

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

**SCHEDULE 14A**  
**Proxy Statement Pursuant to Section 14(a) of the Securities**  
**Exchange Act of 1934**

Filed by the Registrant

Filed by a party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive additional materials
- Soliciting material under Rule 14a-12

**Energy Recovery, Inc.**  
(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
  - Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
    - (1) Title of each class of securities to which transaction applies:
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-



**Energy Recovery, Inc.**

1717 Doolittle Drive  
San Leandro, CA 94577

**NOTICE OF 2021 ANNUAL MEETING OF STOCKHOLDERS**

Dear Stockholders of Energy Recovery, Inc.:

We are pleased to invite you to attend our 2021 Annual Meeting of Stockholders to be held on Thursday, June 10, 2021, at 10:00 a.m. Pacific Daylight Time (the “**Annual Meeting**”). This year’s Annual Meeting will be a virtual meeting of stockholders, conducted via live audio webcast. The virtual format also provides the opportunity for participation by a broader group of our stockholders and enables stockholders to participate fully, and equally, from any location around the world, at little to no cost to you. You can attend the Annual Meeting via the Internet at [www.virtualshareholdermeeting.com/ER112021](http://www.virtualshareholdermeeting.com/ER112021) by using the 16-digit control number which appears on your Notice Regarding the Availability of Proxy Materials, your proxy card (printed in the box and marked by the arrow), and the instructions that accompanied your proxy materials. You will have the ability to submit questions during the Annual Meeting via the meeting website.

At the Annual Meeting, we will ask you to consider the following proposals:

1. A proposal to amend the Company’s Amended and Restated Certificate of Incorporation to effect a phased declassification of the Board of Directors over the next three years;
2. A proposal to elect one (1) Class I director to serve until (i) our 2024 annual meeting of stockholders, or (ii) our 2022 annual meeting of stockholders if Proposal No. 1 above is approved by our stockholders at the Annual Meeting (and in either case, until their respective successors have been elected and qualified, or until the director’s earlier removal or resignation);
3. A proposal to ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2021;
4. A proposal to consider and approve, on a non-binding advisory basis, executive compensation as disclosed in the attached Proxy Statement; and
5. To transact such other business that may properly come before the Annual Meeting or any adjournment or postponement thereof.

Our Board of Directors has fixed the close of business on April 12, 2021, as the record date for the Annual Meeting. Stockholders of record as of April 12, 2021 may vote at the Annual Meeting or any postponements or adjournments of the meeting. This notice of annual meeting, notice of internet availability, proxy statement, annual report on Form 10-K and form of proxy are being made available on or about April [●], 2021.

It is important that your shares are represented at the Annual Meeting, and regardless of whether you plan to attend, we respectfully request that you vote in advance on the matters to be presented at the Annual Meeting as described in these proxy materials.

**You can help us reduce costs and the impact on the environment by electing to receive and access future copies of our proxy statements, annual reports and other stockholder materials electronically by email.** If your shares are registered directly in your name with our stock registrar and transfer agent, American Stock Transfer & Trust Company, LLC, you can make this election by going to its website ([www.astfinancial.com](http://www.astfinancial.com)) or by following the instructions provided when voting over the Internet. If you hold your shares in a brokerage account or otherwise through a third party in "street name," please refer to the information provided by your broker, bank or other nominee for instructions on how to elect to receive and view future annual meeting materials electronically.



Sincerely,

Robert Yu Lang Mao  
President and Chief Executive Officer and  
Executive Chairman of the Board

San Leandro, California  
April [●], 2021

**Whether or not you expect to participate in the Annual Meeting, please vote via the Internet, by phone, or complete, date, sign and promptly return the accompanying proxy card or voting instruction card in the enclosed postage-paid envelope so that your shares may be represented at the Annual Meeting.**

**Important Notice Regarding the Availability of Proxy Materials for the Annual Stockholder Meeting**

**To Be Held on June 10, 2021:** This Proxy Statement, along with the Annual Report on Form 10-K for the fiscal year ended December 31, 2020, is available free of charge at the following website:  
[www.proxyvote.com](http://www.proxyvote.com).

## PROXY STATEMENT SUMMARY

This summary contains highlights about our Company and the upcoming 2021 Annual Meeting of Stockholders (the “**Annual Meeting**”). This summary does not contain all of the information that you should consider in advance of the meeting and we encourage you to read the entire proxy statement and the Annual Report on Form 10-K for the year ended December 31, 2020 that accompanies this Proxy Statement before voting.

### 2021 Annual Meeting of Stockholders



**Date and Time:**

Thursday, June 10, 2021 at 10:00 a.m., Pacific Time



**Virtual Meeting Access:**

[www.virtualshareholdermeeting.com/ERII2021](http://www.virtualshareholdermeeting.com/ERII2021)

**Record Date:** April 12, 2021



**Proxy Mail Date:**

On or about April [●], 2021



**Vote in Advance of the Meeting**  
Over the internet at [www.proxyvote.com](http://www.proxyvote.com); or



**Vote During the Meeting**

Over the internet – See page 3 of the Proxy — “**How Do I Vote**” for details on how to vote during the Annual Meeting



By telephone at 1-800-690-6903; or



By mail — sign, date and return the proxy card or voting instruction form mailed to you.

## Voting Matters and Board Recommendations

Matter	Board Recommendation	Page
1. Phased declassification of the Board over three-year period	<b>FOR</b>	<b>11</b>
2. Election of Director	<b>FOR the Director Nominee</b>	<b>13</b>
3. Ratification of public accounting firm	<b>FOR</b>	<b>15</b>
4. A proposal to consider and approve, on a non-binding, advisory basis, executive compensation as disclosed in the Proxy Statement	<b>FOR</b>	<b>17</b>

### Phased Declassification of the Board of Directors over Three-Year Period (Proposal No. 1)

The Board of Directors (the “**Board**”) has directed the submission for stockholder approval an amendment to the Company’s Amended and Restated Certificate of Incorporation (the “**Certificate of Incorporation**”) to declassify our Board over a three-year phase out period, which when completed will allow for the election of all directors on an annual basis, beginning with the 2023 Annual Meeting of Stockholders. This requires the affirmative vote of the holders of at least 66 2/3% of the voting power of the then outstanding shares of the Company, voting together as a single class. We recommend that our stockholders approve the amendments to the Certificate of Incorporation at the Annual Meeting.

### 2021 Director Nominee (Proposal No. 2)

Mr. Ole Peter Lorentzen, a Class I director, has notified the Board that he intends to resign upon the conclusion of his current board term and will not stand for re-election at the Annual Meeting. The Nominating and Corporate Governance Committee and the Board have nominated Olav Fjell for election as a Class I director. Our director nominee has demonstrated his commitment to diligently executing his fiduciary duties on behalf of our stockholders, and we recommend that our stockholders elect the nominee at the Annual Meeting. As a publicly traded company with a principal executive office in California, the Company is subject to the requirements of California Senate Bill 826, which was signed into law on September 30, 2018 (“**SB 826**”). Under SB 826, the Company was required to have a minimum of one female director by December 31, 2019 and is required to have at least three female directors by December 31, 2021. While the Company was in compliance with SB 826 as of December 31, 2020, the Company will need to increase female representation on the Board prior to December 31, 2021 to meet the requirements of SB 826. The Company intends to fill the Class I director vacancy with one female director prior to December 31, 2021 and will add an additional female director in order to satisfy such requirements.

<u>Name</u>	<u>Age</u>	<u>Director Since</u>	<u>Principal Occupation</u>	<u>Independent</u>	<u>Committee Membership</u>
Olav Fjell	69	2015	Chair of the Boards of Moelven AS, Nofima AS, Concedo ASA, Bene Agere Norden AS, IFE and Franzefoss AS	Y	Audit Committee (Member) Nominating and Corporate Governance (Member)

### Ratification of Appointment of Deloitte & Touche LLP (Proposal No. 3)

The Board has directed that Deloitte & Touche LLP’s (“**Deloitte**”) appointment for the fiscal year ended December 31, 2021 be submitted to our stockholders for ratification at the Annual Meeting. Deloitte is well qualified as our independent registered public accounting firm and has a deep understanding of our operations and accounting practices. The Audit Committee considered the qualifications, performance and independence of Deloitte, the quality of its discussions with Deloitte, and the fees charged by Deloitte for the level and quality of services provided during 2020 and determined that the reappointment of Deloitte is in the best interest of the Company and its stockholders. For these reasons, we recommend that our stockholders ratify the appointment of Deloitte as the Company’s independent registered public accounting firm at the Annual Meeting.

#### Approval of Executive Compensation on an Advisory Basis (Proposal No. 4)

Our CEO and other executive officers have demonstrated their commitment to fair pay and pay for performance. We are committed to effective compensation governance, as demonstrated by the following compensation policies and practices:

##### What We Do

- ✓ *Substantial Portion of Compensation is At-Risk*
- ✓ *Long-Term Vesting*
- ✓ *Stock Ownership Guidelines*
- ✓ *Double Trigger Change in Control*
- ✓ *At-Will Employment of Executive Officers*
- ✓ *Independent Compensation Committee*
- ✓ *Independent Compensation Consultant*
- ✓ *Risk Assessment*
- ✓ *Claw-Back Policy*

##### What We Don't Do

- ✗ *No Repricing*
- ✗ *No Gross-Ups*
- ✗ *No Excessive Perquisites*
- ✗ *No Executive Retirement Plan Benefits*
- ✗ *No Guaranteed Bonuses*
- ✗ *No Excessive Severance*

For these reasons, we recommend that our stockholders approve the advisory vote on the compensation of our executive officers at the Annual Meeting.

#### Stockholder Engagement and Governance Highlights

We believe that strong corporate governance includes consistent engagement with our stockholders. We engage with stockholders on a variety of topics throughout the year to ensure that we are addressing questions and concerns and to seek input on policies and practices. Our management team, including our CEO, Chief Financial Officer (“CFO”) and VP of Investor Relations, regularly engages in meaningful dialogue with our stockholders through quarterly earnings calls, industry conferences and other channels of communication, which we regularly share with the Board. Stockholders may communicate with our Board as set forth under “Communications between Stockholders and Directors” on page 27.

In addition, our Board regularly assesses and refines our corporate governance policies and procedures to take into account evolving best practices and the valuable feedback of our shareholders and other stakeholders who have provided important external viewpoints that inform our decisions and strategy. For example, at this year’s Meeting, Proposal 1 involves the phased declassification of our Board over a three-year period. Other governance highlights include:

- ✓ *Proxy access rights for shareholders*
- ✓ *One class of outstanding shares with each share entitled to one vote*
- ✓ *Independent oversight – 6 of 7 directors are independent (all except the CEO)*
- ✓ *Independent Lead Director with robust responsibilities*
- ✓ *100% independent Board Committees*
- ✓ *Active Board oversight of the Company’s strategy, risk management and ESG*
- ✓ *Focus on diversity – goal of adding two additional female directors in 2021*
- ✓ *Prohibition on hedging or pledging Company stock*
- ✓ *Stringent new clawback policy*
- ✓ *Rigorous director and executive stock ownership guidelines*

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**ENERGY RECOVERY, INC.**

**PROXY STATEMENT**

**2021 ANNUAL MEETING OF STOCKHOLDERS**

**To Be Held at 10:00 a.m. Pacific Daylight Time on Thursday, June 10, 2021**

This proxy statement and the enclosed form of proxy ("**Proxy Statement**") are furnished in connection with the solicitation of proxies by our Board of Directors (the "**Board**" or "**Board of Directors**") for use at the 2021 Annual Meeting of Stockholders of Energy Recovery, Inc., a Delaware corporation, and any postponements, adjournments or continuations thereof (the "**Annual Meeting**"). The Annual Meeting will be held in a virtual format via live audio webcast on Thursday, June 10, 2021 at 10:00 a.m. Pacific Daylight Time. Stockholders can attend the meeting via the internet at [www.virtualshareholdermeeting.com/ERII2021](http://www.virtualshareholdermeeting.com/ERII2021) by using the 16-digit control number which appears on the Notice Regarding the Availability of Proxy Materials, the proxy card (printed in the box and marked by the arrow), and the instructions that accompanied your proxy materials. References in this Proxy Statement to "we," "us," "our," "the Company" or "Energy Recovery" refer to Energy Recovery, Inc.

The Notice of Internet Availability of Proxy Materials (the "**Notice**") containing instructions on how to access this Proxy Statement and our Annual Report is first being mailed on or about April [●], 2021 to all stockholders entitled to vote at the Annual Meeting.

**THE INFORMATION PROVIDED IN THE "QUESTION AND ANSWER" FORMAT BELOW  
IS FOR YOUR CONVENIENCE ONLY AND IS MERELY A SUMMARY OF  
THE INFORMATION CONTAINED IN THIS PROXY STATEMENT.  
YOU SHOULD READ THIS ENTIRE PROXY STATEMENT CAREFULLY.**

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ENERGY RECOVERY, INC.

INFORMATION ABOUT THE ANNUAL MEETING

**Q: What is the purpose of the Annual Meeting**

A: Stockholders of record at the close of business on April 12, 2021 (the "Record Date") will vote on the following items at the Annual Meeting:

- to amend the Company's Certificate of Incorporation to effect a phased declassification of the Board over the next three years;
- the election of one Class I director to serve until (i) our 2024 Annual Meeting of Stockholders, or (ii) our 2022 Annual Meeting of Stockholders if Proposal No. 1 above is approved by our stockholders at the Annual Meeting (and in either case, until his respective successor has been elected and qualified, or until the director's earlier removal or resignation);
- to ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2021;
- to hold a non-binding advisory vote on executive compensation; and
- to transact such other business that may properly come before the Annual Meeting or at any adjournment or postponement thereof.

**Q: Why are you conducting a Virtual Stockholder Meeting**

A: We believe the virtual meeting format enables stockholders to participate fully, and equally, from any location around the world, at little to no cost to them. We designed the format of our Annual Meeting to ensure that our stockholders who attend our Annual Meeting will be afforded the same rights and opportunities to participate as they would at an in-person meeting. Our directors will also attend the meeting virtually.

**Q: What Happens If There Are Technical Difficulties During the Annual Meeting?**

A: We will have technicians ready to assist you with any technical difficulties you may have accessing the virtual annual meeting, voting at the annual meeting or submitting questions at the annual meeting. If you encounter any difficulties accessing the virtual meeting during the check-in or meeting time, please call the technical support number that will be posted on the Virtual Shareholder Meeting on the log in page.

**Q: How do I access the Audio Webcast of the Annual Meeting**

A: The live audio webcast of the Annual Meeting will begin promptly at 10:00 a.m. Pacific Time. Online access to the audio webcast will open approximately fifteen (15) minutes prior to the start of the Annual Meeting to allow time for you to log in and test the computer audio system. We encourage our stockholders to access the meeting prior to the start time. To attend the virtual Annual Meeting, log in at [www.virtualshareholdermeeting.com/ERII2021](http://www.virtualshareholdermeeting.com/ERII2021). Stockholders will need their unique 16-digit control number which appears on the Notice Regarding the Availability of Proxy Materials, the proxy card (printed in the box and marked by the arrow), and the instructions that accompanied the proxy materials. In the event that you do not have a control number, please contact your broker, bank or other nominee as soon as possible and no later than Wednesday, June 9, 2021, so that you can be provided with a control number and gain access to the meeting.

**Q: How do I vote?**

A: If you are a *stockholder of record* as of the Record Date, there are four ways to vote:

- *Via the Internet.* You may vote by proxy via the Internet by following the instructions found on the proxy card or the Notice.
- *By Telephone.* You may vote by proxy by calling the toll-free number found on the proxy card or the Notice.
- *By Mail.* You may vote by proxy by filling out the proxy card and returning it in the envelope provided. If you vote by mail, your proxy card must be received by June 9, 2021.
- *At the Virtual Meeting.* You may vote live at the Annual Meeting at [www.virtualshareholdermeeting.com/ERII2021](http://www.virtualshareholdermeeting.com/ERII2021).

Please note that the Internet and telephone voting facilities will close at 11:59 p.m. Eastern Daylight Time (8:59 p.m. Pacific Daylight Time) on June 9, 2021.

If, as of the Record Date, you are a *beneficial owner of shares held in street name*, you should have received from your broker, bank, trustee or other nominee instructions on how to vote or instruct the broker to vote your shares, which are generally contained in a “vote instruction form” sent by the broker, bank, trustee or other nominee. Please follow their instructions carefully. Street name stockholders generally may vote by one of the following methods:

- *Via the Internet.* You may vote by proxy via the Internet by following the instruction form provided to you by your broker, bank, trustee, or other nominee.
- *By Telephone.* You may vote by proxy by calling the toll-free number found on the vote instruction form provided to you by your broker, bank, trustee, or other nominee.
- *By Mail.* You may vote by proxy by filling out the vote instruction form and returning it in the envelope provided to you by your broker, bank, trustee, or other nominee.
- *At the Virtual Meeting.* You may vote live at the virtual Annual Meeting at [www.virtualshareholdermeeting.com/ERII2021](http://www.virtualshareholdermeeting.com/ERII2021) using your unique 16-digit control number which appears on the Notice Regarding the Availability of Proxy Materials, the proxy card (printed in the box and marked by the arrow), and the instructions that accompanied the proxy materials.

**Q: How does the Board of Directors recommend I vote on these proposals?**

A: The Board recommends a vote:

- FOR the amendment of the Certificate of Incorporation to effect a phased declassification of the Board over the next three years;
- FOR the election of director Olav Fjell;
- FOR the ratification of the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2021; and
- FOR the approval of our executive compensation.

**Q: What is included in the proxy materials**

A: The proxy materials include this Proxy Statement and our Annual Report on Form 10-K for the year ended December 31, 2020, as filed with the Securities and Exchange Commission (“SEC”) on March 12, 2021 (the “**Annual Report**”). These materials were first made available to you via the Internet on or about April [●], 2021. Our principal executive offices are located at 1717 Doolittle Drive, San Leandro, CA 94577, and our telephone number is (510) 483-7370. We maintain a website at [www.energyrecovery.com](http://www.energyrecovery.com). The information on our website is not a part of this Proxy Statement.

**Q: Why did I receive a Notice of Internet Availability of Proxy Materials instead of a full set of proxy materials?**

A: In accordance with the rules of the SEC, we have elected to furnish our proxy materials, including this Proxy Statement and the Annual Report, primarily via the Internet. The Notice containing instructions on how to access our proxy materials is first being mailed on or about April [●], 2021 to all stockholders entitled to vote at the virtual Annual Meeting. Stockholders may request to receive all future proxy materials in printed form by mail or electronically by e-mail by following the instructions contained in the Notice. We encourage stockholders to take advantage of the availability of our proxy materials via the Internet to help reduce the environmental impact of our Annual Meetings.

**Q: How many votes do I have?**

A: On each matter to be voted upon, you have one vote for each share of common stock you own as of the Record Date.

**Q: Can I change my vote or revoke my proxy after submitting my proxy?**

A: You may change your vote or revoke your proxy at any time prior to the taking of the vote at the Annual Meeting.

If you are the stockholder of record, you may change your vote by (1) granting a new proxy bearing a later date (which automatically revokes the earlier proxy) using any of the methods described on page 3 of this Proxy Statement (and until the applicable deadline for each method); (2) providing a written notice of revocation to the Company's Secretary at Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro, CA 94577 prior to your shares being voted; or (3) attending the Annual Meeting and voting at the Annual Meeting. Attendance at the Annual Meeting will not cause your previously granted proxy to be revoked unless you specifically so request or vote at the virtual Annual Meeting.

For shares you hold beneficially in street name, you generally may change your vote by submitting new voting instructions to your broker, bank, trustee, or nominee following the instructions they provided, or, if you have obtained a legal proxy from your broker, bank, trustee, or nominee giving you the right to vote your shares, by attending the virtual Annual Meeting and voting in person.

**Q: What if I return a proxy card but do not make specific choices?**

A: When proxies are properly dated, executed, and returned, the shares represented by such proxies will be voted at the Annual Meeting in accordance with the instructions of the stockholder. If no specific instructions are given, the shares will be voted in accordance with the recommendations of our Board of Directors as described on page 3 of this Proxy Statement. If any matters not described in this Proxy Statement are properly presented at the Annual Meeting, the proxy holders will use their own judgment to determine how to vote your shares. If the Annual Meeting is postponed or adjourned, the proxy holders can vote your shares on the new meeting date as well, unless you have revoked your proxy instructions, as described above under "Can I change my vote or revoke my proxy after submitting my proxy?"

**Q: Who pays for the expenses related to the preparation and mailing of the Proxy Statement?**

A: The Company will bear the costs of soliciting proxies, including the costs for the preparation, assembly, printing, and mailing of the Proxy Statement and related proxy materials. In addition, the Company will reimburse brokerage firms and other nominees representing beneficial owners of shares for their expenses in forwarding solicitation materials to beneficial owners of those shares. We have retained Alliance Advisors as our proxy solicitors, and proxies may be solicited by a representative of that firm. For its services, we will pay Alliance Advisors a fee of \$9,500 plus reasonable expenses. Proxies may also be solicited by certain of the Company's directors, officers, and regular employees, without additional compensation, either personally, by telephone, facsimile, or mail.

**Q: Who can vote at the Annual Meeting?**

A: Only stockholders of record at the close of business on April 12, 2020, the Record Date, will be entitled to notice of, and to vote at, our Annual Meeting. Each stockholder of record will be entitled to one vote on each matter for each share of common stock held on the Record Date. On the Record Date, the Company had 57,422,485 shares of common stock outstanding, held by 22 holders of record.

**Q: Will there be any other items of business on the agenda?**

A: We do not know of any business to be considered at the Annual Meeting other than the proposals described in this Proxy Statement; however, the proxy holders (who are the management representatives named on the proxy card) may vote using their discretion with respect to any other matters properly presented for a vote at the meeting.

**Q: How many votes are required for the approval of each item?**

A: Proposal No. 1 (declassification of board): An affirmative vote of a at least 66 2/3% of the voting power of the then outstanding shares of the Company, voting together as a single class is required to approve Proposal No. 1, provided that a quorum is present. **The Board recommends a vote “FOR” Proposal No. 1.**

Proposal No. 2 (election of director): The candidate who receives the greatest number of votes cast at the Annual Meeting will be elected, provided that a quorum is present. **The Board recommends a vote “FOR” the nominee.**

Proposal No. 3 (ratification of Deloitte & Touche LLP as our independent registered public accountants) and Proposal No. 4 (advisory approval of the Company’s executive compensation): An affirmative vote of a majority of the shares of the Company’s common stock present and entitled to vote is required to approve Proposals No. 3 and No. 4, provided that a quorum is present. **The Board recommends a vote “FOR” each of the Proposals No.3 and No. 4.**

**Q: What is the quorum requirement?**

A: A “quorum” of stockholders must be present for us to hold a valid meeting of stockholders. Stockholders representing a majority (more than 50%) of the voting power of our outstanding common stock as of the Record Date, present in person or represented by proxy, constitute a quorum for the transaction of business at the Annual Meeting.

Your shares will be counted towards the quorum only if you submit a valid proxy or if you vote in person at the meeting. Stockholders who submit signed and dated proxies without specifying their votes and broker “non-votes” described below will be counted towards the quorum requirement. If there is no quorum, the chairperson of the meeting or a majority of the votes present at the meeting may adjourn the meeting to another date.

**Q: What is a record holder?**

A: If your shares are registered directly in your name with our transfer agent, American Stock Transfer & Trust Company, LLC, you are considered a “record holder” of those shares. If you are a record holder, you will receive a Notice on how you may access and review the proxy materials on the Internet.

**Q: What is a beneficial owner?**

A: If your shares are held in a stock brokerage account, by a bank, or by another nominee, those shares are registered with American Stock Transfer & Trust Company, LLC in the “street name” of the brokerage account, bank, or other nominee, you are considered the “beneficial owner” of those shares. If you are a beneficial owner, your broker or other nominee will send you a form of voting instructions along with instructions on how to access proxy materials.

As a beneficial owner, you have the right to direct your broker, bank, or other nominee on how to vote your shares by using the voting instruction form included in the mailing or by following the instructions on the voting instruction card for voting via the Internet or telephone.

If there are multiple beneficial owners in the same household, your broker or other nominee may send only one set of voting instructions or copy of the proxy materials to your household. If you are receiving multiple copies of these materials and would like to receive a single copy in the future, please contact your broker, bank, or other nominee to request a single copy in the future.

**Q: How are votes counted?**

A: All shares of common stock represented by valid proxies will be voted in accordance with their instructions. In the absence of instructions, proxies will be voted "FOR" Proposals No. 1, 2, 3 and 4.

Brokers, banks, and other nominees may submit a proxy card for shares of common stock that they hold for a beneficial owner but may decline to vote on certain items because they have not received instructions from the beneficial owner. These are called "Broker Non-Votes" and are not included in the tabulation of the voting results for the election of directors or for purposes of determining the number of votes cast with respect to a particular proposal. Consequently, Broker Non-Votes will not count as votes cast for purposes of Proposals No. 1, 2, 3 and 4.

Brokers have the discretion to vote such shares for which they have not received voting instructions from the beneficial owners on routine matters but not on non-routine matters. The only routine matter up for vote this year is the ratification of the independent registered public accounting firm (Proposal No. 3).

A broker is prohibited from voting on a non-routine matter unless the broker receives specific voting instructions from the beneficial owner of the shares. The declassification of the board (Proposal No. 1) election of directors (Proposal No. 2) and the advisory vote on executive compensation (Proposal No. 4) are non-routine matters, and your broker cannot vote your shares on these proposals unless you have timely returned applicable voting instructions to your broker.

Abstentions have no effect on the outcome of voting for Proposal No. 2, election of directors. Abstentions are treated as shares present or represented and voting regarding Proposals No. 1, No. 3 and No. 4, so abstentions have the same effect as negative votes on those proposals.

A summary of the voting provisions, provided a valid quorum is present or represented at the Annual Meeting, for the matters described in “What is the purpose of the Annual Meeting?” is as follows:

<i>Proposal No.</i>	<i>Vote</i>	<i>Board Voting Recommendation</i>	<i>Routine or Non-Routine(1)</i>	<i>Discretionary Voting by Broker Permitted?</i>	<i>Vote Required for Approval</i>	<i>Impact of Abstentions</i>	<i>Impact of Broker Non-votes (Uninstructed Shares)</i>
1	Declassification of the Board	FOR	Non-routine	No	66 2/3% of the voting power of the then outstanding shares of the Company	Has the same effect as a vote against	No impact
2	Election of the director nominee	FOR	Non-routine	No	Plurality(2)	No impact	No impact
3	Ratification of independent registered public accountants	FOR	Routine	Yes	Majority of shares present or represented by proxy and entitled to vote	Has the same effect as a vote against	Broker has the discretion to vote
4	Advisory, non-binding approval of executive compensation	FOR	Non-routine	No	Majority of shares present or represented by proxy and entitled to vote	Has the same effect as a vote against	No impact

- (1) “Routine” means if you hold your shares in street name, your broker may not vote your shares for you. “Non-routine” means if you hold your shares in street name, your broker may not vote your shares for you.
- (2) “Plurality” means that the nominees who receive the largest number of votes cast “for” are elected as directors. Accordingly, the nominee receiving the highest number of affirmative votes will be elected as a Class I director to serve (i) until the 2024 Annual Meeting of Stockholders, or (ii) our 2022 Annual Meeting of Stockholders if Proposal No. 1 is approved by our stockholders at the Annual Meeting (and in each case, until his respective successor is duly elected and qualified). Abstentions and broker non-votes will have no effect on the outcome of the vote.

**Q: Who counts or tabulates the votes?**

A: The votes of stockholders attending the Annual Meeting and voting in person will be counted or tabulated by an independent inspector of election. For our meeting, a representative of Broadridge Investor Communications Solutions, Inc. will tabulate votes cast by proxy and in person.

**Q: How do I access the proxy materials and annual report via the Internet?**

A: A Notice will be mailed or emailed with instructions on how to access proxy materials via the Internet. This Proxy Statement, the 2020 Annual Report, and related proxy materials for the Annual Meeting of Stockholders to be held on June 10, 2021 will also be available electronically at <http://ir.energyrecovery.com>.

If you have previously chosen to receive the proxy materials via the Internet, you will be receiving an e-mail on or about April [●], 2021 with information on how to access stockholder information and instructions for voting over the Internet. Stockholders of record may vote via the Internet until 11:59 p.m. Eastern Daylight Time (8:59 p.m. Pacific Daylight Time) on June 9, 2021.

If your shares are registered in the name of a brokerage firm and you have not elected to receive proxy materials over the Internet, you may still be eligible to vote shares electronically over the Internet. Many brokerage firms participate in programs that provide eligible stockholders who receive a paper copy of the Proxy Statement and Annual Report the opportunity to vote via the Internet. If your brokerage firm participates in such a program, a form from the broker will provide voting instructions.

Stockholders can elect to view future Proxy Statements and Annual Reports over the Internet instead of receiving paper copies. Stockholders of record wishing to receive future stockholder materials electronically can elect this option by following the instructions provided when voting over the Internet at [www.proxyvote.com](http://www.proxyvote.com).



Upon electing to view future Proxy Statements and Annual Reports over the Internet, you will receive an e-mail notification next year with instructions containing the Internet address of those materials. The choice to view future Proxy Statements and Annual Reports over the Internet will remain in effect until you contact your broker or the Company to rescind the instructions. Internet access does not have to be elected each year.

Stockholders who elected to receive this Proxy Statement electronically over the Internet and who would now like to receive a paper copy of this Proxy Statement so that they may submit a paper proxy in lieu of an electronic proxy should contact either their broker or the Company.

**Q: What should I do if I get more than one proxy or voting instruction card?**

A: Stockholders may receive more than one set of voting materials, including multiple copies of the proxy materials and multiple Notices, proxy cards, or voting instruction cards. For example, stockholders who hold shares in more than one brokerage account may receive separate sets of proxy materials for each brokerage account in which shares are held. Stockholders of record whose shares are registered in more than one name will receive more than one set of proxy materials or one Notice. You should vote in accordance with all of the proxy cards and voting instruction cards you receive relating to our Annual Meeting to ensure that all of your shares are counted.

**Q: I share an address with another stockholder, and we received only one paper copy of the proxy materials. How may I obtain an additional copy of the proxy materials?**

A: The SEC has adopted rules that permit companies and intermediaries (e.g., brokers) to satisfy the delivery requirements for Proxy Statements and annual reports with respect to two or more stockholders sharing the same address by delivering a single Proxy Statement addressed to those stockholders. This process is commonly referred to as "house-holding."

Brokers with account holders who are Energy Recovery stockholders may be house-holding our proxy materials. A single set of proxy materials may be delivered to multiple stockholders sharing an address unless contrary instructions have been received from the affected stockholders. Once you have received notice from your broker that it will be house-holding communications to your address, house-holding will continue until you are notified otherwise or until you notify your broker or The Company that you no longer wish to participate in house-holding.

If, at any time, you no longer wish to participate in house-holding and would prefer to receive a separate Proxy Statement and Annual Report, you may (1) notify your broker, (2) direct your written request to: Investor Relations, Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro, CA 94577 or (3) contact our Investor Relations department by email at [IR@energyrecover.com](mailto:IR@energyrecover.com) or by telephone at (281) 962-8105. Stockholders who receive multiple copies of the Proxy Statement or Annual Report at their address and would like to request house-holding of their communications should contact their broker. In addition, we will promptly deliver, upon written or oral request to the address or telephone number above, a separate copy of the Annual Report and Proxy Statement to a stockholder at a shared address to which a single copy of the documents was delivered.

**Q: What if I have questions about my Energy Recovery shares or need to change my mailing address?**

A: You may contact our transfer agent, American Stock Transfer & Trust Company, LLC, by telephone at (800) 937-5449 (U.S.) or (718) 921-8124 (outside the U.S.), or by email at [info@amstock.com](mailto:info@amstock.com), if you have questions about your Energy Recovery shares or need to change your mailing address.

**Q: Where can I find the voting results of the Annual Meeting?**

A: We will announce preliminary voting results at the Annual Meeting. We will also disclose voting results on a Current Report on Form 8-K that we will file with the SEC within four business days after the Annual Meeting. If final voting results are not available to us in time to file a Current Report on Form 8-K within four business days after the Annual Meeting, we will file a Current Report on Form 8-K to publish preliminary results and will provide the final results in an amendment to this Current Report on Form 8-K as soon as they become available.

## PROPOSALS TO BE VOTED ON AT THE MEETING

### Proposal No. 1: Amendment of Certificate of Incorporation to Effect a Declassification of the Board of Directors

Currently, the Company's Certificate of Incorporation provides for a classified Board divided into three classes of directors, with each class elected for a three-year term. The classification of the Board results in staggered elections, with each class of directors standing for election every third year. One class consists of two members whose terms expire upon the election and qualification of their successors at the Annual Meeting ("Class I"), one class consists of three members whose terms expire at the 2022 Annual Meeting of Stockholders ("Class II"), and one class consists of two members whose terms expire at the 2023 Annual Meeting of Stockholders ("Class III").

After careful consideration, the Board has determined that it is advisable and in the best interests of the Company and its stockholders to amend our Certificate of Incorporation to declassify the Board to allow the Company's stockholders to vote on the election of the entire Board on an annual basis, rather than on a staggered basis.

The general description of the proposed amendments to our Certificate of Incorporation set forth in this Proposal No. 1 is qualified in its entirety by reference to the text thereof, which is attached as Appendix A to this proxy statement.

#### Declassification of the Board

If this Proposal No. 1 is approved by the Company's stockholders at the Annual Meeting, the declassification of the Board will be phased in over a three-year period as follows:

- at the Annual Meeting of stockholders, the Class I director will be elected to hold office for a term of one year;
- at the 2022 Annual Meeting of Stockholders, each of the Class I directors and the Class II directors will be elected to hold office for a term of one year; and
- at the 2023 Annual Meeting of Stockholders, and at each annual meeting of stockholders thereafter, all directors will stand for election for one-year terms.

Under the proposed amendments, the annual election of directors will be phased in gradually to assure a smooth transition. The proposed amendments will not shorten the term of a current director. If this Proposal No. 1 is approved by the requisite vote of the Company's stockholders, any director elected to fill a vacancy that did not arise from an increase in the size of the Board will hold office for the term that remains for the applicable vacating director, and any director elected to fill a vacancy that resulted from an increase in the size of the Board will be elected to serve until the next annual meeting of stockholders.

If this Proposal No. 1 is not approved by the requisite vote of the Company's stockholders, the Board will remain classified, with each class of directors serving a term expiring at the annual meeting of stockholders held in the third year following the year of their election.

If this Proposal No. 1 is passed by the requisite vote of the Company's stockholders, it will become effective when the Company files the amendment to the Certificate of Incorporation with the Secretary of State of the State of Delaware, which the Company intends to do promptly following the 2021 Annual Meeting.

## Considerations of the Board

The Company has historically had a classified board structure in which directors have been divided into three classes and one class is elected each year to serve a three-year term. The Board has historically believed that this classified board structure promotes continuity and stability of strategy, ensures that a potential acquirer in a takeover situation negotiates with the Board, and facilitates the ability of the Board to focus on creating long-term stockholder value. The Board also is aware that the current trend in corporate governance is leading away from classified boards in favor of electing all directors annually and also recognizes that a classified board structure may reduce directors' accountability to stockholders because such a structure does not enable stockholders to express a view on each director's performance by means of an annual vote. Moreover, many institutional investors believe that the election of directors is the primary means for stockholders to influence corporate governance policies and to hold management accountable for implementing those policies.

In determining whether to support declassification of the Board, the Board carefully considered these factors and has determined that it is advisable and in the best interests of the Company and its stockholders to declassify the Board.

## Vote Required

The affirmative vote of at least 66 2/3% of the voting power of the then outstanding shares of our stock that are present in person or by proxy and entitled to vote at the Annual Meeting.

**THE BOARD RECOMMENDS THAT THE STOCKHOLDERS VOTE *FOR* THE ADOPTION OF THE PROPOSED AMENDMENTS TO OUR CERTIFICATE OF INCORPORATION TO PROVIDE FOR THE ANNUAL ELECTION OF DIRECTORS.**

The management proxy holders will vote all duly submitted Proxies FOR the adoption of the proposed amendments to our Certificate of Incorporation unless duly instructed otherwise.

## Proposal No. 2: Election of Director

The Company's Nominating and Governance Committee has nominated, and our Board has designated, Mr. Olav Fjell to stand for election as a Class I director at the Annual Meeting. Mr. Fjell is standing for re-election. Mr. Ole Peter Lorentzen, a Class I director, has notified the Board that he intends to resign upon the conclusion of his current board term and will not stand for re-election at the Annual Meeting.

As a publicly traded company with a principal executive office in California, the Company is subject to the requirements of California Senate Bill 826, which was signed into law on September 30, 2018. Under SB 826, the Company was required to have a minimum of one female director by December 31, 2019, and is required to have at least three female directors by December 31, 2021. While the Company was in compliance with SB 826 as of December 31, 2020, the Company will need to increase female representation on the Board prior to December 31, 2021 to meet the requirements of SB 826. The Company intends to fill the Class I director vacancy with one female director prior to December 31, 2021 and will add an additional female director in order to satisfy such requirements.

### Term of Office

**If Proposal No. 1 is approved by the Company's stockholders at the Annual Meeting**, upon the filing of the amendment to the Certificate of Incorporation, the classification of the Board of Directors will be phased out over the next three annual meetings of stockholders as described in Proposal No. 1, such that:

- (i) at the Annual Meeting, the Class I director will be elected to hold office for a term of one year,
- (ii) at the 2022 Annual Meeting of Stockholders, each of the Class I directors and Class II directors will be elected to hold office for a term of one year, and
- (iii) at the 2023 Annual Meeting of Stockholders, and at each annual meeting of stockholders thereafter, all directors will be elected to hold office for a term of one year, and thereafter the classification of the Board of Directors will terminate in its entirety.

If elected, the Class I director nominee will serve a term of 1 year on our Board, until our 2022 Annual Meeting of Stockholders or until his successor is duly elected and qualified in accordance with our by-laws.

**If Proposal No. 1 is not approved by the Company's stockholders at the Annual Meeting**, and if elected, the Class I director nominee will serve a term of three years on our board of directors, until our 2024 Annual Meeting of Stockholders or until his successor is duly elected and qualified in accordance with our by-laws.

The nominee is currently a director of the Company and he has consented, if elected as a director of the Company, to serve until his term expires.

In the event that any nominee of the Company is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who shall be designated by the present Board of Directors to fill the vacancy. In the event that additional persons are nominated for election as directors, the proxy holders intend to vote all proxies received by them in such a manner as will assure the election of as many of the nominees listed below as possible. In such event, the specific nominees to be voted for will be determined by the proxy holders. The Board has no reason to believe that the person named below will be unable or unwilling to serve as a director, if elected. The nominee for director who receives the greatest number of votes will be elected.

A plurality of the shares voted for the nominee at the meeting is required to elect the nominee as a director.

Set forth below are the name, age, and certain biographical information relating to the Class I director nominee as of April [●], 2021.

**DIRECTOR NOMINEE**



**Age:** 69

**Education:** M.S.c. in Business Administration and Economics (siviløkonom), Norwegian School of Economics and Business Administration

**Director Since:** 2015

**Current Board Committees:**

Audit Committee (Member)

Nominating and Corporate Governance Committee  
(Member)

*Olav Fjell* joined our Board of Directors in June 2015. Mr. Fjell is a seasoned business leader with experience in the oil and gas industry, finance industry, and high tech engineering industry. He is Chair of the Boards of Moelven AS, Nofima AS, Concedo ASA, Bene Agere Norden AS, IFE and Franzefoss AS. He is Deputy Chair of Lotos Exploration and Production Norge and member of the Board of Turbulent Flux AS. Mr. Fjell was the Chief Executive Officer of Statoil from 1999 to 2003, Lindorff from 2005 to 2007 and of Hurtigruten from 2007 to 2012. He has also served as the Chief Executive Officer of Postbanken and been part of the senior management teams at Kongsberg Våpenfabrikk and DNB. Mr. Fjell holds a M.Sc. in Business Administration and Economics (siviløkonom) from Norwegian School of Economics and Business Administration. The Board selected Mr. Fjell because of his extensive and broad executive experience, both as a Chief Executive Officer and through directorships in Norwegian businesses and his experience in the oil and gas industry.

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT  
STOCKHOLDERS VOTE “FOR” THE ELECTION OF OLAV FJELL AS CLASS I DIRECTOR.**

### Proposal No. 3: Ratification of Appointment of Independent Registered Public Accounting Firm

The Audit Committee has appointed Deloitte & Touche LLP, as our independent registered public accounting firm for the fiscal year ending December 31, 2021. Deloitte & Touche LLP was retained by us on April 11, 2018, as announced in our Current Report on Form 8-K, filed on April 13, 2018. A representative of Deloitte & Touche LLP is expected to be present at the virtual Annual Meeting. The representative will have an opportunity to make a statement and to respond to any questions.

The Audit Committee recognizes the importance of maintaining the independence of the Company's independent auditor, both in fact and appearance. Each year, the Audit Committee evaluates the qualifications, performance and independence of the Company's independent auditor and determines whether to re-engage the current independent auditor. In doing so, the Audit Committee considers the quality and efficiency of the services provided by the auditors, the auditors' (global) capabilities and the auditors' technical expertise and knowledge of the Company's operations and industry. Based on this evaluation, the Audit Committee has retained Deloitte & Touche LLP as the Company's Independent Auditor for fiscal year 2021. The members of the Audit Committee and the Board believe that, due to Deloitte & Touche LLP's knowledge of the Company and of the industries in which the Company operates, it is in the best interests of the Company and its stockholders to retain Deloitte & Touche LLP to serve as the Company's independent auditor during 2021.

During the years ended December 31, 2020 and 2019, neither the Company nor anyone on its behalf has consulted with Deloitte & Touche LLP with respect to either (i) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on the Company's consolidated financial statements, and neither a written report nor oral advice was provided to the Company that Deloitte & Touche LLP concluded was an important factor considered by the Company in reaching a decision as to any accounting, auditing or financial reporting issue; or (ii) any matter that was either the subject of a disagreement (as defined in Item 304(a)(1)(iv) of Regulation S-K and the related instructions to Item 304 of Regulation S-K) or a "reportable event" (as defined in Item 304(a)(1)(v) of Regulation S-K).

The report of Deloitte & Touche LLP on the Company's consolidated financial statements for the years ended December 31, 2020 and 2019 did not contain an adverse opinion or a disclaimer of an opinion, and were not qualified or modified as to uncertainty, audit scope or accounting principles.

#### Principal Accountant Fees and Services

The following table sets forth all fees accrued or paid to Deloitte & Touche LLP, our independent registered public accountants for fiscal years ended December 31, 2020 and 2019.

	2020	2019
Audit Fees (1)	\$ 990,579	\$ 850,000
Audit-Related Fees (2)	7,354	10,000
Tax Fees (3)	189,453	168,081
All Other Fees (4)	1,895	1,895
Total	<u>\$ 1,189,281</u>	<u>\$ 1,029,976</u>

(1) Audit Fees consist of fees for professional services rendered in connection with the audit of our annual consolidated financial statements and review of the financial statements included in our quarterly reports on Form 10-Q and services that are normally provided by the independent registered public accountants in connection with statutory and regulatory filings or engagements for those fiscal years.

(2) Audit-related Fees consist of professional services rendered for assurance and related services reasonably related to the performance of the audit or review of our financial statements.

(3) Tax Fees consist of fees for professional services rendered for tax compliance, tax advice and tax planning.

(4) All Other Fees consist of product and services other than those reported above.

**Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services of Independent Registered Public Accounting Firm**

The Audit Committee pre-approves audit, audit-related, tax, and all other services provided by our independent registered public accountants, Deloitte & Touche LLP and will not approve services that are impermissible under applicable laws and regulations. The pre-approval of services may be delegated to one or more of the Audit Committee's members, but the decision of that member to pre-approve specific services must be reported to the full Audit Committee at its next scheduled meeting. In the fiscal years ended December 31, 2020 and 2019, all fees identified above under the captions "Audit Fees" that were billed by Deloitte & Touche LLP for 2020 and 2019, were approved by the Audit Committee in accordance with SEC requirements.

In the fiscal years ended December 31, 2020 and 2019, there were no other professional services provided by Deloitte & Touche LLP, other than those listed above, that would have required our Audit Committee to consider their compatibility with maintaining the independence of Deloitte & Touche LLP.

**Ratification of Deloitte & Touche LLP**

Although ratification is not required, the appointment of Deloitte & Touche LLP as the Company's independent auditors for fiscal year 2021 is being submitted for ratification at the Annual Meeting because the Board believes doing so is a good corporate governance practice. Furthermore, the Audit Committee will take stockholders' opinions regarding the appointment of Deloitte & Touche LLP into consideration in future deliberations. If Deloitte & Touche LLP's appointment is not ratified at the Annual Meeting, the Audit Committee will consider the engagement of other independent auditors. The Audit Committee may terminate Deloitte & Touche LLP's engagement as the Company's independent accountants without the approval of the Company's stockholders whenever the Audit Committee deems appropriate.

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT  
STOCKHOLDERS VOTE "FOR" RATIFICATION  
OF THE APPOINTMENT OF DELOITTE & TOUCHE LLP AS THE COMPANY'S  
INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR  
THE YEAR ENDING DECEMBER 31, 2021**

**Proposal No. 4: Non-Binding Advisory Vote on Executive Compensation**

The Compensation Discussion and Analysis beginning on page [34] of this Proxy Statement describes the Company’s executive compensation program and the compensation decisions made by the Compensation Committee for our fiscal year ended December 31, 2020, with respect to the executive officers named in the Summary Compensation Table on page 45. The Board of Directors is asking our stockholders to cast a non-binding advisory vote to approve the following resolution:

“RESOLVED, that the stockholders of Energy Recovery, Inc. approve, on an advisory basis, the compensation of the executive officers named in the Summary Compensation Table for 2020, as disclosed in this Proxy Statement pursuant to the compensation disclosure rules of the SEC (which disclosure includes the Compensation Discussion and Analysis, the compensation tables (other than the pay ratio), and the related footnotes and narratives accompanying the tables).”

The Board is asking our stockholders to vote “FOR” this proposal because it believes that the policies and practices described in the Compensation Discussion and Analysis section of this Proxy Statement are necessary to achieve the Company’s primary objective of the executive compensation program, that of attracting, retaining, and motivating the talent we need to meet and/or exceed the strategic, operational, and financial goals of the Company. Additionally, we want to reward superior performance and align the long-term interests of our executives with our stockholders.

This proposal, commonly known as a “Say on Pay” proposal, gives you, as a stockholder, the opportunity to express your views on our executive compensation programs and policies and the compensation paid to the executive officers named in the Summary Compensation Table.

The Company’s current policy is to hold a Say on Pay vote each year. We expect to hold another advisory vote with respect to executive compensation at the annual meeting of stockholders to be held in 2022.

Although your vote on this proposal is advisory and non-binding, the Compensation Committee values the views of our stockholders and will take into account the outcome of the vote when considering future compensation decisions for our named executive officers. We are providing this advisory vote pursuant to Section 14A of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”).

**THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS A VOTE “FOR”  
THE APPROVAL, ON AN ADVISORY BASIS, OF THE COMPENSATION OF OUR  
NAMED EXECUTIVE OFFICERS AS DISCLOSED IN THE COMPENSATION DISCUSSION  
AND ANALYSIS, THE ACCOMPANYING COMPENSATION TABLES AND THE RELATED  
NARRATIVE DISCLOSURE INCLUDED IN THIS PROXY STATEMENT.**



## INFORMATION ABOUT THE BOARD OF DIRECTORS AND CORPORATE GOVERNANCE MATTERS

### Board Leadership and Governance Structure

ERI is committed to maintaining superior governance practices, and we regularly assess and refine our corporate governance policies and procedures to take into account evolving best practices.

The Board is responsible for establishing and maintaining the most effective leadership structure for the Company. Historically, the Board has determined that the roles of the Chairman of the Board and the Chief Executive Officer should be separate, with the Chairman an independent director, because that structure affords independent Board leadership and allows the Chief Executive Officer to concentrate on the Company's business. Nevertheless, the Board believes it is appropriate to retain the discretion and flexibility to change the structure from time to time as needed to provide appropriate leadership for the Company given the specific circumstances then facing the Company.

The Board is currently led by Mr. Robert Mao, our Chairman, President and Chief Executive Officer, and Ms. Pamela Tondreau, our Lead Independent Director. The Company believes that our current structure is appropriate at this time as it strikes a balance between effective and efficient Company leadership and oversight by the independent directors.

The Board believes that having Mr. Mao serve as both Chairman and Chief Executive Officer is the most effective leadership structure for the Company at this time. Energy Recovery is at an inflection point in its development as it transitions from a company focused on a single industry since its inception, desalination, to one focused on leveraging its unique IP to develop its PX technology into a more diverse set of industries. In addition, the Company is focused on rapid growth, evolving from a small niche company, to larger more diversified one which demands a new look at operations to assure success. Mr. Mao has over 30 years of experience in the technology and telecommunications industry worldwide, with extensive experience in incubating new and developing technologies, and prior service as a director of other large public companies. This experience makes him uniquely well positioned to lead the Company's business, operations and strategy during this transition.

The combination of the Chief Executive Officer and Chairman roles allows consistent communication and alignment throughout the Company, assuring effective and efficient implementation of corporate strategy and is important in unifying our team members, including the members of the Board, behind a single vision. The combination of the Chief Executive Officer and Chairman roles is balanced by our strong Lead Independent Director position, by the independence of all our other directors, each of whom has significant business experience and by the three principal committees of the Board, each of which consists solely of independent directors.

The Lead Independent Director is an important element of ensuring strong independent Board leadership. We believe the Lead Independent Director provides the Company and the Board with the same independent leadership, oversight and benefits that would be provided by an independent chairman. Our Lead Independent Director is chosen by the independent Directors. In May 2020, Ms. Pamela Tondreau was elected the Lead Independent Director, succeeding Mr. Arve Hanstveit. Ms. Tondreau has been a member of the Board since 2019 and she currently serves as the Chairman of the Compensation Committee and a member of the Nominating and Corporate Governance Committee. Ms. Tondreau's extensive corporate and legal experience make her qualified to serve as Lead Independent Director of our Board.

The Lead Independent Director's duties include consulting with our Chairman and Chief Executive Officer and presiding over meetings of the Board at which the Chairman is not present, including executive sessions of the Board and the independent directors. The Lead Independent Director's duties also include facilitating discussions among independent directors on key issues and concerns outside of Board meetings, serving as a liaison between the Chairman and the other directors, reviewing information to be sent to the Board, collaborating with the Chairman and other members of Company management to set meeting agendas and Board information, assisting the chairs of the committees of the Board as requested, and performing such other functions and responsibilities as requested by the Board or the independent directors from time to time. In performing the duties described above, the Lead Independent Director is expected to consult with, and does consult with, the chairs of the appropriate Board committees.

#### Board of Directors

The number of directors is fixed by our Board of Directors, subject to the terms of our Charter and the Company's Amended and Restated Bylaws (the "Bylaws"). Our Board of Directors currently consists of seven directors.

In accordance with our Charter and the Bylaws, our Board of Directors is divided into three classes with staggered three-year terms. Prior to the Annual Meeting, the Board consisted of:

Director	Class I	Class II	Class III	Committee Memberships		
				Audit	Compensation	Nominating & Corporate Governance
Mr. Alexander J. Buehler			X	Chairman	Member	
Mr. Olav Fjell	X			Member		Member
Mr. Sherif Foda		X			Member	Member
Mr. Arve Hanstveit		X		Member	Member	
Mr. Ole Peter Lorentzen	X				Member	Chairman
Mr. Robert Yu Lang Mao			X			
Ms. Pamela Tondreau		X			Chairman	Member

However, Mr. Lorentzen, a Class I director, has notified the Board that he will not stand for re-election upon the completion of his current term. Therefore, immediately following the Annual Meeting, our directors will be divided among the three classes as follows:

- Class I directors – Mr. Fjell's term will expire at the Annual Meeting and he is standing for election at the Annual Meeting for a term that will expire (1) if the stockholders approve Proposal No. 1 at the Annual Meeting, at the annual meeting of stockholders to be held in 2022, or (2) if the stockholders do not approve Proposal No. 1 at the Annual Meeting, at the annual meeting of stockholders to be held in 2024;
- Class II directors – Messrs. Foda, Hanstveit and Tondreau's terms will expire at the annual meeting of stockholders to be held in 2022; and
- Class III directors – Messrs. Buehler and Mao's terms will expire at the annual meeting of stockholders to be held in 2023.

Any increase or decrease in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one third of the directors.

## Board Diversity and Tenure

Our Board believes that diversity is an important aspect of an effective board. The Nominating and Corporate Governance Committee seeks to recommend individuals to the Board with, among other things, a diversity of skills, experience, expertise and perspective appropriate for the business and operation of the Company. We recognize the benefits of racial and gender diversity in the boardroom, including better reflecting our diverse customer and employee base and the healthy debate that stems from different viewpoints that may result from diverse backgrounds. Accordingly, our Board is diverse in many ways, with differing geographic, business and racial backgrounds. Over forty percent of our Board members are diverse based on gender or ethnicity.

We believe that fresh perspectives and new ideas are critical to a forward-looking and strategic Board. At the same time, given the extremely complex nature of our business, it is equally important to benefit from the valuable experience and institutional knowledge that longer-serving directors bring to the boardroom. Our two newest Directors, Pamela Tondreau and Sherif Foda, joined the Board in 2019 and 2016 respectively. Mr. Buehler, Mr. Fjell and Mr. Lorentzen joined the Board in 2015. Mr. Mao and Mr. Hanstveit joined our Board in 2010 and 1995, respectively. The Board strongly believes that the current mix of directors provides the Company with an appropriate balance of knowledge, experience and capability, allowing us to leverage deep company experience and knowledge in addition to new viewpoints and innovative ideas among newer directors. Five out of our seven Directors have served on our Board for less than six years.

## Director Independence

The Nominating and Corporate Governance Committee and the Board undertake an annual review of director independence. The Nominating and Corporate Governance Committee and the Board evaluated all business and charitable relationships between the Company and the Company's non-employee directors and all other relevant facts and circumstances. Based on information provided by each director concerning his background, employment, and affiliations, including family relationships, our Board of Directors has affirmatively determined that, except for Mr. Mao who is currently serving as an employee, none of our directors have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the applicable rules and regulations of the SEC, and the listing standards of The Nasdaq Stock Market (the "Applicable Rules"). In making these determinations, our Board of Directors considered the current and prior relationships that each director has with our Company and all other facts and circumstances our Board of Directors deemed relevant in determining their independence.

The Board of Directors also has determined that each director is a non-employee director, as defined pursuant to Rule 16b-3 promulgated under the Exchange Act, and an outside director, as defined pursuant to Section 162(m) of the Internal Revenue Code, as amended.

The Board's standards for determining director independence meet or exceed the applicable rules of the SEC and Nasdaq listing standards. In determining whether a director is "independent", the Board considers whether the individual:

- is not an executive officer or employee of the Company or any other individual having a relationship which, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director;
- is not, and has not at any time during the past three years been, employed by the Company;

- has not accepted, and does not have any spouse, parent, child or sibling, whether by blood, marriage or adoption, any person residing in such individual's home, or any relative supported financially (each, a "Family Member") who has accepted, any compensation from the Company in excess of \$120,000 during any period of 12 consecutive months within the three years preceding the determination of independence, other than (A) compensation for Board or committee service, (B) compensation paid to a Family Member who is an employee (other than an executive officer) of the Company, or (C) benefits under a tax-qualified retirement plan or non-discretionary compensation;
- is not a Family Member of an individual who is, or at any time during the past three years was, employed by the Company as an executive officer;
- is not, and does not have a Family Member who is, a partner in, or a controlling stockholder or an executive officer of, any organization to which the Company made, or from which the Company received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than (A) payments arising solely from investments in the Company's securities and (B) payments under non-discretionary charitable contribution matching programs;
- is not, and does not have a Family Member who is, employed as an executive officer of another entity where at any time during the past three years any of the executive officers of the Company served on the compensation committee of such other entity;
- is not, and does not have a Family Member who is, a current partner of the Company's outside auditor, and was not, and does not have a Family Member who was, a partner or employee of the Company's outside auditor who worked on the Company's audit at any time during any of the past three years; and
- satisfies any additional requirements for independence promulgated from time to time by NASDAQ.

#### **Relationships Among Directors or Executive Officers**

There are no family relationships among any of the directors or executive officers of the Company.

#### **Board Self-Evaluation**

Our Nominating and Corporate Governance Committee charter provides that the Nominating and Corporate Governance Committee must conduct a periodic assessment of the performance of the Board, including the committees, and provide the results to the full Board for discussion. The purpose of the review is to increase the effectiveness of the Board as a whole and of each of the committees. The assessment includes an evaluation of the Board and each committee's contribution as a whole, of specific areas in which the Board, the applicable committee and/or management believe better contributions could be made and of the overall make-up and composition of the Board and its committees.

#### **Board Meetings**

The Board conducts its business through meetings of the full Board and committees of the Board. The Board regularly meets in executive session with only independent directors of the Board present. During 2020, the Board held 11 meetings. During 2020, no director attended fewer than 75% of all the meetings of the Board or its committees on which he or she served after becoming a member. The Company encourages, but does not require, its directors to attend the annual meeting of stockholders.

## Committees of the Board of Directors

The Board has three standing committees: the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee. The primary responsibilities, membership and meeting information for the committees of our Board during 2020 are summarized below. A copy of the charter of the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee is available on our website at [www.energyrecovery.com](http://www.energyrecovery.com) under the links "Investor Relations" – "Corporate Governance."

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### Audit Committee

#### Members: All Independent

Alexander Buehler (Chair)  
Olav Fjell  
Arve Hanstveit

#### Meetings in 2020: 4

The Board has unanimously determined that each member of the Audit Committee meets Nasdaq's "financial sophistication" requirements, and that Mr. Buehler has the financial education and experience to qualify as an "Audit Committee financial expert" within the meaning of SEC regulations.

#### Key Responsibilities:

- Oversees and reports to the Board with respect to the quality and integrity of the Company's financial statements, accounting, and financial reporting processes, and audits of the financial statements and internal controls over financial reporting
- Appoints, compensates, and evaluates the qualifications, independence, and performance of the independent auditor
- Oversees the performance of the internal audit function
- Establishing policy standards and guidelines for the Company's risk assessment and risk management
- Monitors the Company's compliance with legal and regulatory requirements, including the Company's disclosure controls and procedures, and the Company's anonymous whistleblower hotline
- Reviews and approves related party transactions
- Reviews cyber-security and other risks relevant to the Company's information system controls and security

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### Compensation Committee

#### Members: All Independent

Pamela Tondreau (Chair)  
Alexander Buehler  
Sherif Foda  
Arve Hanstveit  
Ole Peter Lorentzen

#### Meetings in 2020: 7

The Board has determined that each member is independent under Nasdaq rules and the Company's Corporate Governance Guidelines and is a "non-employee director" as defined by Rule 16b-3 under the Exchange Act.

#### Responsibilities:

- Reviews and approves the Company's overall compensation philosophy
- Designs and administers the Company's executive compensation programs and policies that are aligned with business and compensation objectives
- Evaluate the performance of the Chief Executive Officer and approve his compensation and other terms of employment
- Determines and approves the annual compensation of the executive officers and Section 16 officers
- Administers the Company's incentive and stock plans, including establishing guidelines, interpreting plan documents, selecting participants, approving grants and awards and making other decisions regarding the operation of such plans

- 
- Reviews and makes recommendations to the Board concerning director compensation
  - Retain outside advisors; directly retains and oversees its independent compensation consultant
  - Reviews our compensation policies and practices to determine areas of resulting risk
- 

#### **Nominating and Corporate Governance Committee**

##### **Members: All Independent**

Ole Peter Lorentzen (Chair)  
Olav Fjell  
Sherif Foda  
Pamela Tondreau

##### **Meetings in 2020: 6**

The Board has determined that each member is independent under NASDAQ rules.

##### **Key Responsibilities:**

- Identifies and recommends to the Board, nominees to serve on the Board
- Monitors the independence of directors of the Board and Board Committees
- Oversees the Board and Board Committees annual evaluation process
- Develops and oversees compliance with the Company's corporate governance functions, including the procedures for compliance with significant applicable legal, ethical and regulatory requirements that impact corporate governance
- Reviews and makes recommendations to the Board with respect to corporate governance matters generally

The Nominating and Corporate Governance Committee considers and makes recommendations to the Board regarding any stockholder recommendations for candidates to serve on the Board. Our Bylaws contain provisions that address the process by which a stockholder may nominate an individual to stand for election to the Board. In order to nominate a candidate for director, a stockholder must give timely notice in writing to our Secretary and otherwise comply with the provisions of our Bylaws. To be timely, a stockholder's notice to our Secretary must be delivered to or mailed and received at our principal executive offices, in the case of an annual meeting, not later than the close of business on the 120<sup>th</sup> day, nor earlier than the close of business on the 150<sup>th</sup> day, prior to the anniversary date on which we first mailed our Proxy Statement to stockholders in connection with the immediately preceding annual meeting. If no annual meeting was held in the previous year or the annual meeting is called for a date that is not within 25 days before or after such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business the 10<sup>th</sup> day following the day on which such notice of the date of the meeting was mailed or public disclosure of the date of the meeting was made, whichever occurs first. In the case of a special meeting of stockholders called for the purpose of electing directors, notice must be delivered to or mailed and received not later than the close of business on the 10<sup>th</sup> day following the day on which notice of the date of the special meeting was mailed or public disclosure of the date of the special meeting was made, whichever occurs first.

Stockholder nominations must also include the information required by our Bylaws. Under the Bylaws, information as to each person whom the stockholder proposes to nominate for election as a director must include (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class or series and number of shares of capital stock of the corporation that are owned beneficially or of record by the person, (iv) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of the person, or any affiliates or associates of such person, with respect to stock of the corporation, (v) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of the corporation) has been made by or on behalf of the person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or economic interest of such person, or any affiliates or associates of such person, with respect to stock of the corporation, (vi) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder, (vii) the written consent of such person to being named as a nominee and to serving as a director if elected, (viii) the written representation and agreement of such person required by Section 3.16 of the Bylaws, and (ix) any other information relating to such person that is required to be disclosed in solicitations of proxies for elections of directors, or is otherwise required, in each case pursuant SEC regulations. The stockholder giving notice must also provide certain other information required under our Bylaws.

A stockholder who wishes to nominate a candidate to serve on the Board should carefully review the applicable provisions of our Bylaws. Any such nomination must be made in accordance with the procedures outlined in, and include the information required by, the Bylaws. The nomination must be addressed to 1717 Doolittle Drive, San Leandro, California 94577 Attn: Secretary. You can obtain a copy of our Bylaws by writing to the Secretary at this address.

In addition, our Bylaws permit certain of our stockholders who have beneficially owned 3% or more of our outstanding common stock continuously for at least three years to submit nominations to be included in the Company's proxy materials for a number not to exceed the greater of two (2) or twenty percent (20%) of the total number of directors then serving. Notice of proxy access director nominations for the 2022 Annual Meeting of Stockholders must be delivered to our Corporate Secretary at our principal executive offices no earlier than December [ ], 2021, and no later than the close of business on February [ ], 2022. The notice must set forth the information required by our Bylaws with respect to each proxy access director nomination that eligible stockholder or stockholders intend to present at the 2022 Annual Meeting of Stockholders and must otherwise be in compliance with our Bylaws.

While the Nominating and Corporate Governance Committee does not have a written policy regarding diversity in identifying nominees for directors, the committee takes diversity into account when looking for best available candidates to serve on the Board. In the past, when new directors have been added to our Board, the Board or Nominating and Corporate Governance Committee has endeavored to select director candidates who have business, scientific, or regulatory specializations; technical skills; or other backgrounds that increased the range of experience and diversity of perspectives within our Board in ways that pertain to our current and future business goals. The Committee also considers diversity in terms of gender, ethnic background, and national origin.

There are no differences in the manner in which the Nominating and Corporate Governance Committee evaluates nominees for director based on whether the nominee is recommended by a stockholder or by the Nominating and Corporate Governance Committee itself.

In reviewing potential candidates for the Board, the Nominating and Corporate Governance Committee considers numerous factors including:

- whether or not the person has any relationships that might impair his or her independence, such as any business, financial, or family relationships with the Company, its management, its stockholders, or their affiliates;
- whether or not the person serves on boards of, or is otherwise affiliated with, competing companies;
- whether or not the person is willing to serve as, and willing and able to commit the time necessary for the performance of the duties of, a director of the Company; and
- the contribution that the person can make to the Board and the Company, with consideration given to the person's experience in the fields of energy, technology, and manufacturing as well as leadership or entrepreneurial experience in business or education.

Of greatest importance is the individual's integrity and ability to bring to the Company experience and knowledge in areas related to the Company's current and future business. The Board intends to continue using these criteria to evaluate candidates for election to the Board.

#### **Board Role in Risk Management**

The goal of the Company's risk management process is to understand and manage material risks impacting our business. Management is responsible for identifying and managing the risks, while directors provide oversight to management in this process, which is designed to support the achievement of organizational objectives, including strategic objectives, to improve long-term organizational performance to enhance stockholder value. A fundamental part of risk management is not only understanding the risks we face and what steps management is taking to manage those risks, but also understanding what level of risk is appropriate. Management is responsible for establishing our business strategy, identifying and assessing the related risks and establishing appropriate risk management practices.

#### ***The Board of Directors***

The Board, either directly or through one or more of its committees, reviews our business strategy and management's assessment of the related risk and discusses with management the appropriate level of risk. The Board relies on each Board committee to oversee management of specific risks related to that committee's function. While the Board is responsible for setting, monitoring, and maintaining the Company's risk management policies and practices, the Company's executive officers, and members of our management team, are responsible for implementing and overseeing our day-to-day risk management processes.

Certain risks are reviewed and discussed with the entire board, such as (but not limited to):

- Significant commercial risks
- Capital market risks
- Material legal or reputational matters
- Mergers and acquisitions
- Strategy
- Competitive developments
- Risks related to ESG



### ***Audit Committee***

Our Audit Committee is primarily responsible for overseeing the Company's risk management processes on behalf of the Board. The Audit Committee charter provides that the Audit Committee should discuss and consider the process by which senior management of the Company and the relevant departments assess and manage the Company's exposure to risk and discuss the Company's major financial risk exposure and the steps management has taken to monitor, control, and report such exposures. In addition, the Audit Committee reports to the Board of Directors, which also considers the Company's risk profile. The Audit Committee and the Board of Directors obtain input from management regarding the most significant risks facing the Company, the Company's risk management strategy, and that the risks undertaken are consistent with the Board's tolerance for risk.

Risks reviewed and discussed by the Audit Committee include (but not limited to):

- Financial statements and financial risk exposures
- Tax strategy and related risks
- Business ethics and anti-corruption program
- Significant commercial risks
- Oversight of overall risk management processes and policies
- Accounting, controls and financial disclosures
- Cybersecurity and information security related risks

### ***Compensation Committee***

The Compensation Committee oversees compensation risk management by participating in the creation of, and approving, compensation structures that create incentives that encourage an appropriate level of risk-taking behavior consistent with our business strategy.

- Executive compensation philosophy and program design
- Executive development and leadership
- Diversity and inclusion
- Talent management
- CEO succession planning
- Senior Management succession planning
- Turnover and employee risks

### ***Role of Independent Directors***

In addition to the oversight provided by our full Board of Directors, Audit Committee, Compensation Committee, executive officers and the members of our management team, our independent directors hold regularly scheduled executive sessions as often as they deem appropriate, but in any event at least four times each year. These executive sessions provide an additional avenue through which we monitor the Company's risk exposure and policies regarding risk management.

### ***Cybersecurity***

We rely on our information technology ("IT") and data systems in connection with many of our business activities. As the role of technology in our business expands, so too does the importance of cybersecurity. We take protecting our brand, systems, data, intellectual property, and customer and employee information, seriously. We actively monitor and manage our IT for security risks (e.g., cybersecurity risks), and look to mitigate these risks through enterprise-wide programs, annual employee training and vulnerability assessments. We have made, and continue to make, investments in a skilled IT workforce and leadership, and critical technologies.

Our enterprise-wide programs include endpoint security and encryption, network intrusion prevention and detection, a system for managing and installing patches for third-party applications, and security information and event management (“SIEM”) systems that monitor our infrastructure and alert our security operations center of potential cybersecurity issues. We strictly regulate and limit all access to servers and networks at our facilities. Local network access is restricted by domain authentication, using stringent access control lists and virtual local area networks (“VLAN”). Multi-factor authentication is used to build an additional layer of security for remote-work access to critical applications. Our information security department regularly performs penetration testing and we engage a third-party penetration testing company to conduct penetration tests to identify and remediate any issues.

Under our enterprise-wide approach to risk management, cybersecurity is “high-level” risk that is reported to, and overseen by, our Audit Committee of the Board of Directors, which consists of three non-employee independent directors, of which one of these directors has information systems experience. In addition to the enterprise-wide initiatives, we purchase cybersecurity insurance to protect against a wide range of costs that could be incurred in connection with cybersecurity-related incidents. We continually strengthen and enhance our programs and controls around people, process and technology, and apply risk-based strategies to enhance prevention, detection, and response efforts

#### **Compensation Committee Interlocks and Insider Participation**

No member of the Compensation Committee was at any time during fiscal year 2020 or at any other time, an officer or employee of the Company, or had any relationship with the Company requiring disclosure under Item 404 of Regulation S-K. None of our current executive officers serve on the Compensation Committee or the Board of Directors of another entity whose executive officer(s) serve(s) on the Company’s Compensation Committee or Board of Directors.

#### **Communication between Stockholders and Directors**

Our Board currently does not have a formal process for stockholders to send communications to the Board. The Company, however, makes every effort to ensure that the views of stockholders are heard by the Board or individual directors and that the Company responds to stockholders on a timely basis. The Board does not recommend that formal communication procedures be adopted at this time because it believes that informal communications are sufficient to convey questions, comments, and observations that could be useful to the Board. Stockholders wishing to formally communicate with the Board may send communications directly to Secretary, Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro, California 94577.

#### **Codes of Business Conduct and Ethics**

Our employees, including our principal executive officer and principal financial and accounting officer, and our directors are governed by a code of ethics of the Company (the “Codes of Ethics”). The Codes of Ethics require our employees and directors to conduct Company business in the highest legal and ethical manner. The Codes of Ethics meet the requirements of a “code of ethics” as defined by Item 406 of Regulation S-K and the requirements of a code of business conduct and ethics under applicable Nasdaq listing standards. The full texts of the Codes of Ethics and further details regarding the scope of each of the Codes of Ethics are available on our website at [www.energyrecovery.com](http://www.energyrecovery.com) under the links “Investor Relations”—“Corporate Governance.” Any amendments to or waivers from the Codes of Ethics will be posted at this location on our website as required by applicable SEC and Nasdaq rules.

## Environmental, Social and Governance Program

While our business has always been aligned with sustainability issues such as addressing global water scarcity and improving energy efficiency, the launch of a formal Environmental, Social and Governance (ESG) program in 2020 reflects our commitment to continuous improvement as we strive to become a more sustainable and resilient business. Ultimately, we believe that the strategic integration of ESG principles into how we operate as a company will leverage our end products' inherent value proposition of creating a more sustainable future. This approach can help us achieve our ultimate goal of balancing long-term growth with strong governance, responsible business policies and practices, and positive environmental impact.

Our corporate governance structure is highly focused on effectively managing risk and preserving long-term, sustainable value for the benefit of our shareholders, our employees, and the broader ecosystem in which we operate. Relevant ESG topics, risks, issues, and considerations – largely informed by related stakeholder feedback and the use of the Sustainable Accounting Standards Board and Global Reporting Initiative frameworks, as well as the Sustainable Development Goals (SDGs) – are managed at the Board level and are not currently assigned to a specific committee. As the formal assessment of key ESG risks and opportunities has been elevated as a corporate priority and is relatively new to us as an organization, Energy Recovery's Board decided these responsibilities should not be assigned to a particular committee at this time, but instead reviewed by the Board in its entirety.

As our ESG program and related initiatives evolve, the Board will play a key role in assessing our areas of greatest influence within the larger sustainability landscape and will be involved in the creation and subsequent execution of related goals. ESG topics, issues, and considerations relevant to Energy Recovery are discussed at each Board meeting, which occur at least four times per year, and have been formally incorporated into Board meeting agendas since 2019.

In September 2020, we released our inaugural ESG report, detailing our multi-pronged approach to accelerating environmental sustainability, managing and mitigating ESG related risks, and working to continually improve our performance across all ESG dimensions. To further guide our journey forward, we have aligned ourselves with the SDGs, a framework of global commitments to create a fairer and more sustainable world by 2030. Given our global involvement in the production of clean water and our focus on developing products to improve environmental sustainability, we play a role in advancing certain SDGs. Specifically, we have identified three SDGs with which our vision, products and operations best align: Clean Water and Sanitation (SDG 6), Affordable and Clean Energy (SDG 7), and Industry, Innovation and Infrastructure (SDG 9). We believe alignment with these SDGs will guide us in maximizing our role in the larger global effort towards a more sustainable future.

Just as our company is dedicated to accelerating the environmental sustainability of our customers' operations, we are committed to investing in our talent and culture, ensuring the health, safety, and well-being of our employees and workplaces, and supporting the communities in which we operate and live. Our ability to retain 93% of employees with 38% headcount growth in fiscal year 2019, the reporting year of our most recent ESG report, is a testament to the commitment we have to our employees and the support provided to them in their professional development. We focus on empowering and enabling our team to continually improve, in turn driving development of high-impact solutions for our customers. In addition, we have launched several social investment initiatives including an employee donation match program and partnerships with non-profit organizations that align with our core values and serve on the front lines of our local and global communities. For more information on our social investment program, please visit our website at <http://bit.ly/ERI-SIP>.

Although we are early in our ESG journey, Energy Recovery's efforts have been recognized by the investment research firm MSCI, who upgraded our ESG rating from BBB to A in early 2021. We've scored above industry average on several key issues including opportunities in clean tech and labor management.

As we further develop our ESG program, we plan to undertake a materiality and goal setting process to establish targets and key performance indicators for select topics, in addition to evaluating opportunities to increase our level of disclosure and reporting depth. Our goal is to communicate the results of our materiality assessment and ESG goals in our next ESG report, scheduled for publication in Q3 2021.

Our ESG report, in its entirety, can be found on our website at <https://bit.ly/ERI-ESG>.

### **Director Compensation**

Directors who are non-employees of the Company received the following fees for their services on the Board during the year ending December 31, 2020:

- \$50,000 annual retainer paid in quarterly installments for services as a member of the Board;
- \$15,000 annual retainer paid in monthly installments for services as Lead Independent Director;
- \$15,000 annual retainer paid in quarterly installments for services as Chairman of the Audit Committee;
- \$10,000 annual retainer paid in quarterly installments for services as Chairman of the Compensation Committee; and
- \$5,000 annual retainer paid in quarterly installments for services as Chairman of the Nominating and Corporate Governance Committee.

Our non-employee directors also receive:

- an annual grant of stock options of common stock valued (based on market prices on the date of grant) at \$85,000, with 100% vesting on the first anniversary of the vesting commencement date.

On the date of the 2020 Annual Meeting of Stockholders, each continuing non-employee director received an option grant to purchase \$85,000 of the Company's common stock. As an employee, Mr. Mao was not eligible to receive any annual retainers or stock grants for serving as our Chairman. The options have a one-year vesting period and become fully vested in June 2021, subject to the director providing service to the Board through such date.

Our non-employee director compensation program for 2020 was substantially similar to 2019, with the exception of the addition of an annual retainer to our Lead Independent Director of \$15,000.

## Director Compensation for the Year Ended December 31, 2020

The table below summarizes the compensation paid to non-employee directors for the year ended December 31, 2020. Directors who are also our employees receive no additional compensation for their service as a director. During the fiscal year ended December 31, 2019, Mr. Mao was an employee of the Company. Mr. Mao's compensation is discussed in "Executive Compensation".

Director	Fees Earned and Paid in Cash	Option Awards (1)	Total
Mr. Alexander J. Buehler(2)	\$ 65,000	\$ 85,000	\$ 150,000
Mr. Sherif Foda	50,000	85,000	135,000
Mr. Olav Fjell	50,000	85,000	135,000
Mr. Arve Hanstveit (3)	55,430	85,000	140,430
Mr. Ole Peter Lorentzen(4)	55,000	85,000	140,000
Ms. Pamela Tondreau (5)	61,445	85,000	146,445
<b>TOTAL</b>	<b>\$ 336,875</b>	<b>\$ 510,000</b>	<b>\$ 846,875</b>

- (1) The amount in the Option Awards column sets forth the fair value on the grant date of the options awards granted in 2020 as calculated in accordance with FASB ASC Topic 718 without regard to estimated forfeitures. The method and assumptions used to calculate the fair value on the grant date of our equity awards is discussed in Note 11 of the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ending December 31, 2020. As of December 31, 2020, the number of shares underlying unvested stock options held by each of the directors was 18,669 shares.
- (2) Mr. Buehler is a director and the Chairman of the Audit Committee.
- (3) Mr. Hanstveit is a director and served as the Chairman of the Compensation Committee through July 16, 2020. His compensation for this position has been prorated.
- (4) Mr. Lorentzen is a director and the Chairman of the Nomination and Corporate Governance Committee. Mr. Lorentzen has notified the Board that he will not stand for re-election upon the completion of his current term.
- (5) Ms. Tondreau is a director and was appointed lead independent director and Chairman of the Compensation Committee on July 16, 2020. Her compensation for these positions has been prorated.

Our non-employee directors are also reimbursed for travel, lodging and other reasonable expenses incurred in connection with their attendance at Board of Directors or committee meetings.

### Stock Ownership Guidelines

The Board believes that our non-employee directors and executive officers should own and hold shares of our common stock to further align their interests with the long-term interests of stockholders and further promote our commitment to sound corporate governance. Toward this end, in April 2016, the Board adopted guidelines with respect to ownership levels of the Company's common stock of our CEO, other executive officers, and members of our Board. The guidelines state that our CEO, other executive officers, and each director must beneficially own Common Stock having a value equal to:

- For our CEO, three times his annual base salary;
- For our other executive officers, one time his or her annual base salary; and
- For each non-employee director, three times the amount of the annual cash retainer paid to directors for general service on the Board.

The guidelines were established to promote a long-term perspective in managing the Company and align the interests of our stockholders, executives, and directors.

For purposes of determining ownership under these guidelines we include shares of common stock actually owned by the covered individual or family members, certain indirect forms of ownership, such as stock held in a grantor trust for the benefit of the covered individual, as well as the net exercise or “spread” value of vested stock options. Unvested options or restricted stock units (“RSUs”) and the unvested portion of any performance-based restricted stock or other equity-based award are not included. Directors and executive officers were given a period of three years from the adoption of the original guidelines to meet these ownership requirements while newly appointed directors or executive officers are given a period of five years from their date of appointment to meet these requirements. Covered individuals are required to hold 25% of the net shares acquired from all equity awards after deducting shares sold to cover the exercise price and/or taxes until the applicable guideline is reached. As of December 31, 2020, all of our directors and executive officers were either exceeding the minimum stock ownership requirements or were on track to comply in the relevant timeframe.

#### **Prohibition on Hedging and Pledging Shares**

Our insider trading policy provides that Company employees and directors may not engage purchase financial instruments (including prepaid variable forward contracts, equity swaps, puts, calls, straddles, collars and exchange funds) that are designed to hedge or offset any decrease in the market value of the Company’s equity securities and entering into other transactions with the same economic effect, including short sales involving the Company’s securities. Our insider trading policy further prohibits Company employees and directors from entering into borrowing or other arrangements involving non-recourse pledge of Company securities. Finally, we do not permit our directors or employees to sell a security future with respect to Company securities that establishes a position that increases in value as the value of the underlying Company security decreases.

## SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information with respect to the beneficial ownership of our common stock as of April [●], 2021 for (i) each person or group of affiliated persons who is known by the Company to beneficially own more than 5% of the Company's common stock, (ii) each of the Company's directors, (iii) each of the officers appearing in the "Summary Compensation Table" on Page 45 and (iv) all directors and executive officers as a group.

We have determined beneficial ownership in accordance with the rules of the SEC and the information is not necessarily indicative of beneficial ownership for any other purpose. Unless otherwise indicated below, to our knowledge, the persons and entities named in the table have sole voting and sole investment power with respect to all shares that they beneficially own, subject to community property laws where applicable. To our knowledge, no person or entity except as set forth below, is the beneficial owner of more than 5% of the voting power of our common stock as of the close of business on April 12, 2021. The address of each executive officer and director is c/o Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro, CA 94577.

	Shares Beneficially Owned (1)	Percent of Class (2)
<b>5% or Greater Common Stockholders:</b>		
Arvarius AS c/o Marius Skaugen (3) Parkv.57 c/o B. Skaugen AS 0256 Oslo, Norway	7,532,490	13.1%
Ludvig Lorentzen AS (4) Postboks A, Bygdoy, 0211 Oslo, Norway	6,200,000	10.8%
Trigran Investment, Inc. (5) 630 Dundee Road, Suite 230 Northbrook, IL 60062	5,540,420	9.6%
Sundt AS (6) Dronningen 1, 2087 Oslo, Norway	4,400,000	7.7%
BlackRock, Inc. (7) 55 East 52nd Street New York, NY 10055	3,266,530	5.7%
<b>Directors, Named Executive Officers, and Current Group:</b>		
Ole Peter Lorentzen (4)	6,990,189	12.2%
Arve Hanstveit (8)	1,141,983	2.0%
Robert Yu Lang Mao (9)	470,333	0.8%
Joshua Ballard (10)	174,150	0.3%
Alexander J. Buehler (11)	159,855	0.3%
Olav Fjell (12)	151,406	0.3%
Emily Smith (13)	147,444	0.3%
Farshad Ghasripoor (14)	68,177	0.1%
Rodney Clemente (15)	10,147	*%
Sherif Foda (16)	55,319	*%
Pamela Tondreau (17)	28,964	*%
All named executive officers and directors as a group (11 persons) (18)	9,397,967	16.2%

\*Less than 0.1%

(1) Beneficial ownership is determined in accordance with the rules of the SEC. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of Common Stock subject to options and warrants held by that person that are currently exercisable, or exercisable within 60 days after April 12, 2021, are deemed outstanding. Such shares, however, are not deemed outstanding for the purpose of computing the percentage ownership of each other person.

(2) Percent of class is based on the number of shares of Common Stock outstanding as of April 12, 2021, the Record Date, which were 57,422,485 shares.

- (3) Based on a Schedule 13G/A and a Form 4 filed with the SEC on March 19, 2010 and April 30, 2010, respectively, which together showed 7,641,103 shares beneficially owned by Arvarius AS and 7,641,103 shares beneficially owned by Mr. Skaugen, the controlling stockholder of Arvarius. Each reported shared voting and dispositive power over the shares respectively reported for that beneficial owner. The shares reported by Arvarius included 800,000 shares that could be acquired under exercisable warrants. Subsequent to the foregoing reports, warrants to purchase 200,000 shares were exercised in December 2013 for 180,276 shares, the remaining warrants to purchase 19,724 shares of this exercise were cancelled and considered payment for the exercise. Warrants to purchase 400,000 shares were exercised in July 2014 for 311,111 shares, the remaining warrants to purchase 88,889 shares of this exercise were cancelled and considered payment for the exercise. Warrants to purchase 200,000 shares were exercised in July 2015.
- (4) Based on a Form 4 jointly-filed by Ole Peter Lorentzen and Ludvig Lorentzen AS with the SEC on May 14, 2020, which reported 6,200,000 shares directly held by Ludvig Lorentzen AS, 640,334 shares held by companies directly owned by its controlling shareholder, Mr. Lorentzen, and options to purchase 149,855 shares of common stock that are exercisable within 60 days of April 12, 2021.
- (5) Based on a Schedule 13G/A filed with the SEC on February 11, 2021, which reported 5,540,420 shares beneficially owned by Trigran Investments, Inc., Douglas Granat, Lawrence A. Oberman, Steven G. Simon, Bradley F. Simon, and Steven R. Monieson having shared voting power and shared dispositive power of 5,540,420 shares.
- (6) Based on a Schedule 13G/A filed with the SEC on February 16, 2018, which reported 4,400,000 shares beneficially owned by Sundt AS, CGS Holdings AS, Helene Sundt AS, Christian Gruner Sundt, Else Helene Sundt, Leiv Askvig, and Jacob Asif Iqbal having shared voting power and shared dispositive power of 4,400,000 shares.
- (7) Based on a Schedule 13G filed with the SEC on February 2, 2021, which reported 3,266,530 shares beneficially owned by BlackRock, Inc. having sole voting power.
- (8) Consists of 924,733 shares held by Mr. Hanstveit; 120,000 shares held by Mr. Hanstveit's daughters; and options to purchase 97,250 shares of common stock that are exercisable within 60 days of April 12, 2021. Mr. Hanstveit has shared voting and investment power over the shares that are owned by his daughters.
- (9) Consists of 217,611 shares held by Mr. Mao as trustee of The R. Mao Trust and options to purchase 252,722 shares of common stock that are exercisable within 60 days of April 12, 2021.
- (10) Consists of 6,979 shares held by Mr. Ballard, and options to purchase 167,171 shares of common stock that may be exercised within 60 days of April 12, 2021.
- (11) Consist of 10,000 shares held by Mr. Buehler and options to purchase 149,855 shares of common stock that may be exercised within 60 days of April 12, 2021.
- (12) Consists of 18,000 shares held by Mr. Fjell and options to purchase 133,406 shares of common stock that may be exercised within 60 days of April 12, 2021.
- (13) Consists of 10,386 shares held by Ms. Smith and options to purchase 137,058 shares of common stock that are exercisable within 60 days of April 12, 2021 by Ms. Smith.
- (14) Consists of 27,075 shares held by Mr. Ghasripoor and options to purchase 41,102 shares of common stock that may be exercised within 60 days of April 12, 2021.
- (15) Consists of 10,147 shares of common stock that are exercisable within 60 days of April 12, 2021 by Mr. Clemente.
- (16) Consists of options to purchase 55,319 shares of common stock that are exercisable within 60 days of April 12, 2021 by Mr. Foda.
- (17) Consists of option to purchase 28,964 shares of common stock that are exercisable within 60 days of April 12, 2021 by Ms. Tondreau.
- (18) Consists of 9,397,967 shares held by 5 executive officers and 6 directors as a group and options to purchase 1,222,849 shares of common stock that may be exercised within 60 days of April 12, 2021.



## EXECUTIVE COMPENSATION

### Compensation Discussion and Analysis

This Compensation Discussion and Analysis describes our executive compensation philosophy and programs, compensation decisions made under those programs, and the factors considered in making those decisions for our “named executive officers,” who, for 2020, were:

Robert Yu Lang Mao	President and Chief Executive Officer
Josh Ballard	Chief Financial Officer
Rodney Clemente	Senior Vice President, Water
Emily Smith	Senior Vice President, Corporate Development and Operations
Farshad Ghasripoor	Chief Technology Officer

Mr. Mao was appointed as the President and Chief Executive Officer on May 5, 2020 and served as the interim President and Chief Executive Officer from November 1, 2019. Mr. Ballard has been Chief Financial Officer since August 13, 2018. Mr. Clemente has been the Senior Vice President, Water since December 22, 2019. Prior that, he served as the Vice President, Water since July 31, 2018 and the Vice President of Global Desalination Operations since April 29, 2015. Ms. Smith has been the Senior Vice President, Corporate Development and Operations since December 22, 2019. Prior to that Ms. Smith was the Vice President of Marketing since November 2015. Ms. Smith joined the Company in August 2011, where she has held several positions spanning multiple disciplines, including Senior Director of Corporate Development, Director of Financial Planning & Analysis and the Strategic Analyst to the CEO. Ms. Smith resigned from the Company on April 20, 2021. Mr. Ghasripoor has been serving in his present position of Chief Technology Officer since November 16, 2017. Prior to that he served as the Managing Director, Engineering.

The Compensation Committee of the Board of Directors has principal responsibility for establishing, implementing, and monitoring adherence to our compensation philosophy and objectives. The Compensation Committee’s duties include evaluating the performance and advising the Board on the compensation of our Chief Executive Officer, recommending director compensation, and setting the compensation of our other executive officers, as well as performing oversight of our compensation arrangements, plans, policies, and programs for employees in general.

### 2020 Corporate Performance Highlights

We are an energy solutions provider to industrial fluid flow markets worldwide. Our fiscal year 2020 corporate performance highlights include the following:

- Total revenue of \$119.0 million, an increase of 37% year-over-year; highest revenue in Company history.
- Water revenue of \$92.1 million, an increase of 26% year-over-year; 5<sup>th</sup> consecutive year of record revenue.
- Healthy product gross margin of 69.3% despite Covid-19 challenges.
- Operating cash flow of \$16.9 million; 6<sup>th</sup> consecutive year of positive operating cash flow and more than 3x growth over 2019.
- Net income of \$26.4 million, or \$0.47 per diluted share; 3<sup>rd</sup> consecutive year of profitability.
- Maintained commanding market share in seawater reverse osmosis desalination energy recovery solutions.
- Launched our new Ultra PX™ energy recovery device for industrial wastewater treatment.
- Issued our first Environmental, Social and Governance (“ESG”) report”.
- Completed construction and commenced production at our new manufacturing facility located in Tracy, California finalizing a doubling of capacity begun in 2019.

## Compensation Philosophy and Objectives

The primary objective of our executive compensation program is to attract, retain, and motivate the talent we need to meet and/or exceed the strategic, operational, and financial goals of the Company. Additionally, we want to reward superior performance and align the long-term interests of our executives with our stockholders. The guiding principles of our compensation program involve:

- incentivizing our key executives to exceed strategic, operational, and financial goals;
- attracting and retaining mission critical executive talent;
- aligning outcomes and rewards with stockholder expectations; and
- rewarding superior performance.

The Compensation Committee annually reviews the executive compensation program to ensure an appropriate alignment between our compensation policies and programs and our business needs and the interests of our stockholders. Our executive compensation programs are reviewed to ensure they achieve a balance between rewarding performance and retaining key people while accommodating a continuing effort to manage the Company's share utilization rate to minimize the dilutive effects of equity awards to the Company's stockholders.

In addition, the Compensation Committee reviews our compensation policies and practices to determine areas of resulting risk and the actions that we have taken, or should take, to mitigate any such identified risk. Based on the Compensation Committee's review of our compensation policies and practices with inputs from its independent compensation consultant, we do not believe that any risks relating from our compensation policies and practices for our employees are reasonably likely to have a material adverse effect on our business.

A significant part of our executive compensation philosophy policy is designed to link executive compensation to our performance through at-risk compensation opportunities, providing significant reward to executives based on our success. As such, the Compensation Committee believes that our executive officers' total compensation should be reflective of our Company's short and long-term performance. Accordingly, a significant amount of our executive officers' compensation is composed of performance-based bonus opportunities and equity awards, which derive their value based on both stock-based performance and Company financial and operational performance. As a result, a significant majority of our executive officers' target total direct compensation opportunity is "at risk." There is no assurance that the grant date fair values reported for these equity awards will be reflective of their actual economic value or that comparable amounts will ever be realized by the executive officers.

Executives at Energy Recovery understand the importance of meeting key performance objectives. In 2020, the Board of Directors established eight major pre-determined rigorous objectives for the Chief Executive Officer under the Company's Annual Incentive Plan ("AIP"), our cash-based incentive program for eligible employees. These objectives are summarized below:

<b>Corporate MBO</b>	<b>Weight %</b>
1 – Financial Performance – meet or exceed adjusted operating income target	30.0%
2 – Water – meet or exceed water revenue and adjusted operating income targets	14.7%
3 – Water – meet or exceed water initiative order targets	6.3%
4 – Oil & Gas – advance VorTeq towards commercialization by completing multiple live well fracs with a partner or other third party	12.6%
5 – Oil & Gas – advance VorTeq towards commercialization by completing the requirements of M1	8.4%
6 – Emerging Technologies –complete design, commercial value propositions and related materials in connection with emerging technology 1	14.7%
7 – Emerging Technologies – complete design and meet emerging technology order target for emerging technology 2	6.3%
8 – ESG – achieve target rating with MSCI ESG Research	7.0%
<b>Overall</b>	<b>100%</b>

The Chief Executive Officer establishes individual objectives for the other executive officers that are generally derived from or related to the Company objectives described above. Each executive officer receives an annual performance review from our Chief Executive Officer (with review and discussion with the Compensation Committee) to evaluate his or her performance on both a qualitative and quantitative basis in connection with his or her individual objectives. Our Compensation Committee, however, ultimately determines the payout of cash incentives for all of our executive officers. For 2020, the Compensation Committee determined that 79% of the Chief Executive Officer's objectives were met. For all other employees, their actual AIP payout was determined based on each individual's performance relative to their individual objectives. For a more detailed discussion of the AIP, please refer to "Annual Cash Incentive Compensation," discussed below.

Additionally, in 2020, the Company granted its named executive officers a combination of stock options and restricted stock units ("RSUs"). This approach is intended to align management's long-term goals and realizable pay outcomes with those of our stockholders. The stock options provide no value to our executives if our share price does not increase above the exercise price (set based on the fair market value of our common stock at grant) following the date of grant. RSUs also serve as a meaningful and durable retention tool even in periods of volatile stock price performance and are a component of our compensation program that the Compensation Committee believes is necessary in order to retain our executive officers and be competitive with compensation packages to executives offered by comparable companies. In addition, our 2020 long-term incentive awards vest over four years, reinforcing the long term focus and the performance dynamic of our executive compensation program. For a more detailed discussion of the 2020 Incentive Plan and 2016 Incentive Plan, please refer to "Equity-Based Incentive Compensation".

#### **Pay Best Practices**

Our compensation best practices include:

- *Substantial Portion of Compensation is At-Risk:* Up to 75% and 65% of the pay mix for our Chief Executive Officer and current named executive officers, respectively, for 2020 were variable and/or performance-based.
- *Long-Term Vesting:* Our option and RSU awards have multi-year vesting periods to reward long-term performance and deter inappropriate risk taking.
- *Stock Ownership Guidelines:* We have stock ownership requirements for our directors and executive officers; our Chief Executive Officer and executive officers must hold three-times and one-times, his or her base salary in company stock, respectively; and our directors must hold three-times his or her annual cash retainer.

- *No Repricing*: Our stock options cannot be repriced, reset or exchanged for cash or other equity awards if underwater without stockholder approval.
- *Double Trigger Change in Control*: Our Change in Control Severance Plan requires a double trigger (i.e., change in control plus qualifying termination) to receive severance benefits and accelerated vesting of equity awards under a change in control.
- *At-Will Employment of Executive Officers*: All of our executive officers, including our Chief Executive Officer and our Chief Financial Officer, are employed by us on an “at will” basis. We do not provide guaranteed annual bonus or equity award rights. Compensation is reviewed and approved by the Compensation Committee in its sole discretion each year.
- *Independent Compensation Committee*: The Compensation Committee consists entirely of independent directors who select and utilize an independent outside compensation consultant.
- *Independent Compensation Consultant*: The Compensation Committee’s independent compensation consultant, Compensia, is retained directly by the Compensation Committee and performs no other consulting or other services for the Company.
- *Risk Assessment*: The Compensation Committee and its independent advisor perform an annual review of the risks related to our compensation program.
- *No Gross-Ups or Excessive Perquisites*: We do not provide for tax gross-ups in connection with any “golden parachute” excise taxes. We do not provide excessive benefits or perquisites for our executive officers outside the scope of what we provide generally for all employees.
- *No Excessive Severance*: Our executive officers are not entitled to change in control cash severance payments in excess of one times their annual base salary plus target bonus. We do not provide severance to executives who are terminated for cause.
- *Clawback Policy*: In March 2021, the Company adopted a compensation recovery (“**clawback**”) policy that provides that our Board of Directors may require the forfeiture, recovery or reimbursement of cash and equity incentive compensation from an officer in the event our Board has determined such officer has engaged in detrimental activity.
- *Standard Retirement Plan Benefits*: We do not maintain a defined benefit pension plan or retirement plan for our executive officers other than a 401(k) plan, which provides for broad-based employee participation in the United States.

#### **Executive Compensation Process**

The Compensation Committee is responsible for establishing and implementing executive compensation policies and programs in a manner consistent with our compensation objectives and principles.

*Compensation Committee and Board of Directors*. Historically, the Compensation Committee has determined annual compensation and granted annual equity awards at one or more meetings held during the first quarter of the year. However, at various meetings throughout the year, the Compensation Committee also considers matters related to individual compensation, such as compensation for new executive hires, as well as high-level strategic issues, such as the efficacy of the Company’s compensation strategy, potential modifications to that strategy, and new market trends, plans, or approaches to compensation in the Company’s industries.

*Role of Executive Officers*. The Compensation Committee meets regularly in executive meetings. Our Chief Executive Officer and Vice President of Human Resources, along with legal counsel as appropriate, work together to design and develop compensation programs for our Compensation Committee’s consideration, and ultimate approval, recommend changes to existing compensation programs, recommend performance targets to be achieved under those programs, and implement the decisions of the Compensation Committee. These individuals also provide information to our independent compensation consultant so that it can perform its duties for the Compensation Committee.

At the beginning of each year, our Chief Executive Officer provides recommendations to the Compensation Committee on the compensation levels of named executive officers other than his own, as well as his review of each other named executive officer's performance and contributions during the previous year. When appropriate, members of our management team, including our Chief Executive Officer and Vice President of Human Resources, attend portions of the Compensation Committee meetings to provide information and answer questions. No named executive officer voted in the final determinations regarding the structure or amount of any component of his compensation package.

Our Compensation Committee is responsible for making final decisions on compensation for our executive officers. For all executive officers, as part of its deliberations, the Compensation Committee may review and consider, as appropriate, one or more of the following: (i) analysis of historical Company executive compensation levels and current company-wide compensation levels, (ii) trends in compensation paid to similarly situated executives at our peer companies developed by a compensation consultant, (iii) an executive officer's tenure, past performance and expected contribution to future results, (iv) criticality of the executive position (both on an absolute basis and relative to other roles within the organization), and (v) our Chief Executive Officer's recommendations based on his direct knowledge of each executive officer's performance and contributions during the previous year as well as expected contributions in the coming year.

The Compensation Committee has not established any formal policies or guidelines for allocating compensation between current and long-term incentive compensation, or between cash and non-cash compensation. The Compensation Committee considers relevant market data, such as the compensation practices of our peer group discussed below under "Competitive Positioning", as well as key qualitative factors when determining each executive's recommended pay level. In general, however, the Compensation Committee emphasizes equity compensation over cash compensation to promote long-term thinking, strategy, and growth. In determining the amount and mix of compensation elements and whether each element provides the correct incentives and rewards for performance consistent with our short and long-term goals and objectives, the Compensation Committee relies on its judgment about each individual rather than adopting a formulaic approach to compensatory decisions.

#### **Independent Compensation Consultant for Compensation Committee**

The Compensation Committee has the authority under its charter to engage the services of outside advisors, experts, and others to assist it. Accordingly, the Compensation Committee retained Compensia, a national compensation consulting firm, to advise on matters related to the compensation of its executive officers, including the Chief Executive Officer. For 2020, Compensia advised the Compensation Committee on best practices to attract, retain, and incentivize our executives, assisted in the design of our compensation plan, and derived the peer group and resulting compensation benchmark data against which the Company's overall compensation structure and levels are compared.

Based on the consideration of the various factors as set forth in the rules of the SEC and the listing standards of the Nasdaq Stock Market, the Compensation Committee has determined that its relationship with Compensia and the work of Compensia on behalf of the Compensation Committee has not raised any conflict of interest.

#### **Consideration of "Say on Pay" Results**

We conducted our advisory vote on executive compensation at our annual meeting of stockholders held in 2020. Although this vote was not binding on the Board of Directors or us, we believe that it is important for our stockholders to have an opportunity to express their views regarding our executive compensation as disclosed in our Proxy Statement. The Board and our Compensation Committee value stockholders' opinions, and, to the extent there is any significant vote against the compensation of our named executive officers, the Compensation Committee will evaluate whether any additional actions including potential changes to pay levels or structures are warranted.

At our 2020 Annual Meeting, we received stockholder support for our “say on pay” proposal as 97.7% of the votes cast voted in favor of our “say on pay” proposal. We believe these results continue to demonstrate that our stockholders are aligned with our approach to executive compensation. However, the Company continues to reach out to outreach to key large stockholders to discuss in detail the Company’s overall compensation philosophy among other matters, through quarterly earnings calls, industry conferences and other channels of communication. These meaningful dialogues with our stockholders are regularly shared with the Board. By in large, the stockholders expressed a better understanding of the compensation philosophy and were supportive of the Company’s efforts of rewarding and retaining its key personnel. As a result, for 2021, the Compensation Committee decided to retain the core components of our executive compensation program and apply the same general principles and philosophy as in the prior fiscal year with respect to its executive compensation decisions. However, we continue to evaluate and strengthen the governance of our compensation programs as evidenced by our recent implementation of a rigorous clawback policy earlier in 2021. We will continue to evolve our compensation process and look for ways to enhance our ability to attract, retain, and motivate the talent we need to achieve or exceed our corporate objectives for 2021 and beyond.

We intend to continue to monitor stockholder feedback and expand our efforts to obtain feedback from our stockholders. Our goal in soliciting feedback is to (1) better understand our stockholders’ views on executive compensation, (2) be responsive to our stockholders’ views expressed in a say on pay vote, and (3) understand whether potential changes to our compensation programs and governance policies would address concerns expressed by our stockholders. We intend to hold a “say on pay” advisory vote at each annual meeting.

### Competitive Positioning

In 2015, the Compensation Committee began the process of formally reviewing competitive market compensation data and directed Compensia to develop a peer group of companies against which Energy Recovery’s overall compensation may be compared. While we have historically believed that we have a unique footprint that makes such comparisons extremely difficult, based on the advice of our advisors, we are attempting to find meaningful comparisons. Compensia updated the peer group and completed an executive compensation assessment in late 2018 and early 2019, which the Compensation Committee utilized in making its 2020 compensation decisions. Our peer group consists of companies in industrial machinery, clean technology, oil and gas industries and broader technology industries that are comparable to us in terms of revenue, market capitalization, headcount, and location, where possible. Our peers were relatively similar to the Company in terms of revenue and market cap and had median revenue of approximately \$97 million and a median market cap of approximately \$581 million at the time of our 2020 executive officer compensation assessment.

As part of this process, the following peer group companies were identified and used by Compensia in its 2020 compensation assessment:

ACM Research	Graham	Park Aerospace
Amyris	Impinj	PDF Solutions
CEVA	Mesa Laboratories	Plug Power
Consolidated Water Corporation	Middlesex Water Company	York Water Company
DSP Group	Natural Gas Services Group	
ExOne	Omega Flex	

## Base Salaries of Named Executive Officers

Base salaries are designed to provide our executives with a stable source of income commensurate with their responsibility, experience, and performance. The Compensation Committee begins with an analysis of base pay relative to the market and our peer group. The Compensation Committee makes adjustments based on vertical variables such as pay parity relative to other executive officers, experience and internal accountability and does not target any particular percentile or pay ranking. The Compensation Committee reviews base salaries annually and solicits input from the Chief Executive Officer for non-CEO base salaries. The following table describes the changes that were made to the base salary of the named executive officers based on review of the factors noted above. Mr. Clemente received a 14% increase to his base salary in connection with his promotion to Senior Vice President, Water. The other Named Executive Officers' base salaries were increased by 2.5% to account for inflation and consistent with broad technology company market trends.

Named Executive Officers	Base Salary	
	2020	2019
Robert Mao (1)	\$ 500,000	\$ 450,000
Joshua Ballard	333,125	325,000
Rodney Clemente (2)	315,000	270,608
Emily Smith (3)	300,000	—
Farshad Ghasripoor	281,973	275,096

- (1) Mr. Mao was appointed as the interim President and Chief Executive Officer on November 1, 2019. The 2019 Base Salary reflects Mr. Mao's annualized base salary. Mr. Mao was appointed Chief Executive Officer on May 5, 2020. The 2020 Base Salary reflects Mr. Mao's annualized base salary.
- (2) Mr. Clemente's Base Salary increased to \$315,000 when he was appointed to Sr. VP of Water on December 22, 2019.
- (3) Ms. Smith was named as Senior Vice President, Corporate Development and Operations in December 2019. Ms. Smith's Base Salary increased to \$300,000 when she was appointed to Senior Vice President of Corporate Development and Operations. Before taking the position of Senior VP, Ms. Smith was VP of Corporate Development since August 2018. Prior to taking the position of VP of Corporate Development, Ms. Smith was the VP of Marketing of the Company since November 2015. Ms. Smith joined the Company in August 2011 and resigned from the Company on April 20, 2021.

## Annual Cash Incentive Compensation

The Annual Incentive Plan, or AIP, is our annual cash incentive plan and is designed to encourage the performance and retention of eligible employees in recognition of individual achievement that contributes to the strategic and financial success of the Company.

The AIP is intended to incentivize short-term performance consistent with Company strategy and the achievement of key financial metrics. Payments under the AIP to a participant are based on a formula that takes into account both the level of achievement of Company performance goals for the year and the level of achievement of individual performance objectives. The AIP includes the following performance characteristics:

- At the onset of each year, the Compensation Committee establishes the total annual bonus pool (the "**Bonus Pool**"), the profitability target or other financial metrics applicable to that year (the "**Performance Target**") and the minimum performance threshold;
- If the Company's performance equals or exceeds the Performance Target, the Bonus Pool is funded at 100%;
- If the Company's performance exceeds the minimum performance threshold but is less than the Performance Target, the Bonus Pool is calculated based on the allocation curve set forth in the AIP;
- If the Company's performance is less than the minimum performance threshold, the Bonus Pool is not funded; however, the Compensation Committee, in its sole discretion, may elect to approve some funding for the Bonus Pool to be awarded to individual participants for extraordinary performance as determined by the AIP plan committee and approved by the Compensation Committee;

- Payments to participants in the AIP if individual performance objectives established under the AIP are met is based on a percentage of base salary; and
- The AIP limits the Bonus Pool and individual targets to 100% of target.

For 2020, the Compensation Committee elected to embed the Performance Target directly into the individual MBOs of the Chief Executive Officer and other plan participants in place of the funding mechanism described above. This was due, in large part, to the large number of variables in the Company's 2020 projected budget. Accordingly, in 2020, a Participant's bonus determination under the Plan was determined by multiplying such participant's base salary by their AIP target by the percentage of achievement of his/her individual MBOs. The Performance Target in 2020 was met 100% by the Company.

For 2020, the Board of Directors enumerated eight major objectives for the Chief Executive Officer, which are set forth in the table below. In addition, the Chief Executive Officer had enumerated specific performance objectives for each other named executive officer in the context of the Company's business plan and his own objectives for such officers. These Chief Executive Officer objectives are reflected in the table below.

<b>Corporate MBO</b>	<b>Weight %</b>	<b>Achievement %</b>
1 – Financial Performance – meet or exceed adjusted operating income target	30.0%	100%
2 – Water – meet or exceed water revenue and adjusted operating income targets	14.7%	100%
3 – Water – meet or exceed water initiative order targets	6.3%	100%
4 – Oil & Gas – advance VorTeq towards commercialization by completing multiple live well fracs with a partner or other third party	12.6%	0%
5 – Oil & Gas – advance VorTeq towards commercialization by completing the requirements of M1	8.4%	0%
6 – Emerging Technologies –complete design, commercial value propositions and related materials in connection with emerging technology 1	14.7%	100%
7 – Emerging Technologies – complete design and meet emerging technology order target for emerging technology 2	6.3%	100%
8 – ESG – achieve target rating from MSCI ESG Research	7.0%	100%
<b>Overall</b>	<b>100%</b>	<b>79%</b>

For 2020, the Compensation Committee determined that 79% of the Chief Executive's objectives were met and, accordingly, awarded the Chief Executive Officer an AIP award of 79% of his target. With respect to each other employee of the Company, as described above, the funding mechanism for the AIP was embedded in each participant's individual MBOs rather than plan wide. Accordingly, for 2020, a participant's bonus determination under the Plan was determined by multiplying such participant's base salary by their AIP target by the percentage of achievement of his/her individual 2020 MBOs. The Performance Target in 2020 was met 100% by the Company.



The Compensation Committee also approved the AIP allocation levels for each of the Company's executive officers, including the named executive officers, as set forth in the table below, based in part on the CEO's recommendation and reconciliation of each named executive officer's individual accomplishment of their performance objectives. Importantly, the Compensation Committee did not apply any upward discretion with respect to bonus payouts to any named executive officers.

Named Executive Officer	2020	2020	2020	2020
	AIP Target (1)	AIP Target	Actual AIP	Actual AIP
	(%)	(\$)	(%)	(\$)
Robert Yu Lang Mao(2)	100	481,539	79	381,473
Joshua Ballard	60	199,875	57	188,632
Rodney Clemente	60	189,000	60	189,000
Emily Smith	60	180,000	58	174,600
Farshad Ghasripoor	60	169,184	54	152,942

(1) Percentage of annual base salary. Mr. Mao's 2020 Actual AIP Paid % is based on his actual salary paid during fiscal year 2020 that is calculated on his lower salary amount paid as interim President and Chief Executive Officer. His base salary from January 1, 2020 to May 4, 2020 was \$450,000. Mr. Mao's annual salary increased to \$500,000 on May 5, 2020. Mr. Mao's actual paid salary in 2020 was \$481,539.

(2) Mr. Mao's 2020 AIP Target and 2020 Actual AIP Paid amounts are based off of the blended base salary during 2020. Mr. Mao's base salary from January 1, 2020 to May 4, 2020 was \$450,000, and from May 5, 2020 to December 31, 2020 was \$500,000. Mr. Mao's total salary paid in 2020 was \$481,539.

### Equity-Based Incentive Compensation

We grant equity-based awards, including stock options and RSUs, to eligible named executive officers and other employees pursuant to our 2016 Incentive Plan and 2020 Incentive Plan. As with other elements, the grant date fair value received through various stock-based awards is included in our annual compensation review process. We periodically collect and review competitive data from the peer group that includes data with respect to the use of, and value received through, equity incentives. Individual awards are made based on our assessment of this market data along with review of individual performance, contributions, and future potential as well as existing unvested retention hold.

In 2020, the Company granted stock options and RSUs to executives and other key employees to provide long-term incentives to align management with long-term stockholder interest intended to increase stockholder value. Further, we use stock options and RSUs to remain competitive in our efforts to retain and recruit key talent. The Compensation Committee believes that with management having a stake in the long-term success of the Company, the likelihood of enhancing stockholder value increases.

## 2020 Equity-Based Incentive Awards

In January 2020, as part of an annual equity grant program for eligible employees, the Compensation Committee authorized the grant of options and RSUs to purchase the Company's common stock to the following named executive officers:

<u>Named Executive Officer</u>	<u>Option Awards</u>	<u>Value</u>	<u>RSUs</u>	<u>Value</u>
	<u>(#)</u>	<u>(\$)</u>	<u>(#)</u>	<u>(\$)</u>
Robert Yu Lang Mao <sup>(1)</sup>	273,613	1,223,600	—	—
Joshua Ballard	54,429	325,000	—	—
Rodney Clemente	29,308	175,000	17,140	175,000
Emily Smith	29,308	175,000	17,140	175,000
Farshad Ghasripoor	27,215	162,500	15,915	162,500

(1) Mr. Mao was appointed the President and Chief Executive Officer on May 5, 2020 and had served as the interim President and Chief Executive Officer since November 1, 2019. Mr. Mao received 223,613 options to purchase the Company's Common Stock in connection with his appointment as President and Chief Executive Officer and 50,000 options to purchase shares of the Company's Common Stock in connection with his service as interim President and Chief Executive Officer.

The Company believes that a large percentage of the equity-based incentive awards granted to its executive officers should be in the form of option awards. In 2020, 100% of the awards to the Chief Executive Officer and Chief Financial Officer and 50% of the awards to our other named executive officers were in the form of option awards. The Company believes that option awards align the interests of our executives to our common stockholders since stock price appreciation is necessary for our executives to derive financial benefit from the option awards. Accordingly, the Company believes that our use of option awards properly incentivize our executives to focus on the long-term performance of the Company, and as such, are performance-based in nature.

The vesting schedule for the option awards provides that 25% of the options vest on the one-year anniversary of the vesting commencement date, and thereafter, 1/36<sup>th</sup> of the remaining options vest at the end of each month of active service. The vesting schedule for the RSU awards provides that 25% of the RSU awards vest on each of the first, second, third and fourth anniversary of the vesting commencement date. Our Compensation Committee determined these grants primarily based on an assessment of: (i) our Chief Executive Officer's recommendations tied to his review of each executive officer's performance and contributions during the previous year (other than his own) as well as expected contributions in fiscal year 2020, (ii) the Compensation Committee's review of each executive officer's historical equity compensation levels and retention hold at the Company, and (iii) the Compensation Committee's review of applicable competitive market compensation data (including our peer practices) and our company-wide compensation levels, including the aggregate equity budget and available share pool for fiscal year 2020.

### Benefits

In 2020, our named executive officers were eligible to participate in our standard benefits programs on the same basis provided to all of our other U.S. employees, including medical, dental, and vision insurance; short- and long-term disability insurance; and health and dependent care flexible spending accounts. All named executive officers and other executives are also offered special life, long-term disability, and accidental death and dismemberment insurance benefits.

We also maintain a tax-qualified 401(k) plan, which provides for broad-based employee participation in the United States. We do not provide defined benefit pension plans or defined contribution retirement plans to our named executive officers other than the 401(k) plan.

## Change in Control Severance Plan

In August 2009, the Company's Board of Directors adopted a Change in Control Severance Plan for key employees. In March 2012, the Board adopted a revised Change in Control Severance Plan (the "**CIC Plan**") for highly paid employees. On December 31, 2012, and on each anniversary thereafter, the CIC Plan will be extended automatically for an additional year unless the Compensation Committee of the Board of Directors delivers written notice, at least six months prior to the end of each such term, to each participant that the CIC Plan will not be extended. Accordingly, the CIC Plan was extended through December 31, 2021. Each of the named executive officers (except for Mr. Mao) currently serving participates in the CIC Plan described below.

The CIC Plan is summarized below under the caption "Potential Payments Upon Termination or Change of Control" following the compensation tables. Designed as a retention tool, the CIC Plan protects participating executives from economic harm in the event that their employment is actually or constructively terminated after a change in control of the Company. Under this "double trigger" approach, participating executives are eligible for severance and other benefits under the CIC Plan if they are terminated without "Cause" or leave for "Good Reason," as those terms are defined below, within 18 months after a change in control of the Company.

We believe these change of control severance benefits are an essential element of our executive compensation program and assist us in recruiting and retaining talented individuals. By establishing these change in control severance benefits, we believe we can mitigate the distraction and loss of executive officers that may occur in connection with a rumored or actual change in control and protect stockholder interests while a transaction is under consideration or pending.

## Severance and Termination Compensation

In February 2021, the Company's Board of Directors approved, adopted and established the Energy Recovery, Inc. Severance Plan for the benefit of certain key members of management and other senior employees (the "**Severance Plan**"), including each of the Named Executive Officers. The Severance Plan sets forth severance benefits in the event of a Qualifying Termination (as defined in the Severance Plan), which includes (i) all payments required by applicable law, including all earned and unpaid salary, all earned but unpaid and un-deferred bonus attributable to the year that ends immediately before the year in which the termination occurs, and other benefits under applicable benefit plans to which the employee was entitled upon such termination; (ii) six (6) months' salary based on the employee's annual base salary in effect on the effective date of their termination; (iii) to the extent the Eligible Employee (as defined in the Severance Plan) is eligible and timely elects to continue coverage under the Employer's health or other benefits plans pursuant to COBRA, payment of Employer's portion of any such health or other benefit plans premiums on behalf of the Eligible Employee (at the employer level in effect immediately prior to the effective date of termination) towards the Eligible Employee's COBRA premiums until the earlier of (A) six (6) months following the effective date of termination, or (B) the date the Eligible Employee becomes eligible for coverage under a subsequent employer health plan, whether the Eligible Employee enrolls in such coverage or not, and whether or not the benefit levels and costs are comparable; and (iv) immediate vesting of twenty-five percent (25%) of all unvested equity compensation held by the Eligible Employee on the effective date of termination (the "**Accelerated Equity**") which Accelerated Equity, notwithstanding anything to the contrary, may be exercised, where applicable, for up to six (6) months after the effective date of termination; in the case of unvested equity compensation where the amount payable is based on the satisfaction of performance criteria, the amount of unvested equity will be determined by deeming all performance criteria satisfied at 100% target; to the extent the equity compensation is subject to Code Section 409A, the vesting acceleration of the equity compensation shall not cause any distribution or payment under the equity compensation to be made before the earliest date it may be made without violating Code Section 409A. The severance benefits are contingent upon the employee meeting certain eligibility requirements, including delivering to the Company a general release. Because it may be difficult for our executive officers to find comparable employment following a termination without cause, these severance benefits are intended to ease the consequences to an executive officer of an unexpected termination of employment. We also believe that having such arrangements in place can help us attract and retain key employees in a marketplace where these types of arrangements are commonly offered by our peer companies.

## Compensation Policies and Practices as They Relate to Risk Management

Our Compensation Committee has reviewed our compensation programs for our employees and believes that our compensation programs are structured in a manner that does not create risks that are reasonably likely to have a material adverse effect on the Company. The Compensation Committee considered, among other factors, the allocation of compensation among annual base salary, AIP and long-term equity awards.

### Report of the Compensation Committee

*This report is not deemed to be soliciting material filed with the SEC or subject to the liabilities of Section 18 of the Exchange Act, except to the extent that the Company specifically incorporates it by reference into a document filed with the SEC.*

The Compensation Committee reviewed and discussed the Compensation Discussion and Analysis (“CD&A”) set forth above with the Company’s management. Based on the review and discussions, the Compensation Committee recommended to the Company’s Board of Directors that the CD&A be included in this Proxy Statement.

### MEMBERS OF THE COMPENSATION COMMITTEE

Pamela Tondreau, Chairman of the Compensation Committee  
 Sherif Foda  
 Alexander Buehler  
 Arve Hanstveit  
 Ole Peter Lorentzen

### Summary Compensation Table

The table below summarizes certain compensation information with respect to the named executive officers for the applicable fiscal years ending December 31, 2020; December 31, 2019; and December 31, 2018. All amounts are in dollars.

Name	Year	Salary	Bonus	Stock Award	Option Awards	Non-Equity Incentive Plan Compensation	All Other Compensation	Total
		(\$) <sup>(1)</sup>	(\$)	(\$) <sup>(2)</sup>	(\$) <sup>(3)</sup>	(\$) <sup>(4)</sup>	(\$) <sup>(5)</sup>	(\$)
Robert Yu Lang Mao <sup>(6)</sup> Interim President and Chief Executive Officer	2020	481,539	—	—	1,223,600	381,473	5,395	2,092,007
	2019	62,308	—	—	—	—	—	62,308
Joshua Ballard <sup>(7)</sup> Chief Financial Officer	2020	332,813	—	—	325,000	188,632	9,383	855,828
	2019	325,000	—	162,496	162,511	195,000	2,692	847,699
	2018	118,750	100,000	—	999,839	195,000	25,783	1,439,372
Rodney Clemente Senior Vice President, Water	2020	315,000	—	175,000	175,000	189,000	30,032	884,032
	2019	290,702	—	162,496	162,511	159,181	9,667	784,557
	2018	265,202	—	137,497	137,500	159,181	80,165	779,545
Emily Smith Senior Vice President, of Corporate Development and Operations	2020	300,000	—	175,000	175,000	174,600	1,387	825,987
Farshad Ghasripoor Chief Technology Officer	2020	281,709	—	162,500	162,500	152,942	11,497	771,148
	2019	283,844	—	162,496	162,511	100,400	10,657	719,908

- (1) The 2020 annual base salary for Mr. Mao represents the number of months of service to the Company during the year beginning in January 1, 2020 through May 4, 2020 (4 months) at an annualized base salary of \$450,000 and from May 5, 2020 at an annualized base salary of \$500,000. The 2019 annual base salary for Mr. Mao represents the number of months of service to the Company during the year beginning in November 2019 (2 months). Mr. Mao is also the Executive Chairman of the Board and these amounts do not reflect any amounts Mr. Mao received prior to assuming the role of interim President and Chief Executive Officer. The 2018 annual base salary for Mr. Ballard represents the number of months of service to the Company during the year beginning in August 2018 (5 months). The 2018 annual base salary for Mr. Clemente represents the total combined salary earned by Mr. Clemente who began 2018 at a base salary of \$218,297, which was increased to \$265,202 in May 2018.
- (2) The amounts in the “Stock Awards” column set forth the grant date fair value of RSU awards as calculated in accordance with FASB ASC Topic 718 without regard to estimated forfeitures. The grant date fair value of each award is measured based on the closing price of the Company’s common stock on the date of grant, unless there is no closing price on the date of grant, in which case it is based on the closing price on the trading day last preceding the date of grant.
- (3) The amounts in the “Option Awards” column set forth the grant date fair value of stock options granted in the years indicated as calculated in accordance with FASB ASC Topic 718 without regard to estimated forfeitures. The methodology and assumptions used to calculate the grant date fair value are discussed in Note 11 of the Notes to Consolidated Financial Statements included in the Company’s Annual Report on Form 10-K filed on March 12, 2021.
- (4) Non-Equity Incentive Plan Compensation is also referred to as cash incentive bonuses. The amounts for 2020 were earned but paid in 2021, the 2019 amounts were earned but paid in 2020, and the 2018 amounts were earned but paid in 2019.
- (5) “All Other Compensation” includes the following components:

<u>Name</u>	<u>Year</u>	<u>Insurance Premiums</u> ( <u>\$</u> )	<u>401(k) Match</u> ( <u>\$</u> )	<u>Other<sup>(a)</sup></u> ( <u>\$</u> )	<u>Total</u> ( <u>\$</u> )
Robert Yu Lang Mao <sup>(6)</sup>	2020	5,395	—	—	5,395
	2019	—	—	—	—
Joshua Ballard <sup>(7)</sup>	2020	1,567	7,816	—	9,383
	2019	1,567	1,125	—	2,692
	2018	627	1,125	24,031	25,783
Rodney Clemente	2020	1,417	8,400	20,215	30,032
	2019	1,417	8,250	—	9,667
	2018	2,211	9,250	68,704	80,165
Emily Smith <sup>(8)</sup>	2020	1,387	—	—	1,387
Farshad Ghasripoor	2020	3,097	8,400	—	11,497
	2019	2,407	8,250	—	10,657

(a) Other Compensation in fiscal year 2018 for Mr. Ballard includes payment of relocation expenses. Other Compensation in fiscal year 2020 for Mr. Clemente includes a cash payment for previously accrued Paid-Time-Off and in fiscal year 2018 includes payment of relocation expenses.

- (6) Mr. Mao was appointed the President and Chief Executive Officer on May 5, 2020 and served as the interim President and Chief Executive Officer since November 1, 2019.
- (7) Mr. Ballard was appointed Chief Financial Officer in August 2018.
- (8) Ms. Smith was named Senior Vice President of Corporate Development and Operations in December 2019 and resigned from the Company on April 20, 2021.

## Additional Information Regarding Executive Compensation

### Grants of Plan-Based Awards in 2020

The following table sets forth information concerning non-equity and equity incentive plan awards to the named executive officers during 2020. The non-equity incentive plan consists of the 2020 cash incentive plan described in the “Compensation Discussion and Analysis” section above. The actual amounts realized in accordance with the non-equity incentive plan are reported in the “Summary Compensation Table” under the column entitled “Non-Equity Incentive Plan Compensation.” The table also depicts information with respect to stock option awards granted by the Company during 2020.

Name	Grant Date	Estimated future payouts under non-equity incentive plan awards			Estimated future payouts under equity incentive plan awards			All other stock awards: Number of shares of stock or units(1) (#)	All other option awards: Number of securities underlying options(2) (#)	Exercise or base price of option awards (\$/Sh)	Grant date fair value of stock and option awards (\$)
		Threshold (\$)	Target (\$)	Maximum (\$)	Threshold (#)	Target (#)	Maximum (#)				
Robert Yu Lang											
Mao (3)(4)	5/20/2020	—	481,539	—	—	—	—	—	273,613	7.79	1,223,663
Joshua Ballard(4)	1/31/2020	—	199,875	—	—	—	—	—	54,429	10.21	324,627
Rodney Clemente(4)	1/31/2020	—	189,000	—	—	—	—	—	29,308	10.21	174,800
	1/31/2020	—	—	—	—	—	—	17,140	—	10.21	174,999
Emily Smith(4)	1/31/2020	—	180,000	—	—	—	—	—	29,308	10.21	174,800
	1/31/2020	—	—	—	—	—	—	17,140	—	10.21	174,999
Farshad Ghasripoor(4)	1/31/2020	—	169,184	—	—	—	—	—	27,215	10.21	162,317
	1/31/2020	—	—	—	—	—	—	15,915	—	10.21	162,492

- (1) Amounts reflect the aggregate grant date fair value of RSU awards calculated in accordance with FASB ASC Topic 718 without regard to estimated forfeitures. The grant date fair value of each award is measured based on the closing price of the Company’s common stock on the date of grant, unless there is no closing price on the date of grant, in which case it is based on the closing price on the trading day last preceding the date of grant. See the “Outstanding Equity Awards as of December 31, 2020” table for information regarding the vesting schedule of such RSU awards.
- (2) Amounts reflect the aggregate grant date fair value of option awards granted in 2020, calculated in accordance with FASB ASC Topic 718 without regard to estimated forfeitures. See Note 11 of the Notes to Consolidated Financial Statements included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2020 for a discussion of assumptions made in determining the grant date fair value of these option awards. See the “Outstanding Equity Awards as of December 31, 2020” table for information regarding the vesting schedule of such option awards.
- (3) Mr. Mao was appointed the President and Chief Executive Officer on May 5, 2020 and served as the interim President and Chief Executive Officer since November 1, 2019. Mr. Mao received 223,613 options to purchase shares of the Company’s Common Stock in connection with his appointment as President and Chief Executive Officer and 50,000 options to purchase shares of the Company’s Common Stock in connection with his service as interim President and Chief Executive Officer.
- (4) In 2020, under our non-equity incentive plan, Mr. Mao was eligible to earn a cash award in an amount not to exceed 100% of his annual salary; Mr. Ballard was eligible to earn a cash award in an amount not to exceed 60% of his annual salary; Mr. Ghasripoor was eligible to earn a cash award in an amount not to exceed 60% of his annual base salary; Mr. Clemente was eligible to earn a cash award in an amount not to exceed 60% of his annual base salary; and Ms. Smith was eligible to earn a cash award in an amount not to exceed 60% of her annual base salary. In 2020, Mr. Mao’s target was calculated based off of his blended base salary during 2020. See the section entitled “Annual Cash Incentive Compensation” table for more information regarding 2020 cash awards.

**Outstanding Equity Awards as of December 31, 2020**

The following table presents certain information concerning equity awards held by our named executive officers as of December 31, 2020.

Name	Date of Grant	Option Awards <sup>(1)</sup>				Stock Awards		
		Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable	Option Exercise Price	Option Expiration Date	Number of shares or units of stock that have not vested	Market value of shares or units of stock that have not vested <sup>(2)</sup>	
		(#)	(#)	(\$)		(#)	(\$)	
Robert Yu Lang Mao <sup>(3)</sup>	(3)	9/3/2013	17,236	—	5.43	9/3/2023	—	—
	(3)	2/6/2015	44,456	—	3.53	2/6/2025	—	—
	(3)	6/23/2015	53,392	—	2.92	6/23/2025	—	—
	(3)	6/23/2016	15,327	—	8.60	6/23/2026	—	—
	(3)	6/22/2017	16,726	—	7.71	6/22/2027	—	—
	(3)	6/14/2018	15,879	—	8.49	6/14/2028	—	—
	(3)	6/13/2019	21,303	—	9.98	6/13/2029	—	—
	(3)	5/20/2020	—	223,613	7.79	5/20/2030	—	—
	(3)	5/20/2020	—	50,000	7.79	5/20/2030	—	—
			<u>184,319</u>	<u>273,613</u>				
Joshua Ballard	(4)	8/13/2018	108,729	77,664	9.27	8/13/2028	—	—
	(4)	1/31/2019	17,154	18,646	7.60	1/31/2029	—	—
	(5)	1/31/2019	—	—	—	—	16,036	218,731
	(4)	1/31/2020	—	54,429	10.21	1/31/2030	—	—
			<u>125,883</u>	<u>150,739</u>			<u>16,036</u>	<u>218,731</u>
Rodney Clemente	(6)	3/12/2014	42,000	—	6.00	3/12/2024	—	—
	(6)	3/8/2016	26,247	—	8.52	3/8/2026	—	—
	(4)	2/2/2017	20,955	912	10.19	2/2/2027	—	—
	(4)	2/1/2018	22,529	9,278	7.50	2/1/2028	—	—
	(4)	1/31/2019	17,154	18,646	7.60	1/31/2029	—	—
	(5)	2/2/2017	—	—	—	—	3,374	46,021
	(5)	2/1/2018	—	—	—	—	9,167	125,038
	(5)	1/31/2019	—	—	—	—	16,036	218,731
	(5)	1/31/2020	—	29,308	10.21	1/31/2030	—	—
			<u>128,885</u>	<u>58,144</u>			<u>45,717</u>	<u>623,580</u>
Emily Smith	(6)	9/30/2015	35,000	—	2.14	9/30/2025	—	—
	(6)	3/8/2016	26,247	—	8.52	3/8/2026	—	—
	(4)	2/2/2017	20,955	912	10.19	2/2/2027	—	—
	(4)	2/1/2018	22,529	9,278	7.50	2/1/2028	—	—
	(4)	1/31/2019	14,515	15,778	7.60	1/31/2029	—	—
	(4)	1/31/2020	—	29,308	10.21	1/31/2030	—	—
	(5)	2/2/2017	—	—	—	—	3,374	46,021
	(5)	2/1/2018	—	—	—	—	9,167	125,038
	(5)	1/31/2019	—	—	—	—	13,569	185,081
	(5)	1/31/2020	—	—	—	—	17,140	233,790
			<u>119,246</u>	<u>55,276</u>			<u>43,250</u>	<u>589,930</u>
Farshad Ghasripoor	(6)	3/14/2013	5,388	—	3.92	3/14/2023	—	—
	(6)	3/12/2014	31,667	—	6.00	3/12/2024	—	—
	(6)	3/10/2015	39,720	—	2.75	3/10/2025	—	—
	(6)	3/8/2016	26,247	—	8.52	3/8/2026	—	—
	(4)	2/2/2017	17,145	746	10.19	2/2/2027	—	—
	(4)	2/1/2018	22,529	9,278	7.50	2/1/2028	—	—
	(4)	1/31/2019	17,154	18,646	7.60	1/31/2029	—	—
	(4)	1/31/2020	—	27,215	10.21	1/31/2030	—	—
	(5)	2/2/2017	—	—	—	—	2,760	37,646
	(5)	2/2/2018	—	—	—	—	9,167	125,038
	(5)	1/31/2019	—	—	—	—	16,036	218,731
(5)	1/31/2020	—	—	—	—	15,915	217,081	
			<u>159,850</u>	<u>55,885</u>			<u>43,878</u>	<u>598,496</u>

- (1) Includes unvested options for shares, subject to time vesting, granted under the 2008 Equity Incentive Plan, the 2016 Incentive Plan and the 2020 Incentive Plan.
- (2) The market values of the RSU awards that have not vested are calculated by multiplying the number of shares underlying the RSU awards shown in the table by \$13.64, the closing price of our shares of our common stock on December 31, 2020, the last trading day of fiscal 2020.
- (3) Mr. Mao was appointed the President and Chief Executive Officer on May 5, 2020 and served as the interim President and Chief Executive Officer since November 1, 2019. Mr. Mao did not receive any equity awards in connection with his position as interim President and Chief Executive Officer in 2019. Mr. Mao did receive an equity award in connection with his service as a Director and Chairman of the Board as set forth under "Director Compensation for the Year Ended December 31, 2019." The Option Awards were granted when Mr. Mao was a director. Mr. Mao received 223,613 options to purchase shares of the Company's Common Stock in connection with his appointment as President and Chief Executive Officer and 50,000 options to purchase shares of the Company's Common Stock in connection with his service as interim President and Chief Executive Officer.
- (4) These options were granted under the 2016 Equity Incentive Plan with 25% vesting on the first anniversary following the date of grant, and 1/48 each month thereafter. These options are fully vested 4-years following the date of grant and unexercised vested options expire 10-years from date of grant.
- (5) These RSUs were granted under the 2016 Equity Incentive Plan with 25% vesting on each anniversary following the date of grant. These RSUs are fully vested 4-years following the date of grant.
- (6) These options were granted under the 2008 Equity Incentive Plan with 25% vesting on the first anniversary following the date of grant, and 1/48 each month thereafter. These options are fully vested 4-years following the date of grant and unexercised vested options expire 10-years from date of grant.

#### Option Exercises and Stock Vested in 2020

The table below provides supplemental information relating to the value realized upon the vesting of restricted stock units during fiscal year 2020 for each named executive officer based on the closing share price of the Company's common stock on the Nasdaq Stock Market on the applicable vesting date.

	Option Awards		Stock Awards	
	Number of shares acquired on exercise	Value realized on exercise	Number of shares acquired on vesting	Value realized on vesting
	(#)	(\$)	(#)	(\$)
Robert Mao	45,708	451,607	—	—
Joshua Ballard	—	—	5,345	54,572
Rodney Clemente	—	—	14,290	145,934
Emily Smith	—	—	13,468	137,542
Farshad Ghasripoor	—	—	13,677	139,676

#### Potential Payments Upon Termination or Change of Control

##### *Change in Control Plan*

We adopted the CIC Plan in March 2012 to provide change in control severance benefits for certain designated key employees. Each of the named executive officers currently serving participates in the CIC Plan described below.



The CIC Plan became effective on March 5, 2012. On December 31, and on each anniversary thereafter, the CIC Plan is extended automatically for an additional year unless the Compensation Committee of the Company's Board of Directors delivers written notice, at least six months prior to the end of each such term, to each participant that the CIC Plan will not be extended. As a result, on December 31, 2020, the CIC Plan was automatically extended through December 31, 2021.

The Compensation Committee is authorized by the CIC Plan to designate any full-time employee of the Company as a participant. The participants include the Company's executive officers and other designated key employees.

A participant is entitled to severance benefits under the CIC Plan if a change of control occurs and the acquiring company terminates the participant's employment without cause, or the participant terminates his or her employment with good reason, in either case within 18 months after a change in control (including, but not limited to, an acquisition of a controlling interest in the Company by a third party). The CIC Plan sets forth definitions of cause, good reason, and change in control, which are described in full at the end of this summary.

The severance benefits, conditioned on the participant's signing a release in favor of the Company and complying with certain other covenants under the CIC Plan, include the following (in addition to then earned and unpaid amounts owed less deductions required or permitted by law):

- A lump-sum payment equal to (i) 12 months of regular base pay plus (ii) 100% of the participant's target annual bonus for the fiscal year in which the change in control occurs;
- Immediate vesting of all unvested equity compensation held by the participant as of the date of termination (and for this purpose, all performance criteria, if any, underlying unvested awards are deemed to be satisfied at 100% of target) (as described further below);
- The Company's regular payment of the monthly premium under COBRA, if the participant timely elects to continue medical, dental, and vision benefits under COBRA, for up to 12 months after employment termination (but not continuing after the participant becomes eligible for these benefits with another employer); and
- Payment by the Company of up to \$10,000 for reasonable costs of outplacement services.

The CIC Plan also provides that if a change in control occurs and a participant's equity compensation is not converted, assumed, or replaced by a successor entity with an equivalent award, then immediately prior to the change in control, the participant's equity compensation shall become fully exercisable and vested and all forfeiture restrictions on such equity compensation shall immediately lapse. In the case of equity compensation, the amount of which is based on the satisfaction of performance criteria, all performance criteria will be deemed satisfied at target. The conversion, assumption, or replacement of an equity award for another equity award of stock that is not publicly traded shall not be considered an equivalent award for purposes of the CIC Plan.

In no event is the Company obligated to gross up any payment or benefit to a participant to avoid the effects of the "parachute rules" of Sections 280G and 4999 of the Code. Benefits to a participant, however, may be reduced if the reduction would result in the participant receiving a greater payment on an after-tax basis due to the application of those sections of the tax law (such provision, a "better after-tax" provision). Additionally, payments may be conditioned or delayed as needed to be exempt from or comply with Section 409A of the Code relating to "nonqualified deferred compensation."

The CIC Plan also obligates the Company to make all payments to a Participant required by applicable law upon employment termination such as earned but unpaid salary and bonus (without regard to a release or other covenants of the participant in the CIC Plan and subject to deductions required or permitted by applicable law).

*Key Defined Terms of the Change in Control Plan*

“Cause” means in the context of employment termination:

- (i) any act by participant in the course of employment or participant’s performance of any act which, if participant were prosecuted, would constitute a felony;
- (ii) participant’s failure to carry out his or her material duties, after not less than thirty (30) days prior written notice of such failure, and which failure is unrelated to an illness or disability of not greater than twelve (12) work weeks;
- (iii) participant’s dishonesty towards or fraud upon the Company which is injurious to the Company;
- (iv) participant’s violation of confidentiality obligations to the Company or misappropriation of Company assets; or
- (iv) participant’s death or disability, as defined in the Company long-term disability plan in which the participant participates, or if the participant does not participate in such a plan, the principal long-term disability plan that covers the Company’s senior-level executives.

“Change in Control” means:

- (i) an acquisition of 50% or more of the outstanding common stock or voting securities of the Company by any person or entity, other than the Company, a Company employee benefit plan, or a corporation controlled by the Company’s stockholders;
- (ii) changes in the composition of the Board over a rolling twelve-month period, which changes result in less than a majority of the directors consisting of Incumbent Directors. “Incumbent Directors” include directors who are or were either (x) members of the Board as of the effective date, as defined in the CIC Plan or (y) elected, or nominated for election, to the Board with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination. Incumbent Directors do not include any individual not otherwise an Incumbent Director whose election or nomination resulted from an actual or threatened proxy contest (relating to the election of directors to the Board); or
- (iii) consummation of a complete liquidation or dissolution of the Company, or a merger, consolidation, or sale of all or substantially all of the Company’s then existing assets (collectively, a “Business Combination”) other than a Business Combination: (x) in which the stockholders of the Company immediately prior to the Business Combination receive 50% or more of the voting stock resulting from the Business Combination, (y) through which at least a majority of the members of the Board are Incumbent Directors, and (z) after which no individual, entity, or group (excluding any corporation resulting from the Business Combination or any employee benefit plan of such corporation or of the Company) owns 50% or more of the stock of the corporation resulting from the Business Combination who did not own such stock immediately before the Business Combination.

“Good Reason” means the occurrence of any one or more of the following without the participant’s express written consent:

- (i) the termination or material breach of this CIC Plan by the Company;
- (ii) the failure by the Company to have any successor, or any assignee of all or substantially all of the Company’s assets, assume this CIC Plan;

- (iii) any material diminishment in participant's title, position, duties, responsibilities, or status other than those in effect immediately prior to the Change in Control (including, in the case of a participant who is the Chief Executive Officer who reports directly to the Board or a participant who is the Chief Financial Officer or General Counsel who reports directly to the Chief Executive Officer immediately prior to the change, if, after such Change in Control, the Chief Executive Officer no longer reports directly to the Board of a public company and the Chief Financial Officer and/or General Counsel no longer report directly to the Chief Executive Officer of a public company), it being understood that in the case of a participant other than the Chief Executive Officer, Chief Financial Officer, or General Counsel, a participant's reporting to a business unit head instead of to the Chief Executive Officer will not constitute a material diminishment if the participant's duties and responsibilities otherwise remain substantially the same;
- (iv) any material reduction in, limitation of, or failure to pay or provide any compensation provided to the participant under any agreement or understanding between the participant and the Company, pursuant to the Company's policies and past practices, as of the date immediately prior to the Change in Control;
- (v) any material reduction in the participant's annual base salary or target bonus opportunity from the amounts in effect immediately prior to the Change in Control; or
- (vi) any change in the participant's place of employment that increases participant's commuting distance by more than 30 miles over his or her commuting distance immediately prior to the Change in Control.

Good Reason will only be deemed to exist if the participant provides notice of the condition(s) constituting Good Reason within 30 days of the existence of the condition and gives the Company 30 days from its receipt of such notice to remedy the condition. If the condition is remedied, Good Reason will not be deemed to exist.

The benefits provided in the CIC Plan are summarized in the table below, and the amounts shown assume hypothetically that each applicable termination or event was effective as of December 31, 2020. The actual amounts that will be paid can only be determined at the time of the termination or other applicable event.

The table below does not include payments that are generally required by applicable law for all salaried employees (notwithstanding that these requirements are referred to in the applicable arrangement) such as payment of accrued but unpaid wages and unused vacation or rights to previously incurred business expense reimbursement. The amounts set forth below do not take into account the "better after-tax" provision or reflect taxes, tax withholding, or other deductions required by law and may be subject to reduction or delay in payment in accordance with the specific provisions of the applicable arrangement or law.

*Benefits under the Change in Control Plan*

The payments summarized below are triggered if a change of control, as defined in the CIC Plan, occurs on December 31, 2020, and the acquiring company terminates the participant's employment without cause, or the participant terminates his/her employment with good reason, in either case within 18 months after a change in control (including, but not limited to, an acquisition of a controlling interest in the Company by a third party). The amounts described below do not take into account the "better after-tax" provision or applicable taxes.

Name	Lump-Sum Payment (1)	Vesting of all Unvested Equity Compensation Awards, Including Time and Performance Vesting Awards (2)	COBRA Benefits for up to 12 Months (Medical, Dental, and Vision Benefits) (3)	Maximum Outplacement Services Reimbursement
	(\$)	(\$)	(\$)	(\$)
Robert Yu Lang Mao	981,539	1,600,636	—	10,000
Joshua Ballard	533,000	857,436	31,722	10,000
Rodney Clemente	504,000	896,841	24,920	10,000
Emily Smith	480,000	845,868	11,258	10,000
Farshad Ghasripoor	451,157	864,006	24,499	10,000

- (1) These amounts consist of twelve months' base pay and 100% of the target annual bonus. The 2020 annual base salary for Mr. Mao represents the number of months of service to the Company during the year beginning in January 1, 2020 through May 4, 2020 (4 months) at an annualized base salary of \$450,000 and from May 5, 2020 at an annualized base salary of \$500,000.
- (2) The CIC Plan further provides that all unvested equity compensation held by a participant will vest and become exercisable immediately prior to a Change in Control (whether or not the participant's employment is terminated) if a Change of Control occurs and (i) the Company's shares are no longer publicly traded or (ii) if a publicly-traded company acquires the Company, but does not replace unvested Company awards with defined equivalent equity compensation applicable to the acquiring company's stock. For this purpose, all performance criteria, if any, underlying unvested awards are deemed to be satisfied at 100% of target. The amount in this column for vesting of equity compensation awards assumes hypothetically that each applicable trigger under the CIC Plan occurred on December 31, 2020, and in the case of vesting RSUs is based on the closing price of the Company's common stock of \$13.64 on December 31, 2020 and in the case of vesting option awards is based on \$13.64 minus the exercise price of the applicable option.
- (3) COBRA amounts are estimated based on medical, dental, and vision amounts paid by Company on behalf of the Named Executive and amounts paid by the Named Executive.

**CEO Pay Ratio**

For the 2020 fiscal year, the ratio of the median of the annual total compensation of all of our employees other than our Chief Executive Officer ("**Median Annual Compensation**") to the annual total compensation of Mr. Robert Mao, our President and Chief Executive Officer ("**CEO Compensation**") was **19.64** to 1. This ratio is a reasonable estimate calculated in a manner consistent with Item 402(u) of Regulation S-K using the data and assumptions summarized below. In this summary, we refer to the employee who received such Median Annual Compensation, who was selected in a manner consistent with Item 402(u) of Regulation S-K, as the "Median Employee." For purposes of this disclosure, the date used to identify the Median Employee was December 31, 2020 (the "Determination Date").

We identified a new Median Employee in 2020. To identify the Median Employee, we first determined our employee population as of the Determination Date for purposes of the calculation. We then measured the compensation of **211** employees, which represented all full-time, part-time, seasonal and temporary employees of us and our subsidiaries as of the Determination Date. The median employee was determined using 2020 W-2 wages for all U.S. employees and equivalent taxable compensation for all non-U.S. employees.

The CEO Compensation for purposes of this disclosure represents the sum of the total compensation reported for Mr. Mao under "Summary Compensation Table" for the 2020 fiscal year. For purposes of this disclosure, Median Annual Compensation was **\$86,138** and was calculated by totaling for our Median Employee all applicable elements of compensation for the 2019 fiscal year in accordance with Item 402(c)(2)(x) of Regulation S-K.

## REPORT OF THE AUDIT COMMITTEE

*This report is not deemed to be soliciting material filed with the SEC or subject to the liabilities of Section 18 of the Exchange Act, except to the extent that the Company specifically incorporates it by reference into a document filed with the SEC.*

The Audit Committee oversees the Company's financial reporting process on behalf of the Board of Directors. The Company's management has the primary responsibility for the financial statements, for maintaining effective internal control over financial reporting, and for assessing the effectiveness of internal control over financial reporting. In fulfilling its oversight responsibilities, the Audit Committee reviewed and discussed the consolidated audited financial statements and the related schedules in the Annual Report with Company management, including a discussion of the quality, not just the acceptability, of the accounting principles, the reasonableness of significant judgments, and the clarity of disclosures in the financial statements.

The Audit Committee is governed by a charter. A copy of the charter is available on the Company's website at [www.energyrecovery.com](http://www.energyrecovery.com). The charter was last amended effective April, 2020. The Audit Committee held four meetings during fiscal year 2020. The Audit Committee is comprised solely of independent directors as defined by the Nasdaq Stock Market listing standards and Rule 10A-3 of the Exchange Act.

The meetings of the Audit Committee are designed to facilitate and encourage communication among the committee, the Company, the Company's internal audit function and the Company's independent auditor. The Audit Committee discussed with the Company's internal auditors and independent auditor the overall scope and plans for their respective audits. The Audit Committee meets with the internal auditors and the independent auditor, with and without management present, to discuss the results of their examinations; their evaluations of the Company's internal control, including internal control over financial reporting; and the overall quality of the Company's financial reporting.

The Audit Committee reviewed and discussed with Deloitte & Touche LLP, which was responsible for expressing an opinion on the conformity of those consolidated audited financial statements and related schedules with US Generally Accepted Accounting Principles, its judgments as to the quality, not just the acceptability, of the Company's accounting principles and such other matters as are required to be discussed with the Audit Committee by the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), including PCAOB Auditing Standard No. 1301, Communications With Audit Committees, the rules of the SEC, and other applicable regulations. In addition, the Audit Committee has received the written disclosures and the letter from Deloitte & Touche LLP required by applicable PCAOB requirements regarding Deloitte & Touche LLP's communications with the Audit Committee concerning independence. Additionally, the Audit Committee has discussed with Deloitte & Touche LLP, Deloitte & Touche LLP's independence from Company management and the Company, including the matters in such letter, and has considered the compatibility of non-audit services with Deloitte & Touche LLP's independence.

In reliance on the reviews and discussions referred to above, the Audit Committee recommended to the Board of Directors, and the Board has approved, that the consolidated audited financial statements and related schedules be included in the Annual Report on Form 10-K for the year ended December 31, 2019, and filed by the Company with the SEC.

## MEMBERS OF THE AUDIT COMMITTEE

Alexander Buehler, Chairman of the Audit Committee  
Olav Fjell  
Arve Hanstveit

## DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

### Directors

The following table sets forth, as of April \_\_\_\_, 2020, the names, ages and positions of our directors who will continue in office after the Annual Meeting:

Name	Age	Position
Alexander J. Buehler	46	Director
Olav Fjell	69	Director
Sherif Foda	52	Director
Arve Hanstveit	66	Director
Ole Peter Lorentzen	68	Director
Robert Yu Lang Mao	77	Director and Executive Chairman of the Board
Pamela Tondreau	61	Director and Lead Independent Director

### Nominees for Director



**Age:** 69

**Education:** M.S.c. in Business Administration and Economics (siviløkonom), Norwegian School of Economics and Business Administration

**Director Since:** 2015

**Current Board Committees:**

Audit Committee (Member)

Nominating and Corporate Governance Committee (Member)

*Olav Fjell* joined our Board of Directors in June 2015. Mr. Fjell is a seasoned business leader with experience in the oil and gas industry, finance industry, and high tech engineering industry. He is Chair of the Boards of Moelven AS, Nofima AS, Concedo ASA, Bene Agere Norden AS, IFE and Franzefoss AS. He is Deputy Chair of Lotos Exploration and Production Norge and member of the Board of Turbulent Flux AS. Mr. Fjell was the Chief Executive Officer of Statoil from 1999 to 2003, Lindorff from 2005 to 2007 and of Hurtigruten from 2007 to 2012. He has also served as the Chief Executive Officer of Postbanken and been part of the senior management teams at Kongsberg Våpenfabrikk and DNB. Mr. Fjell holds a M.Sc. in Business Administration and Economics (siviløkonom) from Norwegian School of Economics and Business Administration. The Board selected Mr. Fjell because of his extensive and broad executive experience, both as a Chief Executive Officer and through directorships in Norwegian businesses and his experience in the oil and gas industry.

## Continuing Directors



**Robert Yu Lang Mao** has served as a member of our Board of Directors since September 2010 and was appointed Chairman of the Board in March 2019. Mr. Mao was appointed President and Chief Executive Officer in May 2020 and Interim President and Chief Executive Officer in November 2019. Mr. Mao has more than thirty years of executive experience in the technology and telecommunications industries across Asia, the United States, and Europe. Mr. Mao previously served as a Board Director of Hon Hai Precision Ind. Co. Ltd (Foxconn) during 2018 to 2019, the world's largest contract manufacturer supplying high tech products to world leading companies including Apple, Amazon, Dell, Microsoft, and Hewlett-Packard Company (Hewlett-Packard). Foxconn is a public company listed on the Taiwan Stock Exchange. In addition to serving on Energy Recovery's Board of Directors, he also serves on the Board of Directors of privately held Ubee Interactive Corporation, a supplier of broadband access equipment and devices to multimedia and telecom service providers worldwide. In 2013 Mr. Mao was named Chairman, China Region for Hewlett-Packard Company (Hewlett-Packard). He retired from Hewlett-Packard in 2016. Mr. Mao served as CEO of 3Com Corporation (3Com) from 2008 to 2010 and completed the sale of 3Com to Hewlett-Packard in 2010. Mr. Mao was also a Board Director of 3Com from 2007 to 2010. 3Com was a Nasdaq listed S&P 500 company providing computer networking and security solutions and products to public and private enterprises worldwide. Prior to 3Com Corporation, he worked for Nortel Networks, a broad-based communications technology company, as CEO of the company's Greater China operations from 1997 to 2006. Before joining Nortel, he was regional president of the Greater China region for Alcatel-Lucent from 1995 to 1997. He also held executive positions at Alcatel and ITT in Asia and the United States. Mr. Mao holds a B.S. in Material Science and a M.S. in Metallurgical Engineering from Cornell University and a M.B.A. in Management from the Massachusetts Institute of Technology (MIT). The Board selected Mr. Mao to serve as a director because of his prior executive experience helping technology companies and equipment manufacturers expand into new product and geographic markets, his knowledge of the China market, his strong strategic and analytic skills, and his many years of experience as board director in public and private companies based in high technology industries. He has a long record of distinction serving in senior executive management positions with a number of multi-national companies including serving as CEO of an U.S. public traded billion dollar company selling into world markets. He has also started and grown new ventures in the high technology industries. Mr. Mao possesses the experience, qualification, attributes and skills to serve as a Board Director of our Company.



*Alexander J. Buehler* joined our Board of Directors in February 2015. Mr. Buehler currently serves as President & CEO of the Brock Group, a leading provider of soft-craft services to the petrochemical, oil & gas refining, power, pharmaceutical, and LNG industries. From 2017 to 2021, he served as Executive Vice President for Global Resources at Intertek, a global, publicly-traded company headquartered in London and major provider of assurance, testing, inspection, and certification services. Previously, he served at Energy Maintenance Services (“EMS”) from July 2014 to September 2017, first with a brief stint as Chief Financial Officer and then as President & Chief Executive Officer, during which time he steered the company through the market downturn in oil & gas, repositioned the business as a leading integrity maintenance company, and led the marketing and sale of the business to First Reserve, a leading private equity company in the oil & gas space. He became a member of the Company’s Board of Directors in February 2015. From 2004 to 2011, Mr. Buehler held executive-level positions at Insituform Technologies, Inc. (now Aegion Corporation; NASDAQ: AEGN), a global leader in water infrastructure technology and services for municipalities and industry, including oil and gas. While at Insituform, Mr. Buehler worked in the U.S and abroad, most recently as Vice President of Europe, leading all European operations from its regional headquarters in Paris, France. Mr. Buehler is a highly impactful business executive with years of experience in general management and strategic planning as well as new product development, corporate development, operations management, manufacturing process optimization, sales management, and back-office administration. Mr. Buehler has substantial experience in the global water, oil & gas, and manufacturing industries and was critical in a number of acquisitions. Mr. Buehler received a B.S. in Civil Engineering from the United States Military Academy at West Point and an M.B.A. in Finance from the Wharton School at the University of Pennsylvania.





**Sherif Foda** joined our Board of Directors in September 2016. Mr. Foda is an experienced executive with more than two decades of oil and gas industry experience from around the globe. Mr. Foda currently serves as the Chairman and Chief Executive Officer of National Energy Services Reunited (NASDAQ: NESR), roles that he has held since June 2017. Previously since 2016, Mr. Foda was the Senior Advisor to the Chairman of Schlumberger. Previously from 2013 to 2016, Mr. Foda served as an Executive Officer and the Group President of Schlumberger Production, based in Houston, managing the different business segments of Schlumberger related to oil & gas producing fields, including Fracturing business, cementing, Well Services and Interventions, Completions, Artificial Lifts, and production businesses. From 2011 to 2013, Mr. Foda was the President of Schlumberger Europe and Africa, based in Paris. In this capacity, he managed all the different businesses, activities and operations for Schlumberger from South Africa to Norway. Prior to that, Mr. Foda held several other senior corporate and operations positions with Schlumberger in Houston, Texas, the Middle East and Europe. In addition, Mr. Foda worked in the information technology and computer industries in Egypt. He serves on the board of trustees of Awty International School in Houston, and is a board member of Al Fanar Venture Philanthropy in London. Mr. Foda holds a BSc in Electronic from Ain Shams University, and a BAC in Science from College de la Salle, both in Cairo. The Board selected Mr. Foda as a director because he brings a unique perspective to the Board and has significant experience with issues, trends and opportunities within the oil & gas industry that enable Mr. Foda to provide valuable expertise when evaluating the Company's oil & gas business.



**Arve Hanstveit** joined our Board of Directors in August 1995. Between August 1997 and November 2010, Mr. Hanstveit served as Partner and Vice President of ABG Sundal Collier, a Scandinavian investment bank, where he was responsible for advising U.S. institutional investors on equity investments in Nordic companies. Prior to joining ABG Sundal Collier, Mr. Hanstveit worked as a securities analyst and as a portfolio manager for TIAA-Cref, a large U.S. institutional investor. From February 2007 to January 2010, Mr. Hanstveit served on the Board of Directors of Kezzler AS, a privately-held Norwegian company, which delivers secure track and trace solutions to the industry. He is also a member of the Norwegian American Chamber of Commerce and the New York Angels, an independent consortium of individual accredited angel investors that provide equity capital for early-stage companies in the New York City area. Mr. Hanstveit holds a B.A. in Business from the Norwegian School of Management and an M.B.A. from the University of Wisconsin, Madison. The Board selected Mr. Hanstveit as a Director because of his early investment in the Company, his years of experience as a portfolio manager and securities analyst, his detailed understanding of global financial markets, and his extensive knowledge of the Company, its products, and markets.



**Pamela Tondreau** joined our Board of Directors in July 2019. Ms. Tondreau was elected as Lead Independent Director in May 2020. Ms. Tondreau served as a consultant to Infineon Technologies AG, which purchased Cypress Semiconductor Corporation (“CY”) on April 16, 2020 until July 1, 2020. Prior to her consulting role, Ms. Tondreau served as Chief Legal Officer, Corporate Secretary and Executive Vice President of Human Resources of CY from 2014 through 2016. Ms. Tondreau is a member of the Alumni Board of McGeorge School of Law. Prior to her tenure with CY, Ms. Tondreau was an executive with Hewlett-Packard Corporation (“HP”) from 1999-2012 holding various positions including Chief Intellectual Property Counsel, Deputy General Counsel to the Chief Technology Officer, counsel to the Technology Committee of the Board, counsel for the networking business including leading the acquisition of 3Com and integrating the China entity into HP. Ms. Tondreau has extensive experience in the areas of intellectual property strategy, corporate governance and executive compensation, enterprise risk management and domestic and international mergers and acquisitions. Ms. Tondreau received her undergraduate degree from the University of California at Berkeley and her Juris Doctor degree from McGeorge School of Law.

### Executive Officers

The following is biographical information for our current executive officers.

<b>Name</b>	<b>Age</b>	<b>Position</b>
Robert Yu Lang Mao	77	President & Chief Executive Officer
Joshua Ballard	48	Chief Financial Officer
Farshad Ghasripoor	61	Chief Technology Officer
Rodney Clemente	41	Senior Vice President, Water
William W. Yeung	48	Chief Legal Officer

**Robert Yu Lang Mao** has served as a member of our Board of Directors since September 2010 and was appointed Chairman of the Board in March 2019. Mr. Mao was appointed President and Chief Executive Officer in May 2020 and interim President and Chief Executive Officer in November 2019. Mr. Mao has more than thirty years of executive experience in the technology and telecommunications industries across Asia, the United States, and Europe. Mr. Mao previously served as a Board Director of Hon Hai Precision Ind. Co. Ltd (Foxconn) during 2018 to 2019, the world’s largest contract manufacturer supplying high tech products to world leading companies including Apple, Amazon, Dell, Microsoft, and Hewlett-Packard Company (Hewlett-Packard). Foxconn is a public company listed on the Taiwan Stock Exchange. In addition to serving on Energy Recovery’s Board of Directors, he also serves on the Board of Directors of privately held Ubee Interactive Corporation, a supplier of broadband access equipment and devices to multimedia and telecom service providers worldwide. In 2013 Mr. Mao was named Chairman, China Region for Hewlett-Packard Company (Hewlett-Packard). He retired from Hewlett-Packard in 2016. Mr. Mao served as CEO of 3Com Corporation (3Com) from 2008 to 2010 and completed the sale of 3Com to Hewlett-Packard in 2010. Mr. Mao was also a Board Director of 3Com from 2007 to 2010. 3Com was a Nasdaq listed S&P 500 company providing computer networking and security solutions and products to public and private enterprises worldwide. Prior to 3Com Corporation, he worked for Nortel Networks, a broad-based communications technology company, as CEO of the company’s Greater China operations from 1997 to 2006. Before joining Nortel, he was regional president of the Greater China region for Alcatel-Lucent from 1995 to 1997. He also held executive positions at Alcatel and ITT in Asia and the United States. Mr. Mao holds a B.S. in Material Science and a M.S. in Metallurgical Engineering from Cornell University and a M.B.A. in Management from the Massachusetts Institute of Technology (MIT). The Board selected Mr. Mao to serve as a director because of his prior executive experience helping technology companies and equipment manufacturers expand into new product and geographic markets, his knowledge of the China market, his strong strategic and analytic skills, and his many years of experience as board director in public and private companies based in high technology industries. He has a long record of distinction serving in senior executive management positions with a number of multi-national companies including serving as CEO of an US public traded billion-dollar company selling into world markets. He has also started and grown new ventures in the high technology industries. Mr. Mao possesses the experience, qualification, attributes and skills to serve as a Board Director of our Company.

**Joshua Ballard** joined the Company in August 2018 as Chief Financial Officer. He brings more than 20 years of finance and operations experience, both domestically and internationally, working across industries within complex organizations to successfully navigate high growth. Most recently Mr. Ballard held the position of Operating Partner at Orox Capital Management, a Dallas-based private equity firm. During his time there he was responsible for the management of and collaboration with portfolio company teams to implement long-term strategic plans and improve finance and operations. Additionally, he served as the CFO for Southwest Spirit and Wines, an Orox Capital portfolio company, during a critical growth period in the company's development. Prior to joining Orox Capital Management, Mr. Ballard was the Managing Director of Lanterne Advisors, LLC, where he held multiple CFO roles with venture-backed companies. He also served as Executive Director of Finance and Investor Relations for SigmaBleyzer Investment Group, a private equity fund, with investments across a broad range of industries within the U.S., Southeast Europe, and other former Soviet bloc countries. Mr. Ballard started out his career working on multiple international oil and gas projects, most notably with Fluor Corporation and holds a CFA, CMA and a Global MBA in Finance from Thunderbird, School of Global management.

**Farshad Ghasripoor** joined the Company in 2012 and is the Chief Technology Officer at Energy Recovery, Inc. and is responsible for the conceptualization and ongoing development of the revolutionary VorTeq hydraulic pumping system. Mr. Ghasripoor has been instrumental for the rapid growth and diversification of the business into multiple segments. He has built a world class engineering organization that has become the driving force behind Energy Recovery's product development efforts. The focus of the engineering team is on further expanding the Pressure Exchanger Technology into other applications and industrial sectors as well as expanding the portfolio of pumps and other energy recovery devices. Prior to joining Energy Recovery, he served a 12-year term at GE, starting at the General Electric Global Research Center, where he led the development of abradable seals for steam and gas turbines. Today, the seals he developed are installed in more than 250 GE gas turbines and all of GE's reaction steam turbines. He also developed a solid particle erosion protection system for steam path airfoils, which is currently implemented in GE steam turbines to substantially extend the life of turbine airfoils. His first position was at Sulzer's Research and Development division in Switzerland, where he improved the performance of large marine diesel engines, industrial pumps and compressors, and led the development of a new generation of abradable seals for gas turbines. He is a named inventor on 64 U.S. patent applications, of which 32 have been granted to date, and has authored articles for 20 peer-reviewed publications. He received his PhD from Brunel University of West London in the UK.

**Rodney Clemente** joined Energy Recovery in 1998 and currently holds the position of Senior Vice President, Water. Responsible for all of Energy Recovery, Inc.'s sales, technical service, support and aftermarket activities for the Water business unit, Mr. Clemente provides a high level of system design, technical consultation and commercial support for desalination customers worldwide. During Mr. Clemente's tenure with the Company, he has gained intimate knowledge of energy recovery technologies, pumping systems, desalination systems and various industrial processes. His expertise also spans several verticals, including manufacturing, marketing and business development. He is an active member of many of the leading industry organizations such as IDA and AMTA. Mr. Clemente has a BS in Engineering from California State University, East Bay and an Executive MBA from the University of Virginia's Darden School of Business.

*William W. Yeung* joined Energy Recovery in June 2016 and is the Chief Legal Officer. Mr. Yeung brings over 20 years of legal experience, with extensive experience in securities law, corporate governance and compliance, corporate strategy, SEC reporting and regulatory compliance, mergers and acquisitions, and general contracts. His clients have included Goldman Sachs, JP Morgan, Credit Suisse, Citigroup Global Markets, Lehman Brothers, UBS, Salomon Smith Barney, BNP Paribas, Del Monte, Sony Capital Corporation, McDonald's Corporation, KBC Bank, The Interpublic Group of Companies, The Bank of New York, United Technologies Corporation, and Nortel Networks. Prior to joining the Company, Mr. Yeung was the General Counsel of SharesPost, Inc. and served as a senior legal executive for Thomas Weisel Partners Group Inc. and Socialutions Inc. Mr. Yeung began practicing law at Cleary, Gottlieb, Steen & Hamilton LLP in New York and practiced at Morrison & Foerster LLP in San Francisco. He holds a JD from New York University School of Law and a BA from Boston College.

#### **RELATED PERSON POLICIES AND TRANSACTIONS**

The Nasdaq listing rules require that the Company, on an ongoing basis, conduct appropriate reviews of all related-person transactions for potential conflict-of-interest situations. Our Audit Committee charter provides that the committee's responsibilities include the review of all related party transactions required to be disclosed pursuant to Item 404 of Regulation S-K promulgated under the Securities Act of 1933, as amended, and to determine whether to approve the transactions. In determining whether a related party transaction will be approved, the Audit Committee will consider several factors, including without limitation: (a) the benefits to the Company; (b) the impact on a director's independence in the event the related party is a director, an immediate family member of a director or an entity in which a director is a partner, stockholder or executive officer; (c) the availability of other sources for comparable products or services; (d) the terms of the transaction; and (e) the terms available to unrelated third parties or to employees generally.

Related party transactions are, subject to certain limited exceptions, any transaction, arrangement or relationship in which we are a participant and the amount involved exceeds \$120,000, and the related party had, has or will have a direct or indirect material interest. Related party includes: (a) any person who is or was (at any time during the last fiscal year) an executive officer, director or nominee for election as a director; (b) any person or group who is a beneficial owner of more than 5% of our voting securities; (c) any immediate family member of a person described in clauses (a) or (b) of this sentence; or (d) any entity in which any of the foregoing persons is employed, is a director, executive officer or partner, or is in a similar position, or in which such person, together with all other "related parties," have in the aggregate 5% or greater beneficial ownership interest.

The Board's Nominating and Corporate Governance Committee charter also provides that the Nominating and Corporate Governance Committee will review potential conflicts of interest. In addition, the Company's Code of Business Conduct and Ethics provides that each employee and non-employee director is expected to disclose potential conflicts of interest involving that individual or the individual's family members to a supervisor, executive officer, or member of the Audit Committee as described in the Company's Code of Business Conduct and Ethics.

Notwithstanding the foregoing, all compensation-related matters must be approved by the Compensation Committee of the Board of Directors or recommended by the Compensation Committee to the Board of Directors for its approval.

During fiscal 2020, we did not enter into any transactions with related parties that required review, approval or ratification by the Board of Directors as described above.

## REQUIREMENTS FOR STOCKHOLDER PROPOSALS

### Requirements for Stockholder Proposals to be Brought Before an Annual Meeting

For stockholder proposals to be considered properly brought before an annual meeting, the stockholder must have given timely notice in writing to the Secretary of the Company and otherwise comply with the provisions of our Bylaws regarding the requirements for stockholder proposals to be brought before an annual meeting. Under our Bylaws, to be timely for the annual meeting of stockholders to be held in 2022, a stockholder's notice must generally be delivered to or mailed and received by the Secretary of the Company at the principal executive offices of the Company between December [ ], 2021 and January [ ], 2022. Also under our Bylaws, a stockholder's notice to the Secretary must set forth as to each matter the stockholder proposes to bring before the annual meeting: (a) the name and record address of the stockholder who intends to propose the business and the class or series and number of shares of our capital stock that are owned beneficially or of record by such stockholder; (b) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of the stockholder, or any affiliates or associates of such stockholder, with respect to stock of the corporation; (c) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of the corporation) has been made by or on behalf of the stockholder, or any affiliates or associates of such stockholder, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such stockholder, or any affiliates or associates of such stockholder, or to increase or decrease the voting power or pecuniary or economic interest of such stockholder, or any affiliates or associates of such stockholder, with respect to stock of the corporation; (d) a representation that the stockholder is a holder of record of Energy Recovery stock entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to introduce the business specified in the notice; (e) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting; (f) any material interest of the stockholder in such business; and (g) any other information that is required to be provided by the stockholder under applicable SEC regulations. Information with respect to the requirements for stockholder nominations for candidates to serve as a director of the Company is set forth above under "Board and Corporate Governance Matters – The Nominating and Corporate Governance Committee."

### Requirements for Stockholder Proposals to be Considered for Inclusion in the Company's Proxy Materials

Stockholder proposals submitted pursuant to Rule 14a-8 under the Exchange Act, and intended to be presented at the Company's annual meeting of stockholders to be held in 2022 must be received by the Secretary of the Company (at Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro CA 94577, Attn: Secretary) no later than January [ ], 2022 in order to be considered for inclusion in the Company's proxy materials for that meeting.

### Requirements for Proxy Access

In addition, our Bylaws permit certain of our stockholders who have beneficially owned 3% or more of our outstanding common stock continuously for at least three years to submit nominations to be included in the Company's proxy materials for a number not to exceed the greater of two (2) or twenty percent (20%) of the total number of directors then serving. Notice of proxy access director nominations for the 2022 Annual Meeting of Stockholders must be delivered to our Corporate Secretary at our principal executive offices no earlier than December [ ], 2021, and no later than the close of business on January [ ], 2022. The notice must set forth the information required by our Bylaws with respect to each proxy access director nomination that eligible stockholder or stockholders intend to present at the 2022 Annual Meeting of Stockholders and must otherwise be in compliance with our Bylaws.

## OTHER MATTERS

### Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires the Company's directors, executive officers, and persons who own more than 10% of the Company's common stock (collectively "**Reporting Persons**") to file reports of ownership and changes in ownership of the Company's common stock. Reporting Persons are required by SEC regulations to furnish the Company with copies of all Section 16(a) reports that they file. Based solely on our review of copies of the reports we have received and written representations provided to us from the individuals required to file the reports, we believe that each of our executive officers and directors has complied with applicable reporting requirements for transactions in our common stock during the year ended December 31, 2020.

### Other Matters

The Board of Directors does not know of any other matters to be presented at the Annual Meeting. If any additional matters are properly presented or otherwise allowed to be considered at the Annual Meeting, the persons named in the enclosed proxy will have discretion to vote shares they represent in accordance with their own judgment on such matters.

It is important that your shares be represented at the meeting, regardless of the number of shares that you hold. You are, therefore, urged to submit your proxy or voting instructions at your earliest convenience.

## ANNUAL REPORTS

The Annual Report on Form 10-K for the fiscal year ended December 31, 2020 (our "Annual Report") (which is not a part of our proxy soliciting materials), is being mailed with this Proxy Statement to those stockholders that request to receive a copy of the proxy materials in the mail. Stockholders that received the Notice of Internet Availability of Proxy Materials can access this Proxy Statement and our Annual Report at [www.proxyvote.com](http://www.proxyvote.com), which does not have "cookies" that identify visitors to the site. Requests for copies of our Annual Report may also be directed to the Secretary at Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro CA 94577, Attn: Secretary.

We filed our Annual Report filed with the SEC on March 11, 2021. It is available free of charge at the SEC's web site at [www.sec.gov](http://www.sec.gov). Upon written request by an Energy Recovery stockholder, we will mail without charge a copy of our Annual Report, including the financial statements and financial statement schedules, but excluding exhibits to our Annual Report. Exhibits to our Annual Report are available upon payment of a reasonable fee, which is limited to our expenses in furnishing the requested exhibit(s). All requests should be directed to the Secretary at Energy Recovery, Inc., 1717 Doolittle Drive, San Leandro CA 94577, Attn: Secretary.

By Order of the Board of Directors,

William Yeung  
Chief Legal Officer

April [●], 2021  
San Leandro, California

## APPENDIX A

### Proposed Amendment to the Company's Amended and Restated Certificate of Incorporation to Provide for the Annual Election of Directors

The proposed amendment to the Company's Amended and Restated Certificate of Incorporation would revise Section 2 ARTICLE V thereof as shown below (new language is indicated by bolded underlined text, and deletions are indicated by strikethroughs).

Section 5.2. The directors of the Corporation shall be divided into three classes as nearly equal in size as is practicable, hereby designated Class I, Class II and Class III. Directors shall be assigned to each class in accordance with a resolution or resolutions adopted by the Board of Directors. ~~At the first annual meeting of stockholders following the date hereof, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. Notwithstanding the foregoing, (1) at the 2021 annual meeting of stockholders, the Class I directors whose terms expire at that meeting shall be elected to hold office for a one-year term expiring at the 2022 annual meeting of stockholders; (2) at the 2022 annual meeting of stockholders, the Class I and Class II directors whose terms expire at that meeting shall be elected to hold office for a one-year term expiring at the 2023 annual meeting of stockholders; and (3) at the 2023 annual meeting of stockholders and each annual meeting of stockholders thereafter, all directors shall be elected for a one-year term expiring at the next annual meeting of stockholders. At and after the annual meeting of stockholders to be held in 2023, the directors shall no longer be classified with respect to the time for which they hold office.~~

The proposed amendment to the Company's Amended and Restated Certificate of Incorporation would revise Section 1 Article VI thereof as shown below (new language is indicated by bolded underlined text, and deletions are indicated by strikethroughs).

Section 6.1. Any director or the entire Board of Directors may be removed from office at any time, ~~but~~ **with respect to any director who has been elected for a term in excess of one year**, only for cause, and only by the affirmative vote of the holders of at least a majority of the voting power of the issued and outstanding capital stock of the Corporation entitled to vote in the election of directors.