

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

FORM 10-K

- Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
for the fiscal year ended December 31, 2022
OR
 Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
for the transition period from to

COMMISSION FILE NUMBER 0-12114

CADIZ INC.

(Exact name of registrant specified in its charter)



DELAWARE

(State or other jurisdiction of
incorporation or organization)

550 S. Hope Street, Suite 2850
Los Angeles, CA
(Address of principal executive offices)

77-0313235

(I.R.S. Employer
Identification No.)

90071

(Zip Code)

(213) 271-1600

(Registrant's telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.01 per share	CDZI	The NASDAQ Global Market
Depository Shares (each representing a 1/1000 th fractional interest in share of 8.875% Series A Cumulative Perpetual Preferred Stock, par value \$0.01 per share)	CDZIP	The NASDAQ Global Market

Securities Registered Pursuant to Section 12(g) of the Act: None

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in rule 405 under the Securities Act of 1933. **Yes** **No**

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

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

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

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

- Large accelerated filer Accelerated filer Non-accelerated filer
 Smaller Reporting Company Emerging growth company

If an emerging growth company, indicate by checkmark if the registrant has elected not to use the extended transition period for complying with any new or

revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

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

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

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

The aggregate market value of the common stock held by nonaffiliates as of June 30, 2022 was approximately \$112,089,908 based on 48,107,257 shares of common stock outstanding held by nonaffiliates and the closing price on that date. Shares of common stock held by each executive officer and director and by each entity that owns more than 5% of the outstanding common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of March 24, 2023 the Registrant had 66,541,262 shares of common stock outstanding.

Documents Incorporated by Reference

Portions of the Registrant's definitive Proxy Statement to be filed for its 2023 Annual Meeting of Stockholders are incorporated by reference into Part III of this Report. The Registrant is not incorporating by reference any other documents within this Annual Report on Form 10-K except those footnoted in Part IV under the heading "Item 15. Exhibits, Financial Statement Schedules".

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PART I**ITEM 1. Description of Business**

This Form 10-K contains forward-looking statements with regard to financial projections, proposed transactions such as those concerning the further development of our land and water assets, information or expectations about our business strategies, results of operations, products or markets, or otherwise makes statements about future events. Such forward-looking statements can be identified by the use of words such as “intends”, “anticipates”, “believes”, “estimates”, “projects”, “forecasts”, “expects”, “plans” and “proposes”. Although we believe that the expectations reflected in these forward-looking statements are based on reasonable assumptions, there are a number of risks and uncertainties that could cause actual results to differ materially from these forward-looking statements. These include, among others, the cautionary statements under the caption “Risk Factors”, as well as other cautionary language contained in this Form 10-K. These cautionary statements identify important factors that could cause actual results to differ materially from those described in the forward-looking statements. When considering forward-looking statements in this Form 10-K, you should keep in mind the cautionary statements described above.

General Development of Business

We are a water solutions provider dedicated to delivering clean, reliable, and affordable water to people through a variety of innovative water supply, storage, conveyance and treatment projects. We are advancing human access to clean water with our unique combination of land, water, infrastructure and technology assets, cutting-edge innovation, and industry-leading standards of environmental stewardship.

Since our founding in 1983 we have developed our unique land assets in California for sustainable farming and groundwater management, and in recent years, we have invested in wellfield and pipeline infrastructure as well as groundwater treatment technology that will enable us to play a critical role in serving the needs of people and communities that lack access to clean, reliable and affordable water.

We own approximately 46,000 acres of land with access to high-quality, naturally-recharging groundwater resources in three areas of Southern California’s Mojave Desert – the Cadiz Valley (35,000 acres), Danby Dry Lake (2,000 acres), and the Piute Valley (9,000 acres) (“Cadiz Property”). Our land holdings with vested water rights were primarily assembled by our founders in the early 1980s, relying on NASA imagery that identified a unique desert aquifer system at the base of a vast Southern California watershed. This watershed underlying our property in the Cadiz Valley (“Cadiz Ranch”) presently holds 17-34 million acre-feet of groundwater in storage – comparable in size to the largest reservoir in the United States, Lake Mead. The aquifer system is part of a closed-basin watershed in which all water flows downgradient to desert playas where it evaporates at the surface forming what are known as “desert dry lakes”.

Water Supply – We own vested water rights to withdraw 2.5 million acre-feet of groundwater to support farming and off property uses. Because all water in the aquifer system will eventually be lost to evaporation, surplus water that is captured and withdrawn before it evaporates is a new water supply known as “conserved” water. We have completed extensive environmental review in accordance with local, state and federal laws and authorizing the management of the groundwater aquifer underlying the Cadiz Ranch to conserve an average of 50,000 acre-feet of water per year for 50 years for use in communities.

Groundwater Storage - The alluvium aquifer that lies beneath the Cadiz Property is also large enough for conjunctive use as a water “banking” facility, capable of storing an additional 1 million acre-feet of imported surplus water for delivery during drought periods.

Pipeline Conveyance – We also own a 30” steel natural gas pipeline (“Northern Pipeline”) that extends 220-miles from the Cadiz Ranch across Kern and San Bernardino Counties terminating in California’s Central Valley. The pipeline, originally constructed to transport fossil fuels, is idle, and we are presently preparing to convert the pipeline to transport water. The route of the Northern Pipeline intersects three water conveyance facilities that deliver water to Southern California, the California Aqueduct, the Los Angeles Aqueduct, and the Mojave River Pipeline. The capacity of the Northern Pipeline for water conveyance is 25,000 acre-feet per year (“AFY”).

We also hold a 99-year lease with the Arizona & California Railroad Company (“ARZC”) to co-locate and construct a 43-mile approximately 55-85” steel water conveyance pipeline (“Southern Pipeline”) within the existing, active railroad right-of-way that intersects the Colorado River Aqueduct (“CRA”), one of Southern California’s primary sources of drinking water. The capacity of the Southern Pipeline ranges from 75,000 AFY to 150,000 AFY depending on the pipeline diameter selected to accommodate imported water storage.

Our unique supply, storage and pipeline assets are located in a remote area of eastern San Bernardino County that sits at the crossroads of major highway, rail, energy, and water infrastructure between California’s primary water supply systems, the Colorado River Basin and the State Water Project. As a result, our Cadiz Water Conservation and Storage Project is uniquely positioned to assist public water agencies in storing and managing unpredictable water supplies and provide reliable, affordable water supplies to chronically underserved areas of California.

We are currently in discussions with multiple public water agencies to enter into agreements whereby project participating agencies would finance and operate the Northern Pipeline and lease 25,000 AFY of annual water supply from us. In accordance with such potential agreements, we expect that we will contribute the Northern Pipeline and an annual supply of 25,000 AFY of water from us into a mutual water company to be owned jointly by the parties. In such event, we expect that a JPA (“Joint Powers Authority”) comprised of participating agencies will be able to purchase, for a 40-year term (take or pay), 25,000 AFY of water at our wellhead at an agreed upon market price estimated to start at approximately \$850/AFY and subject to annual adjustment. Through a JPA, the public water agencies would fund capital costs for conversion of the pipeline from gas to water, construction of pumping stations and appurtenant facilities, and would be able to seek infrastructure funding and grants to achieve their lowest possible cost for delivered water. Any contracts and off take facility construction will be subject to standard environmental review and a project level permitting process (see Item 1. “Description of Business - Public Agency Partners/Contracts”, below). We expect that similar agreements will be negotiated and entered into for water supplies and storage delivered via the Southern Pipeline.

Treatment - In the fourth quarter of 2022, we completed the acquisition of the assets of ATEC Systems, Inc. into ATEC Water Systems, LLC (“ATEC”), which provides innovative water filtration solutions for impaired or contaminated groundwater sources (see Item 1. “Description of Business - Water Treatment”, below). ATEC is based in Hollister, California where it has manufactured water filtration systems since 1982. ATEC’s specialized filtration media provide cost-effective, high-rate of removal for common groundwater impairments and contaminants that pose health risks in drinking water including iron, manganese, arsenic, Chromium-6, nitrates, and other constituents of concern. ATEC has built more than 450 water filtration systems for cities, water districts, investor-owned utilities and small communities and businesses.

Market Conditions – Climate Change and Water

California and the Western United States face a persistent challenge in meeting the water needs of all residents due to increasingly volatile and unpredictable water supply conditions resulting from climate change. While the State of California has recognized a Human Right to Water, competing municipal, agricultural and environmental demands outpace the State’s available supply limiting the ability to deliver on that promise. The California State Water Resources Control Board estimates that approximately 900,000 Californians lack reliable access to water and dozens of communities are short of long-term safe, reliable and affordable drinking water supplies. According to the US Environmental Protection Agency, there are over 2 million people nationwide who lack access to clean drinking water. The World Health Organizations estimates that over 2 billion people do not have access to safely managed drinking water at home.

Extreme unpredictability resulting in frequent swings between wet and dry years, which have been exacerbated by climate change, challenge California’s traditional water management system and create an urgent demand for additional water supply, storage and conveyance solutions. Moreover, increasingly intense drought, extreme flooding, and regulatory restrictions have limited traditional water supply and water infrastructure, which has significantly increased the cost of water over the last decade.

The communities hardest hit by these challenges are California’s disadvantaged communities, where limited tax base and median household income reduce the solutions available to address reliable supply, lack of infrastructure and water quality concerns.

Our current and future operations also include activities that further our commitments to sustainable stewardship of our land and water resources, good governance and corporate social responsibility. We follow a holistic land management strategy, employ a rigorous environmental policy, and engage with our stakeholders and those impacted by our projects to verify alignment and accountability. Our farming operations at the Cadiz Ranch on 9,600 acres are one of the largest in San Bernardino County (see Item 1. “Description of Business - Agriculture & Farming”, below). More than 30,000 acres of our property are presently managed for conservation, including the reservation of 7,500 acres of our Piute property as a desert tortoise land conservation bank and we recently formed a joint venture with a farmworker organization and Native American Tribe to create economic opportunities on our properties outside the Cadiz Valley/ Cadiz Ranch (see Item 1. “Description of Business - Stewardship” and Item 2. “Properties”, below). We believe these commitments are important investments that will assist in maintenance of sustained stockholder value.

We believe that our water supply, storage, pipeline conveyance and treatment solutions will provide a significant source of future cash flow for the business and our stockholders. We presently rely upon debt and equity financing to support our working capital needs and development of our water solutions. In February 2023, we completed a direct offering for net proceeds of \$38 million led by our largest equity shareholders to fund capital expenditures to accelerate the development of water supply, storage and conveyance infrastructure, reduce our outstanding debt from \$50 million to \$35 million and provide working capital to the Company. (see Item 7, “Liquidity and Capital Resources”, below).

Our strategy for implementation of our projects, current status, milestones and prospects are outlined in “Description of Business” below.

Description of Business

Our business is focused on the sustainable development of our unique land, water, and infrastructure assets for their highest and best uses. Our assets offer opportunities for a wide array of activities that could benefit those who lack reliable access to water. At present, our activities are focused on providing clean water solutions: water supply, including for agriculture and off-property uses, water storage, conveyance, and treatment. In addition, our 40-year expertise in desert conservation and groundwater management supports other opportunities also outlined below.

Water Supply & Storage

The unique attributes of the aquifer system at the Cadiz Property support our ability to offer water supply for farming and off-property uses and to support our storage and conveyance operations. Extensive, comprehensive study and analysis of the water resources at the Cadiz Property and within the surrounding topographically diverse 1,300 sq. mile watershed have been completed over the last 40 years to better understand the extent of the unique resources in the Cadiz Valley, including basin size, capacity, water quality and geology.

In summary, years of scientific research and study beginning in the late 1980s with the permitting of our agricultural development at the Cadiz Ranch have demonstrated the following characteristics of the resource:

1. The aquifer underlying the Cadiz Property contains between 17 – 34 million acre-feet of groundwater in storage. This is more water than is presently held in Lake Mead and Lake Powell, the largest surface reservoirs in the U.S., combined.
2. The aquifer system is composed of highly porous sands and rock allowing groundwater to easily flow. At the Cadiz Property, the groundwater table is reached at approximately 150 feet below ground surface, and fresh water extends over 1,000 feet below ground surface.
3. Agricultural use of groundwater at the Cadiz Property has not resulted in any significant, sustained drawdown of the water table in the Cadiz Valley.
4. Groundwater enters the watershed as precipitation in the high elevations of the surrounding mountain system, percolates slowly over time downgradient to the Cadiz and Fenner Valleys and exits the system at large dry lake playas (Cadiz & Bristol Dry Lakes) south of the Cadiz Ranch. Water quality is excellent at the Cadiz Ranch with very low total dissolved solids (“TDS”) and meets all state and federal requirements without treatment. Water at the dry lakes is highly-saline, 10 times saltier than the ocean and toxic/non-potable.

5. Natural recharge in the system is estimated at approximately 32,500 acre-feet per year and physical measurements of evaporation from the dry lake playas are consistent with and support the recharge estimate.
6. All of the groundwater not conserved at the Cadiz Ranch will be lost to high-salinity and evaporation. Actively managing the significant aquifer beneath the Cadiz Ranch can conserve a safe yield of fresh, high-quality groundwater for off-property uses. The active management of the aquifer system will also support storage of supplemental and imported water without losses to provide additional relief in future dry years.

Cadiz Water Conservation & Storage Project

In 2012, we received approvals from public agencies to implement the Cadiz Water Conservation & Storage Project (“Water Project”), a public-private partnership with California water agencies that would conserve water at the Cadiz Property as a new water supply for underserved communities in California. The project would also offer up to one million acre-feet of groundwater banking and storage.

Water Project operations will follow an extensive, state-of-the-art groundwater management plan (see Item 1. “Description of Business - Permits”, below) and withdrawals of groundwater will be limited to sustainable amounts that preserve the health of the aquifer system and safeguard the desert ecosystem. An average of 50,000 acre-feet of water per year will be captured and made available for beneficial use in Southern California communities over 50 years, an amount of annual supply that could serve approximately 400,000 people each year.

The Water Project would also utilize the managed groundwater basin to offer storage in the aquifer system for up to one-million acre-feet of fresh water that would be imported and held in storage until needed in future dry years. The total storage capacity of the aquifer system is larger than Southern California’s largest surface reservoir, Diamond Valley Lake, but unlike a surface reservoir would not suffer evaporative losses.

A combination of existing and new facilities will be required for implementation and operation of the Water Project. Facilities include a wellfield, integrating with our existing wells, a pipeline manifold system, and power facilities to support operation of the wellfield. Our wellfield pumping capacity (upon completion of our 3 wells under development) is 36,000 acre-feet of water per year (AFY), which would support maximum conveyance capacity of the Northern Pipeline (25,000 AFY), as well as existing agriculture.

The Water Project may also include a water treatment facility to meet water quality requirements of our partner agencies. We expect to utilize ATEC filtration media for cost-effective removal of any constituents of concern prior to delivering any conserved water to public agencies.

Finally, to deliver conserved water off-property or import water for storage at the Cadiz Ranch, at least one water conveyance pipeline would be required either via new construction or conversion of existing pipeline facilities in the area. We currently contemplate the use of two potential pipeline routes for the Water Project; one would extend southwards from the Cadiz Property to the Colorado River Aqueduct in Rice, California (the “Southern Pipeline”) and the other would extend northwards from the Cadiz Property to Wheeler Ridge, California (the “Northern Pipeline”) (see Item 1. “Description of Business - Water Conveyance, below).

A. Permits

We have secured permits required to construct and operate the main Water Project facilities at the Cadiz Ranch.

From 2010 – 2012, the Water Project completed a California Environmental Quality Act (“CEQA”) review process including the completion of a comprehensive Final Environmental Impact Report (“FEIR”). The FEIR concluded that Water Project operations, including the conservation of 2.5 million acre-feet of water from the aquifer system over a 50-year period (50,000 AFY for 50 years) would not cause any significant adverse environmental impacts. The FEIR was certified on July 31, 2012.

San Bernardino County, the local agency responsible for groundwater use at the Cadiz Property, has also reviewed the Water Project and in 2012 also approved its Groundwater Monitoring, Management and Mitigation Plan (“GMMMP”), which establishes a monitoring network across the watershed and regular transparent disclosure of conditions.

The FEIR and GMMMP permits allow the conservation and delivery of 50,000 acre-feet of groundwater per year for 50 years to serve beneficial uses in California communities. These permits were upheld and sustained in their entirety by judgements in California’s Superior Court in 2014 and the California Court of Appeal in 2016 and are no longer subject to legal challenge.

In August 2019, an Addendum to the FEIR was adopted by the Fenner Valley Water Authority, a joint powers authority comprised of public water agencies participating in the Water Project, to address updates to the Water Project proposal, such as its water treatment program and pipeline route. The Addendum also assessed new studies published about natural springs in the Water Project watershed. The Addendum concluded that there are no significant adverse impacts associated with the minor changes to the Water Project and further summarized that the spring studies did not change the conclusions of the FEIR’s analysis. The Addendum was not challenged in court and the statute of limitations to challenge has expired.

Hydrological and geological study of the area has continued, and we regularly monitor and report groundwater conditions to the County of San Bernardino as part of our agricultural use. In the first quarter of 2023, the County of San Bernardino and Santa Margarita Water District (“SMWD”), the Water Project’s lead participating agency, unanimously approved their oversight roles in an inter-agency Technical Review Panel (“TRP”) mandated by the GMMMP approvals to provide scientific and environmental monitoring of the Water Project. The GMMMP requires the TRP to be in place at least 12 months before the Water Project commences to establish baseline data on aquifer and watershed conditions for the monitoring program. In accordance with the GMMMP, the County and SMWD each appointed one member to the TRP, and the third member was selected by unanimous agreement of those representatives. The TRP will meet regularly over the next 12 months to assess pre-operational data and make recommendations for monitoring protocols.

B. Public Agency Partners/Contracts

The Water Project is a public-private partnership with California public water agencies that require supplemental water supply and storage to serve their communities.

Since 2010, we have executed Letters of Intent (“LOIs”), option agreements, or contracts reserving water supply and storage for public water agencies and private water utilities (“Participating Agencies”) that serve more than one million customers in cities throughout California’s San Bernardino, Riverside, Los Angeles, Orange, Imperial and Ventura Counties. We have pledged that the benefits of the Water Project will be realized locally in San Bernardino County, where the Cadiz Property is located, and twenty percent of Water Project supplies, or approximately 10,000 acre-feet, are reserved for San Bernardino County-based agencies.

We are currently in discussions with multiple public water agencies to enter into agreements whereby participating agencies would finance and operate the Northern Pipeline and lease 25,000 AFY of annual water supply from us. In accordance with such potential agreements, we expect that we will contribute the Northern Pipeline and an annual supply of 25,000 AFY of water from us into a mutual water company to be owned jointly by the parties. In such event, we expect that a JPA (“Joint Powers Authority”) comprised of participating agencies will be able to purchase, for a 40-year term (take or pay), 25,000 AFY of water at our wellhead at an agreed upon market price estimated to start at approximately \$850/AFY, subject to annual adjustment. Through a JPA, the public water agencies would fund capital costs for conversion of the pipeline from gas to water, construction of pumping stations and appurtenant facilities, and would be able to seek infrastructure funding and grants to achieve their lowest possible cost for delivered water. Any contracts and off take facility construction will be subject to standard environmental review and a project level permitting process.

We continue to market remaining available water supply for delivery via the Southern Pipeline (average of 25,000 AFY, with maximum of 50,000 AFY delivered), as well as storage rights, and have received expressions of interest for the full capacity of the Southern Pipeline.

Our water pricing is among the lowest cost available supplemental water supplies in Southern California and the Colorado River region. We also expect final contracts with public agencies to include considerations for the service of state-designated disadvantaged communities (“DAC” or “DACs”) by a water provider. All current partners in the Water Project contain at least one community classified as a DAC. It is our objective for the cost of water supply and storage from the Water Project to be among the most affordable solutions in Southern California.

In August 2022, we agreed to dedicate 5,000 acre–feet of water per year to the Salton Sea Authority and Torres Martinez Desert Cahuilla Indians (“TMDCI”), a federal sovereign Tribe, for 50 years at no cost. The water will be used to support the restoration of the Salton Sea, satisfy health, safety and economic development needs on Tribal lands and benefit the numerous disadvantaged communities in eastern Coachella Valley.

In addition to existing options and contracts to water and storage from the Water Project, we also are in active discussions regarding contracting with parties that have been particularly affected by drought, climate change and regulatory restrictions on California's traditional supplies. We expect public agency partners contracting for water and storage to form a joint powers authority that would own, operate and construct the infrastructure required to deliver water to the point of use or import for storage and fund infrastructure development through the JPA.

Contracts are subject to the approval of the elected boards of the Participating Agencies, or regulatory authority of that agency, and subject to environmental review and compliance with CEQA. Participants may also complete additional study and investigation of the Water Project prior to consideration of a contract.

Water Conveyance

We anticipate using two separate pipeline routes, outlined below, to convey water between the Cadiz Ranch and the service areas of public agencies that contract for water and storage solutions. Placing either of these pipelines into service is subject to additional regulatory approval. Once fully constructed, our conveyance pipeline solutions will augment California's water infrastructure delivery system and improve water access and diversification between rural, underserved communities. We also expect they could be utilized to move third party waters to interchange two critical water systems. We would expect to receive cost reimbursement for wheeling third party water in our conveyance pipelines.

1. Northern Pipeline

The 220-mile Northern Pipeline is a former segment of a 1,200 mile, 30" steel pipeline constructed in 1985 by All American Pipeline Company to convey oil. In 2001, the pipeline was acquired by El Paso Natural Gas (EPNG) and authorized for natural gas conveyance. In 2011, we reserved the segment in an option agreement with EPNG and began to explore using the pipeline for water conveyance. The pipeline could convey 25,000 acre-feet of water per year if it is no longer used for natural gas. In June 2021, we completed the acquisition of the pipeline for \$19 million and own the entire 220-mile asset in fee. Changing the use of the Northern Pipeline to water conveyance is subject to applicable local, state and federal laws.

In December 2020, BLM granted to our subsidiary Cadiz Real Estate LLC two right-of-way permits to use the pipeline over federal lands. The first right-of-way was an assignment of a portion of an existing right-of-way held by EPNG and renewed by BLM under the Mineral Leasing Act ("MLA") that enables the continued maintenance of the route and transportation of natural gas. The second right-of-way was issued under the Federal Land Policy and Management Act ("FLPMA") and authorizes the conveyance of water in the pipeline over BLM-managed lands. In 2021, the two right-of-way grants were challenged in federal court by conservation organizations opposed to the Trump Administration's issuance of public lands permits. In December 2021, the Biden Administration requested a voluntary remand of the permits to BLM, which was granted by the Court in September 2022. Since that time, we have worked cooperatively with the BLM to re-process the two right-of-way permits to enable its beneficial use over federal lands as soon as possible. In December 2022, we re-filed an application with the BLM for an assignment of the existing MLA right-of-way.

The Northern Pipeline offers California water purveyors a unique asset and corresponding opportunity to connect available supplies with rural areas of the State that are underserved. We are presently engaged in discussions with parties interested in using the Northern Pipeline for conveyance, storage and supply. The Northern Pipeline crosses a critically dry, rural and underserved part of California and it could directly augment water supply access and storage for 23 state-designated disadvantaged communities along its route. We expect to re-file an application with the BLM for a new FLPMA right-of-way in coordination with public agency parties that will use the pipeline for water conveyance.

The cost to convert the entire Northern Pipeline for delivery of water to point of use by participating agencies is estimated at approximately \$100 - \$130 million. We anticipate that these costs will be incurred by a joint powers authority of our public agency partners, which have a lower cost of capital than available in the private markets.

2. *Southern Pipeline*

In 2008, we entered into a 99-year lease agreement with the Arizona & California Railroad (ARZC) to utilize a portion of its existing right-of-way southwest from the Cadiz Property to the Colorado River Aqueduct for a conveyance pipeline and related facilities. As part of the lease arrangement, we agreed to provide necessary railroad improvements in furtherance of railroad purposes. This includes providing water and power to the railroad for fire protection and improving access roads and transloading operations, among other things. By co-locating the conveyance pipeline within this existing railroad right-of-way, Water Project construction would avoid impacts to desert habitats. The route and construction within the railroad right-of-way were evaluated and approved during the Water Project's CEQA permitting process in 2012.

Our proposed co-location in the right-of-way was also separately assessed by the US Bureau of Land Management ("BLM") to determine the need for any federal permitting related to the proposed use of the ARZC railroad right-of-way, which is a federal right-of-way originally granted to the railroad in accordance with the General Railroad Right-of-Way Act of 1875 ("1875 Act"). BLM's evaluation, which was issued in February 2020, concluded that the proposed Southern Pipeline will further railroad purposes at least in part, is within the scope of the right-of-way, and requires no additional BLM approvals. In February 2022, the US Department of the Interior's Solicitor Office issued a new legal opinion regarding third party use of 1875 Act rights-of-way that preserved the railroad purposes assessment for third party uses. The opinion was not specific to any railroad and did not alter our 2020 evaluation.

Construction of the Southern Pipeline and related facilities is estimated to cost approximately \$400 - \$450 million. We anticipate these costs will be incurred by a joint powers authority of our public agency partners, which have a lower cost of capital than available in the private markets, that would operate the pipeline to deliver water to point of use.

To deliver water from the Southern Pipeline to any point of use, the operating parties will require (i) an agreement with Metropolitan Water District of Southern California to move water supplies from the Water Project in the CRA; and (ii) a finding by the California State Lands Commission that conveying water from the Water Project in the CRA will not adversely affect the desert environment.

- *MWD Authorization*

Water supplies conserved by the Water Project would enter the CRA, which is owned by MWD, at the terminus of the Southern Pipeline in Rice, California. The 2012 CEQA process considered a variety of options for the interconnection to the CRA and conveyance of Water Project supplies in the CRA for the benefit of Participating Agencies. Final terms and conditions for entry and conveyance will be determined by MWD in consultation with the joint powers authority.

MWD is required to convey water for a third party subject to provisions in California Water Code sections 1810 – 1815, *Joint Use of Capacity in Water Conveyance Facilities* (also known as “the Wheeling Statutes”) provided that supplies entering the CRA comply with MWD’s published engineering, design and water quality standards. Water supplies conveyed in the CRA are also subject to all applicable fees and charges routinely established by MWD for the conveyance of water within its service territory. Any wheeling fees will be payable by participants in the Water Project.

Adding our groundwater to the CRA offers a water quality benefit to MWD and its member agencies that may also be considered when establishing terms and conditions for entry and conveyance in the CRA. Our water presently meets all state and federal water quality requirements without treatment and TDS or salts in our water supply are substantially lower than the water in the CRA. Adding our water to the CRA could lower its TDS and provide a reduction in treatment costs. Some naturally occurring constituents in our water are lower than state and federal drinking water standards, but potentially higher than the water in the CRA; however, based on extensive pilot testing, they can be lowered via treatment to ambient levels or removed entirely with use of cost-effective treatment technologies.

Any use of the CRA to transport our water to its participating agencies would be subject to approval by the MWD Board. We expect a formal application to MWD for consideration of terms and conditions would be filed in coordination with interest from MWD member agencies.

- *State Lands Commission Review under Water Code Section 1815*

Water Code Section 1815, which is a component of California’s “Wheeling Statutes” referenced above, requires desert groundwater projects to apply for a review by the California State Lands Commission (“SLC”) prior to moving water in facilities like the CRA. This review must determine whether such projects would have “unreasonable effects on the environment and water dependent ecosystems in the surrounding watersheds.” Any application to the SLC for review of the Water Project’s plans to convey water in the CRA from the Cadiz Property will be accompanied by evidence of the Water Project’s extensive record of environmental sustainability as well as data and reports that we expect will withstand critical scrutiny. We expect a formal application with the SLC would be filed in coordination with final contractual arrangements with Participating Agencies.

When the Northern Pipeline becomes operational for water conveyance, and the Southern Pipeline is built, the Water Project would interconnect Southern California's primary water delivery systems for the first time, enabling more flexible trading among participants on these systems.

We have engaged engineering and environmental consultants to complete design plans for all remaining necessary facilities in coordination with public agency partners. This work is ongoing and expected to proceed in coordination with the approval of contracts and conveyance arrangements.

Agriculture & Farming

Development of our groundwater aquifer supply for farming began in the 1980s with the initial acquisition of our land assets. Today, all of our land is zoned for agricultural uses. A total of 9,600 acres has been permitted for agricultural use, allowing for planting, irrigation and related infrastructure.

The Cadiz Ranch features worker housing and commissary for 300 people, as well as office and equipment facilities. Irrigation is currently supported by 9 wells, with capacity to deliver up to 27,000 acre-feet of water per year. Three additional wells under construction will bring total capacity to 36,000 acre-feet. All of our wells have been designed and outfitted to be able to integrate into the Water Project supply, storage and conveyance systems upon implementation of those components. The current wellfield capacity could support all agricultural demand and full capacity of the Northern Pipeline for off-property beneficial uses.

Approximately 3,500 acres are currently used for farming via a combination of lease arrangements and direct farming by the Company as follows:

- 2,100 acres have been leased for lemons and other crops by Fenner Valley Farms LLC. Of this total, 640 acres of lemon orchards that are sub-leased and farmed by Limoneira Company. All farming expenses are borne by the lessee.
- 760 acres have been developed by the Company for alfalfa through planting made during 2022. The acreage is harvested between March and November. Revenues from farming alfalfa totaled \$861 thousand in 2022.

Previously, 242 acres have been leased for the farming of industrial hemp by SoCal Hemp JV LLC, our 50/50 joint venture partnership with SoCal Hemp Co. LLC, owned by Glass House Brands, Inc. No plantings were made in 2022 due to poor market conditions for hemp prices and the parties dissolved the joint venture in December 2022.

To address climate change, maintain a natural environment and support habitat for local flora and fauna, we and our farming partners follow best practices that minimize water use, improve soil fertility, and reduce pesticides and other applications that could adversely impact soil, water or food quality.

All farming at the Cadiz Ranch is conducted in accordance with permits and a management plan overseen by San Bernardino County. We report our crop mix, groundwater use, water quality, well levels, and other trends annually to the County.

Efficient use of water by agriculture is critical to long-term sustainability and our agricultural operations. The Cadiz/Fenner groundwater basins, which underlie our farming operations, are classified as “low/very low” priority in accordance with the California Sustainable Groundwater Management Act (“SGMA”) demonstrating the sustainability of the groundwater basins that support our ongoing irrigation.

All Cadiz Ranch agriculture is developed to be compatible with anticipated Water Project operations. Overlying farming demands will be coordinated with Water Project operations and existing permits to utilize available water for its highest and best use.

Water Treatment

In the fourth quarter of 2022, we completed the acquisition of the assets of ATEC Systems, Inc. into ATEC Water Systems, LLC (“ATEC”), which provides innovative water filtration solutions for impaired or contaminated groundwater sources. Adding the ATEC filtration products to our business portfolio diversifies our range of innovative, sustainable clean water solutions offered in support of our mission to provide safe, affordable drinking water to underserved communities. ATEC is based in Hollister, California, where they have produced water filtration systems since 1982. It initially pioneered technology to provide cost-effective high-rate removal of iron and manganese and then expanded its reach to a full range of contaminants, including, arsenic, Chromium-6, nitrates, and other contaminants found in groundwater that limit drinking water access.

ATEC has built more than 450 water filtration systems for cities, water districts, investor-owned utilities and small communities and businesses in 10 U.S. states, as well as Canada and Sri Lanka, with system treatment capacities up to 60 million gallons per day (MGD). ATEC systems can be scaled in size to serve small, rural communities as well as larger municipalities, and require less maintenance and upkeep than traditional filtration systems. In March 2023, ATEC was awarded a \$10 million contract to build filtration systems to remove iron and manganese from groundwater supply for the Central Utah Water Conservancy District’s Vineyard Wellfield Groundwater Polishing Project, a treatment facility that will deliver 60 MGD or approximately 54,000 acre-feet of groundwater per year to central Utah communities.

There are more than 3,000 public water systems in California with two or more water quality violations per system and 78,000 groundwater wells operating in contaminated basins in California alone. More than 800 California community water systems are out of compliance with, at risk or consistently fail to meet primary drinking water standards. The California State Water Resources Control Board has estimated that the cost of curing this problem is more than \$10 billion. This problem extends across the West and globally, wherever groundwater is relied upon for drinking water.

Stewardship

Our mission includes managing our desert properties for their highest and best use. Approximately 30,000 acres of our total 46,000 acres are presently managed for permanent open space.

In 2014, we permanently dedicated approximately 7,500 acres of our Piute Valley properties to conservation. These properties, which are not associated with the Water Project or Cadiz Ranch agricultural operations, are located within terrain designated by the federal government as Critical Desert Tortoise Habitat and/or Desert Wilderness Areas. In February 2015, the California Department of Fish and Wildlife approved our establishment of the Fenner Valley Desert Tortoise Conservation Bank (“Fenner Bank”), a land conservation bank that makes available these properties for mitigation of impacts to tortoise and other sensitive species that would be caused by any development across the Southern California desert. Under its enabling documents, the Fenner Bank offers credits that can be acquired by entities that must mitigate or offset impacts linked to planned development. For example, this bank can service the mitigation requirements of renewable energy, military, residential and commercial development projects being considered throughout the Mojave Desert. Credits sold by the Fenner Bank are dedicated to funding the permanent preservation of the land by the San Diego Habitat Conservancy and research by San Diego Zoo Global into desert tortoise health and species protection.

In January 2023, we entered into an agreement with the TMDCI and the Farmworkers Institute of Education & Leadership Development (“FIELD”), to form a joint venture partnership to develop 11,000-acres of Cadiz-owned properties not in the Cadiz Valley (see Item 2. "Properties", below), including the lands approved in the Fenner Bank. The joint venture envisions developing the property for conservation easements and to sustainably manage the groundwater basins and make surplus groundwater available for beneficial uses, including farming, housing, and economic development in less fortunate communities. Subject to conditions precedent, including the construction of the Southern Pipeline, water and proceeds from the project will be shared equally among the parties.

The joint venture follows an MOU that we entered into with FIELD in September 2022 to create a state-of-the-art Innovation Campus at Cadiz Ranch to offer work-based training, education and business opportunities for farmworkers. FIELD launched an English as a Second Language program at Cadiz Ranch for ranch staff in Fall 2022, led by FIELD’s EPIC de Cesar Chavez High School Career Technical Education (CTE) program.

Social Impact

We are committed to providing positive social impact across all our solutions:

1. **Water for disadvantaged communities.** All public agency participants with options to contract for water from the Water Project must serve at least one disadvantaged community within their service area.
2. **Improve local water quality.** The introduction of our low TDS groundwater in the CRA, which is known to be high in TDS, would provide a water softening benefit that would reduce treatment costs for the metropolitan southern California service area. Water Project partners have also established a \$5 million fund for small water systems in disadvantaged communities to support local water quality improvements.
3. **Repurposing carbon contributing assets.** The use of the Northern Pipeline for water conveyance will convert a former oil and gas pipeline for the beneficial use of water conveyance. The recycling of an existing pipeline will reduce greenhouse gas emissions and reduce the load on the state’s current water transportation sources.

4. **Creation of new renewable energy.** The Cadiz Southern Pipeline and Northern Pipeline will feature in-line turbines that will generate renewable hydropower. The Water Project wells and pump stations are expected to be powered at least in part by solar energy and natural gas.
5. **Farmworker training.** The Cadiz Ranch has a 35-year history of sustainable agriculture and best practices irrigation technologies. We offer farmworker training, partnerships with local high schools and colleges for irrigation and groundwater management training, and business and language education programs at no cost.
6. **Protection of habitats.** All Water Project facilities will be built on private lands, disturbed public lands or within existing transportation corridors to avoid any impacts on habitats.
7. **Support stable water rates.** The addition of new reliable supply, groundwater storage, improved water quality and system efficiency should support lower water rates in the service area of water agency participants. Reliability is associated with more stable rates and lower costs.
8. **Create and support good-paying jobs.** The Water Project is expected to create and support nearly 6,000 jobs across the local economy during two phases of construction; 10% of jobs are reserved for veterans. We maintain a Project Labor Agreement with two building trades unions to employ their members during all construction of Water Project facilities.

Other Opportunities

We remain committed to the sustainable use of our land, water and infrastructure assets and will continue to explore all opportunities for sustainable development in an environmentally responsible way, including the exploration of land use for carbon capture and green hydrogen transportation opportunities via our conveyance pipelines. We cannot estimate which of these opportunities will ultimately be realized.

Seasonality

Our water resource development activities are not seasonal in nature.

Farming operations on the leased land at the Cadiz Ranch include the year-round cultivation of lemons and alfalfa. These operations have been subject to general seasonal trends that are characteristic of the agricultural industry.

Competition

We face competition in the acquisition, development and sale of water and land assets from a variety of parties. We also experience competition in our development of water projects and agriculture associated with our properties. Since California has scarce water resources and an increasing demand for available water, we believe that location, price and reliability of delivery are the principal competitive factors affecting transfers of water in California. We believe our projects are competitive with other sources of water and farmland.

In the water treatment market, we compete with companies that offer products similar to ours. Some of these companies have greater financial resources, operational experience, and technical capabilities than we do. When bidding for water treatment projects, however, our current experience suggests that there is no clear dominant or preferred competitor in the markets in which we compete.

Human Capital Resources

As of December 31, 2022, we employed 9 full-time employees (i.e. those individuals working more than 1,000 hours per year). The ATEC Water Systems, LLC subsidiary has 8 full-time employees. Our business operations also rely on third party contracted seasonal and temporary workers, as well as consultants and vendors to help augment specialized human capital and talent needs. Our full-time and third party contracted workers, as well as consultants and vendors, must follow our code of conduct and ethics policy, as well as our whistleblower and information security policies.

We appreciate the importance of retention, growth and development of our employees. The average tenure of our full-time employees is more than 10 years, reflecting our positive work environment that offers opportunities to develop new skills and advance to new positions. We believe we offer competitive compensation (including salary, incentive bonus, and equity) and benefits packages to our employees, including a 401(k) plan. Further, we urge professional development opportunities and mentorship to cultivate talent throughout the Company.

As a small workforce, we focus on skill sharing and experience diversity in the workplace. Our full-time employees have regular opportunities to work with senior leadership and/or Board members in pursuit of business objectives. Management and leadership provide annual reviews of employee performance. Human capital is generally managed by our CEO and CFO, and employment policies are overseen by the Board, particularly the Compensation Committee.

We are focused on both executing on a strategy to support progress and evaluating our diversity and inclusion strengths and opportunities to ensure our workforce reflects the communities in which we operate.

COVID-19

We remained open throughout the COVID-19 pandemic as a member of the agricultural products industry. Our employees were provided opportunities to telework and flexibility to manage the unique demands of the situation. We expect to continue to support work-from-home arrangements for our employees even as the pandemic eases, as it has created new flexibility that is favored by our workforce.

Regulation

Our operations are subject to varying degrees of federal, state and local laws and regulations, as detailed throughout Item 1. As we proceed with the development of our properties, including the Water Project, we will be required to demonstrate to various regulatory authorities that we are in compliance with the laws, regulations and policies enforced by such authorities. Groundwater development, and the import and export of conserved groundwater by public water agencies, is subject to regulation by specific existing statutes pertaining to water supply, but also general environmental statutes applicable to all forms of development. Agricultural operations are also generally subject to regulation by local agencies, such as county governments, as well as state environmental and water statutes. For example, we must obtain a variety of approvals and permits from state and federal governments with respect to assessment of environmental impact, particularly given the location of our assets in the California desert and in proximity to public lands. Because of the discretionary nature of these approvals, concerns raised by governmental officials, public interest groups and/or other interested parties during both the development and the approval process may impact our ability to develop our properties in the manner we believe would fulfill their highest and best use. The realization of income from our projects, including the Water Project, could be delayed, reduced or eliminated based on regulatory restrictions and/or processes.

Access to Our Information

Our annual, quarterly and current reports, proxy statements and other information are filed with the Securities and Exchange Commission (“SEC”) and are available free of charge on the internet through our website, <http://www.cadizinc.com>, as soon as reasonably practical after electronic filing of such material with the SEC. Our website address provided in this Annual Report on Form 10-K is not intended to function as a hyperlink and the information on our website is not, nor should it be considered, part of this report or incorporated by reference into this report.

Our SEC filings are also available to the public on the internet at the SEC’s website <http://www.sec.gov>.

ITEM 1A. Risk Factors

Our business is subject to a number of risks, including those described below.

Our Development Activities Have Not Generated Significant Revenues

At present, our development activities include water resource (supply, storage and conveyance) and agricultural development at our San Bernardino County properties. We have not received significant revenues from our development activities to date and we do not know when, if ever, we will receive operating revenues sufficient to offset the costs of our development activities. As a result, we continue to incur a net loss from operations.

We May Never Generate Significant Revenues or Become Profitable Unless We Are Able to Successfully Implement Programs to Develop Our Land Assets and Related Water Resources

We do not know the terms, if any, upon which we may be able to proceed with our water supply, storage, and conveyance programs or successfully implement our treatment or agricultural plans. Regardless of the form of our business solutions, the circumstances under which water supply, storage, conveyance, water treatment or sustainable agriculture can be developed and the profitability of any such project are subject to significant uncertainties, including the risk of variable water supplies and changing water allocation priorities. Additional risks include our ability to obtain all necessary regulatory approvals and permits, litigation by environmental or other groups, unforeseen technical difficulties, general market conditions for agricultural and water supplies, and the time needed to generate significant operating revenues from such programs after operations commence.

The Development of Our Properties Is Heavily Regulated, Requires Governmental Approvals and Permits That Could Be Denied, and May Have Competing Governmental Interests and Objectives

In developing our land assets and related water resources, we are subject to local, state, and federal statutes, ordinances, rules and regulations concerning zoning, resource protection, environmental impacts, infrastructure design, subdivision of land, construction and similar matters. Our development activities are subject to the risk of adverse interpretations of such U.S. federal, state and local laws, regulations and policies and/or the adoption of new and amended laws, regulations and policies that prohibits, restrict, modify or delay our development activities.

Further, our development activities require governmental approvals and permits. If such permits were to be denied or granted subject to unfavorable conditions or restrictions, our ability to successfully implement our development programs as planned would be adversely impacted and could delay returns on our investments in the development of our assets.

For example, while we are presently in discussions with multiple public water agencies to enter agreements whereby participating agencies would finance, own and operate the Northern Pipeline and lease 25,000 AFY of annual supply from us, any contracts and off take facility construction will be subject to standard environmental review and a project level permitting process. There is no assurance that we can enter into any of these contracts and even if we do, there is no assurance that we can receive the needed permits in a timely manner.

We cannot predict the terms, if any, which may be imposed in order to proceed with our water and other development programs.

Current regulation that could impact our water resources development activities are generally related to water conveyance functions, particularly the conversion of existing pipelines and construction of new pipelines and related facilities necessary to move water to and from the Cadiz Property, or between points along these pipelines for the benefit of California water users. In this regard, we will need to obtain certain permits and approvals from public water agencies in California, the California State Lands Commission, and agencies of the federal government, such as the US Department of the Interior. Such regulatory requirements will be determined by any contractual obligation to transport water between parties via our pipeline infrastructure.

Generally, opposition from third parties expressed at any regulatory venue can cause delays and increase the costs of our development efforts or preclude such development entirely. While we have worked with representatives of various environmental and third-party stakeholders to address any concerns about our projects, certain groups may remain opposed to our development plans regardless of our engagement and pursue legal and other actions.

Governmental approvals and permits granted authorizing our development activities may be challenged in court and such litigation could adversely impact our timelines, development plans, and ultimately the return on our investments.

A Portion of Our Total Assets Consists of Goodwill and Intangibles, Which Are Subject to a Periodic Impairment Analysis, and a Significant Impairment Determination in Any Future Period Could Have an Adverse Effect on Our Statement of Operations Even Without a Significant Loss of Revenue or Increase in Cash Expenses Attributable to such Period

We have goodwill of approximately \$5.7 million including \$1.9 million associated with the acquisition of assets of ATEC Systems, Inc. into ATEC Water Systems, LLC. We will be required to continue to evaluate this goodwill and intangibles for impairment based on the fair value of the operating business units to which the goodwill and intangible assets relate, at least once a year. These estimated fair values could change if we are unable to achieve revenue or operating results at the levels that have been forecasted, the market valuation of that business unit decreases based on transactions involving similar companies, or if there is a permanent, negative change in the market demand for the services offered by the business unit. These changes could result in further impairment of the existing goodwill and intangible balances and that could require a material non-cash charge to our results of operations.

Our Failure to Make Timely Payments of Principal and Interest on Our Indebtedness or To Obtain Additional Financing Will Impact our Ability to Implement Our Asset Development Programs

As of December 31, 2022, we had total indebtedness outstanding to our lenders of approximately \$50.3 million which is secured by our assets. On February 2, 2023, we entered into a First Amendment to Credit Agreement with our lenders which, among other things, provided for a repayment of \$15 million in principal, and provided for a right to convert up to \$15 million of outstanding principal (“Convertible Debt”), plus any accrued and unpaid interest, into shares of our common stock once an increase in authorized shares is approved by the shareholders. (see Note 15 to the Condensed Consolidated Financial Statements – “Subsequent Events”). The remaining \$35.0 million of our indebtedness currently matures in June 2025 with an automatic extension to June 2026 following shareholder approval of the increase in authorized shares. Interest payable quarterly in cash at a 7% annual rate on \$20 million of principal with PIK interest accruing quarterly at a 7% annual rate on the \$15 million of Convertible Debt. To the extent that we do not make principal and interest payments on the indebtedness when due, or if we otherwise fail to comply with the terms of agreements governing our indebtedness, we may default on our obligations.

We will continue to require additional working capital to meet our cash resource needs until such time as our asset development programs, including the Water Project, produce revenues sufficient to fund operations. If we cannot raise funds if and when needed, we might be forced to make substantial reductions in our operating expenses, which could adversely affect our ability to implement our current business plan and ultimately our viability as a company. We cannot assure you that our current lenders, or any other lenders, will give us additional credit should we seek it. If we are unable to obtain additional credit, we may engage in further financings. Our ability to obtain financing will depend, among other things, on the status of our asset development programs and general conditions in the capital markets at the time funding is sought. Any further equity or convertible debt financings would result in the dilution of ownership interests of our current stockholders.

The Issuance of Equity Securities and Management Equity Incentive Plans Will Cause Dilution

We have and may continue to issue equity securities pursuant to at the market issuance sales agreements or direct placements. Further, our compensation programs for management emphasize long-term incentives, primarily through the issuance of equity securities and options to purchase equity securities. It is expected that plans involving the issuance of shares, options, or both will be submitted from time to time to our stockholders for approval. In the event that any such plans are approved and implemented, the issuance of shares and options under such plans may result in the dilution of the ownership interest of other stockholders and will, under currently applicable accounting rules, result in a charge to earnings based on the value of our common stock at the time of issue and the fair value of options at the time of their award. The expense would be recorded over the vesting period of each stock and option grant.

The Volatility of the Stock Price of our Equity Securities Could Adversely Affect Current and Future Stockholders

The market price of our common stock and depositary shares is volatile and fluctuates in response to various factors which are beyond our control. Such fluctuations are particularly common in companies such as ours, which have not generated significant revenues. The following factors, in addition to other risk factors described in this section, could cause the market price of our common stock to fluctuate substantially:

- developments involving the execution of our business plan;
- disclosure of any adverse results in litigation;
- regulatory developments affecting our ability to develop our properties;
- disruptions to the market and industry as a result of the global COVID-19 pandemic and related events;
- the dilutive effect or perceived dilutive effect of additional debt or equity financings;
- perceptions in the marketplace of our company and the industry in which we operate; and
- general economic, political and market conditions.

In addition, the stock markets, from time to time, experience extreme price and volume fluctuations that may be unrelated or disproportionate to the operating performance of companies. These broad fluctuations may adversely affect the market price of our common stock. Price volatility could be worse if the trading volume of our common stock is low.

ITEM 1B. Unresolved Staff Comments

Not applicable at this time.

ITEM 2. Properties

Following is a description of our significant properties.

The Cadiz Valley Property

We own approximately 35,000 acres of largely contiguous desert land in the Cadiz and Fenner valleys of eastern San Bernardino County, California (the “Cadiz Property”). This area is located approximately 80 miles east of Barstow, California and 30 miles north of the Colorado River Aqueduct (“CRA”), and 110 miles north-east of Palm Springs. The Cadiz Property, which is at the base of a topographically diverse 1,300 square mile watershed, is the principal location of our business operations, including our agricultural operations and ongoing development of our water, supply, and conveyance project.

Independent geotechnical and engineering studies conducted since initial acquisition have confirmed that the Cadiz Property overlies a significant aquifer system that can support agricultural development, the conservation of groundwater for off property water supply and the storage of imported water (see Item 1. “Description of Business - Cadiz Water Conservation & Storage Project”, above).

Additional Eastern Mojave Properties

In addition to the Cadiz Property, we also own approximately 11,000 additional acres in the eastern Mojave Desert portion of San Bernardino County, California at two separate properties.

Piute: We own approximately 9,000 acres in the Piute Valley. This landholding is located 15 miles from the resort community of Laughlin, Nevada, and about 12 miles from the Colorado River town of Needles, California. Extensive hydrological studies, including the drilling and testing of a full-scale production well, have demonstrated that this landholding is underlain by high-quality groundwater and could be suitable for agricultural development or solar energy production. The Piute properties are private inholdings in the Mojave Trails National Monument, and are proximate to or border areas designated by the state and federal government as Critical Desert Tortoise Habitat and/or Desert Wilderness Areas and are therefore ideally suited for preservation and conservation. Approximately 7,500 acres of our Piute Valley properties are reserved in our Fenner Valley Desert Tortoise Conservation Bank, which is the largest land bank in California dedicated to protecting the desert tortoise. The Bank offers credits that can be acquired by public and private entities required to mitigate or offset impacts to the desert tortoise linked to planned development. We are presently marketing these credits to a variety of planned developments in the region.

Danby: We own nearly 2,000 acres near Danby Dry Lake in Ward Valley, approximately 30 miles southeast of the Cadiz Property. Our Danby Dry Lake property is located approximately 10 miles north of the Colorado River Aqueduct. Initial hydrological studies indicate that it has excellent potential for a water supply project. Certain of the properties in this area may also be suitable for agricultural development, renewable energy and/or preservation and conservation lands. The Danby properties are currently managed for open space purposes.

Executive Offices

We lease approximately 3,800 square feet of office space in Los Angeles, California for our executive offices. This lease is month-to month. Current base rent under the lease is approximately \$8,600 per month.

Cadiz Real Estate

Title to all of our real estate assets is held by Cadiz Real Estate LLC (“Cadiz Real Estate”), a wholly owned subsidiary of Cadiz Inc. The Board of Managers of Cadiz Real Estate currently consists of two managers appointed by the Company’s Board of Directors. As the ownership of the real estate held by Cadiz Real Estate has no effect on our ultimate beneficial ownership of these assets, we refer throughout this Report to assets owned of record either by Cadiz Real Estate or by us as “our” properties.

Cadiz Real Estate is a co-obligor under our senior secured term loan, for which assets of Cadiz Real Estate have been pledged as security.

Debt Secured by Properties

Our assets have been pledged as collateral for \$50.0 million of senior secured debt outstanding as of December 31, 2022. On February 2, 2023, we entered into a First Amendment to Credit Agreement with our lenders which, among other things, provided for a repayment of \$15 million of this debt. Information regarding interest rates and principal maturities is provided in Note 7 to the Consolidated Financial Statements, “Long-Term Debt” and Note 15 to the Consolidated Financial Statements, “Subsequent Events”.

ITEM 3. Legal Proceedings

From time to time we are involved in various lawsuits and legal proceedings that arise in the ordinary course of business. At this time, we are not aware of any pending or threatened litigation that we expect will have a material effect on our business, financial condition, liquidity, or operating results. Legal claims are inherently uncertain, however, and it is possible that our business, financial condition, liquidity and/or operating results could be adversely affected in the future by legal proceedings.

ITEM 4. Mine Safety Disclosures

Not Applicable.

PART II

ITEM 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchase of Equity Securities

Our common stock is currently traded on The NASDAQ Global Market ("NASDAQ") under the symbol "CDZI."

As of March 24, 2023, the number of stockholders of record of our common stock was 60.

To date, we have not paid a cash dividend on our common stock and do not anticipate paying any cash dividends on our common stock in the foreseeable future.

Holder of Series A Preferred Stock, when and as authorized by the Company's Board of Directors, are entitled to cumulative cash dividends at the rate of 8.875% of the \$25,000.00 (\$25.00 per Depositary Share) liquidation preference per year (equivalent to \$2,218.75 per share per year or \$2.21875 per Depositary Share per year). Dividends are payable quarterly in arrears, on or about the 15th of January, April, July and October, beginning on or about October 15, 2021.

All securities sold by us during the three years ended December 31, 2022, which were not registered under the Securities Act of 1933, as amended, have been previously reported in accordance with the requirements of Rule 12b-2 of the Securities Exchange Act of 1934, as amended.

ITEM 6. [Reserved]

ITEM 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

In connection with the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, the following discussion contains trend analysis and other forward-looking statements. Forward-looking statements can be identified by the use of words such as "intends", "anticipates", "believes", "estimates", "projects", "forecasts", "expects", "plans" and "proposes". Although we believe that the expectations reflected in these forward-looking statements are based on reasonable assumptions, there are a number of risks and uncertainties that could cause actual results to differ materially from these forward-looking statements. These include, among others, our ability to maximize value from our land and water resources and our ability to obtain new financings as needed to meet our ongoing working capital needs. See additional discussion under the heading "Risk Factors" above. Our forward-looking statements are made only as of the date hereof. We assume no duty to update these forward-looking statements to reflect new, changed or unanticipated events or circumstances, other than as may be required by law.

We are a water solutions provider dedicated to delivering clean, reliable, and affordable water for people through a variety of innovative water supply, storage, conveyance and treatment projects. We are advancing human access to clean water with our unique combination of land, water, infrastructure and technology assets, cutting-edge innovation, and industry-leading standards of environmental stewardship.

We own approximately 46,000 acres of land with access to high-quality, naturally-recharging groundwater resources in three areas of Southern California's Mojave Desert – the Cadiz Valley (35,000 acres), Danby Dry Lake (2,000 acres), and the Piute Valley (9,000 acres) ("Cadiz Property"). Our land holdings with vested water rights were primarily assembled by our founders in the early 1980s, relying on NASA imagery that identified a unique desert aquifer system at the base of a vast Southern California watershed. This watershed underlying our property in the Cadiz Valley ("Cadiz Ranch") presently holds 17-34 million acre-feet of groundwater in storage – comparable in size to the largest reservoir in the United States, Lake Mead. The aquifer system is part of a closed-basin watershed in which all water flows downgradient to desert playas where it evaporates at the surface forming what are known as "desert dry lakes".

Water Supply – We own vested water rights to withdraw 2.5 million acre-feet of groundwater to support farming and off property uses. Because all water in the aquifer system will eventually be lost to evaporation, surplus water that is captured and withdrawn before it evaporates is a new water supply known as "conserved" water. We have completed extensive environmental review in accordance with local, state and federal laws authorizing the management of the groundwater aquifer underlying the Cadiz Ranch to conserve an average of 50,000 acre-feet of water per year for 50 years for use in communities.

Groundwater Storage - The alluvium aquifer that lies beneath the Cadiz Property is also large enough for conjunctive use as a water "banking" facility, capable of storing an additional 1 million acre-feet of imported surplus water for delivery during drought periods.

Pipeline Conveyance – We also own a 30” steel natural gas pipeline (“Northern Pipeline”) that extends 220-miles from the Cadiz Ranch across Kern and San Bernardino Counties terminating in California’s Central Valley. The pipeline, originally constructed to transport fossil fuels, is idle, and we are presently preparing to convert the pipeline to transport water. The route of the Northern Pipeline intersects three water conveyance facilities that deliver water to Southern California, the California Aqueduct, the Los Angeles Aqueduct, and the Mojave River Pipeline. The capacity of the Northern Pipeline for water conveyance is 25,000 (“AFY”).

We are currently in discussions with multiple public water agencies to enter into agreements whereby project participating agencies would finance and operate the Northern Pipeline and lease 25,000 AFY of annual water supply from us. In accordance with such potential agreements, we expect that we will contribute the Northern Pipeline and an annual supply of 25,000 AFY of water from us into a mutual water company to be owned jointly by the parties. In such event, we expect that a JPA comprised of participating agencies will be able to purchase, for a 40-year term (take or pay), 25,000 AFY of water at our wellhead at an agreed upon market price estimated to start at approximately \$850/AFY and subject to annual adjustment. Through a JPA, the public water agencies would fund capital costs for conversion of the pipeline from gas to water, construction of pumping stations and appurtenant facilities, and would be able to seek infrastructure funding and grants to achieve their lowest possible cost for delivered water. Any contracts and off take facility construction will be subject to standard environmental review and a project level permitting process. We expect that similar agreements will be negotiated and entered into for water supplies and storage delivered via the Southern Pipeline.

Treatment - In the fourth quarter of 2022, we completed the acquisition of the assets of ATEC Systems, Inc. into ATEC Water Systems, LLC (“ATEC”), which provides innovative water filtration solutions for impaired or contaminated groundwater sources. ATEC’s specialized filtration media provide cost-effective, high-rate of removal for common groundwater impairments and contaminants that pose health risks in drinking water including iron, manganese, arsenic, Chromium-6, nitrates, and other constituents of concern.

Our agricultural operations provide the Company’s current principal source of revenue, although our working capital needs are not fully supported by our agricultural lease and farming returns at this time. We believe that our water supply, storage, pipeline conveyance and treatment solutions will provide a significant source of future cash flow for the business and our stockholders. We presently rely upon debt and equity financing to support our working capital needs and development of our water solutions. In February 2023, we completed a direct offering for net proceeds of \$38 million led by our largest equity shareholders to fund capital expenditures to accelerate the development of water supply, storage and conveyance infrastructure, reduce our outstanding debt from \$50 million to \$35 million and provide working capital to the Company (see, “Liquidity and Capital Resources”, below).

Our current and future operations also include activities that further our commitments to sustainable stewardship of our land and water resources, good governance and corporate social responsibility. We believe these commitments are important investments that will assist in maintenance of sustained stockholder value.

Results of Operations

Year Ended December 31, 2022 Compared to Year Ended December 31, 2021

We have not received significant revenues from our water supply, storage, treatment or conveyance assets to date. Our revenues have been limited to rental income from our agricultural leases and from sales from our alfalfa plantings beginning in 2022. As a result, we have historically incurred a net loss from operations. The net loss totaled \$24.8 million for the year ended December 31, 2022, compared with a net loss of \$31.2 million for the year ended December 31, 2021. The higher loss in 2021 was primarily due to stock-based non-cash bonus awards to employees and higher interest expense in that period offset by gross margin losses from our alfalfa plantings during 2022.

Our primary expenses are our ongoing overhead costs associated with the development of our water supply, storage or conveyance assets (i.e., general and administrative expense) and our interest expense. We will continue to incur non-cash expense in connection with our management and director equity incentive compensation plans.

Revenues. Revenue totaled \$1.5 million during the year ended December 31, 2022, compared to \$564 thousand during the year ended December 31, 2021. The revenue is primarily related to rental income from our agricultural leases and our alfalfa crop harvest.

Cost of Sales. Cost of sales totaled \$2.1 million during the year ended December 31, 2022, compared to \$0 cost of sales recorded during the year ended December 31, 2021. In June 2021, the Company converted 610 acres of agricultural development to alfalfa commercial production. The 2022 expense was primary due to non-recurring start-up costs and higher than expected fuel costs for the initial short year of commercial production.

General and Administrative Expenses. General and administrative expenses during the year ended December 31, 2022, exclusive of stock-based compensation costs, totaled \$13.5 million compared with \$12.9 million for the year ended December 31, 2021.

Compensation costs from stock and option awards for the year ended December 31, 2022, totaled \$1.9 million compared with \$4.7 million for the year ended December 31, 2021. The higher 2021 expense was primarily due to stock-based non-cash bonus awards to employees.

Interest Expense. Interest expense totaled \$8.3 million during the year ended December 31, 2022, compared to \$11.4 million during the year ended December 31, 2021. The following table summarizes the components of net interest expense for the two periods (in thousands):

	Year Ended December 31,	
	2022	2021
Interest on outstanding debt	\$ 5,849	\$ 8,485
Unrealized gains on warrants	-	(573)
Amortization of debt discount	2,414	1,110
Amortization of deferred loan costs	-	2,364
	<u>\$ 8,263</u>	<u>\$ 11,386</u>

Gain (Loss) from Equity-Method Investments. Gain from equity-method investments related to our 50% ownership in the SoCal Hemp JV LLC totaled \$40 thousand during the year ended December 31, 2022, compared to a \$942 thousand loss during the year ended December 31, 2021. No plantings of hemp were made by the Joint Venture during 2022 due to continued poor market conditions for hemp prices which resulted in the Joint Venture being dissolved on December 30, 2022. As a result of the dissolution, we recognized a gain of \$211 thousand.

Liquidity and Capital Resources

(a) Current Financing Arrangements

As we have not received significant revenues from our development or treatment activities to date, we have been required to obtain financing to bridge the gap between the time water resource and other development expenses are incurred and the time that revenue will commence. Historically, we have addressed these needs primarily through secured debt financing arrangements and private equity placements.

On June 7, 2021, we completed the sale and issuance of 1,219,512 shares of our common stock to certain institutional investors under a placement agent agreement with B. Riley Securities, Inc. (“BRS”). The shares of common stock were sold at a purchase price of \$12.30 per share, for aggregate gross proceeds of \$15 million and aggregate net proceeds of approximately \$14.1 million. We used the net proceeds from this offering, together with cash on hand, to fund the \$19 million payment made on June 30, 2021 to complete the acquisition of a 124-mile extension of the Northern Pipeline.

On June 29, 2021, we entered into an Underwriting Agreement with BRS as representative of the several underwriters named therein, to issue and sell an aggregate of 2,000,000 depositary shares (the “Depositary Shares”), as well as up to 300,000 Depositary Shares that may be sold pursuant to the exercise of an option to purchase additional Depositary Shares, each representing 1/1000th of a share of Series A Preferred Stock (“Depositary Share Offering”). The liquidation preference of each of each share of Series A Preferred Stock is \$25,000 (\$25.00 per Depositary Share). The Depositary Share Offering was completed on July 2, 2021 for net proceeds of approximately \$54 million.

On July 2, 2021, we entered into a \$50 million new credit agreement (“Credit Agreement”) (see Note 7 to the Condensed Consolidated Financial Statements – “Long-Term Debt”). The proceeds of the Credit Agreement, together with the proceeds from the Depositary Share Offering, were used to (a) to repay all our outstanding obligations under the Prior Senior Secured Debt in the amount of approximately \$77.6 million (b) to deposit approximately \$10.2 million into a segregated account, representing an amount sufficient to pre-fund eight quarterly dividend payments on the Series A Preferred Stock underlying the Depositary Shares issued in the Depositary Share Offering, and (c) to pay transaction related expenses. The remaining proceeds were used for working capital needs and for general corporate purposes.

On March 23, 2022, we completed the sale and issuance of 6,857,140 shares of our common stock to certain institutional and individual investors in a registered direct offering. The shares of common stock were sold at a purchase price of \$1.75 per share, for aggregate gross proceeds of \$12 million and aggregate net proceeds of approximately \$11.8 million. The proceeds were used for working capital needs and for general corporate purposes.

On November 14, 2022, we completed the sale and issuance of 5,000,000 shares of our common stock to certain institutional investors in a registered direct offering (“November 2022 Direct Offering”). The shares of common stock were sold at a purchase price of \$2.00 per share, for aggregate gross proceeds of \$10 million and aggregate net proceeds of approximately \$9.9 million.

On January 30, 2023, we completed the sale and issuance of 10,500,000 shares of our common stock to certain institutional investors in a registered direct offering (“January 2023 Direct Offering”). The shares of common stock were sold at a purchase price of \$3.84 per share, for aggregate gross proceeds of \$40.32 million and aggregate net proceeds of approximately \$38.5 million. A portion of the net proceeds were used to repay our debt in the principal amount of \$15 million, together with fees and interest required to be paid in connection with such repayment.

The remaining proceeds from the January 2023 Direct Offering, together with the remaining proceeds from the November 2022 Direct Offering will be used for capital expenditures to accelerate development of water supply, storage, conveyance and treatment assets, working capital and development of additional water resources to meet increase demand on an accelerated timetable.

On February 2, 2023, we entered into a First Amendment to Credit Agreement with BRF Finance Co., LLC and B. Riley Securities, Inc., as administrative agent, to amend certain provisions of the Credit Agreement dated as of July 2, 2021 (“First Amended Credit Agreement”). Under the First Amended Credit Agreement, the lenders will have a right to convert up to \$15 million of outstanding principal, plus any PIK interest and any accrued and unpaid interest (the “Convertible Loan”) into shares of our common stock at a conversion price of \$4.80 per share (the “Conversion Price”). The lenders’ right to convert is conditioned upon us obtaining stockholder approval of an amendment to its certificate of incorporation to increase the number of authorized shares of the Company at its next annual meeting of stockholders, expected to be held in June 2023 (“Stockholder Approval”). In addition, prior to the maturity of the Credit Agreement, we will have the right to require that the lenders convert the outstanding principal amount, plus any PIK Interest and accrued and unpaid interest, of the Convertible Loan if the following conditions are met: (i) the average VWAP of the Company’s common stock on The Nasdaq Stock Market, or such other national securities exchange on which the shares of common stock are listed for trading, over 30 consecutive trading dates exceeds 115% of the then Conversion Price, (ii) a registration statement registering the resale of the shares issuable upon conversion of the Convertible Loan has been declared effective by the Securities and Exchange Commission, (iii) the Stockholder Approval has been obtained, and (iv) there is no event of default under certain provisions of the Credit Agreement.

Under the First Amended Credit Agreement, the maturity date of the Credit Agreement has been extended from July 2, 2024 to June 30, 2025. Upon obtaining the Stock Approval and so long as there is no event of default under certain provisions of the Credit Agreement, the maturity date for the Credit Agreement will automatically be extended to June 30, 2026. The annual interest rate will remain unchanged at 7.00%. Interest on \$20 million of the remaining principal amount will be paid in cash. Interest on the \$15 million principal amount of the Convertible Loan will be paid in kind on a quarterly basis by addition such amount to the outstanding principal amount of the outstanding Convertible Loan.

Limitations on our liquidity and ability to raise capital may adversely affect us. Sufficient liquidity is critical to meet our resource development activities. To the extent additional capital is required, we may increase liquidity through a variety of means, including equity or debt placements, through the lease, sale or other disposition of assets or reductions in operating costs. If additional capital is required, no assurances can be given as to the availability and terms of any new financing.

As we continue to actively pursue our business strategy, additional financing will continue to be required (see “Outlook”, below). The covenants in the Credit Agreement do not prohibit our use of additional equity financing and allow us to retain 100% of the proceeds of any common equity financing. We do not expect the loan covenants to materially limit our ability to finance our water and agricultural development activities.

Cash Used for Operating Activities. Cash used for operating activities totaled \$18.6 million for the year ended December 31, 2022, and \$15.3 million for the year ended December 31, 2021. The cash was primarily used to fund general and administrative expenses related to our water development efforts and agricultural development efforts.

Cash Used for Investing Activities. Cash used for investing activities in the year ended December 31, 2022, was \$4.1 million, compared with \$23.5 million for the year ended December 31, 2021. The cash used in the 2022 period primarily related to development costs for the initial planting of 760 acres of alfalfa. The cash used in the 2021 period primarily related to the Northern Pipeline acquisition totaling \$19 million and additions to well development and water quality and structural testing of a five-mile segment of pipeline.

Cash Provided by Financing Activities. Cash provided by financing activities totaled \$16.6 million for the year ended December 31, 2022, compared with cash provided by financing activities of \$15.2 million for the year ended December 31, 2021. Proceeds from financing activities for the 2022 period are related to the issuance of shares under direct offerings. Proceeds from financing activities for the 2021 period are related to the completion of the Depository Share Offering, issuance of shares under at-the market and direct offerings and refinancing of the Company’s Prior Senior Secured Debt.

(b) Outlook

Short-Term Outlook. The November 2022 Direct Offering and the January 2023 Direct Offering provided net cash proceeds of approximately \$48.4 million. A portion of these net proceeds were used to repay our debt in the principal amount of \$15 million, together with fees and interest required to be paid in connection with such repayment. The remaining proceeds, together with cash on hand, provide us with sufficient funds to meet our short-term working capital needs. The Company's agricultural & farming and water treatment operations will be funded using existing capital and cash profits generated from operations.

Long-Term Outlook. In the longer term, we will need to raise additional capital to finance working capital needs and capital expenditures (see "Current Financing Arrangements", above). Our future working capital needs will depend upon the specific measures we pursue in the entitlement and development of our water resources and other developments. Future capital expenditures will depend on the progress of the Water Project and further expansion of our agricultural assets.

We are evaluating the amount of cash needed, and the manner in which such cash will be raised, on an ongoing basis. We may meet any future cash requirements through a variety of means, including equity or debt placements, or through the sale or other disposition of assets. Equity placements would be undertaken only to the extent necessary, so as to minimize the dilution effect of any such placements upon our existing stockholders. No assurances can be given, however, as to the availability or terms of any new financing. Limitations on our liquidity and ability to raise capital may adversely affect us. Sufficient liquidity is critical to meet our resource development activities.

(c) Critical Accounting Estimates

As discussed in Note 2 to our Consolidated Financial Statements, "Summary of Significant Accounting Policies", the preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect amounts reported in the accompanying consolidated financial statements and related footnotes. In preparing these financial statements, management has made its best estimates and judgments of certain amounts included in the financial statements based on all relevant information available at the time and giving due consideration to materiality. However, application of these policies involves the exercise of judgment and use of assumptions as to future uncertainties and, as a result, actual results could differ from these estimates. Management has concluded that the following critical accounting policy described below affect the most significant judgments and estimates used in the preparation of the consolidated financial statements.

(1) Liquidity. Management assesses whether the Company has sufficient liquidity to fund its costs for the next twelve months from the financial statement issuance date. Management evaluates the Company's liquidity to determine if there is a substantial doubt about the Company's ability to continue as a going concern. In the preparation of this liquidity assessment, management applies judgement to estimate the significant assumptions related to the projected cash flows of the Company including the following: (i) projected cash outflows, (ii) projected cash inflows, (iii) categorization of expenditures as discretionary versus non-discretionary, and (iv) the ability to raise capital. The cash flow projections are based on known or planned cash requirements for operating costs as well as planned costs for project development.

Limitations on the Company's liquidity and ability to raise capital may adversely affect it. Sufficient liquidity is critical to meet the Company's activities. Although the Company currently expects its sources of capital to be sufficient to meet its near-term liquidity needs, there can be no assurance that its liquidity requirements will continue to be satisfied. If the Company cannot raise needed funds, it might be forced to make substantial reductions in its operating expenses, which could adversely affect its ability to implement its current business plan and ultimately impact its viability as a company.

(2) Business Combinations The results of acquired businesses are included in our Consolidated Financial Statements from their acquisition date. Assets and liabilities of an acquired business are recorded at their estimated fair values on the acquisition date. We engage third-party valuation specialists to assist us in determining these fair values as necessary. Any excess consideration over the fair value of assets acquired and liabilities assumed is recognized as goodwill.

The allocation of purchase price, including contingent consideration arrangements, requires management to make significant estimates and assumptions. While we believe our assumptions and estimates are reasonable, they are inherently uncertain and based in part on experience, market conditions, projections of future performance and information obtained from management of the acquired companies.

(3) Long-Lived Assets. Property, plant and equipment, and water program assets are depreciated or amortized over their useful lives. Useful lives are based on management's estimates of the period over which the assets will generate revenue. Assets are placed into service when they are in a condition or state of readiness for a specifically assigned function on a regular and ongoing basis.

(d) New Accounting Pronouncements

See Note 2 to the Consolidated Financial Statements, "Summary of Significant Accounting Policies".

ITEM 7A. Quantitative and Qualitative Disclosures about Market Risk

We are a smaller reporting company as defined by Reg. 240.12b-2 of the Securities and Exchange Act of 1934 and are not required to provide the information under this item.

ITEM 8. Financial Statements and Supplementary Data

The information required by this item is submitted in response to Part IV below. See the Index to Consolidated Financial Statements.

ITEM 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

Not applicable.

ITEM 9A. Controls and Procedures**Disclosure Controls and Procedures**

We have established disclosure controls and procedures to ensure that material information related to the Company, including its consolidated entities, is accumulated and communicated to senior management, including Chief Executive Officer (the “Principal Executive Officer”) and Chief Financial Officer (the “Principal Financial Officer”) and to our Board of Directors. Based on their evaluation as of December 31, 2022, our Principal Executive Officer and Principal Financial Officer have concluded that the Company’s disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) are effective to ensure that the information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and such information is accumulated and communicated to management, including the principal executive and principal financial officers as appropriate, to allow timely decisions regarding required disclosures.

Management’s Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of our management, including our Principal Executive Officer and Principal Financial Officer, we evaluated the effectiveness of our internal control over financial reporting based on the criteria in the Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our evaluation under that framework, our management concluded that our internal control over financial reporting was effective as of December 31, 2022.

Management’s assessment of and conclusions on the effectiveness of our internal control over financial reporting did not include the internal controls of ATEC Water Systems, LLC, which included assets acquired from ATEC Systems, Inc. in November 2022, which is included in our 2022 consolidated financial statements and constituted 1.3% of total assets as of December 31, 2022 and 0.0% of net sales for the year then ended. This exclusion is in accordance with the guidance issued by the U.S. Securities and Exchange Commission that allows companies to exclude acquisitions from management’s report on internal control over financial reporting for the first year after acquisition.

Changes in Internal Control Over Financial Reporting

In connection with the evaluation required by paragraph (d) of Rule 13a-15 under the Exchange Act, excluding the acquisition of the assets of ATEC Systems, Inc. into ATEC Water Systems, LLC, there was no change identified in the Company’s internal control over financial reporting that occurred during the last fiscal quarter ended December 31, 2022, that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

ITEM 9B. Other Information

Not applicable.

ITEM 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

None.

PART III

ITEM 10. Directors, Executive Officers and Corporate Governance

The information called for by this item is incorporated herein by reference to the definitive proxy statement involving the election of directors which we intend to file with the SEC pursuant to Regulation 14A under the Securities and Exchange Act of 1934 not later than 120 days after December 31, 2022.

ITEM 11. Executive Compensation

The information called for by this item is incorporated herein by reference to the definitive proxy statement involving the election of directors which we intend to file with the SEC pursuant to Regulation 14A under the Securities and Exchange Act of 1934 not later than 120 days after December 31, 2022.

ITEM 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information called for by this item is incorporated herein by reference to the definitive proxy statement involving the election of directors which we intend to file with the SEC pursuant to Regulation 14A under the Securities and Exchange Act of 1934 not later than 120 days after December 31, 2022.

ITEM 13. Certain Relationships and Related Transactions, and Director Independence

The information called for by this item is incorporated herein by reference to the definitive proxy statement involving the election of directors which we intend to file with the SEC pursuant to Regulation 14A under the Securities and Exchange Act of 1934 not later than 120 days after December 31, 2022.

ITEM 14. Principal Accounting Fees and Services

The information called for by this item is incorporated herein by reference to the definitive proxy statement involving the election of directors which we intend to file with the SEC pursuant to Regulation 14A under the Securities and Exchange Act of 1934 not later than 120 days after December 31, 2022.

PART IV**ITEM 15. Exhibits, Financial Statement Schedules**

1. Financial Statements. See Index to Consolidated Financial Statements.
2. Financial Statement Schedule. See Index to Consolidated Financial Statements. ***
3. Exhibits.

The following exhibits are filed or incorporated by reference as part of this Form 10-K.

- **3.1 [Cadiz Certificate of Incorporation, as amended](#)
- **3.2 [Cadiz Bylaws, as amended](#)
- **3.3 [Certificate of Designation of Series 1 Preferred Stock of Cadiz Inc.](#)
- **3.4 [Certificate of Designation of 8.875% Series A Cumulative Perpetual Preferred Stock of Cadiz Inc.](#)
- **4.1 [Form of Senior Indenture](#)
- **4.2 [Form of Subordinated Indenture](#)
- **4.3 [Deposit Agreement, dated effective as of July 2, 2021, by and among the Company, Continental Stock Transfer & Trust Company, as depositary, and the holders of the depositary receipts issued thereunder](#)
- **4.4 [Description of Securities Registered Under Section 12 of the Securities Exchange Act of 1934](#)
- **4.5 [Warrant No. W-1 to Purchase Common Stock of Cadiz Inc. dated as of July 2, 2021](#)
- **4.6 [Warrant No. W-2 to Purchase Common Stock of Cadiz Inc. dated as of July 2, 2021](#)
- **10.1 [Limited Liability Company Agreement of Cadiz Real Estate LLC dated December 11, 2003](#)
- **10.2 [Amendment No. 1, dated October 29, 2004, to Limited Liability Company Agreement of Cadiz Real Estate LLC](#)
- **10.3 [Amendment No. 2 dated March 5, 2013, to Limited Liability Company Agreement of Cadiz Real Estate LLC](#)

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- **10.4 [Longitudinal Lease Agreement dated September 17, 2008 between Arizona & California Railroad Company and Cadiz Real Estate, LLC](#)
 - †**10.5 [2019 Equity Incentive Plan, as amended](#)
 - **10.6 [Form of Option Agreement with Santa Margarita Water District](#)
 - **10.7 [Form of Environmental Processing and Cost Sharing Agreement with Santa Margarita Water District](#)
 - **10.8 [Form of Environmental Processing and Cost Sharing Agreement with Three Valleys Municipal Water District](#)
 - **10.9 [Option Agreement with Golden State Water Company dated June 25, 2010](#)
 - **10.10 [Option Agreement with Suburban Water Systems dated October 4, 2010](#)
 - †**10.11 [Letter agreement with Scott S. Slater dated April 12, 2011](#)
 - †**10.12 [Letter agreement with Scott S. Slater dated January 10, 2013](#)
 - **10.13 [Option Agreement with California Water Service Company dated December 1, 2011](#)
 - **10.14 [Form of Memorandum of Understanding by and among Cadiz Inc., County of San Bernardino and Santa Margarita Water District](#)
 - **10.15 [Water Purchase and Sale Agreement among Cadiz Inc., Cadiz Real Estate LLC, Fenner Valley Mutual Water Company and Santa Margarita Water District dated July 31, 2012](#)
 - **10.16 [Groundwater Management, Monitoring, and Mitigation Plan for the Cadiz Valley Groundwater Conservation, Recovery and Storage Project approved by the Santa Margarita Water District and the County of San Bernardino Board of Supervisors effective October 1, 2012](#)
 - †**10.17 [Revised Terms of Engagement with Brownstein Hyatt Farber and Schreck dated January 9, 2013](#)
 - **10.18 [Track Utilization Agreement dated September 16, 2013, between Arizona & California Railroad Company and Cadiz Real Estate LLC](#)
 - †**10.19 [Amended and Restated Employment Agreement between Timothy J. Shaheen and Cadiz Inc. dated June 13, 2014](#)
 - †**10.20 [Amendment No. 1 to Amended and Restated Employment Agreement between Timothy J. Shaheen and Cadiz Inc. dated March 10, 2020](#)

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- †**10.21 [Amendment No. 2 to Amended and Restated Employment Agreement between Timothy J. Shaheen and Cadiz Inc. dated as of May 21, 2020](#)
 - †**10.22 [Employment Agreement between Cadiz Inc. and Stanley E. Speer dated as of May 21, 2020](#)
 - **10.23 [Form of Water Purchase and Sale Agreement, dated as of December 29, 2014, by and between Cadiz Inc. and San Luis Water District](#)
 - **10.24 [Amended and Restated Lease Agreement, dated as of February 8, 2016, by and among Cadiz Real Estate LLC, Cadiz Inc. and Fenner Valley Farm, LLC](#)
 - **10.25 [Purchase and Sale Agreement between El Paso Natural Gas Company, LLC, and Cadiz Inc. dated December 31, 2018](#)
 - **10.26 [First Amendment to Purchase and Sale Agreement dated February 3, 2020 by and between El Paso Natural Gas Company, LLC, a Delaware limited liability company and Cadiz Inc., a Delaware corporation](#)
 - **10.27 [Second Amendment to Purchase and Sale Agreement dated December 4, 2020 by and between El Paso Natural Gas Company, LLC, a Delaware limited liability company and Cadiz Inc., a Delaware corporation](#)
 - **10.28 [Conversion and Exchange Agreement, dated March 5, 2020, by and between Cadiz Inc. and Elkhorn Partners Limited Partnership](#)
 - **10.29 [Registration Rights Agreement, dated March 5, 2020, by and among Cadiz Inc. and the other parties thereto](#)
 - **10.30 [Placement Agent Agreement, dated as of June 2, 2021, by and between Cadiz Inc. and B. Riley Securities, Inc.](#)
 - **10.31 [Underwriting Agreement, dated as of June 29, 2021, by and among the Company and B. Riley Securities, Inc., as representative of the several underwriters named therein](#)
 - **10.32 [Credit Agreement, dated as of July 2, 2021, by and among Cadiz Inc. and Cadiz Real Estate LLC as borrowers, the lenders from time to time party thereto, and B. Riley Securities, Inc., as administrative agent](#)
 - **10.33 [First Amendment to Credit Agreement, dated as of February 2, 2023, by and among Cadiz Inc. and Cadiz Real Estate LLC as borrowers, the lenders from time to time party thereto, and B. Riley Securities, Inc. as administrative agent](#)
 - **10.34 [Security Agreement, dated as of July 2, 2021, made by Cadiz Inc., Cadiz Real Estate LLC, in favor of B. Riley Securities, Inc.](#)

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- **10.35 [Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing, dated as of July 2, 2021](#)
 - **10.36 [First Amendment to Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing, dated as of February 2, 2023](#)
 - †**10.37 [Employment Agreement between Cadiz Inc. and Susan P. Kennedy dated as of February 4, 2022](#)
 - **10.38 [Form of Securities Purchase Agreement, dated as of March 20, 2022](#)
 - **10.39 [Form of Board Observer and Nomination Right Agreement](#)
 - **10.40 [Form of Securities Purchase Agreement, dated as of November 9, 2022](#)
 - **10.41 [Form of Registration Rights Agreement](#)
 - **10.42 [Form of Amendment No. 1 to Registration Rights Agreement](#)
 - *10.43 [Form of Amendment No. 2 to Registration Rights Agreement](#)
 - *10.44 [Asset Purchase Agreement, dated as of October 21, 2022, between ATEC Systems, Inc., David Ketchum and Donna Ketchum and Cadiz Inc.](#)
 - *10.45 [Amended and Restated Limited Liability Company Agreement of ATEC Water Systems, LLC dated as of November 6, 2022](#)
 - **10.46 [Placement Agent Agreement, dated as of January 30, 2023, by and among Cadiz Inc., B. Riley Securities, Inc. and Northland Securities Inc.](#)
 - *21.1 [Subsidiaries of the Registrant](#)
 - *23.1 [Consent of Independent Registered Public Accounting Firm](#)
 - *31.1 [Certification of Scott Slater, Chief Executive Officer of Cadiz Inc. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)
 - *31.2 [Certification of Stanley E. Speer, Chief Financial Officer and Secretary of Cadiz Inc. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)
 - *32.1 [Certification of Scott Slater, Chief Executive Officer of Cadiz Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002](#)
 - *32.2 [Certification of Stanley E. Speer, Chief Financial Officer and Secretary of Cadiz Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002](#)

- * 101.INS Inline XBRL Instance Document
- * 101.SCH Inline XBRL Taxonomy Extension Schema
- * 101.CAL Inline XBRL Taxonomy Extension Calculation
- * 101.DEF Inline XBRL Extension Definition
- * 101.LAB Inline XBRL Taxonomy Extension Label
- * 101.PRE Inline XBRL Taxonomy Extension Presentation

- 104 Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

† Management contract or compensatory plan or agreement.

* Filed herewith.

** Previously filed.

*** All financial statement schedules are omitted since the required information is not present or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements and notes thereto.

ITEM 16. Form 10-K Summary

None.

SIGNATURES

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

CADIZ INC.

By: /s/ Scott S. Slater
 Scott S. Slater,
 Chief Executive Officer

Date: March 30, 2023

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons in the capacities and on the dates indicated.

<u>Name and Position</u>	<u>Date</u>
<u>/s/ Susan Kennedy</u> Susan Kennedy, Chair	<u>March 30, 2023</u>
<u>/s/ Scott S. Slater</u> Scott S. Slater, Chief Executive Officer, President and Director (Principal Executive Officer)	<u>March 30, 2023</u>
<u>/s/ Stanley E. Speer</u> Stanley E. Speer, Chief Financial Officer (Principal Financial and Accounting Officer)	<u>March 30, 2023</u>
<u>/s/ Keith Brackpool</u> Keith Brackpool, Director	<u>March 30, 2023</u>
<u>/s/ Stephen E. Courter</u> Stephen E. Courter, Director	<u>March 30, 2023</u>
<u>/s/ Maria Echaveste</u> Maria Echaveste, Director	<u>March 30, 2023</u>
<u>/s/ Geoffrey T. Grant</u> Geoffrey T. Grant, Director	<u>March 30, 2023</u>
<u>/s/ Winston H. Hickox</u> Winston H. Hickox, Director	<u>March 30, 2023</u>
<u>/s/ Kenneth Lombard</u> Kenneth Lombard, Director	<u>March 30, 2023</u>
<u>/s/ Richard Polanco</u> Richard Polanco, Director	<u>March 30, 2023</u>
<u>/s/ Carolyn Webb de Macias</u> Carolyn Webb de Macias, Director	<u>March 30, 2023</u>

CADIZ INC. CONSOLIDATED FINANCIAL STATEMENTS

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of Cadiz Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Cadiz Inc. and its subsidiaries (the “Company”) as of December 31, 2022 and 2021, and the related consolidated statements of operations and comprehensive loss, of stockholders’ equity (deficit) and of cash flows for the years then ended, including the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (i) relates to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Liquidity Assessment

As described in Note 2 to the consolidated financial statements, management has prepared the Company's consolidated financial statements on a going concern basis, contemplating the continuity of operations, the realization of assets and the satisfaction of liabilities in the normal course of business. The Company incurred losses of \$24.8 million for the year ended December 31, 2022. The Company had working capital of \$6.8 million as of December 31, 2022 and used cash in operations of \$18.6 million for the year ended December 31, 2022. Management assesses whether the Company has sufficient liquidity to fund its costs for the next twelve months from the financial statement issuance date. Management evaluates the Company's liquidity to determine if there is substantial doubt about the Company's ability to continue as a going concern. In the preparation of this liquidity assessment, management applies judgment to estimate the significant assumptions related to the projected cash flows of the Company, including the following: (i) projected cash outflows; (ii) projected cash inflows; (iii) categorization of expenditures as discretionary versus non-discretionary; and (iv) ability to raise capital. The cash flow projections are based on known or planned cash requirements for operating costs as well as planned costs for project development.

The principal considerations for our determination that performing procedures relating to the liquidity assessment is a critical audit matter are the significant judgment by management when assessing whether the Company has sufficient liquidity and a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating audit evidence related to management's liquidity assessment and the significant assumptions related to (i) projected cash outflows; (ii) projected cash inflows; (iii) categorization of expenditures as discretionary versus non-discretionary; and (iv) ability to raise capital.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included, among others (i) testing management's process for assessing whether the Company has sufficient liquidity; (ii) evaluating the appropriateness of the projected cash flow model; (iii) testing the completeness and accuracy of the underlying data used in the model; and (iv) evaluating the reasonableness of management's significant assumptions related to projected cash outflows, projected cash inflows, categorization of expenditures as discretionary versus non-discretionary, and ability to raise capital. Evaluating management's assumptions related to projected cash outflows, projected cash inflows, categorization of expenditures as discretionary versus non-discretionary, and ability to raise capital involved evaluating whether the assumptions used were reasonable considering (i) current and past performance of the Company; (ii) management's historical forecasting accuracy; and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit.

/s/ PricewaterhouseCoopers LLP
Los Angeles, California
March 30, 2023

We have served as the Company's auditor since at least 1995. We have not been able to determine the specific year we began serving as auditor of the Company.

CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

<i>(In thousands, except per share data)</i>	December 31,	
	2022	2021
Total revenues	\$ 1,501	\$ 564
Costs and expenses:		
Cost of Sales	2,067	-
General and administrative	15,342	17,653
Depreciation	654	423
Total costs and expenses	<u>18,063</u>	<u>18,076</u>
Operating loss	(16,562)	(17,512)
Interest expense, net	(8,263)	(11,386)
Loss on extinguishment of debt	-	(1,399)
Loss before income taxes	<u>(24,825)</u>	<u>(30,297)</u>
Income tax expense	(7)	(10)
Gain (loss) from equity-method investments	<u>40</u>	<u>(942)</u>
Net loss and comprehensive loss	<u>\$ (24,792)</u>	<u>\$ (31,249)</u>
Less: Preferred stock dividend requirements	<u>\$ 5,106</u>	<u>2,737</u>
Net loss and comprehensive loss applicable to common stock	<u>\$ (29,898)</u>	<u>\$ (33,986)</u>
Basic and diluted net loss per common share	<u>\$ (0.60)</u>	<u>\$ (0.84)</u>
Basic and diluted weighted-average shares outstanding	<u>49,871</u>	<u>40,561</u>

See accompanying notes to the consolidated financial statements.

CONSOLIDATED BALANCE SHEETS

(\$ in thousands, except per share data)

	December 31,	
	2022	2021
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 9,997	\$ 10,965
Restricted Cash	1,288	1,288
Accounts receivable	454	270
Prepaid expenses and other current assets	696	691
Total current assets	<u>12,435</u>	<u>13,214</u>
Property, plant, equipment and water programs, net	84,138	78,890
Long-term deposit/prepaid expenses	420	420
Equity-method investments	-	976
Goodwill	5,714	3,813
Right-of-use asset	553	3,281
Long-term restricted cash	2,497	7,603
Other assets	5,030	4,296
Total assets	<u>\$ 110,787</u>	<u>\$ 112,493</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 1,107	\$ 286
Accrued liabilities	1,545	808
Current portion of long-term debt	140	107
Dividend payable	1,288	1,288
Contingent consideration liabilities	1,450	-
Operating lease liabilities	109	24
Total current liabilities	<u>5,639</u>	<u>2,513</u>
Long-term debt, net	48,950	46,477
Long-term lease obligations with related party, net	20,745	18,855
Long-term operating lease liabilities	444	3,257
Deferred revenue	750	750
Other long-term liabilities	36	32
Total liabilities	<u>76,564</u>	<u>71,884</u>
Stockholders' equity (deficit):		
Preferred stock - \$.01 par value, 100,000 shares authorized at December 31, 2022 and December 31, 2021; shares issued and outstanding – 329 at December 31, 2022 and December 31, 2021	1	1
8.875% Series A cumulative, perpetual preferred stock - \$.01 par value; 7,500 shares authorized at December 31, 2022 and December 31, 2021; shares issued and outstanding – 2,300 at December 31, 2022 and 2,300 at December 31, 2021	1	-
Common stock - \$.01 par value; 70,000,000 shares Authorized at December 31, 2022 and December 31, 2021; shares issued and outstanding: 55,823,810 at December 31, 2022, and 43,656,169 at December 31, 2021	556	436
Additional paid-in capital	636,963	613,572
Accumulated deficit	(603,298)	(573,400)
Total stockholders' equity	<u>34,223</u>	<u>40,609</u>
Total liabilities and stockholders' equity	<u>\$ 110,787</u>	<u>\$ 112,493</u>

See accompanying notes to the consolidated financial statements.

CONSOLIDATED STATEMENTS OF CASH FLOWS

<i>(\$ in thousands)</i>	For the Year Ended December 31,	
	2022	2021
Cash flows from operating activities:		
Net loss		
Adjustments to reconcile net loss to net cash used in operating activities:	\$ (24,792)	\$ (31,249)
Depreciation	654	423
Amortization of debt discount and issuance costs	2,414	3,475
Amortization of right-of-use asset	18	15
Interest expense added to loan principal	-	4,267
Interest expense added to lease liability	1,866	1,647
Loss on equity method investments	(40)	942
Loss on debt conversion and extinguishment of debt	-	1,399
Compensation charge for stock and share option awards	1,876	4,747
Unrealized gain on warrant derivative liabilities	-	(573)
Changes in operating assets and liabilities:		
Accounts receivable	(184)	(215)
Prepaid expenses and other current assets	75	(420)
Other assets	(684)	234
Accounts payable	113	(92)
Accrued and other liabilities	85	126
Net cash used in operating activities	<u>(18,599)</u>	<u>(15,274)</u>
Cash flows from investing activities:		
Additions to property, plant and equipment and water programs	(3,376)	(22,908)
Contributions to equity-method investments	(213)	(564)
Distributions from equity-method investments	217	-
Payments for acquisitions, net of cash acquired	(750)	-
Net cash used in investing activities	<u>(4,122)</u>	<u>(23,472)</u>
Cash flows from financing activities:		
Net proceeds from issuance of common stock	21,636	32,459
Net proceeds from the issuance of 8.875% series A cumulative, perpetual preferred stock	-	54,209
Dividend payment	(5,106)	(1,449)
Proceeds from the issuance of long-term debt	287	50,137
Issuance costs of long-term debt	-	(2,878)
Principal payments on long-term debt	(170)	(77,595)
Costs for extinguishment of debt	-	(2,525)
Taxes paid related to net share settlement of equity awards	-	(1,184)
Other	-	4
Net cash provided by financing activities	<u>16,647</u>	<u>51,178</u>
Net (decrease) increase in cash, cash equivalents and restricted cash	(6,074)	12,432
Cash, cash equivalents and restricted cash, beginning of period	<u>19,856</u>	<u>7,424</u>
Cash, cash equivalents and restricted cash, end of period	<u>\$ 13,782</u>	<u>\$ 19,856</u>

See accompanying notes to the consolidated financial statements.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)

	Common Stock		Preferred Stock		8.875% Series A Cumulative Perpetual Preferred Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance as of December 31, 2020	36,902,361	\$ 368	7,531	\$ 1	-	\$ -	\$ 513,744	\$ (539,414)	\$ (25,301)
Issuance of restricted stock units	158,673	1	-	-	-	-	-	-	1
Net settlement for taxes related to equity awards	-	-	-	-	-	-	(1,184)	-	(1,184)
Issuance of shares pursuant to ATM offerings	1,649,318	16	-	-	-	-	18,366	-	18,382
Issuance of shares pursuant to direct offering	1,219,512	12	-	-	-	-	14,062	-	14,074
Conversion of preferred shares to common stock	2,917,167	29	(7,202)	-	-	-	(29)	-	-
Issuance of 8.875% series A cumulative perpetual preferred shares	-	-	-	-	2,300	1	54,209	-	54,210
Issuance of shares pursuant to exercise of warrants	362,500	4	-	-	-	-	-	-	4
Reclassification of warrant liability	-	-	-	-	-	-	3,179	-	3,179
Issuance of warrants	-	-	-	-	-	-	1,795	-	1,795
Issuance of shares to lenders	363,566	4	-	-	-	-	4,613	-	4,617
Dividends paid and declared on 8.857% series A cumulative perpetual preferred shares (\$1,190 per share)	-	-	-	-	-	-	-	(2,737)	(2,737)
Cancellation of stock options to consultants	-	-	-	-	-	-	71	-	71
Stock-based compensation expense	83,072	1	-	-	-	-	4,746	-	4,747
Net loss and comprehensive loss	-	-	-	-	-	-	-	(31,249)	(31,249)
Balance as of December 31, 2021	43,656,169	\$ 435	329	\$ 1	2,300	\$ 1	\$ 613,572	\$ (573,400)	\$ 40,609
Issuance of shares pursuant to direct offerings	11,857,140	118	-	-	-	-	21,518	-	21,636
Dividends paid and declared on 8.857% series A cumulative perpetual preferred shares (\$2,220 per share)	-	-	-	-	-	-	-	(5,106)	(5,106)
Stock-based compensation expense	310,501	3	-	-	-	-	1,873	-	1,876
Net loss and comprehensive loss	-	-	-	-	-	-	-	(24,792)	(24,792)
Balance as of December 31, 2022	55,823,810	\$ 556	329	\$ 1	2,300	\$ 1	\$ 636,963	\$ (603,298)	\$ 34,223

See accompanying notes to the consolidated financial statements.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**NOTE 1 – DESCRIPTION OF BUSINESS**

Cadiz Inc. (“Cadiz or the “Company”) is a water solutions provider dedicated to delivering clean, reliable, and affordable water for people through a variety of innovative water supply, storage, conveyance and treatment projects. The Company is advancing human access to clean water with its unique combination of land, water, infrastructure and technology assets, cutting-edge innovation, and industry-leading standards of environmental stewardship.

The Company owns approximately 46,000 acres of land with access to high-quality, naturally-recharging groundwater resources in three areas of Southern California’s Mojave Desert – the Cadiz Valley (35,000 acres), Danby Dry Lake (2,000 acres), and the Piute Valley (9,000 acres) (“Cadiz Property”). The Company’s land holdings with vested water rights were primarily assembled by its founders in the early 1980s, relying on NASA imagery that identified a unique desert aquifer system at the base of a vast Southern California watershed.

Since its founding in 1983, the Company has developed its unique land assets in California for sustainable farming and groundwater management, and in recent years, has invested in wellfield and pipeline infrastructure as well as groundwater treatment technology that will enable us to play a critical role in serving the needs of people and communities that lack access to clean, reliable and affordable water.

The Company’s unique supply, storage and pipeline assets are located in a remote area of eastern San Bernardino County that sits at the crossroads of major highway, rail, energy, and water infrastructure between California’s primary water supply systems, the Colorado River Basin and the State Water Project. As a result, our Cadiz Water Conservation and Storage Project is uniquely positioned to assist public water agencies in storing and managing unpredictable water supplies and provide reliable, affordable water supplies to chronically underserved areas of California.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES***Basis of Presentation***

The Consolidated Financial Statements of the Company have been prepared on a going concern basis, which contemplates the continuity of operations, the realization of assets and the satisfaction of liabilities in the normal course of business.

The Company incurred losses of \$24.8 million and \$31.2 million for the years ended December 31, 2022 and 2021, respectively. The Company had working capital of \$6.8 million at December 31, 2022 and used cash in operations of \$18.6 million for the year ended December 31, 2022. The higher loss in 2021 was primarily due to stock-based non-cash bonus awards to employees and higher interest expense in that period offset by higher cost of sales recorded in the 2022 period.

Cash requirements during the year ended December 31, 2022 primarily reflect certain administrative costs related to the Company’s water project development efforts, the further development of its land and agricultural assets. The Company’s present activities are focused on development of its assets in ways that meet growing long-term demand for access to sustainable water supplies and agricultural products.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

On June 7, 2021, the Company completed the sale and issuance of 1,219,512 shares of the Company's common stock to certain institutional investors under a placement agent agreement with B. Riley Securities, Inc. ("BRS"). The shares of common stock were sold at a purchase price of \$12.30 per share, for aggregate gross proceeds of \$15 million and aggregate net proceeds of approximately \$14.1 million. The Company used the net proceeds from this offering together with cash on hand, to fund the \$19 million payment made on June 30, 2021 to complete the acquisition of a 124-mile extension of its Northern Pipeline.

On June 29, 2021, the Company entered into an Underwriting Agreement with BRS as representative of the several underwriters named therein, to issue and sell an aggregate of 2,000,000 depositary shares (the "Depositary Shares"), as well as up to 300,000 Depositary Shares that may be sold pursuant to the exercise of an option to purchase additional Depositary Shares, each representing 1/1000th of a share of Series A Preferred Stock ("Depositary Share Offering"). The liquidation preference of each share of Series A Preferred Stock is \$25,000.00 (\$25.00 per Depositary Share). The Depositary Share Offering was completed on July 2, 2021 for net proceeds of approximately \$54 million.

On July 2, 2021, the Company entered into a new \$50 million senior secured credit agreement with lenders party thereto from time to time ("Lenders") and BRS, as administrative agent for the Lenders ("Current Senior Secured Debt") (see Note 7 – "Long-Term Debt"). The proceeds of the Current Senior Secured Debt, together with the proceeds from the Depositary Share Offering, were used (a) to repay all the Company's outstanding obligations under the Prior Senior Secured Debt in the amount of approximately \$77.5 million, (b) to deposit approximately \$10.2 million into a segregated account, representing an amount sufficient to pre-fund eight quarterly dividend payments on the Series A Preferred Stock underlying the Depositary Shares issued in the Depositary Share Offering, and (c) to pay transaction related expenses. The remaining proceeds were used for working capital needs and for general corporate purposes. At December 31, 2022, the Company was in compliance with its debt covenants.

On March 23, 2022, the Company completed the sale and issuance of 6,857,140 shares of the Company's common stock to certain institutional and individual investors in a registered direct offering. The shares of common stock were sold at a purchase price of \$1.75 per share, for aggregate gross proceeds of \$12 million and aggregate net proceeds of approximately \$11.7 million.

On November 14, 2022, the Company completed the sale and issuance of 5,000,000 shares of the Company's common stock to certain institutional investors in a registered direct offering ("November 2022 Direct Offering"). The shares of common stock were sold at a purchase price of \$2.00 per share, for aggregate gross proceeds of \$10 million and aggregate net proceeds of approximately \$9.9 million.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

On January 30, 2023, the Company completed the sale and issuance of 10,500,000 shares of the Company's common stock to certain institutional investors in a registered direct offering ("January 2023 Direct Offering"). The shares of common stock were sold at a purchase price of \$3.84 per share, for aggregate gross proceeds of \$40.32 million and aggregate net proceeds of approximately \$38.5 million. A portion of the net proceeds were used to repay the Company's debt in the principal amount of \$15 million, together with fees and interest required to be paid in connection with such repayment.

The remaining proceeds from the January 2023 Direct Offering, together with the remaining proceeds from the November 2022 Direct Offering will be used for capital expenditures to accelerate development of the Company's water supply, storage, conveyance and treatment assets, working capital and development of additional water resources to meet increase demand on an accelerated timetable.

The Company may meet its debt and working capital requirements through a variety of means, including extension, refinancing, equity placements, the sale or other disposition of assets, or reductions in operating costs. The covenants in the Current Senior Secured Debt do not prohibit the Company's use of additional equity financing and allow the Company to retain 100% of the proceeds of any common equity financing. The Company does not expect the loan covenants to materially limit its ability to finance its water and agricultural development activities.

Management assesses whether the Company has sufficient liquidity to fund its costs for the next twelve months from the financial statement issuance date. Management evaluates the Company's liquidity to determine if there is a substantial doubt about the Company's ability to continue as a going concern. In the preparation of this liquidity assessment, management applies judgment to estimate the significant assumptions related to the projected cash flows of the Company including the following: (i) projected cash outflows, (ii) projected cash inflows, (iii) categorization of expenditures as discretionary versus non-discretionary and (iv) the ability to raise capital. The cash flow projections are based on known or planned cash requirements for operating costs as well as planned costs for project development.

Limitations on the Company's liquidity and ability to raise capital may adversely affect it. Sufficient liquidity is critical to meet the Company's resource development activities. Although the Company currently expects its sources of capital to be sufficient to meet its near-term liquidity needs, there can be no assurance that its liquidity requirements will continue to be satisfied. If the Company cannot raise needed funds, it might be forced to make substantial reductions in its operating expenses, which could adversely affect its ability to implement its current business plan and ultimately impact its viability as a company.

Principles of Consolidation

The consolidated financial statements include the accounts of Cadiz Inc. and all subsidiaries. All significant intercompany transactions and balances have been eliminated in consolidation. The Company applies the equity method of accounting for investments in which the Company has significant influence but not a controlling interest.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***Use of Estimates in Preparation of Financial Statements***

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. In preparing these financial statements, management has made estimates with regard to goodwill and other long-lived assets, stock compensation and deferred tax assets. Actual results could differ from those estimates.

Segment Reporting

The Company currently operates in two segments based upon its organizational structure and the way in which its operations are managed and evaluated. The Company's largest segment is Land and Water Resources which includes all activities regarding its properties in the eastern Mojave desert including the Water Project development and its agricultural operations. The Company's second operating segment is its recently acquired water treatment business, ATEC Water Systems LLC ("ATEC") which provides innovative water filtration solutions for impaired or contaminated groundwater sources. The reporting segments have been combined for 2022 as the ATEC business was not acquired until November 2022 and its revenue, operating results and assets in 2022 were not material to the Company's consolidated operations.

Revenue Recognition

The Company recognizes rental income through its agricultural leases with Fenner Valley Farms LLC and SoCal Hemp JV LLC, and crop sale revenue from its alfalfa farming operations upon shipment and transfer of title to customers.

Stock-Based Compensation

General and administrative expenses include \$1.9 million and \$4.7 million of stock-based compensation expenses in the years ended December 31, 2022 and 2021, respectively.

Stock-based compensation is generally based upon grants of stock awards, performance stock units ("PSU") and restricted stock units ("RSU") to its employees and consultants under the 2019 Equity Incentive Plan. For stock awards, PSUs or RSUs granted, the Company determines the fair value of the stock award, PSUs or RSU at the date of the grant and recognizes the compensation expense over the vesting period. For PSUs or RSUs which vest upon completion of certain milestones, the fair value of the PSU or RSU is recognized when it is probable that the milestone will be achieved.

Net Loss Per Common Share

Basic net loss per share is computed by dividing the net loss applicable to common stock by the weighted-average common shares outstanding. Options, restricted stock units, convertible debt, convertible preferred shares and warrants were not considered in the computation of net loss per share because their inclusion would have been antidilutive. Had these instruments been included, the fully diluted weighted average shares outstanding would have increased by approximately 1,814,000 shares and 3,000,000 shares for the years ended December 31, 2022 and 2021, respectively.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***Property, Plant, Equipment and Water Programs***

Property, plant, equipment and water programs are stated at cost. Depreciation is provided using the straight-line method over the estimated useful lives of the assets, generally five to forty-five years for land improvements and buildings, and five to fifteen years for machinery and equipment. Leasehold improvements are amortized over the shorter of the term of the relevant lease agreement or the estimated useful life of the asset.

Water rights, storage and supply programs are stated at cost. Certain costs directly attributable to the development of such programs have been capitalized by the Company. These costs, which are expected to be recovered through future revenues, consist of direct labor, drilling costs, consulting fees for various engineering, hydrological, environmental and additional feasibility studies, and other professional and legal fees. The Company has not commenced depreciation of these assets as they are not yet in service as the Water Project is not operating. While interest on borrowed funds is currently expensed, interest costs related to the construction of water project facilities will be capitalized at the time construction of these facilities commences.

Goodwill and Other Intangibles Resulting from Business Acquisitions

As a result of a merger in May 1988 between two companies which eventually became known as Cadiz Inc., goodwill in the amount of \$7,006,000 was recorded. Approximately \$3,193,000 of this amount was amortized prior to the adoption of Accounting Standards Codification 350, “Intangibles – Goodwill and Other” (“ASC 350”) on January 1, 2002. In addition, as a result of the ATEC Acquisition (see Note 3 – “Acquisitions”), tax deductible goodwill in the amount of \$1.9 million was recorded in November 2022. Since the adoption of ASC 350, there have been no goodwill impairments recorded. The reporting units to which \$5.7 million of goodwill is allocated had a positive carrying amount on December 31, 2022 and 2021.

The Company accounts for business combinations using the acquisition method, with the excess of the acquisition cost over the fair value of net tangible assets and identified intangible assets acquired considered goodwill. As a result, the Company discloses goodwill separately from other intangible assets. Other identifiable intangibles related to the ATEC acquisition included non-compete agreements. Contingent consideration arrangements are initially recorded based on management’s best estimate of the amount of contingent consideration that will be realized. Changes in fair value of contingent consideration that are not measurement period adjustments are recognized in earnings.

Impairment of Goodwill and Long-Lived Assets

The Company assesses long-lived assets, excluding goodwill, for recoverability whenever events or changes in circumstances indicate that their carrying value may not be recoverable through the estimated undiscounted future cash flows resulting from the use of the assets. If it is determined that the carrying value of long-lived assets may not be recoverable, the potential impairment charge is measured by using the projected discounted cash-flow method. No impairment charge was recorded during the current fiscal year.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

The Company performs an annual impairment test to identify potential goodwill impairment and measure the amount of a goodwill impairment loss to be recognized (if any). In performing the impairment test, the Company has the option to first assess qualitative factors to determine whether it is necessary to perform a quantitative assessment for goodwill impairment. If the qualitative assessment indicates that it is more-likely-than-not that the fair value of the reporting unit is less than its carrying value, the Company performs a quantitative assessment.

This impairment assessment is performed at least annually in the fourth quarter. An impairment loss will be recognized for the amount by which the reporting unit's carrying amount exceeds its fair value, not to exceed the carrying amount of goodwill in that reporting unit. The Company uses the market approach to assess impairment for the Land and Water Resources reporting unit, as its common stock price is an important component of the fair value calculation. If the Company's stock price experiences price declines, this will impact the fair value of the reporting unit and could lead to potential impairment charges in future periods. Accordingly, no assurances can be given that the Company will not record an impairment loss on goodwill in the future.

In the Company's annual impairment analysis for the fourth quarter 2022, the goodwill was evaluated utilizing a qualitative assessment. Based on this assessment, the Company determined that the fair value of the reporting units was more-likely-than-not greater than its respective carrying value; therefore, no impairment charge was recorded during the current fiscal year.

Deferred Financing Costs

Deferred loan costs represent costs incurred to obtain debt financing. Such costs are amortized over the life of the related loan using the effective interest method, and are presented as a reduction of long-term debt. The Company had no deferred loan costs as of December 31, 2022, and \$2.3 million as of December 31, 2021.

Debt Discount

Debt discount created upon the issuance of debt is deferred and amortized over the life of the related loan using the effective interest method, and is presented as a reduction of long-term debt. The Company recorded debt discount of \$2.4 million for the year ended December 31, 2022, and \$1.1 million for the year ended December 31, 2021. Amortization of debt discounts is included in interest expense on the Consolidated Statement of Operations.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***Income Taxes***

Income taxes are provided for using an asset and liability approach which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the financial statement and tax bases of assets and liabilities at the applicable enacted tax rates. A valuation allowance is provided when it is more likely than not that some portion or all of the deferred tax assets will not be realized.

Fair Value of Financial Instruments

Financial assets with carrying values approximating fair value include cash and cash equivalents and accounts receivable. Financial liabilities with carrying values approximating fair value include accounts payable and accrued liabilities due to their short-term nature. The carrying value of the Company's secured debt approximates fair value, based on interest rates available to the Company for debt with similar terms. See Note 7 – "Long-Term Debt", for discussion of fair value of debt.

SoCal Hemp JV

In July 2019, SoCal Hemp JV LLC (the "JV") was created by Cadiz Real Estate LLC (a fully owned subsidiary of Cadiz Inc.) and SoCal Hemp Co, LLC (a fully owned subsidiary of Glass House Brands, Inc., which is an unrelated company to Cadiz Inc.) when the two parties entered into a Limited Liability Company Agreement ("LLC Agreement"). The JV was 50% owned by Cadiz Real Estate LLC and 50% owned by SoCal Hemp Co., LLC ("SCHCO", together the "Parties"). Pursuant to the LLC Agreement, the JV profits and losses were allocated to the members based on their ownership share. The Company accounted for its investment in the JV using the equity method of accounting. No planting of hemp was made by the JV during 2022 due to poor market conditions for hemp pricing. On December 30, 2022, the Parties entered into an Agreement and Plan of Dissolution of the JV whereby the Company purchased fixed assets with a net book value to the JV of approximately \$343 thousand for \$171 thousand and reclaimed the buildings, tenant improvements and machinery and equipment with fair value of approximately \$1 million which is included in Property, Plant, Equipment and Water Programs at December 31, 2022.

Prior to the dissolution of the JV, the carrying value of the investment was approximately \$1 million. Loss from equity-method investments related to the JV immediately prior to the dissolution totaled \$171 thousand. At the time of the dissolution, the Company recorded a gain on the dissolution of the JV of approximately \$211 thousand. Total gain from equity-method investments for the year ended December 31, 2022, was \$40 thousand. The Company recorded rental income related to the JV of approximately \$129 thousand for the year ended December 31, 2022. The results of the JV have not been separately recorded in discontinued operations as the results were not material.

Supplemental Cash Flow Information

During the year ended December 31, 2022, approximately \$3.5 million in interest payments on the Company's senior secured debt was paid in cash. There are no scheduled principal payments due on the Current Senior Secured Debt prior to its maturity.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

At December 31, 2022, accruals for cash dividends payable on the Series A Preferred Stock was \$1.29 million (see Note 9 – “Common and Preferred Stock”). The cash dividends were paid on January 17, 2023.

At December 31, 2022, accruals for purchases of PP&E received was approximately \$1.5 million, and are expected to be paid in the first fiscal quarter of 2023.

The balance of cash, cash equivalents, and restricted cash as shown in the condensed consolidated statements of cash flows is comprised of the following:

Cash, Cash Equivalents and Restricted Cash <i>(in thousands)</i>	December 31, 2022	December 31, 2021
Cash and Cash Equivalents	\$ 9,997	\$ 10,965
Restricted Cash	1,288	1,288
Long-Term Restricted Cash	2,497	7,603
Cash, Cash Equivalents and Restricted Cash in the Consolidated Statement of Cash Flows	\$ 13,782	\$ 19,856

The restricted cash amounts primarily represent funds deposited into a segregated account, representing an amount sufficient to pre-fund quarterly dividend payments on Series A Preferred Stock underlying the Depositary Shares issued in the Depositary Share Offering through approximately July 2023.

Cash payments for income taxes were \$7 thousand and \$10 thousand for the years ended December 31, 2022 and 2021, respectively.

Recent Accounting Pronouncements*Accounting Guidance Adopted*

In June 2016, the Financial Account Standards Board (“FASB”) issued an accounting standards update which introduces new guidance for the accounting for credit losses on certain financial instruments. This update is effective for fiscal years beginning after December 15, 2022, and for interim periods within those fiscal years, with early adoption permitted. The adoption of this new standard on January 1, 2023 had no impact on the Company’s consolidated financial statements.

Reclassifications

Certain reclassifications have been made to the prior year's financial statement notes to conform to classifications used in the current year.

NOTE 3 – ACQUISITIONS

On November 9, 2022, the Company completed the acquisition of the assets of ATEC Systems, Inc. into ATEC Water Systems, LLC (“ATEC”), a water filtration technology company, at a purchase price of up to \$2.2 million (“ATEC Acquisition”). The ATEC Acquisition is intended to enable the Company to assist water agencies in increasing supplies of potable water from contaminated groundwater sources.

The table below summarizes the preliminary fair value of assets acquired and liabilities assumed in the ATEC Acquisition:

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

(\$ in thousands)

ASSETS	
Inventory	80
Property, plant and equipment	169
Identifiable intangibles	50
Goodwill	1,901
Total estimated purchase price	<u>\$ 2,200</u>

The final allocation of purchase consideration to assets and liabilities is ongoing as the Company continues to evaluate certain balances, estimates and assumptions during the measurement period. Consistent with the allowable time to complete the Company's assessment, the valuation of certain acquired assets and liabilities, including environmental liabilities and income taxes, is currently pending finalization.

The impact of the ATEC Acquisition, which is a new water treatment segment for the Company, was not material to the proforma net revenue or net income of the Company's combined operations for the periods presented. Net revenue and net loss related to ATEC post-acquisition were not material to the Consolidated Statements of Income for the periods presented.

The Company recorded a contingent consideration liability in the amount of \$1.45 million related to the purchase price of the ATEC Acquisition for amounts payable upon the sale of a requisite number of water filtration units under an asset purchase agreement.

Following the acquisition, we entered into an agreement to grant 200,000 Class P Units of ATEC to the new Chief Operating Officer of ATEC which vest ratably an annual basis over three years. These units provide for a 20% profit participation in ATEC following a return to the Company of its initial \$2.2 million investment.

NOTE 4 – PROPERTY, PLANT, EQUIPMENT AND WATER PROGRAMS

Property, plant, equipment and water programs consist of the following (dollars in thousands):

	December 31,	
	2022	2021
Land and land improvements	\$ 30,579	\$ 27,548
Water programs	29,210	28,784
Pipeline	22,091	22,087
Buildings	1,715	1,599
Leasehold improvements, furniture and fixtures	1,609	1,031
Machinery and equipment	3,395	2,200
Construction in progress	3,680	3,128
	<u>92,279</u>	<u>86,377</u>
Less accumulated depreciation	<u>(8,141)</u>	<u>(7,487)</u>
	<u>\$ 84,138</u>	<u>\$ 78,890</u>

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

On June 30, 2021, the Company recorded the acquisition of a 124-mile pipeline (“Northern Pipeline”). Depreciation on the Northern Pipeline will commence when construction is completed and required permits are secured in order to use the facility for the conveyance of water.

Land and land improvements primarily include land acquisitions, well development, irrigation systems and other related land infrastructure. Water programs primarily include costs directly attributable to the Company’s water project development efforts, including consulting fees for various engineering, hydrological, environmental and additional feasibility studies, and other professional and legal fees.

Depreciation expense on land improvements, buildings, leasehold improvements, machinery and equipment and furniture and fixtures was \$654 thousand and \$423 thousand for the twelve months ended December 31, 2022 and 2021, respectively.

NOTE 5 – OTHER ASSETS

Other assets include the following (dollars in thousands):

	December 31,	
	2022	2021
Prepaid rent	\$ 4,481	\$ 4,296
Deposits and other	549	-
	<u>\$ 5,030</u>	<u>\$ 4,296</u>

Prepaid rent primarily consists of fees incurred to obtain the rights-of-way for the Water Project. Amortization of prepaid rent was approximately \$115,000 for each of the years ended December 31, 2022 and 2021.

NOTE 6 – ACCRUED LIABILITIES

At December 31, 2022 and 2021, accrued liabilities consist of the following (dollars in thousands):

	December 31,	
	2022	2021
Payroll, bonus, and benefits	\$ 88	\$ 41
Legal and consulting	403	371
Well development	709	113
Water project	85	-
Other accrued expenses	260	283
	<u>\$ 1,545</u>	<u>\$ 808</u>

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 7 – LONG-TERM DEBT

At December 31, 2022 and 2021, the carrying amount of the Company's outstanding debt is summarized as follows (dollars in thousands):

	December 31,	
	2022	2021
Senior secured debt due July 2, 2024		
Interest rate of 7% per annum	\$ 50,000	\$ 50,000
Other loans	287	171
Debt discount and debt issuance costs, net of accumulated accretion	(1,198)	(3,587)
Total outstanding long-term debt	49,089	46,584
Less current portion	139	107
Total outstanding debt	<u>\$ 48,950</u>	<u>\$ 46,477</u>

The carrying value of the Company's Senior Secured Debt approximates fair value. The fair value of the Company's Senior Secured Debt (Level 2) is determined based on an estimation of discounted future cash flows of the debt at rates currently quoted or offered to the Company by its lenders for similar debt instruments of comparable maturities by its lenders.

Pursuant to the Company's loan agreements, annual maturities of long-term debt outstanding on December 31, 2022, are as follows:

Year Ending December 31	(\$ in thousands)
2023	\$ 139
2024	50,109
2025	39
2026	-
2027+	-
Total	<u>\$ 50,287</u>

On June 28, 2021, an affiliate of BRS entered into an assignment and assumption agreement ("Assignment") whereby it agreed to purchase all outstanding obligations under the Company's Prior Senior Secured Debt for \$77.6 million. This Assignment closed on July 2, 2021. In conjunction with the closing of the Assignment, the Company issued 299,210 shares of the Company's common stock to Apollo.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

On July 2, 2021, the Company entered into a new \$50 million senior secured credit agreement (“Credit Agreement”) with Lenders and BRS, as administrative agent for the Lenders (“Current Senior Secured Debt”). The Current Senior Secured Debt will mature on July 2, 2024, unless the maturity is accelerated subject to the terms of the Credit Agreement. Interest is paid quarterly beginning on September 30, 2021 at a rate of seven percent per annum. The obligations under the Current Senior Secured Debt are secured by substantially all of the Company’s assets on a first-priority basis. In connection with any repayment or prepayment of the debt, the Company is required to pay a repayment fee equal to the principal amount being repaid or prepaid, multiplied by (i) 4.0%, if such repayment or prepayment is made on or after the eighteen-month anniversary of the closing of the debt and prior to the thirty-month anniversary of the closing of the debt, and (iii) 6.0%, if such repayment or prepayment is made at any time after the thirty-month anniversary of the closing of the debt. At any time, the Company will be permitted to prepay the principal of the debt, in whole or in part, provided that such prepayment is accompanied by any accrued interest on such principal amount being prepaid plus the applicable repayment fee described above.

In the event of certain asset sales, the incurrence of indebtedness or a casualty or condemnation event, in each case, under certain circumstances as described in the Credit Agreement, the Company will be required to use a portion of the proceeds to prepay amounts under the debt. In the event of any additional issuance of depositary receipts (“Depositary Receipts”) representing interests in shares of 8.875% Series A Cumulative Perpetual Preferred Stock (“Series A Preferred Stock”) by the Company, the Company will be required to, within five business days after the receipt of the net cash proceeds, apply 75% of the net cash proceeds to prepay amounts due under the debt (including the applicable repayment fee described above).

The Credit Agreement includes customary affirmative and negative covenants, including delivery of financial statements and other reports. The negative covenants limit the ability of the Company to, among other things, incur debt, incur liens, make investments, sell assets, pay dividends and enter into transactions with affiliates. In addition, the Credit Agreement includes customary events of default and remedies.

While any amount remains outstanding under the debt, the Lenders will have the right to convert the outstanding principal, plus unpaid interest, on the debt into Depositary Receipts at the per share exchange price of \$25.00, as follows:

- at any time after the 18-month anniversary of the closing of the debt, and on or before the 24-month anniversary of the closing of the debt, up to 75% of the principal and unpaid interest on the debt may be exchanged into Depositary Receipts; and
- at any time after the 24-month anniversary of the closing of the debt, up to 100% of the principal and unpaid interest on the debt may be exchanged for Depositary Receipts.

The proceeds of the Current Senior Secured Debt were used, together with the proceeds received from the Depositary Share Offering, (a) to repay all of the Company’s outstanding obligations under the Prior Senior Secured Debt, (b) to deposit approximately \$10.2 million into a segregated account, representing an amount sufficient to pre-fund eight quarterly dividend payments on the Series A Preferred Stock underlying the Depositary Shares issued in the Depositary Share Offering, and (c) to pay transaction related expenses. The remaining proceeds were used for working capital needs and for general corporate purposes. In addition, the Company incurred approximately \$2.9 million in legal and advisory fees which was recorded as additional debt discount and is being amortized over the term of the Current Senior Secured Debt.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

In connection with the issuance of the Current Senior Secured Debt, on July 2, 2021 (the “Original Issue Date”) the Company issued to the Lenders two warrants (“A Warrants” and “B Warrants”), each granting an option to purchase 500,000 shares of the Company’s common stock (collectively, the “Warrants”). The A Warrants may be exercised any time prior to July 2, 2024 (the “Expiration Date”) and have an exercise price of \$17.38 equal to 120% of the closing price per share of the Company’s common stock on the Original Issue Date. The B Warrants may be exercised in the period from 180 days after the Original Issue Date to the Expiration Date and have an exercise price of \$21.72 equal to 150% of the closing price of the Company’s common stock on the Original Issue Date.

As a result of the issuance of the Warrants, which met the criteria for equity classification under applicable GAAP, the Company recorded additional paid-in capital in the amount of \$1.9 million which was the fair value of the Warrants on the issuance date. In addition, the fair value of the Warrants was recorded as debt discount and is being amortized over the term of the Current Senior Secured Debt.

On February 2, 2023, the Company used a portion of the net cash proceeds from a January 2023 direct offering to repay the Current Senior Secured Debt in the principal amount of \$15 million, together with fees and interest required to be paid in connection with such repayment, under the Credit Agreement (see Note 15 - “Subsequent Events”).

NOTE 8 – INCOME TAXES

Deferred taxes are recorded based upon differences between the financial statement and tax basis of assets and liabilities and available carryforwards. Temporary differences and carryforwards which gave rise to a significant portion of deferred tax assets and liabilities as of December 31, 2022 and 2021 are as follows (dollars in thousands):

	December 31,	
	2022	2021
Deferred tax assets:		
Net operating losses	\$ 69,537	\$ 64,418
Fixed asset basis difference	4,599	4,566
Contributions carryover	48	38
Deferred compensation	695	497
Accrued liabilities and other	358	333
Total deferred tax assets	75,237	69,852
Valuation allowance for deferred tax assets	(75,237)	(69,852)
Net deferred tax asset	<u>\$ -</u>	<u>\$ -</u>

The change in deferred tax assets resulted from current year net operating losses and changes to future tax deductions resulting from expiring net operating losses, terms of stock compensation plans, fixed assets, and accrued liabilities. A full valuation allowance continues to be recorded given the Company continues to be incurring losses.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

As of December 31, 2022, the Company had net operating loss (NOL) carryforwards of approximately \$330 million for federal income tax purposes and \$283 million for California income tax purposes. Such carryforwards expire in varying amounts through the year 2037 and 2042 for federal and California purposes, respectively. For federal losses arising in tax years ending after December 31, 2017, the NOL carryforwards are allowed indefinitely. Use of the carryforward amounts is subject to an annual limitation as a result of a previous ownership change and a tax ownership change that occurred in June of 2021.

As of December 31, 2022 and 2021, the Company's unrecognized tax benefits were immaterial.

The Company's tax years 2019 through 2022 remain subject to examination by the Internal Revenue Service, and tax years 2018 through 2022 remain subject to examination by California tax jurisdictions. In addition, the Company's loss carryforward amounts are generally subject to examination and adjustment for a period of three years for federal tax purposes and four years for California purposes, beginning when such carryovers are utilized to reduce taxes in a future tax year.

A reconciliation of the income tax benefit to the statutory federal income tax rate is as follows (dollars in thousands):

	<u>2022</u>	<u>2021</u>
Expected federal income tax benefit at 21%	\$ (5,205)	\$ (6,560)
Increase (decrease) in valuation allowance	3,906	(8,530)
State income tax	7	10
Expiring carryforwards	577	14,260
Non-deductible expenses and other	<u>722</u>	<u>830</u>
Income tax expense	<u>\$ 7</u>	<u>\$ 10</u>

Because it is more likely than not that the Company will not realize its net deferred tax assets, it has recorded a full valuation allowance against these assets. Accordingly, no deferred tax asset has been recorded in the accompanying balance sheet.

NOTE 9 – COMMON AND PREFERRED STOCK*Common Stock*

The Company is authorized to issue 70 million shares of Common Stock at a \$0.01 par value. As of December 31, 2022, and December 31, 2021, the Company had 55,823,810 and 43,656,169 shares issued and outstanding, respectively.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

In January 2013, the Company revised its then existing agreement with the law firm of Brownstein Hyatt Farber Schreck LLP (“Brownstein”), a related party. Under this agreement, the Company is to issue up to a total of 400,000 shares of the Company’s common stock, with 200,000 shares earned to date and 100,000 shares to be earned upon the achievement of each of two remaining milestones as follows:

- 100,000 shares earned upon the signing of binding agreements for more than 51% of the Water Project’s annual capacity, which is not yet earned; and
- 100,000 shares earned upon the commencement of construction of all of the major facilities contemplated in the Final Environmental Impact Report necessary for the completion and delivery of the Water Project, which is not yet earned.

All shares earned upon achievement of any of the remaining two milestones will be payable three years from the date earned.

Additionally, the Company incurred direct expenses to Brownstein of approximately \$1.5 million and \$2.2 million in 2022 and 2021, respectively.

Series 1 Preferred Stock

The Company has issued a total of 10,000 shares of Series 1 Preferred Stock (“Series 1 Preferred Stock”) to certain holders (“Holders”) under certain conversion and exchange agreements entered into in March 2020. Each share of Series 1 Preferred Stock is convertible at any time at the option of the Holder into 405.05 shares of Common Stock. As of December 31, 2022, Holders of Series 1 Preferred Stock exercised their option to convert 9,671 shares of Series 1 Preferred Stock into 3,917,235 shares of Common Stock. The Company has 329 shares of Series 1 Preferred Stock issued and outstanding as of December 31, 2022.

Series A Preferred Stock

On June 29, 2021, the Company entered into an Underwriting Agreement with BRS as representative of the several underwriters named there, to issue and sell an aggregate of 2,000,000 depositary shares (the “Depositary Shares”), as well as up to 300,000 Depositary Shares that may be sold pursuant to the exercise of an option to purchase additional Depositary Shares (“Depositary Share Offering”), each representing 1/1000th of a share of the 8.875% Series A Cumulative Perpetual Preferred Stock (the “Series A Preferred Stock”). The Depositary Share Offering was completed on July 2, 2021 for net proceeds of approximately \$54 million.

On July 1, 2021, the Company filed the Certificate of Designation (“Certificate of Designation”) for the Series A Preferred Stock with the Secretary of State of the State of Delaware, which became effective upon acceptance for record. The Certificate of Designation classified a total of 7,500 shares of the Company’s authorized shares of preferred stock, \$0.01 par value per share, as Series A Preferred Stock.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

As set forth in the Certificate of Designation, the Series A Preferred Stock will rank, as to dividend rights and rights upon the Company's liquidation, dissolution or winding up: (i) senior to Common Stock of the Company; (ii) junior to the Series 1 Preferred Stock with respect to the distribution of assets upon the Company's voluntary or involuntary liquidation, dissolution or winding up; (iii) senior to the Series 1 Preferred Stock with respect to the payment of dividends and (iv) effectively junior to all the Company's existing and future indebtedness (including indebtedness convertible into Common Stock or preferred stock) and to the indebtedness and other liabilities of (as well as any preferred equity interests held by others in) the Company's existing or future subsidiaries.

Holders of Series A Preferred Stock, when and as authorized by the Company's Board of Directors, are entitled to cumulative cash dividends at the rate of 8.875% of the \$25,000.00 (\$25.00 per Depositary Share) liquidation preference per year (equivalent to \$2,218.75 per share per year or \$2.21875 per Depositary Share per year). Dividends will be payable quarterly in arrears, on or about the 15th of January, April, July and October, beginning on or about October 15, 2021. As of December 31, 2022, the Company has paid cash dividends in the amount of \$6,555,000. On December 21, 2022, the Company's Board of Directors declared that holders of Series A Preferred stock will receive a cash dividend equal to \$560.00 per whole share; therefore, holders of Depositary Shares will receive a cash dividend equal to \$0.56 per Depositary Share. The dividend was paid on January 17, 2023 to respective holders of record at of the close of business on January 4, 2023.

At the issuance of the Series A Preferred Stock, the Company pre-funded eight quarterly payments through July 2023 in a segregated account which appears as Restricted Cash on the Balance Sheet. Dividends on the Series A Preferred Stock underlying the depositary shares will continue to accumulate whether or not (i) any of the Company's agreements prohibit the current payment of dividends, (ii) the Company has earnings or funds legally available to pay the dividends, or (iii) the Company's Board of Directors does not declare the payment of the dividends.

Holders of depositary shares representing interests in the Series A Preferred Stock generally will have no voting rights. However, if the Company does not pay dividends on any outstanding shares of Series A Preferred Stock for six or more quarterly dividend periods (whether or not declared or consecutive), holders of the Series A Preferred Stock (voting separately as a class with all other outstanding series of preferred stock upon which like voting rights have been conferred and are exercisable) will be entitled to elect two additional directors to the Board of Directors to serve until all unpaid dividends have been fully paid or declared and set apart for payment.

On and after July 2, 2026, the shares of Series A Preferred Stock will be redeemable at the Company's option, in whole or in part, at a redemption price equal to \$25,000.00 per share (\$25.00 per Depositary Share), plus any accrued and unpaid dividends. Furthermore, upon a change of control or delisting event (each as defined in the Certificate of Designation), the Company will have a special option to redeem the Series A Preferred Stock at \$25,000.00 per share (\$25.00 per Depositary Share), plus any accrued and unpaid dividends.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

Shares of Series A Preferred Stock are convertible into shares of Common Stock if, and only if, a change of control or delisting event (each as defined in the Certificate of Designation) has occurred, and the Company has not elected to redeem the Series A Preferred Stock prior to the applicable conversion date. Upon any conversion, each share of Series A Preferred Stock will be converted into that number of shares of Common Stock equal to the lesser of (i) the quotient obtained by dividing (A) the sum of (x) the \$25,000 liquidation preference per share plus (y) the amount of an accrued and unpaid dividends to, but not including, the conversion date by (B) the Common Stock Purchase Price (as defined in the Certificate of Designation), and (ii) 3,748.13 (the “Share Cap”), subject to certain adjustments.

The Company has 2,300 shares of Series A Preferred Stock issued and outstanding as of December 31, 2022.

NOTE 10 – STOCK-BASED COMPENSATION PLANS

The Company has issued options and has granted stock awards pursuant to its 2019 Equity Incentive Plan, as described below.

2019 Equity Incentive Plan

The 2019 Equity Incentive Plan (as amended, the “2019 EIP”) was originally approved by stockholders at the July 10, 2019 Annual Meeting, with an amendment to the plan approved by stockholders at the July 12, 2022 Annual Meeting. The plan, as amended, provides for the grant and issuance of up to 2,700,000 shares and options to the Company’s employees, directors and consultants.

Effective July 1, 2021, under the 2019 EIP, each outside director receives \$75,000 of cash compensation and receives a deferred stock award consisting of shares of the Company’s common stock with a value equal to \$25,000 on June 30 of each year. The award accrues on a quarterly basis, with \$18,750 of cash compensation and \$6,250 of stock earned for each fiscal quarter in which a director serves. The deferred stock award vests automatically on the January 31 that first follows the award date.

Stock Awards to Directors, Officers, Consultants and Employees

The Company has granted stock awards pursuant to its 2019 EIP.

Of the total 2,700,000 shares reserved under the 2019 EIP, 1,803,666 shares and restricted stock units (“RSUs”) have been awarded to the Company’s directors, employees and consultants as of December 31, 2022.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

825,000 RSUs were granted to employees in April 2021 as long-term equity incentive awards (“April 2021 RSU Grant”). Of the 825,000 RSUs granted under the April 2021 RSU Grant, 510,000 RSUs were scheduled to vest upon completion of certain milestones, including (a) 255,000 RSUs which vested in July 2021 upon completion of refinancing of the Company’s then existing senior secured debt and funding to complete the purchase of the northern Pipeline (“Northern Pipeline Vesting Event”), and (b) 255,000 RSUs scheduled to vest upon completion of final binding water supply agreement(s) for the delivery of at least 9,500 acre-feet of water per annum to customers. Of the remaining 315,000 RSUs granted under the April 2021 RSU Grant, 60,000 RSUs vested and were issued on January 3, 2023, and 255,000 RSUs vested and were issued on March 1, 2023. Additionally, in July 2022, 60,000 RSUs were granted to employees as long-term equity incentive awards (“July 2022 RSU Grant”). The RSUs granted under the July 2022 RSU Grant are scheduled to vest on January 2, 2024. The RSU incentive awards are subject in each case to continued employment with the Company through the vesting date.

Of the 255,000 RSUs earned upon the Northern Pipeline Vesting Event, the Company issued 158,673 shares net of taxes withheld and paid in cash by the Company. Of the 255,000 RSUs issued on March 1, 2023, the Company issued 158,673 shares net of taxes withheld and paid in cash by the Company.

Upon the change of the Executive Chair on February 4, 2022, a total of 170,000 unvested RSUs were accelerated and became fully vested as a result of an amended employee agreement, which included 85,000 RSUs scheduled to vest upon completion of final binding water supply agreement(s) and 85,000 RSUs scheduled to vest on March 1, 2023.

Additionally, the Company issued 450,000 performance stock units (“PSUs”) upon achievement of certain performance events. The PSUs vest upon the Company’s common stock achieving price hurdles (“Price Hurdles”) but not sooner than three years from date of grant, including (a) 200,000 PSUs to vest upon a Price Hurdle of \$7 per share, (b) 150,000 PSUs to vest upon a Price Hurdle of \$9 per share, (c) 50,000 PSUs to vest upon a Price Hurdle of \$11 per share, and (d) 50,000 PSUs to vest upon a Price Hurdle of \$13 per share and are payable, at the option of the Compensation Committee, in either common stock or cash. The PSU incentive award is subject to continued employment with the Company through the vesting date.

A summary of RSU activity under the plans during the years ended December 31, 2022 and 2021 is presented below:

	<u>Shares</u>	<u>Weighted-Average Grant-date Fair Value</u>
Nonvested at December 31, 2020	119,281	\$ 9.10
Granted	850,729	\$ 11.31
Forfeited or canceled	-	\$ -
Vested	<u>(335,763)</u>	\$ 10.84
Nonvested at December 31, 2021	634,247	\$ 11.14
Granted	219,878	\$ 2.22
Forfeited or canceled	-	\$ -
Vested	<u>(310,501)</u>	\$ 8.75
Nonvested at December 31, 2022	<u>543,624</u>	\$ 8.90

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

As of December 31, 2022, the Company had approximately \$2.5 million of unrecognized stock compensation expense related to nonvested PSUs and RSUs.

NOTE 11 – SEGMENT INFORMATION

The primary business of the Company is to acquire and develop land and water resources. As a result, the Company's financial results are reported in a single segment for the year ended December 31, 2022. During November 2022, the Company entered into a new segment, water treatment, through its acquisition of ATEC (see Note 3 – "Acquisitions"). No segment information for ATEC is separately presented as the impact of ATEC was not material to the Consolidated Statements of Operations for the periods presented.

NOTE 12 – COMMITMENTS AND CONTINGENCIES

In the normal course of its agricultural operations, the Company handles, stores, transports and dispenses products identified as hazardous materials. Regulatory agencies periodically conduct inspections and, currently, there are no pending claims with respect to hazardous materials.

Pursuant to cost-sharing agreements that have been entered into by participants in the Company's Water Project, \$750,000 in funds have been received in order to offset costs incurred in the environmental analysis of the Water Project. These funds may either be reimbursed or credited to participants participation in the Water Project and, accordingly, are fully reflected as deferred revenue as of December 31, 2022 and December 31, 2021.

The Company recorded a contingent consideration liability in the amount of \$1.45 million related to the purchase price of the ATEC Acquisition for amounts payable upon the sale of a requisite number of water filtration units under an asset purchase agreement.

The Company is from time to time involved in various lawsuits and legal proceedings that arise in the ordinary course of business. At this time, the Company is not aware of any other pending or threatened litigation that it expects will have a material adverse effect on its business, financial condition, liquidity, or operating results. Legal claims are inherently uncertain, however, and it is possible that the Company's business, financial condition, liquidity and/or operating results could be adversely affected in the future by legal proceedings.

NOTE 13 – LEASES

The Company has operating leases for its corporate offices and office equipment. The Company's leases have remaining lease terms of 1 month to 46 months as of December 31, 2022, some of which include options to extend or terminate the lease. However, the Company is not reasonably certain to exercise options to renew or terminate, and therefore renewal and termination options are not included in the lease term. The Company's current lease arrangements expire in the fourth quarter of 2024. The Company has removed \$3.3 million of right-of-use assets and liabilities related to the Bureau of Land Management ("BLM") rights-of-way leases due to a court ruling in September 2022 which vacated the rights-of-way and returned them to the BLM. The Company will reapply for the rights-of-way and work with the BLM on any additional environmental review required to authorize the conveyance of water in the Northern Pipeline over BLM lands. The Company does not have any finance leases.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

The Company's lease population does not include any residual value guarantees, and therefore none were considered in the calculation of the lease balances. The Company has leases with variable payments, most commonly in the form of common area maintenance charges which are based on actual costs incurred. These variable payments were excluded from the right-of-use asset and lease liability balances since they are not fixed or in-substance fixed payments.

The Company elected to utilize the practical expedients permitted within the leasing standard, including the practical expedient not to reassess existing land easements, which among other things, allows the Company to carryforward the historical lease classification. The Company has lease agreements with lease and non-lease components and has elected the practical expedient to account for lease and non-lease components as a single lease component for real-estate class of leases only. For leases with terms greater than 12 months, the Company records the related asset and lease liability at the present value of lease payments over the lease term. Leases with an initial term of 12 months or less with purchase options or extension options that are not reasonably certain to be exercised are not recorded on the Consolidated Balance Sheets; the Company recognizes lease expense for these leases on a straight-line basis over the term of the lease.

Lease balances. Amounts recognized in the accompanying consolidated balance sheet as of December 31, 2022 and 2021 are as follows (in thousands):

As of December 31, 2022		
Activity	Balance Sheet Location	Balance
ROU assets	Other assets	\$ 553
Short-term lease liability	Other liabilities	\$ 109
Long-term lease liability	Other long-term liabilities	\$ 444
As of December 31, 2021		
Activity	Balance Sheet Location	Balance
ROU assets	Other assets	\$ 3,281
Short-term lease liability	Other liabilities	\$ 24
Long-term lease liability	Other long-term liabilities	\$ 3,257

Lease cost. The Company's operating lease cost for the year ended December 31, 2022 was \$29 thousand.

Lease commitments. The table below summarizes the Company's scheduled future minimum lease payments under operating, recorded on the balance sheet as of December 31, 2022 (in thousands):

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

2023	\$	168
2024		172
2025		192
2026		160
2027+		-
Total lease payments		692
Less: Imputed interest		(139)
Present value of lease payments		553
Less: current maturities of lease obligations		(109)
Long-term lease obligations	\$	<u>444</u>

Most of the Company's lease agreements do not provide a readily determinable implicit rate nor is it available to us from its lessors. Instead, the Company estimates its incremental borrowing rate based on information available at either the implementation date of Topic 842 or at lease commencement for leases entered into thereafter in order to discount lease payments to present value. The table below presents additional information related to the Company's leases as of December 31, 2022:

Weighted Average Remaining Lease	
Term	
Operating leases (years)	4
Weighted Average Discount Rate	
Operating leases	10%

As a lessor, in February 2016, the Company entered into a lease agreement with Fenner Valley Farms LLC ("FVF") (the "lessee"), pursuant to which FVF is leasing, for a 99-year term, 2,100 acres owned by Cadiz in San Bernardino County, California, to be used to plant, grow and harvest agricultural crops ("FVF Lease Agreement"). As consideration for the lease, FVF paid the Company a one-time payment of \$12.0 million upon closing. The Company expects to record rental income of \$420 thousand annually over the next five years related to the FVF Lease Agreement.

NOTE 14 – FAIR VALUE MEASUREMENTS

Fair values determined by Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets or liabilities. The Company considers a security that trades at least weekly to have an active market. Fair values determined by Level 2 inputs utilize data points that are observable, such as quoted prices, interest rates and yield curves. Fair values determined by Level 3 inputs are unobservable data points for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability.

On March 24, 2021, the Company entered into an agreement which provided it the right, at its option, to further extend the maturity date of its Prior Senior Secured Debt to November 2022. The fee to acquire this second extension option was the adjustment of the exercise price of 362,500 warrants to purchase the Company's common stock held by Apollo from \$6.75 to \$0.01 ("Warrant Modification").

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

As a result of the Warrant Modification, the Company reclassified the carrying value of the warrant prior to the modification from a warrant liability in the amount of \$1.3 million to additional paid-in capital. In addition, the Company recorded debt issuance costs in the amount of \$1.9 million, which was the increase in fair value of the warrant at the time of the modification, with a corresponding adjustment to additional paid-in capital. Prior to the Warrant Modification, the fair value of the warrant was remeasured each reporting period using an option pricing model, and the change in fair value was recorded as an adjustment to the recorded warrant liability with the unrealized gains or losses reflected in interest expense.

During the year ended December 31, 2021, the Company recognized an unrealized gain of \$573 thousand related to the remeasurement of the warrant derivative liability at fair value prior to the Warrant Modification.

The Company recorded a contingent consideration liability in the amount of \$1.45 million related to the purchase price of the ATEC Acquisition for amounts payable upon the sale of a requisite number of water filtration units under an asset purchase agreement.

The following table presents a reconciliation of Level 3 activity for the years ended December 31, 2021 and 2022:

<i>(in thousands)</i>	Level 3 Liabilities
Balance at January 1, 2021	\$ 1,847
Unrealized gains on warrants, net	(573)
Reclassification of warrant liability to additional paid in capital upon Warrant Modification	(1,274)
Balance at December 31, 2021	-
Contingent consideration liabilities	1,450
Balance at December 31, 2022	<u>\$ 1,450</u>

NOTE 15 – SUBSEQUENT EVENTS

On January 30, 2023, the Company completed the sale and issuance of 10,500,000 shares of the Company's common stock to certain institutional investors in a registered direct offering ("January 2023 Direct Offering"). The shares of common stock were sold at a purchase price of \$3.84 per share, for aggregate gross proceeds of \$40.32 million and aggregate net proceeds of approximately \$38.5 million. A portion of the proceeds were used to repay the Company's debt in the principal amount of \$15 million, together with fees and interest required to be paid in connection with such repayment under the Credit Agreement. The remaining proceeds will be used for capital expenditures to accelerate development of the Company's water supply project, working capital and development of additional water resources to meet increased demand on an accelerated timetable.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

On February 2, 2023, the Company and its wholly-owned subsidiary, Cadiz Real Estate LLC, as borrowers (collectively, the “Borrowers”) entered into a First Amendment to Credit Agreement with BRF Finance Co., LLC and B. Riley Securities, Inc., as administrative agent, to amend certain provisions of the Credit Agreement dated as of July 2, 2021 (“First Amended Credit Agreement”). Under the First Amended Credit Agreement, the lenders will have a right to convert up to \$15 million of outstanding principal, plus any PIK interest and any accrued and unpaid interest (the “Convertible Loan”) into shares of the Company’s common stock at a conversion price of \$4.80 per share (the “Conversion Price”). The lenders’ right to convert is conditioned upon the Company obtaining stockholder approval of an amendment to its certificate of incorporation to increase the number of authorized shares of the Company at its next annual meeting of stockholders, expected to be held in June 2023 (“Stockholder Approval”). In addition, prior to the maturity of the Credit Agreement, the Company will have the right to require that the lenders convert the outstanding principal amount, plus any PIK Interest and accrued and unpaid interest, of the Convertible Loan if the following conditions are met: (i) the average VWAP of the Company’s common stock on The Nasdaq Stock Market, or such other national securities exchange on which the shares of common stock are listed for trading, over 30 consecutive trading dates exceeds 115% of the then Conversion Price, (ii) a registration statement registering the resale of the shares issuable upon conversion of the Convertible Loan has been declared effective by the Securities and Exchange Commission, (iii) the Stockholder Approval has been obtained, and (iv) there is no event of default under certain provisions of the Credit Agreement.

Under the First Amended Credit Agreement, the maturity date of the Credit Agreement has been extended from July 2, 2024 to June 30, 2025. Upon obtaining the Stock Approval and so long as there is no event of default under certain provisions of the Credit Agreement, the maturity date for the Credit Agreement will automatically be extended to June 30, 2026. The annual interest rate will remain unchanged at 7.00%. Interest on \$20 million of the principal amount will be paid in cash. Interest on the \$15 million principal amount of the Convertible Loan will be paid in kind on a quarterly basis by addition such amount to the outstanding principal amount of the outstanding Convertible Loan.

**AMENDMENT NO. 2 TO
REGISTRATION RIGHTS AGREEMENT**

This **Amendment No. 2** (this “*Amendment*”) to that certain Registration Rights Agreement, originally dated as of March 23, 2022 and amended by that certain Amendment No. 1 to Registration Rights Agreement dated as November 14, 2022 (the “*Agreement*”), between Cadiz, Inc., a Delaware corporation (the “*Company*”) and those undersigned parties listed under Holders on the respective signature pages thereto, is entered into as of [____], 2023 (the “*Amendment Date*”). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

RECITALS

WHEREAS, SECTION 5.8 OF THE AGREEMENT PROVIDES THAT THE AGREEMENT MAY BE AMENDED BY A WRITTEN CONSENT OF THE COMPANY AND THE HOLDERS OF A MAJORITY OF THE REGISTRABLE SECURITIES THEN OUTSTANDING, PROVIDED, THAT, ANY AMENDMENT THAT ADVERSELY AFFECTS ONE HOLDER SOLELY IN HIS, HER OR ITS CAPACITY AS A HOLDER OF THE SHARES OF CAPITAL STOCK OF COMPANY IN A MANNER MATERIALLY DIFFERENT FROM THE OTHER HOLDERS (IN SUCH CAPACITY) SHALL REQUIRE THE CONSENT OF THE HOLDER SO AFFECTED;

WHEREAS, THE AMENDMENTS CONTAINED HEREIN SHALL NOT ADVERSELY AFFECT ANY HOLDER SOLELY IN HIS, HER OR ITS CAPACITY AS A HOLDER OF THE SHARES OF CAPITAL STOCK OF COMPANY IN A MANNER MATERIALLY DIFFERENT FROM THE OTHER HOLDERS (IN SUCH CAPACITY) THAT SHALL REQUIRE THE CONSENT OF THE HOLDER SO AFFECTED; AND

WHEREAS, THE COMPANY AND THE HOLDERS OF A MAJORITY OF THE REGISTRABLE SECURITIES OUTSTANDING NOW DESIRE TO AMEND THE AGREEMENT AS SET FORTH HEREIN.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES, REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS SET FORTH IN THE AGREEMENT AND THIS AMENDMENT, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. **Amendment of the definition of “Registrable Security”.** The definition of “Registrable Security” under Section 1.1 of the Agreement is hereby amended to read in its entirety as follows:

“*Registrable Security*” shall mean (a) any outstanding shares of Common Stock held by Heerema or its Affiliates as of the date of this Agreement and any shares of Common Stock that will be purchased by Heerema or its Affiliates (i) pursuant to the Purchase Agreement, (ii) pursuant to that certain Securities Purchase Agreement, dated as of November 9, 2022, between the Company and Heerema, and (iii) in the registered direct offering of the Company’s Common Stock pursuant to that certain Placement Agent Agreement, dated as of [____], 2023, among the Company, B. Riley Securities, Inc. and Northland Securities, Inc., (b) any shares of Common Stock that will be purchased by a Participating Director or his Affiliates pursuant to the Purchase Agreement, and (c) any other equity security of the Company issued or issuable with respect to any such shares of Common Stock by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or reorganization; provided, however, that, as to any particular Registrable Security, such securities shall cease to be Registrable Securities when: (A) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement; (B) such securities shall have been otherwise transferred, new certificates for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (C) such securities shall have ceased to be outstanding; (D) such securities may be sold without registration pursuant to Rule 144 promulgated under the Securities Act (or any successor rule promulgated thereafter by the Commission) (but with no volume or other restrictions or limitations); or (E) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction.

2. **Continuing Effect of Agreement.** Except as expressly set forth in this Amendment, all other provisions of the Agreement remain in full force and effect.
3. **Governing Law.** This Amendment shall be governed by and construed in accordance with the internal procedure and substantive laws of the State of New York, without giving effect to the choice of law provisions of such state.
4. **Counterparts.** This Amendment may be executed in counterparts and may be electronically signed or delivered, all of which counterparts taken together shall constitute one and the same original and binding instrument and shall become effective when all counterparts have been signed by each party and delivered to the other parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS **AMENDMENT NO. 2 TO THE AGREEMENT** TO BE EXECUTED AND DELIVERED AS OF THE AMENDMENT DATE.

COMPANY:

CADIZ, INC.,

a Delaware corporation

By: _____

Name: Stanley E. Speer

Title: Chief Financial Officer

HOLDERS:

HEEREMA INTERNATIONAL GROUP SERVICES S.A.

By: _____

Name:

Title:

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "**Agreement**"), dated as of October 21, 2022, is entered into between **ATEC Systems, Inc.**, a California corporation ("**Seller**"), **David Ketchum ("David")** and **Donna Ketchum ("Donna")**, and David and Donna each an "**Owner**," and collectively, the "**Owners**," and together with Seller, "**Sellers**"), and **Cadiz, Inc.**, a Delaware corporation, or its assign(s) (collectively, "**Buyer**"). Capitalized terms used in this Agreement have the meanings given to such terms herein, as such definitions are identified by the cross- references set forth in **Exhibit A** attached hereto.

RECITALS

WHEREAS, Seller and Owners are engaged in the business of manufacturing water treatment equipment (the "**Business**");

WHEREAS, Owners are husband and wife and together own all of the issued and outstanding shares of common stock of Seller and the Owners' IP and Business Goodwill as identified herein; and

WHEREAS, Sellers wishes to sell and assign to Buyer, and Buyer wishes to purchase and assume from Sellers, the rights and obligations of Sellers to the Purchased Assets and the Assumed Liabilities, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I PURCHASE AND SALE

Section 1.01 Purchase and Sale of Assets. Subject to the terms and conditions set forth herein, at the Closing, Sellers shall sell, convey, assign, transfer, and deliver to Buyer, and Buyer shall purchase from Sellers, all of Sellers' right, title, and interest in, to, and under all of the tangible and intangible assets, properties, and rights of every kind and nature and wherever located (other than the Excluded Assets), which relate to, or are used or held for use in connection with, the Business (collectively, the "**Purchased Assets**"), including the following:

- a. All of Seller's cash deposits for future or current work in progress for the Seller's customers pursuant to the Assigned Contracts ("**Customer Deposits**");
- b. All of Seller's inventory, finished goods, raw materials, work in progress, packaging, supplies, parts, and other inventories ("**Inventory**");
- c. All of Seller's Contracts (the "**Assigned Contracts**") set forth on Section 1.01(c) of the disclosure schedules attached hereto (the "**Disclosure Schedules**"). The term "**Contracts**" means all contracts, leases, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures, and all other agreements, commitments, and legally binding arrangements, whether written or oral;
- d. All of Seller's furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, telephones, and other tangible personal property (the "**Tangible Personal Property**");
- e. all of Seller's prepaid expenses, credits, advance payments, claims, security, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums, and fees (including any such item relating to the payment of Taxes);
- f. all rights under warranties, indemnities, and all similar rights against third parties to the extent related to any Purchased Assets;
- g. all insurance benefits, including rights and proceeds, arising from or relating to the Business, the Purchased Assets, or the Assumed Liabilities;
- h. originals or, where not available, copies, of all books and records, including books of account, ledgers, and general, financial, and accounting records, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, customer complaints and inquiry files, research and development files, records, and data (including all correspondence with any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any arbitrator, court, or tribunal of competent jurisdiction (collectively, "**Governmental Authority**")), sales material and records, strategic plans and marketing, and promotional surveys, material, and research ("**Books and Records**");
- i. all of the Intellectual Property (as defined below) of the Seller (the "**Seller's IP**") and all of the Intellectual Property of the Owners (the "**Owners' IP**"); and
- j. all of the goodwill and the going concern value of the Purchased Assets and the Business of the Owners (the "**Business Goodwill**").

Section 1.02 Excluded Assets. Notwithstanding the foregoing, the Purchased Assets shall not include the assets, properties, and rights specifically set forth on Section 1.02 of the Disclosure Schedules (collectively, the "**Excluded Assets**").

Section 1.03 Assumed Liabilities.

- a. Subject to the terms and conditions set forth herein, Buyer shall assume and agree to pay, perform, and discharge only the following Liabilities of Seller (collectively, the "**Assumed Liabilities**"), and no other Liabilities:

- i. all Liabilities in respect of the Assigned Contracts but only to the extent that such Liabilities thereunder are required to be performed after the Closing Date, were incurred in the ordinary course of business, and do not relate to any failure to perform, improper performance, warranty, or other breach, default, or violation by Seller on or prior to the Closing.
- ii. Notwithstanding the foregoing, Buyer shall not assume any Liabilities that may be due to or claimed by ATEC Systems Associates and/or Bill Ketchum (collectively, "ASA"), whether arising from or related to any Assigned Contract, the Business, or otherwise (collectively, the "ASA Liabilities"), unless explicitly agreed to in a separate writing by and between Buyer and ASA. Sellers agree, jointly and severally, to indemnify and hold Buyer harmless with regard to any and all ASA Liabilities.

For purposes of this Agreement, "**Liabilities**" means liabilities, obligations, or commitments of any nature whatsoever, whether asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise.

- b. Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume and shall not be responsible to pay, perform, or discharge any Liabilities of Seller, Owners or any of their respective Affiliates of any kind or nature whatsoever other than the Assumed Liabilities (the "**Excluded Liabilities**"). For purposes of this Agreement: (i) "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person; and (ii) the term "**control**" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

Section 1.04 Purchase Price. The aggregate purchase price for the Purchased Assets shall be \$2,200,000 (the "**Purchase Price**"). Buyer shall pay or cause to be paid to Sellers the following amounts within the time periods set forth below:

- a. an amount in cash to Seller equal to the appraised value of the Purchased Assets (excluding the Owners' IP and the Business Goodwill) on the Closing Date (the "**Asset Payment**"), net of the Assumed Liabilities;
- b. an amount in cash to Owners equal to (i) \$750,000 minus (ii) the Asset Payment for a portion of the Owners' IP and Business Goodwill on the Closing Date (the "**Owners' Payment**"); and
- c. If and only if, within one year of the Closing Date (the "**Deferred Payment Period**"), Buyer has entered into final binding purchase agreements with third- party customers for the sale and delivery of either the amount of (i) forty-eight inch (48") treatment systems (the "**48" Systems**") or (ii) an equivalent number of smaller size treatment units that are qualified in substitution for the 48" Systems, which shall be determined in accordance with the materials schedule provided on Schedule 1.04(c), (collectively, the "**Qualifying Units**") set forth below, then Buyer will pay to Sellers a payment for Business Goodwill (each a "**Deferred Payment**", and collectively, the "**Deferred Payments**") as follows:
 - A. \$250,000 upon the sale of 150 Qualifying Units;
 - B. \$500,000 upon the sale of 250 Qualifying Units; and
 - C. An amount equal to the difference of (1) the Purchase Price minus

(2) the Asset Payment, minus (3) the Owners' Payment, and minus

(4) any previously paid Deferred Payments upon the sale of 300 Units.

Each Deferred Payment shall be paid to Sellers within thirty (30) days after the applicable milestone for the Qualifying Units sold is met. For purposes of clarification, only Qualifying Units sold directly by Buyer shall count towards the Qualifying Unit requirements set forth in subsections (A) through (C) in the preceding sentence. Buyer's determination as to the number of Qualifying Units sold shall be final and binding. Buyer's plan to market and sell the Qualifying Units is summarized at **Exhibit B** attached hereto and made a part hereof.

- d. The Purchase Price may be adjusted as provided for in this Agreement.

Section 1.05 Allocation of Purchase Price. Within 90 days after the Closing Date, Buyer shall prepare and cause to be delivered to Sellers an allocation of the Purchase Price and the Assumed Liabilities among the Purchased Assets for all purposes (including Tax and financial accounting) (the "**Allocation Schedule**"). The Allocation Schedule shall be prepared in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended. Accordingly, the Purchase Price shall be reported for income and other Tax purposes by the Parties as allocated among the Business Goodwill, Owners' IP, the restrictive covenants set forth in Section 5.02, and the assets of Seller (the "**Allocation Principles**"). Buyer will give Sellers reasonable opportunity to review and comment on the Allocation Schedule and Buyer will consider in good faith any comments that Sellers have with respect to the Allocation Schedule in keeping with the Allocation Principles. Buyer shall also have the right to propose amendments to the Allocation Schedule in accordance with the Allocation Principles, provided that Buyer obtains Sellers' written consent, which consent shall not be unreasonably withheld, conditioned or delayed (and which consent shall in any event be granted by Sellers in any case in which the resulting Tax liabilities of Sellers, or any owner or former owner of an equity interest in Seller, is not increased). Buyer and Sellers shall file all returns, declarations, reports, information returns and statements, and other documents relating to Taxes (including amended returns and claims for refund) ("**Tax Returns**") in a manner consistent with the Allocation Schedule. Notwithstanding any provision to the contrary in this Agreement, in the event any Taxing authority disputes the amount of Purchase Price allocated to Business Goodwill or the Owners' IP in any audit or other Tax proceeding, Purchaser shall have no obligation to take any position consistent with the Allocation Statement or Allocation Principles.

Section 1.06 Withholding Tax. Buyer shall be entitled to deduct and withhold from the Purchase Price all Taxes that Buyer may be required to deduct and withhold under any provision of Tax Law. All such withheld amounts shall be treated as delivered to Sellers hereunder.

Section 1.07 Third Party Consents. To the extent that Sellers' rights under any Purchased Asset may not be assigned to Buyer without the consent of another Person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an

attempted assignment would constitute a breach thereof or be unlawful, and Seller, at its expense, shall use its reasonable best efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer's rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent permitted by Law and the Purchased Asset, shall act after the Closing as Buyer's agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by Law and the Purchased Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer.

ARTICLE II CLOSING

Section 2.01 Closing. Subject to the terms and conditions of this Agreement, the transactions contemplated hereunder shall be deemed to have concluded directly between the parties on or around October 28, 2022, or such later date as may be agreed upon by the parties, (the "**Closing**" and the date on which the Closing occurs, the "**Closing Date**") upon the exchange of consideration contemplated hereunder. The consummation of the transactions contemplated by this Agreement shall be deemed to occur at 12:01 a.m. PDT on the Closing Date.

Section 2.02 Closing Deliverables.

- a. At the Closing, Seller shall deliver to Buyer the following:
 - i. a bill of sale in form and substance satisfactory to Buyer (the "**Bill of Sale**") and duly executed by Seller, transferring the Tangible Personal Property included in the Purchased Assets to Buyer;
 - ii. an assignment and assumption agreement in form and substance satisfactory to Buyer (the "**Assignment and Assumption Agreement**") and duly executed by Seller, effecting the assignment to and assumption by Buyer of the Purchased Assets and the Assumed Liabilities;
 - iii. the consulting agreement for David (the "**Consulting Agreement**") in form and substance satisfactory to Buyer and duly executed by David;
 - iv. tax clearance certificates from the taxing authorities in the jurisdictions that impose Taxes on Seller or where Seller has a duty to file Tax Returns in connection with the transactions contemplated by this Agreement and evidence of the payment in full or other satisfaction of any Taxes owed by Seller in those jurisdictions;
 - v. a certificate of the Secretary (or equivalent officer) of Seller certifying as to (A) the resolutions of the board of directors and the shareholders of Seller, which authorize the execution, delivery, and performance of this Agreement, the Bill of Sale, the Assignment and Assumption Agreement, and the
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other agreements, instruments, and documents required to be delivered in connection with this Agreement or at the Closing (collectively, the "**Transaction Documents**") and the consummation of the transactions contemplated hereby and thereby, and (B) the names and signatures of the officers of Seller authorized to sign this Agreement and the other Transaction Documents; and

- vi. such other customary instruments of transfer or assumption, filings, or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to the transactions contemplated by this Agreement.
 - b. At the Closing, Owners shall deliver to Buyer the following:
 - i. an assignment and assumption agreement in form and substance satisfactory to Buyer (the "**Intellectual Property and Goodwill Assignment and Assumption Agreement**") and duly executed by Owners, effecting the assignment to and assumption by Buyer of the Owners' IP and the Business Goodwill.
 - c. At the Closing, Buyer shall deliver to Sellers the following:
 - i. the Purchase Price in accordance with the terms contained herein (less any amounts which may be withheld for outstanding Tax Liabilities);
 - ii. the Assignment and Assumption Agreement duly executed by
Buyer;
 - iii. the Intellectual Property and Goodwill Assignment and
Assumption Agreement duly executed by Buyer;
 - iv. the Consulting Agreement duly executed by Buyer; and
 - v. a certificate of the Secretary (or equivalent officer) of Buyer certifying as to (A) the resolutions of the board of directors of Buyer, which authorize the execution, delivery, and performance of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and (B) the names and signatures of the officers of Buyer authorized to sign this Agreement and the other Transaction Documents.

Section 2.03 Conditions to Buyer's Obligations. The Closing and Buyer's obligation to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions for Buyer's benefit (or Buyer's written waiver thereof, it being agreed that Buyer may waive any or all of such conditions) on or prior to the Closing Date or on the dates designated below for the satisfaction of such conditions:

- a. Buyer shall be satisfied with the results of its due diligence by 5:00pm on the day immediately prior to the Closing Date (the "**Due Diligence Period**"). During the Due Diligence Period, Seller shall have provided Buyer, its accountants, counsel and
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other representatives with such information necessary to permit Buyer to complete its business and legal due diligence on Seller. If Buyer determines, in its sole discretion, that it does not wish to proceed with this transaction, then Buyer shall deliver to Seller written notice thereof prior to the expiration of the Due Diligence Period;

- b. Buyer's final approval of the Disclosure Schedules;
- c. Buyer entering into an agreement with Lee Odell ("**Odell**") to work with Buyer in a capacity to be mutually agreed to by and between Buyer and Odell;
- d. All of Sellers' representations and warranties contained herein shall be true and correct in all material respects as of the Effective Date and as of the Closing Date, subject to any qualifications hereafter made to any of Sellers' representations;
- e. Since the Balance Sheet Date, there shall not have occurred any circumstance or event which, individually or in the aggregate, has had or is reasonably likely to result in a material adverse effect;
- f. All consents from third parties to Contracts or otherwise that are required to consummate the transactions contemplated herein shall have been obtained in writing;
- g. Buyer's board of directors shall have finally approved of the transactions contemplated hereunder; and
- h. As of the Closing Date, Sellers shall have performed their obligations hereunder and all deliveries to be made at the Closing by Sellers shall have been tendered.

Section 2.04 Termination. Buyer may terminate this Agreement at any time prior to the Closing upon written notice to Sellers if any of the conditions set forth in Section 2.03 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Closing Date, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing. Upon such termination, Sellers and Buyer shall have no further rights and obligations hereunder, except with respect to all confidentiality obligations contained in Section 5.01 of this Agreement.

Section 2.05 Transition Services. As partial consideration of the Purchase Price, David shall provide post-closing supervisory and transition services (the "**Transition Services**") for a period of six (6) months following the Closing Date (the "**Transition Period**") in a manner similar to his historical custom and practice and agree to assist in the successful transition of the Purchased Assets to Buyer. During the Transition Period, David shall prepare several instructional videos (no more than 10) as agreed with Odell. Thereafter, for a period of one (1) year, David shall provide remote consulting services to Buyer, by making himself available to respond to inquiries at the rate of \$2,000 per month, in accordance with the terms and conditions of the Consulting Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers represent and warrant to Buyer, jointly and severally, that the statements contained in this ARTICLE III are true and correct as of the date hereof. Upon Sellers becoming aware of any fact or circumstance which would make any of Sellers' representations or warranties contained herein untrue or incorrect in any material respect, Sellers shall promptly notify Buyer thereof.

Section 3.01 Organization and Authority of Sellers.

- a. Seller is a corporation duly organized, validly existing, and in good standing under the Laws of the State of California. Seller has full corporate power and authority to enter into this Agreement and the other Transaction Documents to which Seller is a party, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any other Transaction Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate, board, and shareholder action on the part of Seller. This Agreement and the Transaction Documents constitute legal, valid, and binding obligations of Seller enforceable against Seller in accordance with their respective terms.
- b. Each of David and Donna has the legal capacity and full power and authority, as applicable, to enter into this Agreement and the other Transaction Documents to which he or she is a party, to carry out his or her obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

Section 3.02 No Conflicts or Consents. The execution, delivery, and performance by Sellers of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate or conflict with any provision of the articles of incorporation, bylaws, or other governing documents of Seller; (b) violate or conflict with any provision of any statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, other requirement, or rule of law of any Governmental Authority (collectively, "**Law**") or any order, writ, judgment, injunction, decree, stipulation, determination, penalty, or award entered by or with any Governmental Authority ("**Governmental Order**") applicable to Seller, the Business, or the Purchased Assets; (c) require the consent, notice, declaration, or filing with or other action by any individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity ("**Person**") or require any permit, license, or Governmental Order; (d) violate or conflict with, result in the acceleration of, or create in any party the right to accelerate, terminate, modify, or cancel any Contract to which Seller is a party or by which Seller or the Business is bound or to which any of the Purchased Assets are subject (including any Assigned Contract); or (e) result in the creation or imposition of any charge, claim, pledge, equitable interest, lien, security interest, restriction of any kind, or other encumbrance ("**Encumbrance**") on the Purchased Assets.

Section 3.03 Financial Statements. Complete copies of Seller's unaudited financial statements consisting of the balance sheet of Seller as at June 30, 2021 and June 30, 2022 and the related statements of income and retained earnings, shareholders' equity, and cash flow for the years then ended, and the financial statements consisting of the balance sheet of Seller (taken as whole, on a consolidated basis) as at June 30, 2022 and the related statements of income for the two-month period then ended (collectively, the "**Financial Statements**") have been delivered to Buyer. The Financial Statements have been prepared in accordance with reasonable accounting practices on a basis consistent throughout the periods covered thereby. The Financial Statements are based on the books and records of Seller and fairly present in all material respects the financial condition of Seller as of the respective dates they were prepared and the results of the operations of Seller for the periods indicated. The balance sheet of Seller as of June 30, 2022 is referred to herein as the "**Balance Sheet**" and the date thereof as the "**Balance Sheet Date**".

Section 3.04 Undisclosed Liabilities. Seller has no Liabilities with respect to the Business, except (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

Section 3.05 Absence of Certain Changes, Events, and Conditions. Since the Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been any change, event, condition, or development that is, or could reasonably be expected to be, individually or in the aggregate, materially adverse to: (a) the business, results of operations, condition (financial or otherwise), or assets of the Business; or (b) the value of the Purchased Assets.

Section 3.06 Assigned Contracts.

- a. Each Assigned Contract is valid and binding on Seller in accordance with its terms and is in full force and effect. Neither Seller nor, to Seller's knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Assigned Contract. No event or circumstance has occurred that would constitute an event of default under any Assigned Contract or result in a termination thereof. Complete and correct copies of each Assigned Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Buyer. There are no disputes pending or threatened under any Assigned Contract.
- b. Seller has no outstanding Contracts with ASA except as provided on Section 3.06(b) of the Disclosure Schedules.

Section 3.07 Title to Purchased Assets. Seller has good and valid title to all of the Purchased Assets (except with regard to the Owners' IP and Business Goodwill), free and clear of Encumbrances. Owners are the exclusive owners of all right, title and interest in and to the Owners' IP and the Business Goodwill, free and clear of any and all Encumbrances. There are no (a) outstanding rights to acquire from Owners, (b) contracts or commitments providing for the sale, assignment or other transfer by Owners of, any of the Owners' IP or Business Goodwill, or

- c. agreements with the Seller or any other party restricting Owners' ability to compete with the Business or Seller or Owners' ability to solicit the business of the Business's or Seller's customers except as provided for herein.

Section 3.08 Condition and Sufficiency of Assets. Each item of Tangible Personal Property is structurally sound, is in good operating condition and repair, and is adequate for the uses to which it is being put, and no item of Tangible Personal Property needs maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The Purchased Assets are sufficient for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property, and assets necessary to conduct the Business as currently conducted. None of the Excluded Assets are material to the Business.

Section 3.09 Inventory. All Inventory, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for obsolete, damaged, defective, or slow-moving items that have been written off or written down to fair market value or for which adequate reserves have been established.

Section 3.10 Accounts Receivable. All accounts receivable ("**Accounts Receivable**"):

(a) have arisen from bona fide transactions entered into by Seller involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (b) constitute only valid, undisputed claims of Seller not subject to claims of set-off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice; and (c) are collectible in full within ninety (90) days after billing.

Section 3.11 Material Customers and Suppliers.

- a. Section 3.11(a) of the Disclosure Schedules sets forth with respect to the Business (i) each customer who has paid aggregate consideration to Seller for goods or services rendered in an amount greater than or equal to \$10,000 for each of the two (2) most recent fiscal years (collectively, the "**Material Customers**"); and (ii) the amount of consideration paid by each Material Customer during such periods. Seller has not received any notice, and has no reason to believe, that any of the Material Customers has ceased, or intends to cease after the Closing, to use the goods or services of the Business or to otherwise terminate or materially reduce its relationship with the Business.
- b. Section 3.11(b) of the Disclosure Schedules sets forth with respect to the Business (i) each supplier to whom Seller has paid aggregate consideration for goods or services rendered in an amount greater than or equal to \$10,000 for each of the two (2) most recent fiscal years (collectively, the "**Material Suppliers**"); and (ii) the amount of purchases from each Material Supplier during such periods. Seller has not received any notice, and has no reason to believe, that any of the Material Suppliers has ceased, or intends to cease, to supply goods or

services to the Business or to otherwise terminate or materially reduce its relationship with the Business.

Section 3.12 Legal Proceedings; Governmental Orders.

- a. There are no claims, actions, causes of action, demands, lawsuits, arbitrations, inquiries, audits, notices of violation, proceedings, litigation, citations, summons, subpoenas, or investigations of any nature, whether at law or in equity (collectively, "**Actions**") pending or, to Seller's knowledge, threatened against or by Seller: (a) relating to or affecting the Business, the Purchased Assets, or the Assumed Liabilities; or (b) that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.
- b. Sellers are in compliance with all Governmental Orders against, relating to, or affecting the Business or the Purchased Assets.

Section 3.13 Compliance with Laws. Sellers are in compliance with all Laws applicable to the conduct of the Business as currently conducted or the ownership and use of the Purchased Assets.

Section 3.14 Taxes. All Taxes due and owing by Sellers have been, or will be, timely paid. No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of Seller. All Tax Returns required to be filed by Sellers for any tax periods prior to Closing have been, or will be, timely filed. Such Tax Returns are, or will be, true, complete, and correct in all respects. The term "**Taxes**" means all federal, state, local, foreign, and other income, gross receipts, sales, use, production, ad valorem, transfer, documentary, franchise, registration, profits, license, withholding, payroll, employment, unemployment, excise, severance, stamp, occupation, premium, property (real or personal), customs, duties, or other taxes, fees, assessments, or charges of any kind whatsoever, together with any interest, additions, or penalties with respect thereto.

Section 3.15 Intellectual Property.

- a. "**Intellectual Property**" means any and all of the following in any jurisdiction throughout the world: (i) issued patents and patent applications; (ii) trademarks, service marks, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing; (iii) copyrights, including all applications and registrations; (iv) trade secrets, know-how, inventions (whether or not patentable), technology, and other confidential and proprietary information and all rights therein; (v) internet domain names and social media accounts and pages; and (vi) other intellectual or industrial property and related proprietary rights, interests, and protections.
 - b. Section 3.15 of the Disclosure Schedules lists all issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing and all material unregistered Intellectual Property that are owned by Sellers (the "**Company IP Registrations**"). Sellers own or have the valid and enforceable right to use all Intellectual Property used or held for use in or necessary for the conduct of the Business as currently conducted or as proposed to be conducted (the "**Company Intellectual Property**"), free and clear of all Encumbrances. All of the Company Intellectual Property is valid and enforceable, and all Company IP Registrations are subsisting and in full force and effect. Sellers have taken all necessary steps to maintain and enforce the Company Intellectual Property.
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- c. The conduct of the Business as currently and formerly conducted and as proposed to be conducted has not infringed, misappropriated, or otherwise violated and will not infringe, misappropriate, or otherwise violate the Intellectual Property or other rights of any Person. No Person has infringed, misappropriated, or otherwise violated any Company Intellectual Property.
- d. The Company Intellectual Property shall include the Seller's IP and the Owners' IP.

Section 3.16 Environmental Matters. Seller is currently and has been in compliance in all material respects with, and has no material Liabilities under, any and all environmental laws. There are no facts, events, conditions or circumstances that could result in a Liability to any Seller pursuant to environmental laws.

Section 3.17 Labor Matters.

- a. Section 3.17(a) of the Disclosure Schedules sets forth a complete list of all of the employees of the Business, together with their rates of pay, benefits and a categorization of each such person as a full-time or part-time employee of Seller. None of the employees of the Business has an employment agreement with Seller. Seller has not altered the compensation of any employee within the past 30 days.
- b. Section 3.17(b) of the Disclosure Schedules sets forth a list and summary of all employee benefit plans of the Practice existing under any Federal, state or local laws, rules or regulations or otherwise, including, but not limited to any benefit plan under the Employee Retirement Security Act of 1974, the Internal Revenue Code of 1986, as amended, or otherwise.

Section 3.18 Insurance. Section 3.18 of the Disclosure Schedules sets forth (a) a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, fiduciary liability and other casualty and property insurance maintained by Seller or its Affiliates and relating to the Business, the Purchased Assets or the Assumed Liabilities (collectively, the "**Insurance Policies**"); and (b) with respect to the Business, the Purchased Assets or the Assumed Liabilities, a list of all pending claims and the claims history for Seller since August 31, 2017. There are no claims related to the Business, the Purchased Assets or the Assumed Liabilities pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. Neither Seller nor any of its Affiliates has received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. All premiums due on such Insurance Policies have either been paid or, if not yet due, accrued. All such Insurance Policies

(a) are in full force and effect and enforceable in accordance with their terms; (b) are provided by carriers who are financially solvent; and (c) have not been subject to any lapse in coverage. None of Seller or any of its Affiliates is in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any such Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Business and are sufficient for compliance with all applicable Laws and Contracts to which Seller is a party or by which it is bound. True and complete copies of the Insurance Policies have been made available to Buyer.

Section 3.19 Brokers. No broker, finder, or investment banker is entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Seller.

Section 3.20 Full Disclosure. No representation or warranty by Sellers in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers that the statements contained in this ARTICLE IV are true and correct as of the date hereof.

Section 4.01 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing, and in good standing under the Laws of the State of California. Buyer has full corporate power and authority to enter into this Agreement and the other Transaction Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any other Transaction Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder, and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate, board, and shareholder action on the part of Buyer. This Agreement and the Transaction Documents constitute legal, valid, and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms.

Section 4.02 No Conflicts; Consents. The execution, delivery, and performance by Buyer of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate or conflict with any provision of the articles of incorporation, bylaws, or other organizational documents of Buyer; (b) violate or conflict with any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice, declaration, or filing with or other action by any Person or require any permit, license, or Governmental Order.

Section 4.03 Brokers. No broker, finder, or investment banker is entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Buyer.

Section 4.04 Legal Proceedings. There are no Actions pending or, to Buyer's knowledge, threatened against or by Buyer that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

ARTICLE V COVENANTS

Section 5.01 Confidentiality. From and after the Closing, Sellers shall, and shall cause their respective Affiliates to, hold, and shall use its reasonable best efforts to cause its or their respective directors, officers, employees, consultants, counsel, accountants, and other agents ("**Representatives**") to hold, in confidence any and all information, whether written or oral, concerning the Business, except to the extent that Sellers can show that such information: (a) is generally available to and known by the public through no fault of any Seller, any of their Affiliates, or their respective Representatives; or (b) is lawfully acquired by Sellers, any of their respective Affiliates, or their respective Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual, or fiduciary obligation. If any Seller or any of its Affiliates or their respective Representatives are compelled to disclose any information by Governmental Order or Law, such Seller shall promptly notify Buyer in writing and shall disclose only that portion of such information which is legally required to be disclosed. Such Seller shall use reasonable best efforts to obtain as promptly as possible an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

Section 5.02 Non-Competition; Non-Solicitation.

- a. Sellers acknowledge the highly competitive nature of the Business and accordingly agree, in connection with the sale of the Purchased Assets, including the Business Goodwill, which Buyer considers to be a valuable asset, and in exchange for good and valuable consideration, for a period of five (5) years commencing on the Closing Date (the "**Restricted Period**"), not to, directly or indirectly, (i) engage in or assist others in engaging in any activity that is the same as, or similar to, any activity that the Seller currently engages (the "**Restricted Business**") in the States of California, Texas, and Utah (the "**Territory**"); or (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, director, member, manager, employee, principal, agent, trustee, or consultant. Notwithstanding the foregoing, Sellers may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if a Seller is not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own two percent (2%) or more of any class of securities of such Person. This Section 5.02 does not, in any way, restrict or impede any Seller from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable Law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the Law, regulation or order. Such Seller shall promptly provide written notice of any such order in accordance with Section 7.02 hereof.
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- b. During the Restricted Period, Sellers shall not, directly or indirectly, hire or solicit any person who is or was employed in the Business on the Closing Date except pursuant to a general solicitation which is not directed specifically to any such employees; *provided that* nothing in this Section 5.02(b) shall prevent any Seller from hiring (i) any employee whose employment has been terminated by Buyer; or (ii) after one hundred eighty (180) days from the date of termination of employment, any employee whose employment has been terminated by the employee.
- c. Sellers acknowledge that the restrictions contained in this Section 5.02 are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated by this Agreement. In the event that any covenant contained in this Section 5.02 should ever be adjudicated to exceed the time, geographic, product or service, or other limitations permitted by applicable Law in any jurisdiction or any Governmental Order, then any court is expressly empowered to reform such covenant in such jurisdiction to the maximum time, geographic, product or service, or other limitations permitted by applicable Law or such Governmental Order. The covenants contained in this Section 5.02 and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

Section 5.03 Public Announcements. Unless otherwise required by applicable Law, no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby without the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), and the parties shall cooperate as to the timing and contents of any such announcement.

Section 5.04 Bulk Sales Laws. The parties hereby waive compliance with the provisions of Division 6 of the California Uniform Commercial Code relating to bulk sales and the provisions of any other bulk sales, bulk transfer, or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer. Any Liabilities arising out of the failure of Sellers to comply with the requirements and provisions of any bulk sales, bulk transfer, or similar Laws of any jurisdiction which would not otherwise constitute Assumed Liabilities shall be treated as Excluded Liabilities.

Section 5.05 Receivables. From and after the Closing, if Seller or any of its Affiliates receives or collects any funds relating to any Purchased Asset, Seller or its Affiliate shall remit such funds to Buyer within ten (10) business days after its receipt thereof. From and after the Closing, if Buyer or its Affiliate receives or collects any funds relating to any Excluded Asset, including Accounts Receivable, Buyer or its Affiliate shall remit any such funds to Seller within ten (10) business days after its receipt thereof.

Section 5.06 Transfer Taxes. All sales, use, registration, and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents, if any, shall be borne and paid by Sellers when due. Sellers shall, at their own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

Section 5.07 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

Section 5.08 Mutual Non-Disparagement. From and after the Closing, each of the parties hereto agree not to, directly or indirectly, publicly disclose, publicly communicate, or publish any disparaging, negative or harmful, written communications, oral communications, electronic communications, writings, oral or written statements, comments, opinions, facts, or remarks, of any kind or nature whatsoever (collectively, "**Disparaging Information**"), that intentionally disparages the reputation of the other, its products, services, members, managers, employees, customers or suppliers, as applicable, provided that the foregoing shall not prohibit any person or entity from making truthful statements to the extent necessary to comply with any legal requirement. The parties further acknowledge and agree that any breach or violation of this Section 5.08 shall entitle the other to seek injunctive relief to prevent any future breaches of this provision and/or to sue the other under the provisions of this Agreement for the immediate recovery of any actual damages caused by such breach.

ARTICLE VI INDEMNIFICATION

Section 6.01 Survival. All representations, warranties, covenants, and agreements contained herein and all related rights to indemnification shall survive the Closing.

Section 6.02 Indemnification by Sellers. Subject to the other terms and conditions of this ARTICLE VI, Sellers shall, jointly and severally, indemnify and defend each of Buyer and its Affiliates and their respective Representatives (collectively, the "**Buyer Indemnitees**") against, and shall hold each of them harmless from and against, any and all losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees (collectively, "**Losses**"), incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, or with respect to:

- a. any inaccuracy in or breach of any of the representations or warranties of Sellers contained in this Agreement, any other Transaction Document, or any schedule, certificate, or exhibit related thereto, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);
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- b. any breach or non-fulfillment of any covenant, agreement, or obligation to be performed by Sellers pursuant to this Agreement, any other Transaction Document, or any schedule, certificate, or exhibit related thereto;
- c. any Third Party Claim based upon, resulting from, or arising out of the business, operations, properties, assets, or obligations of Sellers or any of its Affiliates (other than the Purchased Assets or Assumed Liabilities) conducted, existing, or arising on or prior to the Closing Date. For purposes of this Agreement, "**Third Party Claim**" means notice of the assertion or commencement of any Action made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing.
- d. The amount owed pursuant to this Section 6.02 shall be the amount required to put Buyer in the position it would have been in had such representation, warranty, covenant or agreement not been breached. Buyer shall have the right to deduct from any Deferred Payments any amounts owed to Buyer pursuant to this Section 6.02. Upon depletion or release of any Deferred Payments, any remaining amounts owed shall be paid by Sellers to Buyer. For the purposes of clarity, any amounts deducted from the Deferred Payments pursuant to this Section 6.02(d) shall be deducted from any such amount owed pursuant to this Section 6.02.

Section 6.03 Indemnification by Buyer. Subject to the other terms and conditions of this ARTICLE VI, Buyer shall indemnify and defend each of Sellers and its Affiliates and their respective Representatives (collectively, the "**Seller Indemnitees**") against, and shall hold each of them harmless from and against any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, or with respect to:

- a. any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or any schedule, certificate, or exhibit related thereto as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date); or
- b. any breach or non-fulfillment of any covenant, agreement, or obligation to be performed by Buyer pursuant to this Agreement or any schedule, certificate, or exhibit related thereto.

Section 6.04 Indemnification Procedures. Whenever any claim shall arise for indemnification hereunder, the party entitled to indemnification (the "**Indemnified Party**") shall promptly provide written notice of such claim to the other party (the "**Indemnifying Party**"). In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any Action by a Person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may assume the defense of any such Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense. If the Indemnifying Party does not assume the defense of any such Action, the Indemnified Party may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate, including settling such Action, after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. The Indemnifying Party shall not settle any Action without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld or delayed).

Section 6.05 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, except to the extent otherwise required by law.

Section 6.06 Right of Set-off. Notwithstanding anything to the contrary in this Agreement, and without prejudice to any other right or remedy Buyer has or may have, in the event that any of the Sellers has any liability or obligation to any Buyer Indemnitee under this Agreement, and payment in cash has not been made by such Seller within thirty (30) days of the date when any such indemnification payment finally became due and payable, Buyer may elect, at its option in its sole discretion, to set-off against any amount owed to any of the Sellers by Buyer, to the extent permitted by applicable law, including (for the avoidance of doubt) any Deferred Payment.

Section 6.07 Cumulative Remedies. The rights and remedies provided in this ARTICLE VI are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

ARTICLE VII MISCELLANEOUS

Section 7.01 Expenses. All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 7.02 Notices. All notices, claims, demands, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient, or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 7.02):

If to Seller or Owners:

David Ketchum and Donna Ketchum 130 Georges Drive
Hollister, CA 95023
Email: rana_quemada@yahoo.com

If to Buyer:

Cadiz, Inc.

550 South Hope Street Suite 2850 Los Angeles, CA 90071
Email: sspeer@cadizinc.com Attention: Chief Financial Officer
with a copy (which shall not constitute notice) to:
Brownstein Hyatt Farber Schreck LLP 1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101 Email: Snyborg@bhfs.com Attention: Stacie Nyborg

Section 7.03 Interpretation; Headings. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 7.04 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement.

Section 7.05 Entire Agreement. This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits, and the Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 7.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, however, that Buyer shall have the right to assign its rights and delegate its obligations under this Agreement at any time without the prior written consent of any Seller, if such assignment and delegation are made to (i) a wholly owned subsidiary of Buyer and/or (ii) an entity controlling or under common control with Buyer (collectively, "**Permitted Assignees**"). Any purported assignment in violation of this Section 7.06 shall be null and void. No assignment shall relieve the assigning party of any of its obligations hereunder; provided, however, upon any such valid assignment to a Permitted Assignee, Cadiz, Inc. shall be released from any obligations as the Buyer under this Agreement accruing after such assignment.

Section 7.07 Amendment and Modification; Waiver. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any right or remedy arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 7.08 Governing Law; Submission to Jurisdiction. All matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction). Any legal suit, action, proceeding, or dispute arising out of or related to this Agreement, the other Transaction Documents, or the transactions contemplated hereby or thereby may be instituted in the federal courts of the United States of America or the courts of the State of California in each case located in the city of Los Angeles and county of Los Angeles, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, proceeding, or dispute.

Section 7.09 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

SELLER:

A TEC SYSTEMS, INC., a California corporation

By: /s/ David Ketchum

Name: David Ketchum

Title: President OWNERS:

/s/ David Ketchum

David Ketchum

/s/ Donna Ketchum

Donna Ketchum

BUYER:

CADIZ, INC., a Delaware corporation

By: /s/ Scott Slater

Name: Scott Slater

Title: Chief Executive Officer

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

ATEC WATER SYSTEMS, LLC

This Amended and Restated Limited Liability Company Agreement (the “Agreement”) of ATEC Water Systems, LLC, a Delaware limited liability company (the “Company”), dated as of November 6, 2022 (the “Effective Date”), is entered into by and among the Members (as defined below) and amends and restates in its entirety that certain Limited Liability Company Agreement of the Company, dated as of October 20, 2022.

ARTICLE I. DEFINITIONS

1. **Definitions.** In addition to the terms defined elsewhere in this Agreement, the following terms shall have the indicated meaning:

“Act” means the Delaware Limited Liability Company Act, as amended from time to time.

“Adjusted Capital Account Deficit” means, with respect to any Member, a deficit balance in such Member’s Capital Account as of the end of the fiscal year after giving effect to the following adjustments:

(a) credit to such Capital Account the additions, if any, permitted by Treasury Regulations §§ 1.704-1(b)(2)(ii)(c) (referring to obligations to restore a capital account deficit), 1.704-2(g)(1) (referring to “partnership minimum gain”) and 1.704-2(i)(5) (referring to a partner’s share of “partner nonrecourse debt minimum gain”), and (b) debit to such Capital Account the items described in §§ 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations. This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulation § 1.704-1(b)(2)(ii)(d).

“Adjusted Properties” is defined in Section 0.

“Adjustment Liability” is defined in Section 5.5(b).

“Adjustment Tax Liability Shortfall” is defined in Section 5.5(b).

“Affiliate” means with respect to a Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. As used in this definition, the word “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agreement” is defined in the introductory paragraph.

“Available Cash” means, at any time of determination, the amount of cash and cash equivalents held by the Company (including, for purposes of Section 6.1 only, any amounts available for borrowing under a then-existing line of credit of the Company, *provided, however*, that (a) the Company shall be under no obligation to secure any such line of credit if one does not then exist or amend or modify such line of credit to provide for greater borrowing capacity thereunder, and (b) that any amount drawn in order to make distributions under Section 6.1 does not cause (with or without the passage of time) the Company to be in violation of any of the covenants thereunder), *less*, as determined by the Manager in its sole discretion, such cash reserves necessary to pay on a timely basis the Company costs and expenses, including operating costs and expenses, taxes (including tax distributions that are due to become owing

within the next 90 days), debt service, capital expenditures, and other obligations and anticipated obligations of the Company, taking into account the anticipated revenues of the Company.

“Bankruptcy” means, with respect to a Person, any of the following acts or events: (a) making an assignment for the benefit of creditors; (b) filing a voluntary petition in bankruptcy; (c) becoming the subject of an order for relief or being declared insolvent or bankrupt in any federal or state bankruptcy or insolvency proceeding; (d) filing a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (e) filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in a proceeding of the type described in clause (c) or (d) of this definition; (f) making an admission in writing of an inability to pay debts as they mature; (g) giving notice to any governmental authority that insolvency has occurred, that insolvency is pending, or that operations have been suspended; (h) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of all or any substantial part of its properties; or (i) the expiration of 90 days after the date of the commencement of a proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law if the proceeding has not been previously dismissed, or the expiration of 60 days after the date of the appointment, without such Person’s consent or acquiescence, of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person’s properties, if the appointment has not previously been vacated or stayed, or the expiration of 60 days after the date of expiration of a stay, if the appointment has not been previously vacated.

“Manager” is defined in Section 4.1(a).

“Business Day” means any day other than a Saturday or Sunday or other day upon which banks are authorized or required to close in the State of California. “Cadiz” means Cadiz, Inc., a Delaware corporation. “Capital Account” is defined in Section 9.2(a).

“Capital Contribution” means for any Member at the particular time in question the aggregate of the dollar amounts of any cash and cash equivalents contributed by such Member to the capital of the Company, plus the fair market value, as determined by the Manager of any property contributed by such Member to the capital of the Company. The Capital Contributions of the Members are set forth in Schedule 1 attached hereto.

“Carrying Value” The initial “Carrying Value” of property contributed to the Company by a Member means the value of such property at the time of contribution as determined by the Manager in its reasonable judgment. The initial Carrying Value of any other property shall be the adjusted basis of such property for federal income tax purposes at the time it is acquired by the Company. The initial Carrying Value of a property shall be reduced (but not below zero) by all subsequent depreciation, cost recovery, depletion and amortization deductions with respect to such property as taken into account in determining Profit and Loss. The Carrying Value of any property shall be adjusted from time to time in accordance with Section 9.2(b) and Treasury Regulation § 1.704-1(b)(2)(iv)(m), and to reflect changes, additions or other adjustments to the Carrying Value for dispositions, acquisitions or improvements of Company properties, as deemed appropriate by the Manager.

“Claims” is defined in Section 4.7.

“Class A Member” means a holder of Class A Units, including its, his or her permitted successors and assigns. As of the Effective Date, the Class A Members are set forth on Schedule 1 attached hereto.

“Class A Member Majority” means the Class A Members holding more than 50.00% of the aggregate Class A Proportionate Share.

“Class A Proportionate Share” means, with respect to each Class A Member, stated as a percentage equal to the quotient obtained by *dividing* (a) the total number of Class A Units held by such Class A Member by (b) the aggregate number of issued and outstanding Class A Units.

“Class A Units” is defined in Section 2.6(a).

“Class P Member” means a holder of Class P Units, including its, his or her permitted successors and assigns. As of the Effective Date, the Class P Members are set forth on Schedule 1 attached hereto.

“Class P Unit Award Agreement” is defined in Section 2.6(c)(iii).

“Class P Units” is defined in Section 2.6(a).

“Code” means the Internal Revenue Code of 1986, as amended from time to time. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future Law.

“Company” is defined in the introductory paragraph.

“Company Minimum Gain” means partnership minimum gain as defined in Treasury Regulation § 1.704-2(f).

“Company Subsidiary” means any Subsidiary of the Company. “Consent of Spouse” is defined in Section 13.5.

“Covered Person” is defined in Section 4.6(a).

“Effective Date” is defined in the introductory paragraph.

“Employment Agreement” means an agreement governing the terms of a Person’s employment with the Company or any of its Affiliates, entered into between such Person and the Company or such Affiliate at any time, as the same may be amended from time to time.

“Executive Officer” means each of the officers of the Company as appointed by the Manager, including any future officer position that is created by the Manager.

“GAAP” means generally accepted accounting principles in the United States.

“Initial Capital Contributions” is defined in Section 3.1.

“Law” or “Laws” means all applicable federal, state, tribal and local laws (statutory or common), rules, ordinances, regulations, grants, concessions, franchises, licenses, orders, directives, judgments, decrees, restrictions and other similar requirements, whether legislative, municipal, administrative or judicial in nature.

“Lien” means any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, charge, deposit arrangement, preference, priority, security interest, option, right of first refusal or other transfer restriction or encumbrance of any kind (including preferential purchase rights, conditional sales

agreements or other title retention agreements, and the filing of or agreement to give any financing statement under the Uniform Commercial Code or comparable Law of any jurisdiction to evidence any of the foregoing).

“Liquidation Event” is defined in Section 6.3(a).

“Manager” means, initially, Cadiz, Inc., or such other Person as may be designated or become the Manager pursuant to the terms of this Agreement.

“Member” means a Person designated as a Member of the Company on Schedule 1 attached hereto, a Person admitted as an additional Member pursuant to Section 2.6 and a Person admitted as a substituted Member pursuant to Section 10.3.

“Member Nonrecourse Debt Minimum Gain” means partner nonrecourse debt minimum gain as defined Treasury Regulation § 1.704-2(i)(4).

“Member Tax Rate” means, with respect to the Members, the highest marginal combined federal, state and local income tax rate applicable to any Member for the applicable year, taking into account character (e.g., long-term or short-term capital gain or ordinary or exempt) of the applicable income. In the case of any Member which is a pass-through entity for federal income tax purposes, the federal, state and local income tax rate applicable to such Member for purposes of the Member Tax Rate will be equal to the state, federal and local income tax rate applicable to the direct or indirect equity owner which is subject to income tax liability and which owns the largest direct or indirect economic interest in such Member. The Member Tax Rate will not take into account deductions under Code Section 199A or the deductibility of state or local taxes against federal income.

“Membership Interest” means, with respect to any Member, (a) that Member’s status as a Member, (b) that Member’s Capital Account and share of the Profits, Losses and other items of income, gain, loss, deduction and credits of, and the right to receive distributions (liquidating or otherwise) from, the Company under the terms of this Agreement, (c) all other rights, benefits and privileges enjoyed by that Member (under the Act or this Agreement) in its capacity as a Member, including that Member’s rights to vote, consent and approve those matters described in this Agreement, and (d) all obligations, duties and liabilities imposed on that Member under the Act or this Agreement in its capacity as a Member. Membership Interests shall be denominated in Units.

“Odell” means Lee Odell.

“Participation Threshold” is defined in Section 2.6(c)(ii).

“Permitted Affiliate Transferee” is defined in Section 10.2(c).

“Person” means a natural person, corporation, joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, limited liability company, trust, estate, business trust, association, governmental authority or any other entity.

“Profit” or “Loss” means the income or loss of the Company as determined under the capital accounting rules of Treasury Regulation § 1.704-1(b)(2)(iv) for purposes of adjusting the Capital Accounts of Members including the provisions of paragraphs 1.704-1(b)(2)(iv)(g) and 1.704-1(b)(4) of those regulations relating to the computation of items of income, gain, deduction and loss.

“Proportionate Share” means, with respect to each Member, stated as a percentage, the quotient obtained by *dividing* (a) the total number of Units held by such Member by (b) the aggregate number of issued and outstanding Units.

“Regulatory Allocations” is defined in Section 7.2(h).

“Representative” is defined in Section 5.5(b).

“Restrictive Covenant Agreement” means any agreement relating to confidentiality, non-competition, non-solicitation, non-recruitment, non-disparagement, assignment of inventions, and/or similar covenants entered into between any Person in its capacity as an employee of the Company and the Company at any time, as the same may be amended from time to time.

“Securities Act” means the Securities Act of 1933, as amended from time to time. Any reference herein to a specific section or sections of the Securities Act shall be deemed to include a reference to any corresponding provision of future Law.

“Subsidiary” means any entity, 50.00% or more of the outstanding equity interests of which are owned, directly or indirectly, by any Person, or which such Person has the right, directly or indirectly, to control through voting rights by contract or otherwise. As used in this definition, the word “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Tax Audit Person” is defined in Section 5.5(a).

“Tax Distribution” is defined in Section 6.1.

“Tax Liability” is defined in Section 6.1.

“Transfer” means, with respect to any asset, including Units or any portion thereof, including any right to receive distributions from the Company or any other economic interest in the Company, a sale, assignment, transfer, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by merger, exchange, consolidation or other operation of Law, including the following: (a) in the case of an asset owned by a natural Person, a transfer of such asset upon the death of its owner, whether by will, intestate succession or otherwise; (b) in the case of an asset owned by a Person which is not a natural Person, a distribution of such asset, including in connection with the dissolution, liquidation, winding up or termination of such Person (other than a liquidation under a deemed termination solely for tax purposes); and (c) a disposition in connection with, or in lieu of, a foreclosure of a Lien; *provided, however*, that a Transfer shall not include the creation of a Lien.

“Treasury Regulations” means regulations issued by the Department of Treasury under the Code. Any reference herein to a specific section or sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provision of future regulations under the Code.

“Unit” is defined in Section 2.6.

“Unreturned Capital Contribution” means a Member’s aggregate Capital Contributions *less* any amount distributed to such Member as a return of Capital Contributions pursuant to Sections 6.2 and 6.3.

“Vested Proportionate Share” means, with respect to each Member, stated as a percentage, the quotient obtained by *dividing* (a) the total number of Units held by such Member by (b) the aggregate number of issued and outstanding Units, but taking into account as outstanding for such (a) and (b) only the Class P Units that are vested under all applicable Class P Unit Award Agreements.

2. **Interpretation.** Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, to the singular include the plural, and to the part include the whole. Unless the context of this Agreement clearly requires otherwise, use of masculine, feminine and neutral pronouns will not be a specific reference to either gender or lack thereof. The words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.” The term “or” has the inclusive meaning represented by the term “and/or.” The words “hereof,” “herein,” “hereunder,” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. References to “Articles,” “Sections,” “Subsections,” “Exhibits,” and “Schedules” are to Articles, Sections, Subsections, Exhibits, and Schedules, respectively, of this Agreement, unless otherwise specifically provided. Terms defined in this Agreement may be used in the singular or the plural. The recitals of this Agreement are intended to be a part of, and are hereby incorporated into, this Agreement in their entirety (including, for the avoidance of doubt, the definitions set forth therein).

ARTICLE II. THE LIMITED LIABILITY COMPANY

1. **Formation.** The Company was formed pursuant to the Act by properly filing a certificate of formation with the Delaware Secretary of State. The Members agree that the Company shall be governed by the terms and conditions set forth in this Agreement. To the fullest extent permitted by the Act, this Agreement shall control as to any conflict between this Agreement and the Act or as to any matter provided for in this Agreement that is also provided for in the Act.
 2. **Name.** The name of the Company shall be ATEC Water Systems, LLC.
3. **Registered Office and Agent; Principal Place of Business.** The location of the registered office of the Company and the Company’s registered agent at such address shall be determined by the Manager. The location of the principal place of business of the Company shall be at such location as the Manager may from time to time select.
4. **Purpose.** The business of the Company shall be (a) to engage in the business of manufacturing, sales and installment of water treatment equipment; and (b) the conduct of any business or activity that may be lawfully conducted by a limited liability company organized pursuant to the Act. The business of the Company may be conducted directly by the Company or indirectly through one or more other companies, joint ventures, or other arrangements.
5. **The Members.** The name, address and number of Units of each Member are set forth on Schedule 1 attached hereto. Upon the admission of additional or substituted Members, or the removal of any Member, in each case in accordance with this Agreement, the Company shall update Schedule 1 attached hereto to reflect the then current ownership of Units. Notwithstanding anything to the contrary herein, the update by the Company of Schedule 1 pursuant to this Section 2.5 shall not be considered an amendment to this Agreement.

6. Classification of Units; Issuance of Additional Units.

- a. **Classification of Units.** The Membership Interests authorized to be issued by the Company shall be denominated in units (each, a “Unit”). As of the Effective Date, the Company is authorized to issue 1,000,000 Units. The Company shall have two classes of Units, designated as the Class A Units (the “Class A Units”) and the Class P Units (the “Class P Units”). The Class A Units shall entitle the holder thereof to the rights set forth herein with respect to the Class A Units. The Class P Units shall entitle the holder thereof to the rights set forth herein with respect to the Class P Units. As of the Effective Date, there are 800,000 authorized Class A Units and 200,000 authorized Class P Units. Units shall be issued in non-certificated form.
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- b. Issuance of Additional Units. The Manager may, with the written consent of Odell, for so long as Odell is a Member (it being understood that any such consent right of Odell shall not be applicable at any time that B. Riley Securities, Inc. (together with any successors and assigns, the “Senior Agent”) or any of its affiliate, is pursuing any enforcement action or remedies at law or equity with respect to amounts or other obligations owed to any lender under that certain Credit Agreement, dated as of July 2, 2021 (as amended, restated or otherwise modified from time to time, the “Senior Credit Agreement”), by and among Cadiz, the Senior Agent and the other parties party thereto or any other Loan Document (as defined in the Senior Credit Agreement)), from time to time (i) increase or decrease (but not below the total number of then-outstanding Units) the total number of Units that the Company is authorized to issue and the number of Units constituting any class or series of Units, (ii) authorize the issuance of additional classes or series of Units and fix and determine the designation and the relative rights, preferences, privileges and restrictions granted to or imposed on such additional classes and series of Units (including the rights, preferences and privileges that are senior to or have preference over the rights, preferences or privileges of any then outstanding or authorized class or series of Units), and (iii) amend or restate this Agreement as necessary to effect any or all of the foregoing. Additional Units may be issued for such Capital Contributions (including Capital Contributions of equity interests in other entities and of other property) and with such rights, privileges and preferences as shall be determined by the Manager and as approved by Odell. In addition, the Manager may, with the written consent of Odell (it being understood that any such consent right of Odell shall not be applicable at any time that the Senior Agent or any of its affiliate, is pursuing any enforcement action or remedies at law or equity with respect to amounts or other obligations owed to any lender under the Senior Credit Agreement or any other Loan Document), for so long as Odell is a Member, from time to time award Units in the Company to Persons who provide services to the Company on such terms and with such rights, privileges and preferences as shall be determined by the Manager and as approved by Odell. If the issuance of additional Units has been properly approved in accordance with this Agreement, the Persons to whom such additional Units have been issued shall automatically be admitted to the Company as Members with respect to such additional Units, subject to (A) such Person executing and delivering such instruments, in form and substance satisfactory to the Manager, as the Manager shall deem necessary or appropriate, and

(B) the satisfaction or waiver of the requirements set forth in Section 10.3.

c. Special Provisions for Class P Units.

- i. The Company intends that the Class P Units constitute “profits interests” within the meaning of IRS Rev. Proc. 93-27, 1993-2 C.B. 343. Unless otherwise required by applicable law, the taxation of the issuance of such Class P Units shall be in accordance with IRS Rev. Proc. 93-27, 1993-2 C.B. 343 and IRS Rev. Proc. 2001-43, 2001-2 C.B. 191, and no Class P Member shall perform any act or take any position inconsistent with the application of IRS Rev. Proc. 2001-43 or any future Internal Revenue Service guidance or other governmental authority that supplements or supersedes the foregoing IRS Revenue Procedures.
- ii. To the extent necessary to cause the Class P Units to constitute profits interests, in connection with the grant of any Class P Units, the Manager shall adjust the Carrying Values of the Company’s assets to equal their respective fair market values in accordance with Section 9.2. At the time any Class P Units are granted, the Manager shall determine the Participation Threshold with respect to such Class P Units. Unless otherwise determined by the Manager, the participation threshold (the “Participation Threshold”) with respect to any Class P Units granted on such date will be a dollar amount equal to the Carrying Value (as adjusted to reflect fair market value of the Company’s assets on the date of grant, as determined by the Manager in its sole discretion) referenced in the first sentence of this Section 2.6(c)(ii), net of any liabilities of the Company as of such date.
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- iii. Class P Units are subject in all events to the terms and conditions placed on such Units in connection with the grant of such Units, including any vesting, forfeiture and Unit purchase provisions contained in any grant agreement between the Company and the grantee of such Units (a “Class P Unit Award Agreement”).
7. **Term.** The Company shall have perpetual existence; *provided, however,* that the Company shall be dissolved upon the occurrence of an event set forth in Section 11.2.

ARTICLE III. CAPITAL CONTRIBUTIONS

1. **Capital Contributions.** Each Class A Member has made the Capital Contribution to the Company described opposite their respective name on Schedule 1 attached hereto (the “Initial Capital Contributions”). Initial Capital Contributions of additional Members shall be governed by Section 2.6.
2. **Additional Capital Commitments.**
 - a. Except as set forth in Section 5.5(b) with respect to an Adjustment Liability, no Member shall be required to make (a) any additional contribution to the capital of the Company, (b) a loan to the Company, or (c) guaranty any Company indebtedness or other obligations.
 - b. Notwithstanding Section 3.2(a), if, at any time following approval by the Manager, a Member makes a loan to the Company, such loan shall be subordinate to any loans from any then-existing third party lender to the Company if required by such lender, and may, in the Manager’s discretion, be repaid prior to any other distributions to the Members. Loans by any Member to the Company shall not be considered Capital Contributions and shall not affect the maintenance of such Member’s Capital Account.
3. **No Third Party Right to Enforce.** No Person other than a Member shall have the right to enforce any obligation of a Member to contribute capital hereunder and specifically no lender or other third party shall have any such rights.
4. **Return of Contributions.** Except as expressly provided in this Agreement, no Member shall be entitled to the return of any part of its Capital Contributions or to be paid interest in respect of either its Capital Account or its Capital Contributions. No unrepaid Capital Contribution shall constitute a liability of the Company, the Manager or any Member. A Member is not required to contribute or to lend cash or property to the Company to enable the Company to return any Member’s Capital Contributions. The provisions of this Section 3.4 shall not limit a Member’s rights under Article XI.

ARTICLE IV. COMPANY MANAGEMENT

1. **Management of the Company.**
 - a. Subject to the provisions of Section 4.2 and except as otherwise provided by the Delaware Act, the business, property and affairs of the Company shall be managed by the Manager. The actions of the Manager taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a duly adopted resolution expressly authorizing such action.
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- b. The Manager shall be appointed, and may be removed and replaced, by resolution adopted by the Class A Member Majority without amendment to this Agreement.
 - c. The Manager may be removed at any time, with or without cause, by the Class A Member Majority upon delivery of a written instruction to the Company and the vacancy shall be filled as provided in Section 4.1(b). The Manager may resign at any time by delivering a written resignation to the Company, which resignation shall be effective upon receipt thereof unless it is specified to be effective at some other time or upon the occurrence of a particular event. If there is a vacancy in the office of the Manager for any reason, including removal or resignation, a successor Manager shall be elected pursuant to Section 4.1(b). The removal of the Manager shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member from the Company.
 2. **Actions Requiring Approval of Odell**. The Company shall not, and shall not enter into any of the following commitments without the prior written consent of Odell (it being understood that any such consent right of Odell shall not be applicable at any time that the Senior Agent or any of its affiliate, is pursuing any enforcement action or remedies at law or equity with respect to amounts or other obligations owed to any lender under the Senior Credit Agreement or any other Loan Document), which shall not be unreasonably withheld:
 - a. Amend, modify, or waive any provisions of the certificate of formation or this Agreement; provided that the Manager may, without the consent of the other Members, amend the Schedule 1 following any new issuance, redemption, repurchase, or Transfer of Membership Interests in accordance with this Agreement.
 - b. Issue additional Membership Interests, equity interests or other securities or, except in connection with a Transfer of Membership Interests that complies with the applicable provisions of this Agreement, admit additional Members to the Company.
 - c. Enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange, or other acquisition (including by merger, consolidation, sale of stock, or acquisition of assets) by the Company of any assets and/or equity interests, other than in the ordinary course of business consistent with past practice.
 - d. Enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, or other disposition (including by merger, consolidation, sale of stock, or sale of assets) by the Company of any assets and/or equity interests, other than sales of inventory in the ordinary course of business consistent with past practice.
 - e. Settle any lawsuit, action, dispute, or other proceeding or otherwise assume any liability or agree to the provision of any equitable relief by the Company.
 - f. Dissolve, wind up, or liquidate the Company or initiate a bankruptcy proceeding involving the Company.
 3. **Liability Insurance**. The Company may, in the discretion of the Manager, maintain directors' and officers' liability insurance coverage on terms and conditions and in such amounts as are customary for a company of similar size and in a similar industry as the Company (with such terms, coverage amounts, conditions and provider(s) being reasonably acceptable to the Manager).
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4. Executive Officers.

- a. The Manager may, from time to time, designate one or more individuals to serve as Executive Officers of the Company. Any Executive Officers designated pursuant to this Section 4.4 shall have such titles and authority and perform such duties as the Manager may, from time to time, delegate to them. If the title given to a particular Executive Officer is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such Executive Officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such Executive Officer, or restrictions placed thereon, by the Manager. Each Executive Officer shall hold office until his or her successor is duly designated, until his or her death or until he or she resigns or is removed in accordance with Section 4.4(b). Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the Executive Officers of the Company shall be fixed from time to time by the Manager.
 - b. Any Executive Officer may resign at any time by giving written notice thereof to the Manager. An Executive Officer may be removed by the Manager at any time with or without cause; *provided, however*, that such removal shall be subject to the terms and conditions of any written agreement between such Executive Officer and the Company, if any, and without prejudice to any such contract rights contained therein. Designation of an Executive Officer to serve the Company shall not, by itself, create contract rights.
 - c. The Executive Officers as of the Effective Date are listed on the attached Schedule 4.4, which schedule may be updated from time to time by the Manager without an amendment to this Agreement to maintain the accuracy thereof.
5. **Affiliate Transactions.** In addition to those transactions, agreements, contracts and undertakings specifically set forth in this Agreement, the Manager may cause the Company to enter into transactions, agreements, contracts and undertakings with the Manager, any Member, or any of their respective Affiliates or Related Parties, so long as such transactions, agreements, contracts or undertakings (including any amendments, modifications or renewals thereof) are upon arms-length terms as reasonably determined by the Manager and have been approved by the Manager.

6. Exculpation.

- a. As used herein, the term “Covered Person” shall mean (i) each Member, (ii) each officer, director, shareholder, partner, member, controlling Affiliate, employee, agent, or representative of each Member and of the Manager, and each of their controlling Affiliates, and (iii) the Manager, Executive Officer, employee, agent, or representative of the Company.
 - b. No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage, or claim incurred by reason of any action taken or omitted to be taken by such Covered Person in his, her, or its capacity as a Covered Person, so long as such action or omission does not constitute fraud or willful misconduct by such Covered Person.
 - c. This Agreement is not intended to, and does not, create or impose any fiduciary duty on any Covered Person. Furthermore, each of the Members and the Company hereby waives any and all fiduciary duties that, absent such waiver, may be implied by Applicable Law, and in doing so, acknowledges and agrees that the duties and obligation of each Covered Person to each other and to the Company are only as expressly set forth in this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Covered Person.
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- d. Whenever in this Agreement a Covered Person is permitted or required to make a decision (including a decision that is in such Covered Person's "discretion" or under a grant of similar authority or latitude), the Covered Person shall be entitled to consider only such interests and factors as such Covered Person desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any other Person. Whenever in this Agreement a Covered Person is permitted or required to make a decision in such Covered Person's "good faith," the Covered Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or any other Applicable Law.

7. Indemnification.

- a. To the fullest extent permitted under the Act, any Covered Person shall be entitled to indemnification and reimbursement of expenses from the Company for and against any loss, damage, claim, or expense (including attorneys' fees) (collectively, "Claims") whatsoever incurred by the Covered Person relating to or arising out of any act or omission or alleged acts or omissions (whether or not constituting negligence) performed or omitted by any Covered Person on behalf of the Company; provided, however, that (i) any indemnity under this Section 4.7 shall be provided out of and to the extent of the Company assets only, and neither any Member or any other Person shall have any personal liability to contribute to such indemnity by the Company; (ii) such Covered Person acted in good faith and in a manner believed by such Covered Person to be in, or not opposed to, the best interests of the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct was unlawful; and (iii) such Covered Person's conduct did not constitute fraud or willful misconduct.
- b. Upon receipt by the Company of a written undertaking by or on behalf of the Covered Person to repay such amounts if it is finally judicially determined that the Covered Person is not entitled to indemnification under this Section 4.7, the Company shall advance, to the extent reasonably required, each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend, or defending any claim, lawsuit, or other proceeding relating to any Claims for which such Covered Person may be indemnified pursuant to this Section 4.7.

ARTICLE V. MEMBERS

1. **Limited Liability.** The liability of each Member shall be limited as provided by the Act. Except as permitted under this Agreement, a Member shall take no part in the control, management, direction or operation of the affairs of the Company, and shall have no power to bind the Company in their capacity as Members. Except as provided in Section 5.5(b) with respect to an Adjustment Liability, no Member, simply by virtue of being a Member of the Company, will be liable for the debts, liabilities, contracts or any other obligations of the Company.

2. Voting; Meetings; Written Consent.

- a. The Class A Members shall be entitled to vote to the extent required under this Agreement or as required by the Act at the rate of one vote for each Class A Unit held by such Class A Member. Except as set forth in Section 13.1, the Class P Units shall not have any voting rights associated with them, and thus the Class P Members shall not have any voting rights, consent rights, or management participation rights in respect of their Class P Units. Notwithstanding anything herein to the contrary, only the Class A Members (and not the transferee of a Class A Member who is not itself, himself, or herself admitted as a Class A Member in accordance with the terms of this Agreement) shall have voting rights hereunder.
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- b. Meetings of the Members shall not be required for any purpose. Any action required or permitted to be taken by Members may be taken without a meeting if the action is evidenced by a written consent describing the action taken and is signed by the requisite number of Members necessary to approve the action to be taken. Action taken under this Section 5.2(a) (including, to the extent applicable, the appointment of the Manager in accordance with Section 4.1(b)) shall be effective when the required specified Member(s) or number of Members have signed the consent, unless the consent specifies a different effective date. Any decisions to be made by the Members must be approved by the affirmative vote of a Class A Member Majority, unless the vote of a greater or lesser proportion or number or specified Member is otherwise required by the Act or this Agreement.
3. **Guaranteed Payments.** Notwithstanding the foregoing, the Company shall have authority to pay to any Member a guaranteed payment for such Member's services to the Company if approved by the Manager. It is understood that any payment made to any Member under the provisions of this Section 5.3 shall be (a) determined without regard to the income of the Company, (b) considered as an operating expense of the Company and (c) deducted as an expense item in determining Profits and Losses. The Company shall reimburse each Member for expenses such Member reasonably incurs on behalf of the Company.
4. **No State Law Partnership.** The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member or the Manager be a partner or joint venturer of any other Member or the Manager, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

5. Tax Audit Person.

- a. Stanley Speer (or such other Person as the Manager may designate from time to time) is hereby designated as the initial "designated partnership representative" within the meaning of Code Section 6223 (the "Tax Audit Person"), which shall have the rights and responsibilities set forth in this Section 0. The Manager shall have the right to remove the Tax Audit Person and appoint a replacement Tax Audit Person at any time, for any reason or no reason at all.
 - b. The Tax Audit Person shall be designated as the "partnership representative," as such term is defined in Section 6223(a) of Code ("Representative"), and it shall serve as such with all powers granted to a partnership representative under the Code. The Representative shall have the sole authority to act on behalf of the Company in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and the Representative shall exercise, in its sole discretion, any and all authority of the "partnership representative" under the Code, including determining whether to make any available election under Section 6226 of the Code. In the event (i) the Representative does not make an election under Section 6226(a)(1) of the Code and the Company pays any Tax resulting from an adjustment as determined under Section 6225 of the Code, (ii) the Company should for any reason become liable for income tax, interest, penalties, and/or additions to the tax that are attributable to an adjustment in respect of the distributive share of a Member (or a former Member) under Section 6225 of the Code, or (iii) the Company should have an obligation to make a payment to any Company Subsidiary or Affiliate that is treated as a partnership for federal income tax purposes under the governing documents thereof in connection with an adjustment (such liability, in each case as determined in the discretion of the Tax Audit Person based upon the advice of the Company's tax advisors, an "Adjustment Liability"), the Members hereby irrevocably authorize and direct the Company
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to withhold from any and all distributions or other amounts then payable to such Member (or former Member) such Adjustment Liability, and to remit such amount to the Internal Revenue Service, the applicable Company Subsidiary or Affiliate, or as may otherwise be required. The amount of the remitted Adjustment Liability shall be treated for all purposes of the Agreement as having been distributed or paid to the Member (or former Member) in question. If the Tax Audit Person determines at any time that the Adjustment Liability with respect to a particular Member (or former Member) exceeds the amount of distributions or other amounts payable to such Member (or former Member) at such time (an “Adjustment Tax Liability Shortfall”), the Member (or former Member) in question shall contribute an amount equal to such Adjustment Tax Liability Shortfall to the Company within 10 days of notice to the Member (or former Member); provided, however, that such contribution shall not be treated as a Capital Contribution by such Member. Each Member agrees to provide for an exception to the limited liability of its partners or members under its organizational documents to the extent that such Member is responsible for an Adjustment Tax Liability Shortfall of the Company.

- c. In addition to the duties described in this Agreement, the Tax Audit Person shall manage audits of the Company conducted by the Internal Revenue Service or any other taxing authority pursuant to the Code or other Law. The Tax Audit Person may, but shall only be obligated to if required by the Code, give notice to each other Member of any and all notices it receives from the Internal Revenue Service concerning the Company, including any notice of audit, any notice of action with respect to a revenue agent’s report, any notice of a 30 day appeal letter and any notice of a deficiency in tax concerning the Company’s federal income tax return. The Tax Audit Person may, but shall only be obligated to if required by the Code, at the Company’s expense, furnish each Member with status reports regarding any negotiations between the Internal Revenue Service and the Company.
 - d. The Company shall defend, indemnify, and hold harmless the Tax Matters Representative against any and all liabilities sustained as a result of any act or decision concerning Company tax matters and within the scope of such Member’s responsibilities as Tax Matters Representative, so long as such act or decision was done or made in good faith and does not constitute gross negligence or willful misconduct.
6. **Other Activities; Business Opportunities.** Except as may be set forth in, and subject to, any applicable agreement between the Company or any of its Affiliates and a Member or the Manager (including, without limitation, any Employment Agreement or Restrictive Covenant Agreement), the Members, Manager, and their respective Affiliates may engage in or possess interests in other business ventures of every kind and description for their own account, and in so doing shall incur no liability to the Company, nor to the Members as a result of engaging in any other business or ventures or as a result of deriving income or profits therefrom. Subject the terms of any applicable agreement between the Company or any of its Affiliates and a Member or the Manager (including, without limitation, any Employment Agreement or Restrictive Covenant Agreement), neither the Members, the Manager, nor any their respective Affiliates, shall be obligated to present any particular investment or business opportunity to the Company, even if the opportunity is of a character which, if presented to the Company, could be taken by the Company or is competitive with the business or activities of the Company; further, any of the foregoing parties shall have the right to take for their own account or to recommend to others any investment opportunity.

ARTICLE VI. DISTRIBUTIONS TO THE MEMBERS

1. **Tax Distributions.** So long as the Company is not prohibited from making a Tax Distribution by law or under any third-party contract to which it is a party, the Company shall distribute to the Members, among them in proportion to their relative Tax Liabilities, an amount so that the aggregate distributions under this Section 6.1 (each, a “Tax Distribution”) for the year through the period covered by such required payment is equal to the lesser of the following: (a) Available Cash for the year to the date of such payment; and (b) the sum of all of the Members’ Tax Liabilities for the year through such period. Each Member’s “Tax Liability” for the year through such period is the product of the net taxable income (if any) allocable to such Member (taking into account the terms and exclusions set forth in this Section 6.1) for the year through such period, *multiplied* by the Member Tax Rate. At the discretion of the Manager, the amount of Tax Distributions to be made to the Members may be reduced by the amount of distributions (other than Tax Distributions) previously made to the Members during such period pursuant to this Agreement. Distributions made pursuant to this Section 6.1 shall be made no later than April 10th after the end of the fiscal year of the Company for which the Tax Distribution is made; *provided, however*, that the Manager, in its discretion, may at any time, and for any period, elect to cause the Company to make Tax Distributions quarterly, on or before the date upon which the Members are required to make each quarterly payment of their federal estimated income taxes. For purposes of this Section 6.1, the estimated tax payment due in January of any year and any Tax Distributions with respect to the January estimated tax payment shall be determined with reference to the year ending on the prior December 31. Determinations made by the Manager concerning the administration of this Section 6.1 shall be binding upon all Members. Distributions under this Section 6.1 shall be an advance and credit against distributions to the Members under this Agreement in the order that such distributions would be made pursuant to Sections 6.2 and 6.3.
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2. **Non-Liquidating Distributions.** At any time prior to a Liquidation Event and subject to Manager approval and Laws, the Manager may cause the Company to make distributions of Available Cash to the Members, *pari passu*, in accordance with their respective Vested Proportionate Shares, at such times and in such aggregate amounts as the Manager shall determine in its sole discretion.

3. **Liquidating Distributions.**

- a. Subject to Section 9.2(b), all distributions made in connection with the sale or exchange of all or substantially all of the Company's assets and all distributions made in connection with the liquidation of the Company (each, a "Liquidation Event") after payment of all debts and liabilities of the Company, including all expenses of the Company in accordance with Section 11.3(b), and all reasonable sale-related expenses of the Members shall be made to the Members as follows:
 - i. First, 100.00% to the Class A Members, in accordance with their Unreturned Capital Contributions, until each Class A Member has received under this Section 6.3(a) an aggregate amount sufficient to cause such Member's Unreturned Capital Contribution balance to be reduced to zero; and
 - ii. Thereafter, to the Members, *pari passu*, in accordance with their respective Vested Proportionate Shares; *provided, however*, that a Class P Member shall only be entitled to a distribution in respect of each of its Class P Units to the extent that the amount of distributable proceeds exceeds the following amount: (i) the Participation Threshold applicable to such Class P Unit, reduced (not below zero) by (ii) the aggregate amount of distributions made by the Company to the Members from and after the grant date of such Class P Unit. The Manager shall determine, in its sole discretion, the calculation of the distribution to Members pursuant to the foregoing sentence in a manner that reflects the treatment of the Class P Units as "profits interests" consistent with Section 2.6(c) hereof.
 - b. In the event of a Transfer of all of the Units (as opposed to a sale of the Company's assets), the Members agree that the applicable purchase agreement shall be drafted in a manner that, following payment of expenses and indebtedness of the Company, as would be required by Section 11.3(b), and reasonable sale-related expenses of the Members, replicates the economics set forth in Section 6.3(a) in connection with a Liquidation Event.
4. **Distributions in Kind.** During the existence of the Company, no Member shall be entitled or required to receive as distributions from the Company any Company asset other than money. In-kind distributions of assets in connection with the dissolution and winding up of the Company shall be governed by Article XI.
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ARTICLE VII. ALLOCATION OF PROFITS AND LOSSES

1. In General.

- a. This Article VII provides for the allocation among the Members of Profit and Loss for purposes of crediting and debiting the Capital Accounts of the Members. Article VIII provides for the allocation among the Members of taxable income and tax losses.
- b. Except as provided in Section 7.2, all Profits and Losses and, to the extent necessary, individual items of income, gain, loss or deduction, of the Company shall be allocated among the Members in a manner such that, after giving effect to the special allocations set forth in Sections 7.2 and 7.3 or elsewhere in this Agreement, the Capital Account of each Member, immediately after making such allocation, is, as nearly as possible, equal (proportionately) to (i) the distributions that would be made to such Member pursuant to Section 6.3 if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Values, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability), and the net assets of the Company were distributed in accordance with Section 6.3, taking into account the final sentence of Section 6.1, to the Members immediately after making such allocation, *minus* (ii) such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets. Notwithstanding the foregoing, the Manager may make such allocations as it deems necessary to give economic effect to the provisions of this Agreement taking into account such facts and circumstances as the Manager deems necessary for this purpose.

2. Regulatory Allocations and Other Allocation Rules. Notwithstanding Sections 7.1 and 7.3:

- a. Loss Limitation. The Losses allocated pursuant to Section 7.1 shall not exceed the maximum amount of Losses that can be so allocated without causing such Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 7.1, the limitation set forth in this Section 7.2(a) shall be applied on a Member by Member basis so as to allocate the maximum permissible Losses to each Member under Treasury Regulations § 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitations set forth in this Section 7.2(a) shall be allocated to the Members in proportion to their respective Proportionate Shares. This Section 7.2(a) shall be interpreted consistently with the loss limitation provisions of Treasury Regulations § 1.704-1(b)(2)(ii)(d).
 - b. Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations § 1.704-2(f), if there is a net decrease in partnership minimum gain (as defined in Treasury Regulations §§ 1.704-2(b)(2) and 1.704-2(d)(1)) during any fiscal year, each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and manner required by Treasury Regulations §§ 1.704-2(f) and 1.704-2(j)(2). This Section 7.2(b) shall be interpreted consistently with the "minimum gain" provisions of Treasury Regulations § 1.704-2 related to nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(3)).
 - c. Member Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulation § 1.704-2(i)(4), if there is a net decrease in partner nonrecourse debt minimum gain (as defined in Treasury Regulations §§ 1.704-2(i)(2) and 1.704-2(i)(3)) attributable to partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) during any fiscal year, each Member who has a share of the partner nonrecourse debt minimum gain attributable to such Member's partner nonrecourse debt, determined in accordance with Treasury Regulations § 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and in the manner required by Treasury Regulations §§ 1.704-2(i)(4) and 1.704-2(j)(2). This Section 7.2(c) shall be interpreted consistently with the "minimum gain" provisions of Treasury Regulations § 1.704-2 related to partner nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(4)).
 - d. Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations §§ 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit, if any, of such Member as quickly as possible. This Section 7.2(d) shall be interpreted consistently with the "qualified income offset" provisions of Treasury Regulations § 1.704-1(b)(2)(ii)(d).
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- e. Nonrecourse Deductions. Any non-recourse deduction (as defined in Treasury Regulations § 1.704-2(b)(1)) for any fiscal year shall be allocated to the Members in proportion to their respective Proportionate Shares.
- f. Member Nonrecourse Deductions. Any partner nonrecourse deductions (as defined in Treasury Regulations §§ 1.704-2(i)(1) and 1.704-2(i)(2)) for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) to which such Member nonrecourse deductions are attributable in accordance with Treasury Regulations § 1.704-2(i)(1).
- g. Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset is required pursuant to Code section 732(d), Code section 734(b) or Code section 743(b), the Capital Accounts of the Members shall be adjusted pursuant to Treasury Regulations § 1.704- 1(b)(2)(iv)(m).
- h. Curative Allocations. The allocations under Sections 7.2(a) through 7.2(g) (the “Regulatory Allocations”) are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Article VII. Therefore, notwithstanding any other provision this Article VII (other than the Regulatory Allocations), the Company shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member’s Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all Company items were allocated pursuant to Section 7.1. In exercising its discretion under this Section 7.2(h), the Manager shall take into account future Regulatory Allocations under Sections 7.2(a) through 7.2(g) that are likely to offset other prior Regulatory Allocations made.

3. Other Allocation Rules.

- a. Profits, Losses, and any other items allocable to any period shall be determined on a daily, monthly, or other basis, as determined by the Manager using any permissible method under Code section 706 and the Regulations thereunder.
 - b. Solely for purposes of determining a Member’s proportionate share of the “excess nonrecourse liabilities” of the Company within the meaning of Treasury Regulations § 1.752- 3(a)(3), the Members’ interests in Profits shall be their respective Proportionate Shares.
 - c. To the extent permitted by Treasury Regulations § 1.704-2(h)(3), the Company shall treat distributions of Available Cash as having been made from the proceeds of a nonrecourse liability (as defined in Treasury Regulations § 1.704-2(b)(3)) or a partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) only to the extent that such distributions would not cause or increase an Adjusted Capital Account Deficit for any Member.
 - d. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704- 1(b) and shall be interpreted and applied in a manner consistent with such regulations. Sections 7.1(b) may be amended at any time by the Manager if necessary to comply with such regulations, so long as any such amendment does not materially change the relative economic interests of the Members.
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ARTICLE VIII. ALLOCATION OF TAXABLE INCOME AND TAX LOSSES

1. **Allocation of Taxable Income and Tax Losses.** Except as provided in Sections 0 and 8.3, or as required by Law, each item of income, gain, loss and deduction of the Company for federal income tax purposes shall be allocated among the Members in the same manner as such item is allocated for book purposes under Article VII.
2. **Allocation of Section 704(c) Items.** The Members recognize that with respect to property contributed to the Company by a Member and with respect to property revalued in accordance with Treasury Regulations § 1.704-1(b)(2)(iv)(f) (referred to as “Adjusted Properties”), there will be a difference between the agreed values or Carrying Values, as the case may be, of such property at the time of contribution or revaluation, as the case may be, and the adjusted tax basis of such property at that time. All items of tax depreciation, cost recovery, depletion, amortization and gain or loss with respect to such contributed properties and Adjusted Properties shall be allocated among the Members to take into account the book tax disparities with respect to such properties in accordance with the provisions of sections 704(b) and 704(c) of the Code and Treasury Regulations § 1.704-3(d), utilizing the Code § 704(c) allocation method selected by the Tax Audit Person or such other method selected by the Tax Audit Person in its sole and absolute discretion. Any gain or loss attributable to a contributed property or an Adjusted Property (exclusive of gain or loss allocated to eliminate such book tax disparities under the immediately preceding sentence) shall be allocated in the same manner as such gain or loss would be allocated for book purposes under Article VII.
3. **Integration with Section 754 Election.** All items of income, gain, loss, deduction and credits recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof and all basis allocations to the Members shall be determined without regard to any election under section 754 of the Code that may be made by the Company; *provided, however*, such allocations, once made, shall be adjusted as necessary or appropriate to take into account the adjustments permitted by sections 734 and 743 of the Code.
4. **Allocation of Tax Credits.** The tax credits, if any, with respect to the Company’s property or operations shall be allocated among the Members in accordance with Treasury Regulations § 1.704-1(b)(4)(ii).

ARTICLE IX. ACCOUNTING AND REPORTING

1. **Books.** The Manager shall cause the Company to maintain complete and accurate books of account of the Company’s affairs at the principal office of the Company. The Company’s books shall be kept on an accrual basis method of accounting. Subject to the requirements of Law, the fiscal year of the Company shall end on December 31 of each year.
 2. **Capital Accounts.**
 - a. The Manager shall cause the Company to maintain a separate capital account for each Member and such other Member accounts as may be necessary or desirable to comply with the requirements of Law (“Capital Accounts”). Each Member’s Capital Account shall be maintained in accordance with the provisions of Treasury Regulations § 1.704-1(b)(2)(iv).
 - b. Consistent with and as permitted in the provisions of Treasury Regulations § 1.704-1(b)(2)(iv)(f), the Capital Accounts of all Members and the Carrying Values of all Company properties may be adjusted upwards or downwards to reflect any unrealized gain or unrealized loss with respect to such Company property (as if such unrealized gain or unrealized loss had been recognized upon an actual sale of such property for the amount of its fair market value immediately prior to the event giving rise to revaluation under this Section 9.2(b), and had been allocated among the Members pursuant to Article VII). In determining such unrealized gain or unrealized loss, the fair market value of Company properties as of the date of determination shall be determined by the Manager.
 - c. A transferee of a Company interest shall succeed to the Capital Account attributable to the Company interest Transferred.
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3. **Tax Reporting Information.** As soon as practicable after the end of each fiscal year of the Company, but no later than any extended deadline under applicable Law, the Manager shall cause the Company to deliver to each of the Members such information as may be reasonably necessary to allow such Member to file its own income tax return for the preceding year
4. **Section 754 Election.** If requested by a Member, the Tax Audit Person may, in its sole and absolute discretion, cause the Company or any of its Subsidiaries to make the election provided for under Section 754 of the Code. Any cost incurred by the Company in implementing such election at the request of any Member shall be promptly reimbursed to the Company by the requesting Member.

ARTICLE X. TRANSFER OF MEMBER'S INTEREST

1. **Restrictions on Transfers and Liens.** Except with the prior written consent of the Manager, no Member shall Transfer or create a Lien on all or any portion of its, his or her Units, whether voluntarily or by foreclosure, assignment in lieu thereof or other enforcement of a pledge, hypothecation or collateral assignment, without complying with the provisions of this Article X. Any attempted Transfer of, or creation of a Lien on, any portion of its, his or her Units not in accordance with the terms of this Article X shall be null and void and of no legal effect.
2. **Permitted Transfers and Liens.** Any Transfers and Liens permitted under this Section 10.2 shall be subject to the other provisions of this Article X. The following Transfers and Liens shall be permitted:
 - a. A Member may Transfer all or any portion of its Units with the prior written consent of the Manager, which consent may be withheld, conditioned, or delayed in the Manager's sole and absolute discretion;
 - b. Subject to the requirements of Section 10.3, a Class A Member may Transfer all or any portion of its Units to any other Member without the consent of the Manager;
 - c. A Class A Member may, without the consent of the Manager, Transfer all or any portion of its Units to an Affiliate of such Member, provided that such Affiliate agrees in writing to be bound by the terms of this Agreement (the Affiliate recipient of Units in such event shall be referred to as a "Permitted Affiliate Transferee"); or
 - d. Subject to any repurchase rights, options, or similar provisions in any Employment Agreement or Class P Unit Award Agreement, a Member may, without the consent of the Manager, Transfer all or any portion of its Units to any Person if the transfer occurs by reason of or incident to the death of the transferor Member, provided that such Person agrees in writing to be bound by the terms of this Agreement.
3. **Substitution of a Member.** In order for any Person not already a Member of the Company to be admitted as a Member pursuant to a Transfer (including a permitted transfer pursuant to Section 10.2) of Membership Interests, such Person shall have agreed to be bound by all the terms and conditions of this Agreement, by written instrument, duly acknowledged, in form and substance reasonably satisfactory to the Manager. Upon the amendment of the Schedule 1 by the Manager and the satisfaction of any other applicable conditions, such Person shall be admitted as a Member, shall be a party hereto, shall be deemed listed as such on the books and records of the Company, and thereupon shall be issued his, her, or its Membership Interests.

ARTICLE XI. RESIGNATION, DISSOLUTION AND TERMINATION

1. **Resignation.** No Member shall have any right to voluntarily resign from the Company. Notwithstanding the foregoing, a Member shall be deemed to resign from the Company upon the Bankruptcy of such Member. When a transferee of all or any portion of Units becomes a substituted Member pursuant to Section 10.3, the transferring Member shall cease to be a Member with respect to the portion of the Units so Transferred.
 2. **Dissolution.** The Company shall be dissolved upon the occurrence of any of the following:
 - a. the consent of the Class A Member Majority and Odell;
 - b. the sale of all or substantially all of the assets of the Company; or
 - c. the entry of a decree of judicial dissolution under the Act.
 3. **Liquidation.** Upon dissolution of the Company, the Manager shall appoint in writing one or more liquidators (who may be Members or the Manager) who shall have full authority to wind up the affairs of the Company and to make a final distribution as provided herein. The liquidator shall continue to operate the Company properties with all of the power and authority of the Manager. The steps to be accomplished by the liquidator are as follows:
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- a. As promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by the Company's independent accountants of the Company's assets, liabilities and operations through the last day of the month in which the dissolution occurs or the final liquidation is completed, as appropriate, including in such accounting the Profit or Loss resulting from the actual or deemed sale or distribution of the Company's properties, as provided in Section 9.2(b).
 - b. The liquidator shall pay all of the debts and liabilities of the Company or otherwise make adequate provision therefor (including the establishment of adequate reserves for contingent liabilities in such amount and for such term as the liquidator may reasonably determine). The liquidator shall then, by payment of cash or property (at the election of the liquidator), distribute all remaining amounts to the Members in accordance with Section 6.3. For purposes of this Article XI, a distribution of an asset or an undivided interest in an asset in-kind to a Member shall be considered a distribution of an amount equal to the fair market value of such asset or undivided interest. Each Member shall have the right to designate another Person to receive any property that otherwise would be distributed in kind to that Member pursuant to this Section 11.3.
 - c. Except as expressly provided herein, the liquidator shall comply with any applicable requirements of the Act and all other Laws pertaining to the winding up of the affairs of the Company and the final distribution of its assets.
 - d. The distribution of cash or property to the Members in accordance with the provisions of this Section 11.3 shall constitute a complete return to the Members of their respective Capital Contributions and a complete distribution to the Members of their respective interests in the Company and all Company property. Notwithstanding any other provision of this Agreement, no Member shall have any obligation to contribute to the Company, pay to any other Member or pay to any other Person any deficit balance in such Member's Capital Account.
4. **Certificate of Cancellation**. Upon the completion of the distribution of the Company's assets as provided in this Article XI, the Company shall be terminated and the Person acting as liquidator shall file a certificate of cancellation and shall take such other actions as may be required by Law.

ARTICLE XII. NOTICES

Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement shall be in writing and shall be deemed given if (a) delivered personally, (b) sent by nationally-recognized overnight courier or mailed by registered or certified mail (return receipt requested), postage prepaid, or (c) sent by facsimile or electronic mail transmission, in each case to (i) the Company at the Company's principal place of business or (ii) the Members at the addresses set forth on Schedule 1 attached hereto. Any such notice or communication shall be deemed to have been delivered and received (A) in the case of personal delivery, on the date of such delivery, (B) in the case of a nationally-recognized overnight courier in circumstances under which such courier guarantees next Business Day delivery, on the next Business Day after the date sent, (C) in the case of mailing by registered or certified mail, on the third Business Day following that on which the piece of mail containing such communication is posted, and (D) in the case of facsimile or electronic mail transmission, on the date sent if either (I) confirmation of receipt is received or (II) a copy of such notice is transmitted to the recipient by one of the means described in subsections (a), (b) or (c) no later than three Business Days thereafter.

ARTICLE XIII. GENERAL PROVISIONS

1. **Amendment.** Except as otherwise provided herein, this Agreement may not be amended except by an instrument in writing signed by the Manager and with the written approval of Odell; *provided, however*, that, notwithstanding the foregoing, any amendment of this Agreement that adversely affects (a) any class of Units in a manner materially different than any other class of Units shall require the written consent of the holders of more than 50.00% of the class of Units so adversely affected, (b) any Member in a manner materially different from the other Members similarly situated (other than due to any difference in the number of Units owned by any such Members) shall require the written consent of the particular Member so adversely affected, or (c) any specific power, preference or right specifically attributed to any Member as compared to all other such Members, shall require the written consent of the particular Member so adversely affected.
2. **Waiver.** Except as otherwise provided herein, rights hereunder may not be waived except by an instrument in writing signed by the party sought to be charged with the waiver.
3. **Severability.** If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable under Law in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

4. **Governing Law; Jurisdiction and Venue; Waiver of Jury Trial.**

- a. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware, without giving effect to any choice of Law or conflict of Law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.
 - b. Any dispute relating hereto shall be heard in the state or federal courts of the State of California, and the parties hereto agree to jurisdiction and venue therein. The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the United States District Court in Los Angeles, California, or any state court in Los Angeles, California, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of California, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.
 - c. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.
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5. **Covenant to Obtain Spouse's Signature.** If a Member is an individual and is married on the date of this Agreement, such Member shall deliver to the Company a consent of such Member's spouse in the form attached hereto as Exhibit A (the "Consent of Spouse"), effective on the date hereof. If any Member who is an individual should marry or remarry subsequent to the date of this Agreement, such Member shall, within thirty 30 days thereafter, deliver to the Company a Consent of Spouse duly executed by such Member's spouse.
6. **Entire Agreement.** This Agreement embodies the entire understanding and agreement among the parties concerning the Company and supersedes any and all prior negotiations, understandings or agreements in regard thereto.
7. **Counterparts.** This Agreement may be executed and delivered in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures for all purposes.
8. **No Third Party Beneficiaries.** This Agreement is for the sole benefit of the Members and the Manager (and their respective heirs, executors, administrators, successors and assigns), nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
9. **Public Announcements.** Except as required by Law, no Member shall make any press release or other public announcement or public disclosure relating to this Agreement, the subject matter of this Agreement or the activities of the Company without the consent of the Manager.

* * * * *

The Members have executed this Amended and Restated Limited Liability Company Agreement of ATEC Water Systems, LLC to be effective as of the Effective Date.

MEMBER:

CADIZ, INC., a Delaware corporation

By: /s/ Scott Slater

Title: Chief Executive Officer

Immediately upon the initial vesting of the Class P Units under the applicable Class P Unit Grant Award Agreement:

MEMBER:

By: /s/ Lee Odell

Name: Lee Odell

Address: _____

Email Address:

**CADIZ INC.
SUBSIDIARIES OF THE COMPANY**

Cadiz Real Estate LLC
Rancho Cadiz Mutual Water Company
SWI Estate, Inc.
ATEC Water Systems, LLC

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No 333-257159) and Form S-8 (No. 333-266504) of Cadiz Inc. of our report dated March 30, 2023 relating to the financial statements which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
Los Angeles, California
March 30, 2023

**CERTIFICATION PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Scott S. Slater, certify that:

1. I have reviewed this annual report on Form 10-K of Cadiz Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonable likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 30, 2023

/s/ Scott S. Slater
Scott Slater
Chief Executive Officer

**CERTIFICATION PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Stanley E. Speer, certify that:

1. I have reviewed this annual report on Form 10-K of Cadiz Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonable likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 30, 2023

/s/ Stanley E. Speer

Stanley E. Speer

Chief Financial Officer and Secretary

**STATEMENT PURSUANT TO SECTION 906 THE SARBANES-OXLEY ACT OF 2002
BY PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER**

I, Scott S. Slater, hereby certify, to my knowledge, that:

1. the accompanying Annual Report on Form 10-K of Cadiz Inc. for the year ended December 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities and Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Cadiz Inc.

IN WITNESS WHEREOF, the undersigned has executed this Statement as of the date first written above.

Dated: March 29, 2023

/s/ Scott S. Slater

Scott S. Slater
Chief Executive Officer

**STATEMENT PURSUANT TO SECTION 906 THE SARBANES-OXLEY ACT OF 2002
BY PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER**

I, Stanley E. Speer, hereby certify, to my knowledge, that:

1. the accompanying Annual Report on Form 10-K of Cadiz Inc. for the year ended December 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities and Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Cadiz Inc.

IN WITNESS WHEREOF, the undersigned has executed this Statement as of the date first written above.

Dated: March 30, 2023

/s/ Stanley E. Speer

Stanley E. Speer

Chief Financial Officer and Secretary