

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

\_\_\_\_\_, Individually and on Behalf of )  
All Others Similarly Situated, ) Master File No. 1:23-cv-01160  
)  
) **CLASS ACTION**  
)  
Plaintiff, ) **COMPLAINT FOR VIOLATION OF**  
) **THE FEDERAL SECURITIES LAWS**  
)  
v. ) **DEMAND FOR JURY TRIAL**  
)  
AEROVIRONMENT, INC., WAHID )  
NAWABI, KEVIN PATRICK ) Judge:  
MCDONNELL )  
)  
Defendants. )  
)  
)

Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by their undersigned attorneys, alleges in this Complaint for violations of the federal securities laws (the “Complaint”) the following based upon knowledge with respect to their own acts, and upon facts obtained through an investigation conducted by his counsel, which included, *inter alia*: (a) review and analysis of relevant filings made by AeroVironment, Inc. (“AeroVironment” or the “Company”) with the United States Securities and Exchange Commission (the “SEC”); (b) review and analysis of AeroVironment’s public documents, conference calls, press releases, and stock chart; (c) review and analysis of securities analysts’ reports and advisories concerning the Company; and (d) information readily obtainable on the internet.

Plaintiff believes that further substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery. Most of the facts supporting the allegations contained herein are known only to the defendants or are exclusively within their control.

### **NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of all investors who purchased or otherwise acquired AeroVironment securities between June 29, 2021 and December 7, 2021, inclusive (the “Class Period”), seeking to recover damages caused by Defendants’ violations of the federal securities laws (the “Class”).

2. Defendants provided investors with material information concerning AeroVironment’s expected revenue for the fiscal year 2022. Defendants’ statements included, among other things, AeroVironment’s strategic acquisitions which expanded their portfolio to include 6 product lines thereby supporting Defendants’ decision to forecast revenue of \$560

million to \$580 million for the fiscal year 2022 and increase its earnings-per-share estimates to between \$2.50 per share and \$2.70 per share.

3. Defendants provided these overwhelmingly positive statements to investors while, at the same time, disseminating materially false and misleading statements and/or concealing material adverse facts concerning procurement delays, supply chain issues, staffing shortages and possession of a record backlog. This caused Plaintiff and other shareholders to purchase AeroVironment's securities at artificially inflated prices.

4. The truth emerged on December 7, 2021, when AeroVironment issued a press release announcing its second quarter earnings. In pertinent part, Defendants announced they were reducing their guidance for fiscal 2022 from \$560 and \$580 million down to \$440 and \$460 million due allegedly to supply chain constraints due to COVID-19, extended procurement cycles tied to the Continuing Resolution, and staffing shortages.

5. Investors and analysts reacted immediately to AeroVironment's revelation. The price of AeroVironment's common stock declined dramatically. From a closing market price of \$79.95 per share on December 6, 2021, AeroVironment's stock price fell to \$57.98 per share on December 7, 2021, a decline of nearly 27% in the span of just a single day.

### **JURISDICTION AND VENUE**

6. Plaintiff brings this action, on behalf of himself and other similarly situated investors, to recover losses sustained in connection with Defendants' fraud.

7. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5).

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1337, and Section 27 of the Exchange Act, 15 U.S.C. §78aa.

9. Venue is proper in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b), as Defendant AeroVironment is headquartered in this District and a significant portion of its business, actions, and the subsequent damages to Plaintiff and the Class, took place within this District.

10. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of the national securities exchange.

#### **THE PARTIES**

11. Plaintiff purchased AeroVironment common stock at artificially inflated prices during the Class Period and was damaged upon the revelation of the Defendants' fraud. Plaintiff's certification evidencing his transaction(s) in AeroVironment is attached hereto.

12. AeroVironment, Inc. is a Delaware corporation with its principal executive offices located at 241 18<sup>th</sup> Street South, Suite 415, Arlington, Virginia 22202. During the Class Period, the Company's common stock traded on the NASDAQ Stock Market (the "NASDAQ") under the symbol "AVAV."

13. Defendant Wahid Nawabi ("Nawabi") was, at all relevant times, the Chief Executive Officer, President and Director of AeroVironment.

14. Defendant Kevin Patrick McDonnell ("McDonnell") was, at all relevant times, the Senior Vice President and Chief Financial Officer of AeroVironment.

15. Defendants Nawabi and McDonnell are sometimes referred to herein as the “Individual Defendants.” AeroVironment together with the Individual Defendants are referred to herein as the “Defendants.”

16. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of AeroVironment’s reports to the SEC, press releases, and presentations to securities analysts, money and portfolio managers, and institutional investors, *i.e.*, the market. Each Individual Defendant was provided with copies of the Company’s reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of these Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each “group-published” information, the result of the collective actions of the Individual Defendants.

17. AeroVironment is liable for the acts of the Individual Defendants, and its employees under the doctrine of respondeat superior and common law principles of agency as all the wrongful act complained of herein were carried out within the scope of their employment with authorization.

18. The scienter of the Individual Defendants, and other employees and agents of the Company are similarly imputed to AeroVironment under respondeat superior and agency principles.

## **SUBSTANTIVE ALLEGATIONS**

### **A. Company Background**

19. AeroVironment designs, develops, produces, delivers, and supports a portfolio of robotic systems and related services for government agencies and businesses in the United States and internationally.

20. The Company supplies unmanned aircraft systems (“UAS”), tactical missile systems (“TMS”), unmanned ground vehicles (“UGV”) and related services primarily to organizations within the U.S. Department of Defense (“DoD”) and to international allied governments.

21. AeroVironment also designs, engineers, tools, and manufactures unmanned aerial and aircraft systems, including airborne platforms, payloads and payload integration, ground control systems, and ground support equipment and other items and services related to unmanned aircraft systems.

### **B. The Defendants Materially Misled Investors Concerning AeroVironment’s Full Year Guidance for 2022**

*June 29, 2021*

22. On June 29, 2021, before the market opened, AeroVironment issued a press release announcing its fourth quarter and full-year 2021 financial results. The press release also provided AeroVironment’s full-year financial outlook for 2022, stating in pertinent part:

“Our team again delivered record fourth quarter and full fiscal year 2021 revenue, representing a fourth consecutive year of profitable topline growth,” said Wahid Nawabi, AeroVironment president and chief executive officer. “In addition to producing solid financial and operational results despite the continued macroeconomic challenges our industry and economy are experiencing, we expanded our total addressable markets with the strategic acquisitions of Arcturus UAV, Progeny Systems ISG and Telerob. We continued our momentum over the course of the year securing a key initial contract for our new anti-armor Switchblade

600 loitering missile system, completing the fifth successful test flight of the Sun glider solar HAPS and demonstrating broadband LTE communication from the stratosphere. The AeroVironment team also made aviation history by developing critical propulsion and structural elements of the Ingenuity Mars Helicopter, the first aircraft to take flight in the atmosphere of another world.”

“We executed our growth strategy effectively in fiscal year 2021 and are well positioned to achieve significant revenue and adjusted EBITDA growth in fiscal year 2022 with our expanded team, geographic footprint and broad portfolio of intelligent, multi-domain robotic systems,” Mr. Nawabi added.

...

For fiscal year 2022 the Company continues to expect revenue of between \$560 million and \$580 million, net income of between \$32 million and \$37 million, adjusted EBITDA of between \$105 million and \$110 million, earnings per diluted share of between \$1.31 and \$1.51 and non-GAAP earnings per diluted share, which excludes acquisition-related expenses and amortization of intangible assets, of between \$2.50 and \$2.70.

...

Reconciliation of Fiscal Year 2021 Actual and 2022 Forecast Non-GAAP adjusted EBITDA (Unaudited)

(in millions)	Fiscal year ending	
	April 30, 2021	April 30, 2022
Net income from continuing operations	\$ 23	\$ 32 - 37
Interest expense, net	1	5
Provision for income taxes	1	3
Depreciation and amortization	19	61
EBITDA (Non-GAAP)	44	101 - 106
HAPSMobile Inc. JV impairment of investment in Loon LLC	10	—
Legal accrual related to our former EES business	9	—
Acquisition-related expenses	9	4
Adjusted EBITDA (Non-GAAP)	\$ 72	\$ 105 - 110

Reconciliation of Forecast Earnings per Diluted Share (Unaudited)

	Fiscal year ending
	April 30, 2022
Forecast earnings per diluted share	\$ 1.31 - 1.51
Acquisition-related expenses	0.13
Amortization of acquired intangible assets	1.06
Forecast earnings per diluted share as adjusted (Non-GAAP)	\$ 2.50 - 2.70

23. On the same day, Defendants held an earnings call that included Defendants Nawabi and McDonnell on behalf of AeroVironment. During the call, the Individual Defendants

provided analysts with detailed information concerning the Company's ability to deliver on its financial, operational and strategic commitments despite the continued macroeconomic challenges. Defendants Nawabi and McDonnell commented on AeroVironment's achievement of delivering a fourth consecutive year of profitable revenue growth in the midst of the global pandemic. These statements misled investors by failing to disclose material information concerning Defendants' inability to accurately project sales and revenue.

24. During opening remarks, Nawabi stated, in part, as follows:

Our team has done an incredible job of staying focused on serving our customers and delivering profitable top line growth, despite a full fiscal year operating during the COVID-19 pandemic. We produced record fourth quarter revenue of \$136 million and record full year revenue of \$395 million. Full fiscal year revenue increased by 7.5%, including contributions from the Arcturus UAV and ISG businesses acquired in the year, which I will discuss in a few moments.

While we were able to manage the majority of supply chain issues during the pandemic, some isolated issues prevented us from achieving our revenue objectives for the fourth quarter and the full fiscal year, leaving us slightly below our guidance range. Full year diluted earnings per share were \$0.96 compared to \$1.72 for fiscal year 2020. Fiscal year 2021 included an impairment of \$8.4 million related to HAPSMobile's investments in LOON LLC and \$9.3 million for legal accrual related to our former EES business.

Non-GAAP earnings per diluted share for fiscal year 2021 were \$2.10 compared to \$1.84 for fiscal year 2020, an increase of 14%. ***Record fiscal year ending funded backlog of \$211.8 million rose slightly from the prior year. I commend the entire AeroVironment team for adapting to new ways of working during the pandemic and achieving these solid financial results while also acquiring 3 new businesses and successfully integrating them into our portfolio.***

Now I will review our business achievements in fiscal year 2021. The First and foremost, in fiscal year 2021, we significantly reshaped our portfolio by acquiring Arcturus UAV, Telerob and Progeny Systems ISG. These acquisitions further expand our offering to provide our customers a portfolio of intelligent multi-domain robotic systems.

Beyond defense markets, we're also able to deliver valuable solutions, combining air and ground robotic systems to first responders, infrastructure managers, homeland security personnel and others. Supporting the broader adoption of UAS for commercial use, we were recently appointed to an FAA advisory rule-making



committee focused on beyond visual line of sight operations. This ensures we remain in a position to provide recommendations that drive adoption of UAS in the United States.

(Emphasis added.)

25. Defendant McDonnell highlighted AeroVironment's fourth quarter and full year financial performance stating, in pertinent part:

Revenue for the fourth quarter of fiscal 2021 was \$136 million, a slight increase from the fourth quarter of FY '20 revenue of \$135.2 million.

...

Revenue for the full fiscal year 2021 was \$394.9 million, an increase of 7.5% from the 2020 revenue of \$367.3 million. Reflecting continued leadership in our core products, we experienced strong year-over-year organic growth of 12% for the combined TMS and small UAS product lines. However, this was largely offset by a \$21.7 million decline in HAPS and other revenue.

As a consequence, overall organic revenue growth netted to 3% for the year. The contribution of newly acquired businesses boosted the overall growth to 7.5% level, as previously noted.

...

Looking at the bottom line, GAAP net income from continuing operations for the fourth quarter of fiscal 2021 was \$10.9 million, or \$0.44 per diluted share, compared to net income of \$17.8 million or \$0.73 per diluted share for the fourth quarter of fiscal 2020. The \$6.8 million decrease in net income was largely a result of a legal accrual related to our former EES business of \$9.3 million, as well as an additional \$8 million of acquisition-related expenses, partially offset by gross -- higher gross margin, lower taxes and lower equity method investment activities expenses.

For the full year of fiscal 2021, net income from continuing operations was \$22.3 million, or \$0.96 per diluted share, compared to \$41.3 million or \$1.72 per diluted share for fiscal 2020. The \$18 million reduction in net income was primarily due to \$11 million of additional acquisition-related expenses, \$9.3 million legal accrual mentioned previously, the \$8.4 million loss from our portion of the HAPSMobile impairment of its investment to LOON, partially offset by higher gross margins and lower taxes.

...

***Now I'd like to highlight some of our backlog metrics. Our funded backlog at the end of 2021 was \$211.8 million, an increase of \$107 million from the third quarter of fiscal 2021 and an increase of \$3.7 million from the fourth quarter of***

*fiscal 2020 backlog of \$208.1 million.* Page 8 of the earnings presentation provides a summary of our current FY '22 visibility. We picked up over \$100 million of bookings since the end of Q4, bringing our total visibility to the midpoint of the guidance range to 61%, which is the highest level for our fourth quarter in the past 5 years.

(Emphasis added.)

26. Defendant Nawabi continued to spotlight AeroVironment's opportunities for the upcoming fiscal year 2022, stating in part:

Our growth portfolio is rich with opportunity. Our intelligent robotic systems in the air, on the ground and in the water will work together to achieve mission success faster, safer and more cost effectively than otherwise possible. And that intelligence will be bolstered by our expanded AI and autonomy capabilities.

...

Additionally, proposed U.S. government fiscal year 2022 funding for defense procurement and research, development, testing and evaluation, or RDT&E, for unmanned technologies exceed \$7 billion. This includes \$68 million for Army LMAMS procurement, where our Switchblade 300 is the incumbent solution; \$69 million for Army FTUAS RDT&E, which we are well positioned for with our MUAS JUMP 20 solution. Additionally, the Army added \$73 million to their unfunded list in order to accelerate the FTUAS program by 2 years.

Beyond UAS and TMS, Army ground robotics funding requests total \$124 million. In summary, our expanded portfolio of solutions gives us potential access to as much as \$450 million in the GFY 2022 budget request, a much larger set of DoD opportunities than ever before.

...

*Our 3 acquisitions significantly expand our revenue profile along with our growth portfolio, contributing to a significant increase in our revenue expectations for fiscal year 2022. Looking ahead, we have very good visibility into fiscal year 2022, with strong funded backlog and total visibility of 61%, described on Slide #8 of our earnings presentation. This gives us confidence in our ability to achieve our annual revenue and earnings objectives.*

*As summarized on Slide #9 of our earnings presentation, for fiscal year 2022, we expect to deliver a fifth consecutive year of profitable top line growth, with revenue of between \$560 million and \$580 million, adjusted EBITDA of between \$105 million and \$110 million and earnings per diluted share of \$1.31 to \$1.51.*

*We expect non-GAAP earnings per diluted share, which excludes amortization of acquired intangible assets, to be between \$2.50 and \$2.70. This guidance*

*represents a 44% increase in revenue and a 50% increase in adjusted EBITDA. Because of the impact of the pandemic on contract timing, we expect first half revenue to account for approximately 40% of total fiscal year 2022 revenue.* We also expect first quarter revenue to represent about 40% of the first half revenue, and our first quarter non-GAAP EPS loss of approximately \$0.25 to \$0.35 as a result of volume and mix effects.

We expect research and development investments to be about 9% to 10% of this fiscal year's revenue. We expect a decline in fiscal year 2021 overall gross margin to about 35% to 37%, as Kevin described in his comments. We are monitoring our supply chain carefully for any risks that could affect our business. As an example, the ongoing global semiconductor chip shortage may impact some of our programs.

In summary, to reiterate our main message for today's call, AeroVironment again delivered on its financial, operational and strategic commitments despite the continued macroeconomic challenges. As I look ahead into the new fiscal year, I see the potential for continued growth and success for our company. Our confidence in the future has never been stronger.

(Emphasis added.)

27. During the question-and-answer segment of the call, Defendant Nawabi continued the false impression given to investors during his opening remarks. For example, when asked by several analysts as to AeroVironment's potential growth in the upcoming year, Defendant Nawabi stated in pertinent part as follows:

<Q: Peter John Skibitski -Alembic Global Advisors- Analyst> ...And then into fiscal '22, I don't know, I'm going on, but should we kind of extrapolate the contract awards to think that half will be up to \$55 million in fiscal '22?

<A: Wahid Nawabi> ...And *we're also positioned extremely well for fiscal year 2022, with another year of consecutive growth expected.*

In terms of the fourth quarter, we faced a few challenges on supply chain, which we addressed most of that throughout the entire year extremely, extremely well. We -- given the fact that we were in a pandemic, we addressed all those issues quite well. But there were some specific minor issues that caused some delays and a few revenue items that address our fourth quarter specifically.

*Again, record quarter, record year, record backlog, record visibility and also record, sort of, top line growth for the past year and next year. And we're looking*

*forward to another very, very high-growth year, both organically and inorganically*, and we'll keep you updated on that.

(Emphasis added.)

28. Defendants Nawabi and McDonnell were specifically asked about AeroVironment's organic growth for fiscal 2022 and responded:

<Q: Joseph William DeNardi -Stifel, Nicolaus & Company- Analyst> ...can you give us the organic growth assumption embedded in the FY '22 revenue guidance?

<A: Wahid Nawabi> Sure. So we'll provide more color when we get to our first quarter earnings. We're still in the midst of the integration of the businesses that we've just acquired, which all are going really well. I'm not sure if we're going to be able to break out our specific product line growth by that time, but we will keep you updated.

*In general, what I can tell you is that for fiscal year 2022, we expect growth both on our acquisitions -- the inorganic acquisitions that we've done as well as on our core businesses. And our core businesses, TMS and sUAS remains strong. The product gross margins, going into next year, also remains stable and healthy. And so we expect growth on both organic businesses as well as our inorganic businesses for the next year.* And as you heard my comments, this would be -- fiscal '22 will be -- if we achieve the outcomes that we've set for ourselves, a fifth consecutive year of double top line profitable growth.

<Q: Joseph William DeNardi -Stifel, Nicolaus & Company- Analyst> Is the organic growth greater than 10% at least?

<A: Wahid Nawabi> We will provide the specific details later on our first quarter earnings call, Joe. *But we feel pretty good about the growth of our businesses. And another key point that I would mention is that by these acquisitions and the growth of our product line, we're really a very well-diversified portfolio company now.*

We've got assets and capabilities in ground, in the air and underwater. And we have UGVs and UAVs that are of different sizes, customers in different geographies. So the diversity of our portfolio, customer base and geographic footprint all allows us to have a more -- a better business and a higher growth business.

<A: Kevin Patrick McDonnell> Yes. And the organic growth for the core products, as I mentioned, was 12% year-over-year in that combined TMS and small UAS business. What kind of dragged us down organically was the HAPS and other service revenue.

...

<Q: Kenneth George Herbert -Canaccord Genuity Corp.- Analyst> ...How should we think about that business now that you're just a few months in the ownership. But is it on track to see organic growth in your fiscal '22? And maybe if you could discuss a little bit more detail, Wahid, on some of the timing around the FTUAS opportunity and how we should think about that. Is that anything this year? Or is that really a '20 -- late '22, maybe '23 type opportunity?

<A: Wahid Nawabi> ...*For fiscal year '22, we expect that business to grow. And it's really, really well positioned. As I mentioned in my comments, in the fiscal year '21, at the last quarter, we even received a renewal of one of our sites. And we're kind of gaining share in that MEUAS IV program against the incumbents that have been there for many years. And our customers really see the value of our solution very, very strongly.*

In terms of FTUAS, what I can tell you is that the timing of this is all in the hands of the U.S. Army. What they have mentioned is that in the government fiscal year 2022 proposed budget, there is additional line items for the FTUAS program, as I mentioned in my remarks. And those line items actually even increased by the U.S. Army in order to sort of expedite -- or expedite the whole process a little bit.

Now these are all obviously in the future that needs to happen, but the combined amount is like \$69 million on the budget for RDT&E for FTUAS and additional \$73 million its unfunded list in order to accelerate the FTUAS program. We are, as you know, down-selected on that FTUAS program. We are very focused on making sure that we're positioned well and we compete in order to win, and we like our chances. But it is a very competitive program and it's a very large program. So everything in that program for us is a gain in share and gain in market penetration, in addition to our MUAS SOCOM contract and other potential international customers that are interested.

<A: Kevin Patrick McDonnell> I would add, just that for that division, that they'll have some bumps in revenue during the year as they have deployments. So that will also bump up the recurring -- the revenue.

<Q: Kenneth George Herbert -Canaccord Genuity Corp.- Analyst> Okay. That's great. And if I could, on the fiscal '22 guide, the total guidance implies roughly sort of flat EBITDA margin in '22 over '21 as you get a greater contribution from some of the higher-margin businesses like Arcturus. Is it fair to say that much of the headwind would be coming from lower HAPS revenues? Or is there something else we should be thinking about as a headwind to margins in '22?

<A: Wahid Nawabi> I think we were acquiring these businesses, we're putting them together. I think we've tried to do our best on estimating what the margin percentage is. I think, over time, we'll see more leverage there.

(Emphasis added.)

September 8, 2021

29. On September 8, 2021 before the market opened, AeroVironment issued a press release announcing its first quarter 2022 financial results. The press release stated, in pertinent part, that:

*“We delivered results in-line with our previous guidance, while building a record backlog, including both organic and inorganic growth. Further, we continue to successfully integrate our three recently acquired businesses, which are key contributors to our future success,”* said Wahid Nawabi, AeroVironment president and chief executive officer. *“Our outstanding team continues to deliver on key milestones such as the recent launch of our next generation ground control station Crystals. This new platform streamlines our customer’s small unmanned aircraft systems user experience while enabling next generation technologies and collaboration. We also deepened our customer relationships with key wins including our recent award by US Special Operations Command for SATCOM enabled beyond line of sight operations using Jump 20 medium unmanned aircraft systems.”*

*“As our results this quarter demonstrate, we remain well positioned to deliver long term shareholder value through our focus on key growth markets leveraging our future defining capabilities. We remain on track to meet our Fiscal Year 2022 objectives and deliver our fifth consecutive year of top-line, profitable growth.”*

(Emphasis added.)

30. Defendant Nawabi discussed AeroVironment’s backlog funding and reiterated the Company’s outlook for fiscal year 2022, stating:

As of July 31, 2021, funded backlog (remaining performance obligations under firm orders for which funding is currently appropriated to us under a customer contract) was \$257.7 million, as compared to \$211.8 million as of April 30, 2021.

#### **FISCAL 2022 — OUTLOOK FOR THE FULL YEAR**

For fiscal year 2022 the Company continues to expect revenue of between \$560 million and \$580 million, net income of between \$29 million and \$34 million, Non-GAAP adjusted EBITDA of between \$105 million and \$110 million, earnings per diluted share of between \$1.15 and \$1.35 and non-GAAP earnings per diluted share, which excludes acquisition-related expenses and amortization of intangible assets, of between \$2.50 and \$2.70.

31. The press release further stated the AeroVironment’s updated full-year financial guidance for 2022:

(in millions)	Fiscal year ending	
	April 30, 2022	April 30, 2021
Net income	\$ 29 - 34	\$ 23
Interest expense, net	5	1
Provision for income taxes	1	1
Depreciation and amortization	65	19
EBITDA (Non-GAAP)	100 - 105	44
HAPSMobile Inc. JV impairment of investment in Loon LLC	—	10
Legal accrual related to our former EES business	—	9
Acquisition-related expenses	5	9
Adjusted EBITDA (Non-GAAP)	\$ 105 - 110	\$ 72

	Fiscal year ending	
	April 30, 2022	
Forecast earnings per diluted share	\$ 1.15 - 1.35	
Acquisition-related expenses	0.17	
Amortization of acquired intangible assets and other purchase accounting adjustments	1.18	
Forecast earnings per diluted share as adjusted (Non-GAAP)	\$ 2.50 - 2.70	

32. On the same day AeroVironment released its first quarter 2022 earnings, the Company hosted an earnings call that included Defendants Nawabi and McDonnell. During the call, Defendant Nawabi commented on the Company’s strong first quarter performance and continuing profitable topline growth:

Let me emphasize 4 key messages, which are included on Slide Number 3 of our earnings presentation. First, we achieved strong quarterly results in line with our previously communicated expectations. **Second, we have secured another record backlog, which included both organic and inorganic growth in our business.** Third, we continued to successfully integrate the 3 recently acquired businesses. And fourth, as a result of the strong momentum, we remain on track to achieve our fiscal year 2022 plans, while delivering on another year of profitable topline growth.

Now, let's summarize our financial results for the first quarter. **We delivered revenue of \$101 million compared to \$88 million last year, which is a 16%**

**increase year-over-year.** The revenue growth was primarily due to incremental sales, particularly in our Medium Unmanned Aircraft Systems segment. These, along with other organic and acquisition-led increases, offset the negative impact from lower core product line shipments, which we expected in the first quarter, especially from our Small Unmanned Aircraft Systems segment.

**We achieved yet another record backlog of \$258 million, driven by new wins across multiple business segments and in part by our recent acquisitions. Our backlog increased more than 20% sequentially from the fourth quarter of fiscal year 2021. This record backlog will enable us to achieve our financial objectives and ensure we are on our path for continued strong growth and value creation**

(Emphasis added.)

33. Defendant Nawabi also addressed potential “global issues” that could directly affect AeroVironment’s performance, stating in pertinent part:

**...the situation in Afghanistan, COVID-19 pandemic, and global supply chain disruptions.** As I'm sure our listeners are aware, the U.S. just completed its withdrawal from Afghanistan after 20 years on the ground....While the withdrawal of allied forces was anticipated, the rapid pace of the Taliban's takeover was not expected. However, **we do not anticipate these events will have any material impact on the markets we serve or our operations.**

While our products were used in various local missions as well as throughout the region, we believe that strong bipartisan support for our products will continue. **The proposed U.S. government fiscal year 2022 defense budget includes \$68 million of continued funding for Army LMAMS procurement, where our Switchblade 300 is the incumbent solution. Additionally, our current record backlog also provides adequate visibility into the company's future growth.** We will continue to closely watch the situation.

**As the world continues to battle COVID-19 and its variants, so far, we have successfully mitigated and minimized material impacts to our business. Our operations are running smoothly.** International travel still remains a challenge, but we believe AeroVironment is well positioned to post topline growth and solid financial results this fiscal year and beyond. Of course, this is a fluid situation, and we are closely monitoring it. **We remain prepared to react quickly.** Further, supply chain bottlenecks and shipping constraints exacerbated by the pandemic continue to impact global OEMs and their ability to get products to market. **We continue to monitor our supply chain, and are working to mitigate any risks that materialize. While we have had some supply chain challenges due to shortages of leading-edge semiconductor microprocessors, we remain on track to achieve our objectives for the full fiscal year.**



(Emphasis added)

34. Defendant McDonnell, in the course of his opening remarks, stated as follows:

***Revenue for the first quarter of fiscal 2022 was \$101 million, a 16% increase from the prior year's comparable period.*** Slide 5 of the earnings presentation provides a breakdown of revenue by product line for the quarter. Our Small UAS business segment generated \$39.9 million of revenue versus last year's first quarter revenue of \$56.2 million. The year-over-year decline reflects the timing of orders, particularly after a very strong fourth quarter of almost \$71 million in revenue. Our newly acquired Medium UAS segment had a solid first quarter at \$22.4 million, which was in line with our expectations.

...

***In summary, newly acquired business contributed just over \$29 million in the quarter, more than offsetting some of the timing challenges in our Small UAS business.*** Consequently, our base business [ slowed 18% ] in the first quarter from the prior year's first quarter. On a LTM basis, our core Small UAS and TMS businesses combined grew just over 12% -- or just under 12%.

...

***With that said, let's turn to the numbers. Our gross profit for the first quarter was \$28.7 million, representing a gross margin 28% of revenue compared to last year's first quarter gross profit of \$35.4 million or 40% of revenue.*** When you back out intangible amortization of \$4 million and \$600,000 from the current and prior year periods, respectively, overall gross margin was 32% in 2022 versus 41% in 2021. The lower gross margin was anticipated as mentioned during our fourth quarter conference call. This is primarily due to the high proportion of service revenue in the quarter, as well as the product mix in the pipeline.

The quarter consists of 53% product revenue versus 47% service related compared to a historical 70/30 split. Our aggregate gross margin without intangible amortization was 42% in the first quarter versus 46% last year, reflecting the negative impact of lower mix of small UAS revenue, which historically has higher margins. ***We continue to expect product gross margins, excluding intangible amortization, to be in the historical mid-40s percent range for the year.***

...

Looking at the bottom line, our GAAP net loss for the first quarter of fiscal 2022 was \$14 million, or \$0.57 per diluted share, compared to net income of \$10.1 million or \$0.42 per diluted share for the first quarter of fiscal 2021. The \$24.1 million decrease in net income was due to \$12.4 million of acquisition-related expenses, \$7.3 million of incremental SG&A from acquired businesses, \$3.3 million of unfavorable gross margin mix and \$1.5 million of higher net interest

expense. These were partially offset by a tax benefit during the first quarter versus a tax provision in fiscal 2021.

In terms of adjusted EPS, Slide 10 of our earnings presentation shows the reconciliation of GAAP and adjusted or non-GAAP diluted EPS. The company posted an adjusted loss per diluted share of \$0.17 for the first quarter of fiscal 2022 versus earnings of \$0.44 per diluted share for the first quarter of fiscal 2021. ***The adjusted loss was slightly better than our expectations as outlined on the fourth quarter conference call, and we are still on track for the guidance we have outlined.***

Turning to the balance sheet. Total cash and investments at the end of the quarter was [ \$123.9 million ], a decrease of \$77.3 million from the end of fiscal 2021 as we deployed our balance sheet for strategic growth opportunities. During the first quarter, we had total cash outlays related to the Telerob acquisition, which closed in May, of approximately \$46 million, net of cash acquired. ***We continue to have a strong balance sheet with over \$120 million of cash and investments and \$100 million working capital facility.***

***Now, I'd like to highlight some of our backlog metrics. Our funded backlog at the end of the first quarter of fiscal 2022 was \$257.7 million, a sequential increase of \$45.9 million from the fourth quarter and an increase of \$103.3 million versus the first quarter of fiscal 2021.***

Slide 7 of the earnings presentation provides a summary of our current fiscal 2022 visibility. ***As of today, total visibility towards the midpoint of our \$560 million to \$580 million revenue guidance range is 66%.***

(Emphasis added.)

35. Prior to taking analyst questions, Defendant Nawabi specifically reaffirmed the Company's full year 2022 guidance, stating in part:

***We are reaffirming our full fiscal year 2022 guidance for revenue of between 560 and \$580 million and adjusted EBITDA of between 105 and \$110 million. We have revised our GAAP EPS guidance to \$1.15 to \$1.35, reflecting the final purchase accounting for our Telerob acquisition. As we communicated last quarter, our prior GAAP EPS guidance was contingent upon completing this effort. We're also reaffirming our guidance for non-GAAP earnings per diluted share, which excludes acquisition-related expenses, amortization of acquired intangible assets and other non-cash purchase accounting adjustments to be between \$2.50 and \$2.70.***

(Emphasis added.)

36. During the question-and-answer segment of the call, Defendants Nawabi and McDonnell commented on analysts' concerns regarding the Continuing Resolution and Covid restrictions potentially effecting the Company's fiscal 2022 outlook, stating in part:

<Q: Peter John Skibitski- Alembic Global Advisors- Analyst> Guys, it looks like we'll have a continuing resolution, certainly for the federal government for fiscal '22 starting in October. Just was wondering, if you could give us a sense of the level of that's factored into your guidance for fiscal '22....

<A: Wahid Nawabi > Yes, I could shed some light on both items. In terms of the continuing resolution with the U.S. government's budget, we have considered that into our guidance. Obviously, the situation is fluid and it could change, but we believe that despite a continuing resolution, I believe that we're on track to achieve our fiscal year results as we said earlier on the call. And then, obviously, our record backlog sets us really well for that as well going into the second and third and fourth quarter.

...

<Q: Peter John Skibitski- Alembic Global Advisors- Analyst> I appreciate the comment about guidance, in particular. That's helpful. And then just -- is international travel restrictions in COVID, is that still any kind of meaningful headwind to closing sales for -- I guess, for any of your products at this point?

<A: Wahid Nawabi > Yes, Pete, that has remained to be a challenge. We have -- as I said on the remarks, we have addressed those challenges extremely well so far. We are able to get into these countries, and they are able to travel, but they are very limited and very difficult still. Many of the countries in the Middle East, the process is extremely sort of long and challenging. And as well, a lot of customers are still hesitant to allow their teams to travel as well as to allow visitors to come to their country and their sites. That's also true in many of the U.S. government sites. Many of the sites are still very careful and cautious in terms of allowing folks to get in, but we expect that to change, obviously, over time as vaccination becomes more and more the requirement across U.S. duty.

...

<Q: Peter J. Arment- Robert W. Baird & Co. Incorporated- Analyst> Okay. And just last one for me, Kevin, just to calibrate us on guidance, are you still expecting kind of a 40% of the mix in the first half, 60% second half in terms of revenue?

<A: Kevin Patrick McDonnell > We haven't changed that.

37. On the same call, the Individual Defendants were questioned regarding the Company's backlog in their pipeline:

<Q: Austin Nathan Moeller- Canaccord Genuity Corp.- Analyst> Just my first question, if we look at the backlog in the pipeline here, do you consider the most significant upcoming opportunity for you guys to be the SOCOM MEUAS IV contract or the Army's Future Tactical UAS program?

<A: Wahid Nawabi > ***So Austin, both of those 2 opportunities are significant for us. They both represent a significant long-term opportunities for AeroVironment. The MEUAS, as you can see over the last several quarters, our acquisition of Arcturus has been the newcomer into that contract for the last 2 years. And they have consistently have gained share against the incumbents -- there are 2 major primary incumbents in that contract. And so, we feel good about the fact that we're gaining share, and I expect that to either stay the same or continue. Obviously, it's very competitive. And I believe that the competition is going to get more and more aggressive in the future. But that's definitely a position that we enjoy, a market-leading position, and we continue to actually grow in that.***

Additionally, on the FTUAS side, that's a brand-new multi-hundred million dollar long-term program of record. The U.S. Army has close to over \$140 million in the budget to sort of accelerate that program in the next government fiscal year, which is 2022 for the government. ***And we are one of the down-selects, and we expect that to be a significant opportunity for us for growth. But regardless of that, we also expect our small UAS to grow, our TMS to grow, as well as our other acquisitions that we've done to grow this year and beyond.***

(Emphasis added.)

38. The above statements in Paragraphs 22 to 37 were false and/or materially misleading. Defendants created the false impression that they possessed reliable information pertaining to the Company's projected growth and record backlog and also minimized any risk from COVID-19, specifically explaining they were monitoring supply chain issues and affirmed their record backlog would provide a basis for strong growth. In truth, AeroVironment had been experiencing a decline in sales in all of their core businesses. Defendants misled investors by providing the public with materially flawed revenue guidance for fiscal 2022.

39. The truth about AeroVironment’s sales forecasts was material to investors. Revenue is one of the most important metrics relied upon by investors when evaluating a company. Had investors known that AeroVironment’s projections were inaccurate and that Defendants lacked the necessary internal controls over financial reporting to develop accurate projections, investors would have taken different actions with regard to their positions in AeroVironment stock. The truth about AeroVironment’s projections and forecasting capabilities would have altered the total mix of information concerning AeroVironment stock available to investors.

C. **AeroVironment Reveals Second Quarter Earnings and Reduces Their Guidance for Fiscal Year 2022**

*December 7, 2021*

40. On December 7, 2021, AeroVironment issued a press release announcing their second quarter results and reduction of full year guidance for 2022. The press release stated, in pertinent part, that:

“While we achieved second quarter and first half results in line with our expectations, headwinds to our business have intensified in recent months, requiring us to reduce our full year outlook,” said Wahid Nawabi, AeroVironment president and chief executive officer. ***“The negative impact from supply chain delays, extended procurement cycles due to the global COVID-19 pandemic, slower decision making in Washington tied to Continuing Resolution related budget uncertainties and staffing shortages have prevented us from realizing the growth and bottom line results expected at the start of this fiscal year.*** We are diligently working to manage expenses and other challenges in light of our revised outlook but are realistic regarding the lack of visibility within this ongoing environment.

(Emphasis added.)

41. Also on December 7, 2021, AeroVironment hosted an earnings call that included Defendants Nawabi and McDonnell. During the call, the Individual Defendants discussed the reasoning for their reduced guidance for fiscal 2022, stating, in pertinent part:

First, we delivered solid financial results in our second quarter and first half of fiscal year 2022 in line with our expectations. ***Second, we are experiencing stronger macro headwinds this quarter. These headwinds include supply chain constraints due to the global COVID-19 pandemic, delayed awards of several customer contracts due to an uptick in pandemic-related travel restrictions and lack of approval of National Defense Authorization Act for government fiscal year 2022, resulting in continuing resolutions and a tight labor market. All of the above factors are impacting our outlook for the second half of fiscal year 2022.***

...

On last quarter's call, I touched on 3 global issues that could impact our business: the U.S. withdrawal from Afghanistan; the COVID-19 pandemic; and the global supply chain disruptions. ***Today, I would like to provide an update on the latter 2 as well as additional headwinds affecting our business and the broader industry and economy. These additional headwinds include contract awards due to the global pandemic and current continuing resolution environment and labor shortages.***

As we mentioned last quarter, current supply chain constraints are impacting our business. There are 2 aspects of this. ***First and foremost is our ability to manufacture and deliver products to customers in a timely manner. Supply chain bottlenecks have hindered our ability to do this, even as our dedicated teams have focused on mitigating the situation to the best of their abilities in the last 12 months by working with new and existing suppliers to find component parts.***

***The other aspect of this predicament is increased cost, reflecting higher material costs, shipping expenses, warehousing costs, inventory costs and overall working capital management as we continue to build inventory to meet current and future demand for our innovative solutions.***

***With regards to COVID-19 pandemic, increased concerns over the Delta and Omicron variants of the virus have resulted in further domestic and international travel restrictions.*** This, along with other pandemic-related delays, negatively impacts our ability to secure new contract wins in a timely manner, both domestically and internationally, even though our backlog remains robust.

***Additionally, due to the current U.S. DoD's continuing resolution budget environment in Washington, certain awards have also been negatively impacted.*** We expect this uncertainty to persist throughout the rest of this fiscal year. We have worked diligently to meet the administration's mandate to have all employees

vaccinated by January 4, 2022. However, this has led to increased challenges in hiring within an already tight labor market. ***The staffing challenge, to an extent, is hindering our ability to hire adequate qualified engineering professionals across our growing business.***

It is important to emphasize that our commitment to AeroVironment and delivering value for our shareholders and other stakeholders remain stronger than ever. ***So these challenges in aggregate, namely global supply chain constraints, ongoing pandemic-related constraints, U.S. DoD's continuing resolution and tight labor markets, have led to a slower contract award environment in general and is hindering our ability to achieve the expected full-year results we initially intended.***

***Due to these headwinds, we find it appropriate to adjust our guidance for fiscal year 2022 as follows. Full-year revenue is now expected to be between 440 and \$460 million. Net loss from continuing operations is forecasted to be between 12 and \$8 million. Adjusted EBITDA is anticipated to be between 59 and \$65 million. Our diluted loss per share will be between \$0.47 and \$0.33, and non-GAAP diluted EPS is forecasted to be between \$1.23 and \$1.37.***

(Emphasis added.)

42. During the question-and-answer segment of the call, the Individual Defendants were asked about the revenue change for the fiscal 2022 outlook:

<Q: Kenneth George Herbert- RBC Capital Markets- Analyst>

Okay. And, if I could, just a follow-up on that. On the revenue side, were any of the push outs due to specific competitive losses or contract sort of setbacks relative to expectations on specific programs, Wahid?

<A: Wahid Nawabi > Not so far that we know of. In fact, our team is making very good progress in general in terms of the markets and opportunities that we're pursuing. We, in fact, in many areas look better than we did before. As I mentioned, we did the interoperability interchangeability demonstration with the NATO partners and Europe. This is a very, very big milestone because it shows how a sensor-to-shooter concept of operation can be implemented and we delivered that capability. We demonstrated it live with our Switchblade and our Puma AE 3s.

...

<Q: Michael Louie DiPalma- William Blair & Company L.L.C.- Analyst> I just have one question. Of the \$100 million in guidance reduction, are you able to quantify how much of that \$100 million is still in your pipeline versus how much you'd be able to deem like has been like canceled outright by the customers?

<A: Wahid Nawabi > So Louie, the majority of that is still in our pipeline. I don't break them down specific line by line because the line items are very, very extensive and large and long. Overall, in general, vast, vast majority of those have shifted to the right, either because of one or the other or multiple headwinds that I described earlier, in general. There are some level of sustainment orders that what we call it a little bit perishable. So if you don't have the ability to provide products or secure those orders that they will be reduced or may not come back, you may not recover from that.

The dollar amount of that -- the extent of that is difficult to quantify specifically. However, we have a very large installed base and we believe that over time that's going to work itself --- its way out and we're also, as you know, developing new generation solution that helps us generate new demand. So I would say, in general, majority has shifted to the right one way or the other. Some could be considered perishable that may not be recovered, primarily because of just time this goes by related to some of the sustainment orders.

43. The aforementioned press release and statements made by the Individual Defendants are fraudulent and in direct contrast to statements they made during the September 8, 2021 earnings call. On that call, Defendant Nawabi specifically minimized any risk from COVID-19, explaining they were monitoring supply chain issues and confirmed that the Company's "record backlog" would provide a basis for strong growth. In addition, Defendant Nawabi stated that despite the Continuing Resolution, the company was on track to achieve fiscal year results, and reiterated that the record backlog set the Company up for future quarters.

44. Investors and analysts reacted immediately to AeroVironment's revelation. The price of AeroVironment's common stock declined dramatically. From a closing market price of \$79.95 per share on December 6, 2021, AeroVironment's stock price fell to \$57.98 per share on December 7, 2021, a decline of nearly 27% in the span of just a single day.

45. A number of well-known analysts who had been following AeroVironment downgraded the Company's stock and/or lowered their price targets in response to AeroVironment's disclosures. For example, Canaccord Genuity lowered its price target for AeroVironment's stock, and identified the Company's "unexpected guidance reduction and



minimal visibility into resolution of the supply chain issues” as a basis for lowering its price target.

46. RBC Capital Markets similarly lowered its price target for AeroVironment stock. In its report, RBC acknowledged “Our price target reflects a re-rating of the stock that we believe will persist until investors have better visibility on the potential for a FY23 recovery and improvement in the market headwinds.”

47. The fact that these analysts, and others, discussed AeroVironment’s revenue shortfall and missed projection shows that the investing public placed great weight upon AeroVironment’s prior revenue and sales estimates. The frequent, in-depth discussion of AeroVironment’s guidance confirms that Defendants’ statements during the Class Period were material.

**D. Loss Causation and Economic Loss**

48. During the Class Period, as detailed herein, AeroVironment and the Defendants made materially false and misleading statements and engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of AeroVironment’s common stock and operated as a fraud or deceit on Class Period purchasers of AeroVironment’s common stock by materially misleading the investing public. Later, when AeroVironment and Defendants’ prior misrepresentations and fraudulent conduct became apparent to the market, the price of AeroVironment’s common stock materially declined, as the prior artificial inflation came out of the price over time. As a result of their purchases of AeroVironment’s common stock during the Class Period, Plaintiff and other members of the Class suffered economic loss, *i.e.*, damages under federal securities laws.

49. AeroVironment's stock price fell in response to the corrective event on December 7, 2021, as alleged *supra*. On December 7, 2021, Defendants disclosed information that was directly related to their prior misrepresentations and material omissions concerning AeroVironment's forecasting processes and 2022 full-year financial guidance.

50. In particular, on December 7, 2021, AeroVironment reduced their full year revenue for 2022 to be between \$440 and \$460 million, down from \$560 and \$580 million.

**E. Presumption of Reliance; Fraud-On-The-Market**

51. At all relevant times, the market for AeroVironment's common stock was an efficient market for the following reasons, among others:

(a) AeroVironment's common stock met the requirements for listing and was listed and actively traded on the NASDAQ during the Class Period, a highly efficient and automated market;

(b) AeroVironment communicated with public investors via established market communication mechanisms, including disseminations of press releases on the national circuits of major newswire services and other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;

(c) AeroVironment was followed by several securities analysts employed by major brokerage firms who wrote reports that were distributed to the sales force and certain customers of their respective brokerage firms during the Class Period. Each of these reports was publicly available and entered the public marketplace; and

(d) Unexpected material news about AeroVironment was reflected in and incorporated into the Company's stock price during the Class Period.

52. As a result of the foregoing, the market for AeroVironment's common stock promptly digested current information regarding the Company from all publicly available sources and reflected such information in AeroVironment's stock price. Under these circumstances, all purchasers of AeroVironment's common stock during the Class Period suffered similar injury through their purchase of AeroVironment's common stock at artificially inflated prices, and a presumption of reliance applies.

53. Alternatively, reliance need not be proven in this action because the action involves omissions and deficient disclosures. Positive proof of reliance is not a prerequisite to recovery pursuant to ruling of the United States Supreme Court in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972). All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered the omitted information important in deciding whether to buy or sell the subject security.

**F. No Safe Harbor; Inapplicability of Bespeaks Caution Doctrine**

54. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the material misrepresentations and omissions alleged in this Complaint. As alleged above, Defendants' liability stems from the fact that they provided investors with revenue projections while at the same time failing to maintain adequate forecasting processes. Defendants provided the public with forecasts that failed to account for this decline in sales and/or adequately disclose the fact that the Company at the current time did not have adequate forecasting processes.

55. To the extent certain of the statements alleged to be misleading or inaccurate may be characterized as forward looking, they were not identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that

could cause actual results to differ materially from those in the purportedly forward-looking statements.

56. Defendants are also liable for any false or misleading “forward-looking statements” pleaded because, at the time each “forward-looking statement” was made, the speaker knew the “forward-looking statement” was false or misleading and the “forward-looking statement” was authorized and/or approved by an executive officer of AeroVironment who knew that the “forward-looking statement” was false. Alternatively, none of the historic or present-tense statements made by Defendants were assumptions underlying or relating to any plan, projection, or statement of future economic performance, as they were not stated to be such assumptions underlying or relating to any projection or statement of future economic performance when made, nor were any of the projections or forecasts made by the defendants expressly related to or stated to be dependent on those historic or present-tense statements when made.

### **CLASS ACTION ALLEGATIONS**

57. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired AeroVironment’s common stock during the Class Period (the “Class”); and were damaged upon the revelation of the alleged corrective disclosure. Excluded from the Class are defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

58. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, AeroVironment’s common stock were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at

this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by AeroVironment or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions. As of September 1, 2021, there were 24.8 million shares of the Company's common stock outstanding. Upon information and belief, these shares are held by thousands, if not millions, of individuals located throughout the country and possibly the world. Joinder would be highly impracticable.

59. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

60. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

61. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the federal securities laws were violated by Defendants' acts as alleged herein;
- (b) whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of AeroVironment;

- (c) whether the Individual Defendants caused AeroVironment to issue false and misleading financial statements during the Class Period;
- (d) whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;
- (e) whether the prices of AeroVironment's common stock during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- (f) whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

62. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **COUNT I**

#### ***Against All Defendants for Violations of Section 10(b) and Rule 10b-5 Promulgated Thereunder***

63. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

64. This Count is asserted against defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

65. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions,

practices and courses of business which operated as a fraud and deceit upon. Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of AeroVironment common stock; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire AeroVironment's securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

66. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for AeroVironment's securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company.

67. By virtue of their positions at the Company, Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made,

although such facts were readily available to Defendants. Said acts and omissions of defendants were committed willfully or with reckless disregard for the truth. In addition, each defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

68. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within defendants' knowledge and control. As the senior managers and/or directors of the Company, the Individual Defendants had knowledge of the details of AeroVironment's internal affairs.

69. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of the Company. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to AeroVironment's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of AeroVironment's common stock was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning the Company which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired AeroVironment's common stock at artificially inflated prices and relied upon the price of the common stock, the integrity of the market for the common stock and/or upon statements disseminated by Defendants, and were damaged thereby.

70. During the Class Period, AeroVironment's common stock was traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false



and misleading statements described herein, which the defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of AeroVironment's common stock at prices artificially inflated by defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said common stock, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of AeroVironment's common stock was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of AeroVironment's common stock declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

71. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

72. As a direct and proximate result of defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's common stock during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

## **COUNT II**

### ***Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act***

73. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

74. During the Class Period, the Individual Defendants participated in the operation and management of the Company, and conducted and participated, directly and indirectly, in the conduct of the Company's business affairs. Because of their senior positions, they knew the adverse non-public information about AeroVironment's misstatements.

75. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information, and to correct promptly any public statements issued by AeroVironment which had become materially false or misleading.

76. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which AeroVironment disseminated in the marketplace during the Class Period concerning the misrepresentations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause AeroVironment to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of the Company within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of AeroVironment's common stock.

77. Each of the Individual Defendants, therefore, acted as a controlling person of the Company. By reason of their senior management positions and/or being directors of the Company, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, AeroVironment to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of the

Company and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

78. By reason of the above conduct, the Individual Defendants and/or AeroVironment are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by the Company.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demand judgment against defendants as follows:

A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representatives;

B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;

C. Awarding Plaintiff and the other members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury.

Dated:

-and-