of the Act's GILTI provisions, it has yet to elect an accounting policy to treat the tax impact as either a future period charge or as a current component of deferred taxes.

In accordance with the disclosure requirements as described in ASC Topic 740, Income Taxes, 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 $0.3 million during the three months ended March 31, 2018, primarily related to research and development credits. The Company believes it is reasonably possible that approximately $6.5 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.

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The Company is subject to routine compliance reviews on various tax matters around the world in the ordinary course of business. Currently, income tax audits are being conducted in the state of New York, the state of Louisiana, and Germany. U.S. and most foreign jurisdictions remain subject to examination in all years due to prior year net operating losses and R&D credits.

9. 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 revenue 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. As such, the Company operates as one reporting segment. The Company has disclosed the revenues 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 IOM services, disposables and biologics, all of which are used to aid spinal surgery.

The Company has reclassified historically presented product line revenue to conform to the current period presentation. The reclassification had no impact on previously reported results of operations.

Revenue by product line was as follows:

	Three Months Ended March 31,	
(in thousands)	2018	2017
Spinal hardware	$185,901	$175,086
Surgical support	74,621	73,927
Total revenue	$260,522	$249,013

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

	Revenue Three Months Ended March 31,		Property and Equipment, Net March 31,	December 31,
(in thousands)	2018	2017	2018	2017
United States	$213,303	$213,356	$192,326	$179,891
International (excludes Puerto Rico)	47,219	35,657	35,247	35,435
Total	$260,522	$249,013	$227,573	$215,326

10. Commitments

Licensing and Purchasing Agreements

As of March 31, 2018 the Company has obligations under certain consulting arrangements to pay up to approximately $45.2 million in the aggregate in the event that specified revenue-based milestones are achieved prior to 2027. Any such payment will be made in a combination of cash and the Company's common shares as provided in the agreements. Any payments in satisfaction of these contingent obligations are considered either a research and development expense or a cost of revenue depending on the nature of the arrangement and are recognized ratably as and if milestones are achieved. These agreements expire on various dates through 2027.

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 earnings. At March 31, 2018, future commitments for such key executives were approximately $40.0 million. In certain circumstances, the agreements call for the acceleration of equity vesting. Those figures are not reflected in the above information.

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11. 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 or that it considers immaterial to its overall financial position. 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.

Legal Proceedings

Securities Litigation

On August 28, 2013, a purported securities class action lawsuit was filed in the U.S. District Court for the Southern District of California naming the Company and certain of its current and former executive officers for allegedly making false and materially misleading statements regarding the Company's business and financial results, specifically relating to the purported improper submission of false claims to Medicare and Medicaid. The operative complaint asserts a putative class period stemming from October 22, 2008 to July 30, 2013. The complaint alleges violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder and seeks unspecified monetary relief, interest, and attorneys' fees. On February 13, 2014, Brad Mauss, the lead plaintiff in the case, filed an Amended Class Action Complaint for Violations of the Federal Securities Laws. The Company answered the complaint on August 25, 2016, and discovery commenced. The plaintiffs filed motions for class certification on October 28, 2016 and the Company's opposition papers were filed on January 9, 2017. On March 22, 2017, the court issued an order granting class certification. The Company filed a petition to appeal the order granting class certification with the U.S. Court of Appeals for the Ninth Circuit (the "Ninth Circuit") on April 5, 2017 and the plaintiffs filed an opposition to the petition. On August 15, 2017, the Ninth Circuit denied the Company's petition. The Company filed a motion for summary judgment on September 8, 2017. On February 1, 2018, the court entered an order denying the Company's motion for summary judgment. On February 13, 2018, the Company entered into a memorandum of understanding with the plaintiffs to settle the case for $7.9 million. The Company expects the settlement will be fully funded by insurance proceeds. The settlement includes the dismissal of all claims against the Company and the named individuals in the lawsuit without any liability or wrongdoing attributed to them. The settlement is subject to formal documentation, court approval and other customary conditions. There can be no assurance that a settlement will be finalized and approved or as to the ultimate outcome of this litigation. However, in connection with the proposed settlement and in accordance with authoritative guidance, the Company has recorded the loss contingency of $7.9 million as a current litigation liability and the expected insurance proceeds of $7.9 million as a current receivable in the Consolidated Balance Sheet as of March 31, 2018 and December 31, 2017.

Shareholder Derivative Litigation

On September 28, 2016, a shareholder derivative complaint was filed by James Borta in the Superior Court of California for the County of San Diego naming certain of the Company's current and former executive officers and directors for allegedly breaching their fiduciary duties by, among other things, making allegedly false and misleading statements about the Company's business, operations, and prospects. The derivative complaint is based upon the same factual allegations as the securities class action litigation and names the Company as a nominal defendant. The plaintiff filed an Amended Complaint on March 1, 2017. The Company demurred to the Amended Complaint on April 7, 2017 and the court sustained the Company's demurrer and provided the plaintiff thirty days to file an amended complaint. On June 30, 2017 the plaintiff filed a Second Amended Derivative Complaint, to which the Company demurred. On September 29, 2017 the court sustained the Company's demurrer and dismissed the case with prejudice, entering judgment. On October 10, 2017, the plaintiff filed a motion for reconsideration and to vacate the judgment. The court denied the motion on December 15, 2017. On March 2, 2018, the plaintiff filed a Notice of Appeal which the plaintiff subsequently abandoned on March 21, 2018. The Company believes this matter is now concluded and at March 31, 2018, in accordance with authoritative guidance on the evaluation of loss contingencies, the Company has not recorded an accrual related to this litigation.

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Madsen Medical, Inc. Litigation

On February 19, 2016, an unfavorable jury verdict was delivered against the Company in its litigation in the U.S. District Court for the Southern District of California against Madsen Medical, Inc. ("MMI"), a former sales agent. Specifically, the jury awarded MMI $7.5 million in lost profits for tortious interference, $14.0 million for unjust enrichment, $20.0 million in punitive damages, and approximately $0.3 million in damages for breach of contract. On March 18, 2016, the trial court entered judgment in favor of MMI in the amount of $27.8 million, which amount excluded the $14.0 million disgorgement awarded by the jury. On July 5, 2016, the trial court also awarded MMI attorney's fees and costs of approximately $1.1 million. The Company's post-trial motions for judgment as a matter of law and/or for a new trial were denied, and the Company has appealed both the verdict and the court's subsequent award of attorney's fees and costs. However, the Company did not appeal the judgment with respect to breach of contract and accordingly accrued the $0.3 million in damages during the year ended December 31, 2017. The U.S. Court of Appeals for the Ninth Circuit held oral argument on April 12, 2018. During pendency of any appeals, the Company has secured a bond to cover the amount of the judgment and attorneys' fees and costs.

As of December 31, 2017, the Company believed that the outcome of the case did not constitute a probable nor an estimable loss associated with the litigation, but rather a reasonably possible loss. The Company, based on its own assessment as well as that of outside counsel, believed that it was probable upon appeal the judgment would be vacated. Accordingly, the Company did not record a loss contingency at December 31, 2017, but assessed a reasonable range of potential loss, which would be from zero to the current amount entered as a judgment, as well as attorney's fees and interest. While the Company continues to believe in the underlying facts of the case, following the April 12, 2018 oral argument, the Company now believes that the prior judgments against it, in part or as a whole, may be upheld. Accordingly, at March 31, 2018, the Company believes that the outcome of the case now constitutes a probable loss. While the actual amount of the probable loss is not known, the Company has assessed a range of potential loss in accordance with Accounting Standards Codification 450, Contingencies, which would be from zero to $29.0 million, and has recorded an estimated loss contingency in the amount of $29.0 million as a current litigation liability in the Unaudited Consolidated Balance Sheet as of March 31, 2018. The estimated loss contingency is based on the aforementioned update and is the Company's best estimate in the range of potential loss. The Company cannot at this time predict the ultimate outcome of this matter or the possible additional loss, if any.

12. Regulatory Matters

On August 31, 2015, the Company received a civil investigative demand ("CID") issued by the Department of Justice ("DOJ") pursuant to the federal False Claims Act. The CID requires the delivery of a wide range of documents and information related to an investigation by the DOJ concerning allegations that the Company assisted a physician group customer in submitting improper claims for reimbursement and made improper payments to the physician group in violation of the Anti-Kickback Statute. The Company is cooperating with the DOJ. No assurance can be given as to the timing or outcome of this investigation. At March 31, 2018, the probable outcome of this matter cannot be determined, nor can the Company estimate a range of potential loss. In accordance with authoritative guidance on the evaluation of loss contingencies, the Company has not recorded an accrual related to this matter.

On June 9, 2017, the Company received a subpoena from the Office of the Inspector General of the U.S. Department of Health and Human Services ("OIG") in connection with an investigation into possible false or otherwise improper claims submitted to Medicare and Medicaid. The subpoena seeks discovery of documents for the period January 2014 through June 2017, primarily associated with sales to a particular customer and relationships related to that customer

account. The Company is working with the OIG to understand the scope of the subpoena and its request for documents, and the Company intends to fully cooperate with the OIG's request. No assurance can be given as to the timing or outcome of this investigation. At March 31, 2018, the probable outcome of this matter cannot be determined, nor can the Company estimate a range of potential loss. In accordance with authoritative guidance on the evaluation of loss contingencies, the Company has not recorded an accrual related to this matter.

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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", "expects", "plans", "anticipates", "believes", "estimates", "predicts", "potential", "intends" the negative of those words and other comparable words). Forward-looking statements include, but are not limited to, statements about:

- our intentions, beliefs and expectations regarding our expenses, sales, operations and future financial performance;
- our operating results;
- our plans for future products and enhancements of existing products;
- anticipated growth and trends in our business;
- 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;
- our expectations regarding our revenues, customers and distributors;
- 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 and challenges in the markets in which we operate; and
- our expectations and beliefs regarding and the impact of 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, 2017, and this Quarterly Report on Form 10-Q, and similar discussions in our other Securities and Exchange Commission 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, 2017 contained in our 2017 Annual Report on Form 10-K.

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Overview

We are a leading medical device company in the global spine surgery market, focused on developing minimally-disruptive surgical products and procedurally-integrated solutions for spine surgery. Our currently-marketed product portfolio is focused on applications for spine fusion surgery, including ancillary products and services used to aid in the surgical procedure.

Our principal product offering includes a minimally-disruptive surgical platform called Maximum Access Surgery, or MAS. The MAS platform combines three categories of solutions that collectively minimize soft tissue disruption during spine fusion surgery, provide maximum visualization and are designed to enable safe and reproducible outcomes for the surgeon and the patient. The platform includes our proprietary software-driven nerve detection and avoidance systems, NVM5, and Intraoperative Monitoring, or IOM, services and support offered by our NuVasive Clinical Services division; MaXcess, an integrated split-blade retractor system; and a wide variety of specialized implants and biologics. Many of our products, including the individual components of our MAS platform can also be used in open or traditional spine surgery. Our spine surgery product line offerings, which include products for the thoracolumbar and the cervical spine, are primarily used to enable surgeon access to the spine to perform restorative and fusion procedures in a minimally-disruptive fashion. To assist with surgical procedures we offer a platform called Integrated Global Alignment, or iGA, in which products and computer assisted technology under our MAS platform help achieve more precise spinal alignment.

Our MAS platform and its related offerings are designed to provide a unique and comprehensive solution for the safe and reproducible minimally-disruptive surgical treatment of spine disorders by enabling surgeons to access the spine in a manner that affords both direct visualization and detection and avoidance of critical nerves along with intraoperative reconciliation. The fundamental difference between our MAS platform, which is sometimes referred to in the industry as “minimally invasive surgery” or “MIS”, is the ability to customize safe and reproducible access to the spine while allowing surgeons to continue to use instruments that are familiar to them and effective during surgery. Accordingly, the MAS platform does not force surgeons to reinvent or learn new approaches that add complexity and undermine safety, ease of use and/or efficacy. We have dedicated and continue to dedicate significant resources toward training spine surgeons around the world; both those who are new to our MAS and other product platforms, as well as ongoing education for MAS-trained surgeons attending advanced courses. An important ongoing objective of ours has been to maintain a leading position in access and nerve avoidance, as well as to pioneer and remain the ongoing leader in minimally invasive spine surgery. Our MAS platform, with the unique advantages provided by our nerve monitoring systems, enables an innovative lateral procedure known as eXtreme Lateral Interbody Fusion, or XLIF, in which surgeons access the spine for a fusion procedure from the side of the patient’s body, rather than from the front or back. It has been demonstrated clinically that XLIF and other procedures facilitated by our MAS platform decrease trauma and blood loss, and lead to faster overall patient recovery times compared to open spine surgery.

We offer a comprehensive portfolio of implants and fixation devices designed to be used with the MAS platform. Our portfolio of implants used for interbody disc height restoration include implants made from allograft, titanium, and polyetheretherketone, or PEEK. Our fixation products include specialized pedicle screws, rods and plates. Our biologics products, which are used to aid in the spinal fusion process or bone healing process, include allograft (donated human tissue) and synthetic offerings. 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 enhanced bone healing in patients that have experienced traumatic injury. The PRECICE limb lengthening system is sold by our NuVasive Specialized Orthopedics division.

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We intend to continue development on a wide variety of projects intended to broaden surgical applications for greater procedural integration of our MAS techniques and additional applications of the MAGEC technology. Such applications include tumor, trauma, and deformity, as well as increased fixation options, sagittal alignment products, imaging and navigation. We also expect to continue expanding our other product and services offerings as we execute on our strategy to offer customers an end-to-end, integrated procedural solution for spine surgery. We intend to continue to pursue business and technology acquisition targets and strategic partnerships.

Revenues and Operations

The majority of our revenues are derived from the sale of implants, biologics and disposables and we expect this trend to continue for the foreseeable future. Additionally, with our recent acquisitions of IOM service providers, we expect our IOM service and support revenue to increase compared to previous periods. We loan our proprietary software-driven nerve monitoring systems and surgical instrument sets at no cost to surgeons and hospitals that purchase disposables and implants for use in individual procedures. In addition, we often place our proprietary software-driven nerve monitoring systems, MaXcess and other MAS instrument sets with hospitals for an extended period at no up-front cost to them. Our implants, biologics and disposables are currently sold and shipped from our distribution and warehousing operations. We generally recognize revenue for implants, biologics and disposables upon notice that our products have been used in a surgical procedure or upon shipment to a third-party customer assuming control of the products. Revenue from IOM services is recognized in the period the service is performed for the amount of payment we expect to receive. We sell MAS instrument sets, MaXcess devices, and our proprietary software-driven nerve monitoring systems, however this does not make up a material part of our business. Currently, sales and leases of capital equipment, including our LessRay software technology suite, represent a small portion of our consolidated revenues.

The majority of our operations are located and the majority of our sales have been generated in the United States. We sell our products in the United States through a sales force comprised primarily of independent sales agents and directly-employed sales representatives. Our sales force provides a delivery and consultative service to our surgeon and hospital customers and is compensated based on sales and product placements in their territories. Sales force commissions are reflected in the sales, marketing and administrative operating expense line item within our Statement 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 agents, as well as exclusive and non-exclusive independent third-party distributors.

Results of Operations

Revenue

	March 31,				
(in thousands, except %)	2018	2017	$ Change	% Change	
Three Months Ended					
Revenue					
Spinal hardware	$185,901	$175,086	$10,815	6	%
Surgical support	74,621	73,927	694	1	%
Total revenue	$260,522	$249,013	$11,509	5	%

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

The continued adoption of minimally invasive procedures for spine has led to the expansion of our procedure volume. In addition, increased market acceptance in our international markets contributed to the increase in revenues for the periods presented. 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, the continued existence of physician-owned distributorships, recent changes in the public and private insurance markets regarding reimbursement, and ongoing policy and legislative changes in the United States have created less predictability in the lumbar portion of the spine market. Although the market for procedurally-integrated spine surgery solutions should 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. Our growth in revenue in 2018 should come primarily from market share gains in the shift toward less invasive spinal surgery, revenue from new products and services, and international growth.

Revenue from our spinal hardware product line offerings increased $10.8 million, or 6% during the three months ended March 31, 2018 compared to the same period in 2017. Product volume and foreign currency fluctuation in spinal hardware increased our revenue by approximately 7% and 1%, respectively, for the three months ended March 31, 2018, offset by unfavorable pricing impacts of approximately 2% for the three months ended March 31, 2018, as compared to the same period in 2017.

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Revenue from our surgical support product line offerings increased $0.7 million, or 1% during the three months ended March 31, 2018 compared to the same period in 2017. Excluding the impact from our 2018 acquisitions, the three months ended March 31, 2018 included decreases in surgical support volume of 4% and unfavorable pricing impacts of 1%, as compared to the same period in 2017. Revenue associated with our 2018 acquisitions accounted for approximately 6% of the increase in surgical support revenue for the three months ended March 31, 2018, as compared to the same period in 2017. Foreign currency fluctuation had an insignificant impact on revenue from surgical support for the periods presented.

Cost of Revenue, Excluding Below Amortization of Intangible Assets

	March 31,			
(in thousands, except %)	2018	2017	$ Change	% Change
Three Months Ended				
Cost of revenue	$73,814	$61,443	$12,371	20 %
% of total revenue	28 %	25 %		

Cost of revenue 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 IOM 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 revenue.

Cost of revenue increased $12.4 million, or 20%, during the three months ended March 31, 2018 compared to the same period in 2017. The cost of revenue associated with the operations of our 2018 acquisitions accounted for approximately 5% of the total increase during the three months ended March 31, 2018 compared to the same period in 2017. Cost of revenue for our business, excluding our 2018 acquisitions, increased primarily due to growth in volume, but also includes product mix and shifts in production costs, for an overall increase of approximately 12% during the three months ended March 31, 2018 compared to the same period in 2017. Additionally, royalty obligations for certain product lines and other non-recurring inventory related items, including write-offs and reserves from both manufacturing and obsolescing products, accounted for approximately 3% of the total increase to cost of revenue for the three ended March 31, 2018 compared to the same period in 2017.

Cost of revenue as a percentage of revenue increased for the three ended March 31, 2018 compared to the same period in 2017. On a long-term basis, we expect cost of revenue, as a percentage of revenue, to decrease moderately.

Operating Expenses

	Three Months Ended March 31,			
(in thousands, except %)	2018	2017	$ Change	% Change
Sales, marketing and administrative	$146,766	140,368	$6,398	5 %
% of total revenue	56 %	56 %		
Research and development	14,491	12,414	2,077	17 %
% of total revenue	6 %	5 %		
Amortization of intangible assets	12,425	12,061	364	3 %

Litigation liability loss	28,995	—	28,995	*	
Business transition costs	2,253	55	2,198	3,996	%

Sales, Marketing and Administrative

Sales, marketing and administrative expenses consist primarily of compensation costs, commissions and training costs for our employees (who we refer to as “shareowners”) 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 shareowners and third party service providers.

Sales, marketing and administrative expenses increased by $6.4 million, or 5%, during the three months ended March 31, 2018 compared to the same period in 2017, primarily due to increases in shareowner compensation and other expenses resulting from increased headcount as compared to the same period in 2017. Other costs that increased as a function of the increase in revenue and expansion included consulting, travel and equipment, which were partially offset by decreased distributor commissions due to increased sales mix to our direct sales force in 2018 as compared to 2017 and the reversal of stock-based compensation expense previously recognized for certain performance awards that we mark-to-market every quarter. Sales, marketing and administrative expenses associated with our 2018 acquisitions, which is included in the results discussed herein, accounted for approximately 1% of the increase in sales, marketing and administrative expenses compared to the same period in 2017.

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Sales, marketing and administrative expenses as a percentage of revenue remained constant during the three months ended March 31, 2018 compared to the same period in 2017. On a long-term basis, we expect total sales, marketing and administrative costs, as a percentage of revenue, to decrease moderately. To date, foreign currency fluctuations have not materially impacted our sales, marketing, and administrative expense.

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 shareowner related expenses. In the last several years, we have introduced numerous new products and product enhancements that have significantly expanded our MAS platform, including iGA, 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.

Research and development expense increased by $2.1 million, or 17%, during the three months ended March 31, 2018, compared to the same period in 2017. The increase in spending is primarily due to increased headcount and increased spending for further enhancement and functionality of our product offerings.

Research and development costs as a percentage of revenue slightly increased during the three months ended March 31, 2018 compared to the same period in 2017. On a long-term basis, we expect total research and development costs as a percentage of revenue to increase moderately in support of our ongoing development and regulatory approval efforts.

Litigation Liability Loss

On April 12, 2018, the U.S. Court of Appeals for the Ninth Circuit held oral argument on our litigation with Madsen Medical, Inc. While we continue to believe in the underlying facts of the case, following oral argument, we now believe that the prior judgments against us, in part or as a whole, may be upheld. Accordingly, at March 31, 2018, we believe that the outcome of the case now constitutes a probable loss and have recorded an estimated loss contingency in the amount of $29.0 million as a current litigation liability in the Unaudited Consolidated Balance Sheet as of March 31, 2018. See Note 11 to the Unaudited Consolidated Financial Statements for further discussion.

Interest and Other Expense, Net

	March 31,			
(in thousands, except %)	2018	2017	$ Change	% Change
Three Months Ended				
Interest income	$134	$137	(3)	(2)%
Interest expense	(9,467)	(9,799)	332	(3)%
Other (expense) income, net	(9,703)	258	(9,961)	(3,861)%
Total interest and other expense, net	$(19,036)	$(9,404)	$(9,632)	102 %

Total interest and other expense, net for the three months ended March 31, 2018 increased $9.6 million compared to the same period in 2017 primarily due to an impairment charge of $9.0 million on a strategic investment and our pro rata allocation of net income or loss from our equity method investments. Total interest and other expense, net for the

periods presented also included gains and losses from derivative instruments.

Income Tax (Benefit) Expense

(in thousands, except %)	March 31, 2018	2017
Three Months Ended		
Income tax (benefit) expense	$(10,126)	$1,285
Effective income tax rate	27 %	10 %

The income tax (benefit) as a percentage of pre-tax loss from continuing operations was 27% for the three months ended March 31, 2018 compared with an income tax expense as a percentage of pre-tax income of 10% for the three months ended March 31, 2017. The increased rate for the three months ended March 31, 2018 was primarily due to reduced benefits associated with share-based payments and increases in tax expense due to the impact of tax reform on meals and entertainment and certain officer’s compensation deductions, as well as an increase in valuation allowance associated with the impairment of a strategic investment.

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On December 22, 2017, President Trump signed U.S. tax reform legislation, commonly referred to as the Tax Cuts and Jobs Act (the "Act"), which became effective January 1, 2018. Due to insufficient guidance on certain aspects of the Act, such as officer's compensation, as well as uncertainty around the GAAP treatment associated with many other parts of the Act, such as the implementation of certain international provisions, we recorded certain provisional amounts related to the revaluation and realization of our deferred taxes in our December 31, 2017 tax provision. In the first quarter of 2018, we further analyzed the impact of the Act on certain executive compensation related deferred taxes and determined that a write-down of approximately $0.2 million was required, which would have increased the full year effective tax rate by 0.3% and the fourth quarter effective tax rate by 1.1%. We are continuing to analyze the impact of the Act during which adjustments to the 2017 year-end provisional calculation will be subject to change during the Staff Accounting Bulletin No. 118 measurement period. As we finalize our analysis and adjust our tax balances accordingly, we will describe the issue and impact on previously recorded provisional amounts. At March 31, 2018, we have not completed our accounting for the tax effects of the global intangible low-taxed income ("GILTI"), foreign derived intangible income ("FDII"), and base erosion and anti-abuse tax ("BEAT") provisions of the Act on current year tax expense; however, we have made a reasonable estimate and determined that these provisions will have no impact on our 2018 results. Because we continue to evaluate the impact of the Act's GILTI provisions, we have yet to elect an accounting policy to treat the tax impact as either a future period charge or as a current component of deferred taxes.

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, working capital requirements and capital deployment decisions. We have historically invested our cash primarily in the 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 rate of revenue growth, the timing and extent of spending to support development efforts, the expansion of sales, marketing and administrative activities, the timing of introductions of new products and enhancements to existing products, successful vertical integration 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, the evolution of our globalization initiative, and continuous international expansions of our business. Our cash flow from operations and growing operations should continue to fund the ongoing core business. As current borrowing sources become due, we may be required to access the capital markets for additional funding. As we assess inorganic growth strategies, we may need to supplement our internally generated cash flow with outside sources. In the event that we are required to access the debt market, we should be able to secure reasonable borrowing rates. 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 access the market in light of those earning levels.

A substantial portion of our operations are located in the United States, and the majority of our sales and cash generation since inception have been made in the United States. Accordingly, we do not have material net cash flow exposures to foreign currency rate fluctuations. 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 Singapore dollar, and the yen, could adversely affect our financial results, including our revenues, revenue growth rates, gross margins, income and losses as well as assets and liabilities. We enter into forward currency contracts 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 currently do not hedge future forecasted transactions but will continue to assess whether that strategy is appropriate. At March 31, 2018, the cash balance held by our foreign subsidiaries with currencies other than the United States dollar was approximately $33.5 million and it is our intention to indefinitely reinvest all of current foreign earnings in order to partially support foreign working capital and to expand our existing operations outside the United States. As of March 31, 2018, our account receivable balance held by our foreign subsidiaries with currencies other than the United States dollar was approximately $36.6 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, Argentina and Venezuela. We do not have any material financial exposure to one customer or one country that would significantly hinder our liquidity. Although our sales and operational activities located in the United States and Puerto Rico were affected by inclement weather during the year ended December 31, 2017, we do not anticipate the disruption will have a material impact to our liquidity.

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On August 31, 2015, we received a civil investigative demand, or CID, issued by the Department of Justice, or DOJ, pursuant to the federal False Claims Act. The CID requires the delivery of a wide range of documents and information related to an investigation by the DOJ concerning allegations that we assisted a physician group customer in submitting improper claims for reimbursement and made improper payments to the physician group in violation of the Anti-Kickback Statute. We are cooperating with the DOJ. No assurance can be given as to the timing or outcome of this investigation, and the probable outcome of this matter cannot be determined.

On June 9, 2017, we received a subpoena from the Office of the Inspector General of the U.S. Department of Health and Human Services, or OIG, in connection with an investigation into possible false or otherwise improper claims submitted to Medicare and Medicaid. The subpoena seeks discovery of documents for the period January 2014 through June 2017, primarily associated with sales to a particular customer and relationships related to that customer account. We are working with the OIG to understand the scope of the subpoena and its request for documents, and we intend to fully cooperate with the OIG's request. No assurance can be given as to the timing or outcome of this investigation, and the probable outcome of this matter cannot be determined.

On April 12, 2018, the U.S. Court of Appeals for the Ninth Circuit held oral argument on our litigation with Madsen Medical, Inc. While we continue to believe in the underlying facts of the case, following oral argument, we now believe that the prior judgments against us, in part or as a whole, may be upheld. Accordingly, at March 31, 2018, we believe that the outcome of the case now constitutes a probable loss and have recorded an estimated loss contingency in the amount of $29.0 million as a current litigation liability in the Unaudited Consolidated Balance Sheet as of March 31, 2018. In the event that we have a significant cash outflow related to the litigation, the payment will be made using cash on hand or will be funded through our available liquidity. See Note 11 to the Unaudited Consolidated Financial Statements for further discussion.

We are involved in a number of legal actions and investigations arising out of the normal course of our business as discussed in Note 11 of the Unaudited Consolidated Financial Statements. 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 for which accrual amounts are not disclosed in our Unaudited Consolidated Financial Statements. It is reasonably possible, however, that an unfavorable outcome that exceeds our current accrual estimate, if any, for one or more of the matters described in our Unaudited Consolidated Financial Statements could have a material adverse effect on our liquidity and access to capital resources. Additionally, it is possible that as part of the ongoing legal appeals process, regardless of our assessment of the probability of a loss, we could be required to set aside funds in an escrow or purchase a performance bond. These requirements to escrow funding could have an adverse impact on our ability to access our current liquidity or impact our access to additional capital resources.

In January 2018, we drew $50.0 million from our $500.0 million revolving senior credit facility to be used for working capital, general corporate purposes, and strategic investments and acquisitions, including the acquisition of SafePassage, a privately-held provider of IOM services.

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. We anticipate these milestones will become payable at varying times between 2019 and 2021, but are subject to change based on the achievement of those manufacturing and commercial milestones.

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. We anticipate the remaining milestones will become payable at varying times between 2018 and 2022. We expect the imaging software and technology platform to be incorporated into our MAS platform to form a foundational element in our imaging, navigation and automation platform development strategy.

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Cash and cash equivalents were $73.7 million and $72.8 million at March 31, 2018 and December 31, 2017, respectively. We believe that our existing cash, cash equivalents, marketable securities and available liquidity will be sufficient to meet our anticipated cash needs for the next twelve months. We could have varying needs for cash as a result of the achievement of certain acquisition related milestones. We anticipate funding these milestones from cash on hand and operations, however, we also have the ability to fund these from our existing line of credit if necessary. The change in liquidity during the three months ended March 31, 2018 of $0.9 million was mainly driven by $54.5 million in cash used for business combinations, strategic investments and intangible assets, $29.1 million in cash used for purchases of property and equipment, and $9.0 million in cash used for payment of contingent consideration, offset by a net $55.0 million draw on the line of credit and $36.5 million from cash inflow from operations. At March 31, 2018, we have cash totaling $2.4 million in restricted accounts which are not available to us to meet any ongoing capital requirements if and when needed. Future litigation or requirements to escrow funds could materially impact our liquidity and our ability to invest in and run our business on an ongoing basis.

Cash Flows from Operating Activities

Cash provided by operating activities was $36.4 million for the three months ended March 31, 2018, compared to $28.2 million for the same period in 2017. The $8.2 million increase in cash provided by operating activities was primarily due to increased operational cash flows in 2018 related to timing of spending and cash receipts.

Cash Flows from Investing Activities

Cash used in investing activities was $83.6 million for the three months ended March 31, 2018, compared to $38.3 million used for the same period in 2017. The $45.3 million increase in cash used in investing activities was primarily due to an increase of $50.7 million in cash used for business combinations, strategic investments and intangible assets, offset by a $5.4 million decrease in cash used for purchases of property and equipment during the three months ended March 31, 2018 as compared to the same period in 2017.

Cash Flows from Financing Activities

Cash provided by financing activities was $44.1 million for the three months ended March 31, 2018, compared to $10.1 million cash used for the same period in 2017. The $54.3 million increase in cash provided by financing activities was primarily due to a net $55.0 million draw on the line of credit during the three months ended March 31, 2018.

Treasury stock purchases related to equity award vesting and stock option exercises totaled $2.2 million during the three months ended March 31, 2018. We use net share settlement on stock issuances, which results in cash tax payments we make on behalf of shareowners and a decrease in the cash receipt from the issuance of common stock upon the exercising of stock options. Net share settlement is generally used in lieu of cash payments by shareowners for minimum tax withholding or exercise costs 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 shareowner tax obligations for vested equity awards. We anticipate using cash generated from operating activities to fund such payments.

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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 is payable semi-annually. The 2021 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 2021 Notes is 16.7158 shares per $1,000 principal amount, which is equivalent to a conversion price of approximately $59.82 per share, subject to adjustments. Prior to September 15, 2020, holders may convert 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 is 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 falls 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 may convert their 2021 Notes at any time (regardless of the foregoing circumstances). We may not redeem the 2021 Notes prior to March 20, 2019. We may redeem the 2021 Notes, at our option, in whole or in part on or after 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 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 2021 Notes to be redeemed plus accrued and unpaid interest to, but excluding, the redemption date. No principal payments are 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 do not contain any financial covenants and do not restrict us from paying dividends or issuing or repurchasing any of our other securities. We are unaware of any current events or market conditions that would allow holders to convert the 2021 Notes. The impact of the convertible feature will be dilutive to our earnings per share when our average stock price for the period is greater than the conversion price.

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 is subject to adjustment. The cost of the 2021 Hedge was $111.2 million. The 2021 Hedge will expire on March 15, 2021. The 2021 Hedge is expected to reduce the potential equity dilution upon conversion of the 2021 Notes if the daily volume-weighted average price per share of our common stock exceeds the strike price of the 2021 Hedge. Our assumed exercise of the 2021 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 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. 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.

Revolving Senior Credit Facility

In April 2017, we entered into an Amended and Restated Credit Agreement (the “2017 Credit Agreement”) for a revolving senior credit facility (the “2017 Facility”), which replaced the previous credit agreement we had entered into in February 2016. The 2017 Credit Agreement provides for secured revolving loans, multicurrency loan options and letters of credit in an aggregate amount of up to $500.0 million. The 2017 Credit Agreement also contains an accordion feature, which allows us to increase the aggregate principal amount of the 2017 Facility provided we remain in compliance with the underlying financial covenants, including but not limited to, compliance with the consolidated interest coverage ratio and certain consolidated leverage ratios. The 2017 Facility matures in April 2022 (subject to an earlier springing maturity date), and includes a sublimit of $100.0 million for multicurrency borrowings, a sublimit of $50.0 million for the issuance of standby letters of credit, and a sublimit of $5.0 million for swingline loans. All of our assets including the assets of our material domestic subsidiaries are pledged as collateral under the 2017 Facility (subject to customary exceptions) pursuant to the term set forth in the Amended and Restated Security and Pledge Agreement (the “2017 Security Agreement”) executed in favor of the administrative agent. Each of our material domestic subsidiaries guarantees the 2017 Facility. In connection with the 2017 Facility, we incurred issuance costs which will be amortized over the term of the 2017 Facility. As of March 31, 2018, we had $55.0 million outstanding under the 2017 Facility, at an interest rate of 3.44% (one month LIBOR plus 1.75%).

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Borrowings under the 2017 Facility bear interest, at our option, at a rate equal to an applicable margin plus: (a) the applicable Eurocurrency Rate (as defined in the 2017 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) LIBOR for an interest period of one month plus 1.00%. The margin for the 2017 Facility ranges, based on our consolidated leverage ratio, from 0.00% to 1.00% in the case of base rate loans and from 1.00% to 2.00% in the case of Eurocurrency Rate loans. The 2017 Facility includes an unused line fee ranging, based on our consolidated leverage ratio, from 0.20% to 0.35% per annum on the revolving commitment.

The 2017 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 ratios of consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) in relation to consolidated interest expense and consolidated debt, respectively, as defined in the 2017 Credit Agreement. The 2017 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. We are currently in compliance with the 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 bad debts, 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, 2017 and there have been no material changes, other than the adoption of Accounting Standards Codification 606 Revenue from Contracts with Customers during the three months ended March 31, 2018.

Off-Balance Sheet Arrangements

As of March 31, 2018, we did not have any off-balance sheet arrangements.

Contractual Obligations and Commitments

During the first quarter of 2018, we increased our obligations for certain consulting arrangements by approximately $37.6 million in the aggregate in the event that specified revenue-based milestones are achieved prior to 2027. Any such payment will be made in a combination of cash and common shares as provided in the agreements. There were no other 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, 2017.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

As of March 31, 2018, 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, 2017.

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 March 31, 2018. Based on such evaluation, our management has concluded that as of March 31, 2018, the Company’s disclosure controls and procedures are effective.

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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.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

For a description of our material pending legal proceedings, refer to Note 11 “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, 2017. 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.

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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	Restated Bylaws (incorporated by reference to our Current Report on Form 8-K filed with the SEC on January 6, 2012)
3.4	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)
3.5	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)
10.1#	Form of Performance Restricted Stock Unit Agreement (with accompanying Notice of Grant) for grants on or after April 30, 2018
10.2#	Form of Executive Restricted Stock Unit Agreement (with accompanying Form Notice of Grant) for grants on or after April 30, 2018
10.3#	Form of Performance Cash Award Agreement (with accompanying Form Notice of Grant) for grants on or after April 30, 2018
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	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.DEF	XBRL Taxonomy Extension Definition Linkbase
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

\# Indicates management contract or compensatory plan.

* 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.

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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: May 1, 2018 By: /s/ Gregory T. Lucier
Gregory T. Lucier
Chairman and Chief Executive Officer

Date: May 1, 2018 By: /s/ Rajesh J. Asarpota
Rajesh J. Asarpota
Executive Vice President and Chief Financial Officer